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COMMISSAIRE AUX DROITS DE L'HOMME



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# **1<sup>ST</sup> QUARTERLY ACTIVITY REPORT 2016**

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Commissioner for Human Rights**

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Presented to the Committee of Ministers  
and the Parliamentary Assembly

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## 1. Overview

The period under review was dominated by work on two topics – migration and Roma. Occasionally, the two topics intersected, as some of the Roma whose situation I tried to address were of migrant origin. While the migration crisis is the “hottest” topic in the European news cycle, Roma rights issues are rarely in the headlines and it is often quite difficult to draw attention to them. Roma are often so marginalised and their situation has been poor for so long that they are often invisible to the broader public.

I addressed migration issues in a number of country contexts. I published country reports on Belgium and Cyprus in which migration was one focus, but sent a detailed memorandum to the United Kingdom government and a letter to the Danish government on the topic. I also intervened as a third party in a case before the European Court of Human Rights (ECtHR) on a case challenging Dublin returns from Austria to Hungary. In all of the countries, detention of migrants was a concern. I sought to point out that detention should only be used as a last resort with a view to return, and never with regard to children and other vulnerable groups, such as victims of torture or trafficking. Regarding several of these countries, I expressed concern about restrictive family reunification policies and other measures likely to hinder the integration of migrants and beneficiaries of international protection.

I sought to speak to broader European debates on migration in much of my outreach and communications work. I participated in an event on immigration and integration organised by the Netherlands presidency of the European Union (EU). There, I focussed on integration policy, including the need to facilitate language learning, labour market access, family reunification, inclusive education, as well as the necessity of combatting xenophobia. I also made several interventions on the EU-Turkey migration deal, expressing concerns about the compatibility of blanket returns with human rights standards, discrimination against non-Syrians, and the prospect of mass detention of migrants in both Greece and Turkey. Finally, I published a human rights comment on women and girl migrants, who constitute a majority of the recent flows. I stressed the special protection needs for victims of sexual and gender-based violence and the need to adapt our migration policies to this new reality.

I addressed Roma and Travellers rights in a country report on Belgium, as well as in letters to the governments of Albania, Bulgaria, France, Hungary, Italy, Serbia, and Sweden. In Belgium, my concerns focussed on hate speech, policy towards a small number of extremely destitute migrant Roma, the availability of encampment sites for Travellers, as well as the need to ensure access to mainstream education. In the remaining countries, the focus was on forced evictions of Roma, which often took place without prior consultations or the provision of alternative housing. Occasionally, the evictions were preceded by marches, patrols or other manifestations of anti-Gypsism. There is a clear need for long-term solutions to the housing needs of Roma in many countries, where repeat evictions disrupt the schooling of Roma children, hinder integration and traumatise already vulnerable populations.

I published a human rights comment devoted to the specific situation of Travellers. This is a unique community which exists only in several member states of the Council of Europe. Travellers have been subject to various forms of repression, control and assimilation pressures over the centuries, but have survived as distinct communities.

Their lifestyle, which often involves travelling for some months in the year, has generated hostility from many local communities and various efforts by governments to restrict their activities. The countries hosting such communities should see them as a unique cultural attribute, often with special educational and other needs, that should be accommodated and nurtured.

## **2. Missions and Visits**

### ***Visit to the United Kingdom***

The Commissioner carried out a visit to the United Kingdom (UK) from 17 to 23 January focusing on three main issues: the government's proposals for a British Bill of Rights to replace the Human Rights Act 1998; the human rights of asylum seekers and immigrants; and surveillance and democratic oversight of national security services.

During his visit the Commissioner held discussions with UK authorities in Edinburgh, Belfast and London. In Edinburgh the Commissioner met with the First Minister for Scotland, Ms Nicola Sturgeon MSP. In Belfast the Commissioner held discussions with the Deputy First Minister of Northern Ireland, Mr Martin McGuinness MLA; the Junior First Minister, Ms Emma Pengally MLA; and the Minister for Justice, Mr David Ford MLA. During his visit to London, the Commissioner met with the Parliamentary Under Secretary of State for Human Rights, Rt. Hon Dominic Raab MP; the Minister of State for Civil Justice, Lord Faulks QC; the Secretary of State for Northern Ireland, the Rt. Hon Theresa Villers MP; the Attorney General, the Rt. Hon Jeremy Wright QC; the Minister for Europe, the Rt. Hon David Lidington MP; and the Minister of State for Immigration, the Rt. Hon James Brokenshire QC. In the three cities visited, the Commissioner also met with national human rights structures, representatives of a number of non-governmental organisations, academics and practising lawyers. Furthermore, the Commissioner gave a keynote speech at a conference on democratic and effective oversight of national security services at King's College, London.

At the end of his visit, the Commissioner regretted the repeatedly delayed launch of the consultation process for the repeal of the Human Rights 1998 which has created an atmosphere of anxiety and concern within civil society and in some parts of the devolved administrations. The Commissioner found there was a strong opposition from Scottish stakeholders to the repeal of the Human Rights Act 1998 and rather a wish to go beyond the guarantees found in the European Convention on Human Rights. In Northern Ireland, a number of civil society representatives also expressed their strong desire to go further than the Human Rights Act 1998 by way of a specific Bill of Rights for Northern Ireland. The Commissioner's impression was that the debate in Westminster on reforming human rights architecture did not truly reflect concerns outside of England and that consultation with the devolved administrations on human rights reform is necessary.

By way of example, the Commissioner noted the fact that the European Convention on Human Rights has particular resonance in Northern Ireland where it is part of the Good Friday Agreement and where the Human Rights Act 1998 underpins key policing institutions. The Commissioner also discussed the future of the Stormont House Agreement and urged the UK government and other parties concerned to return to negotiations on mechanisms for dealing with the past, including the setting up of a

Historical Investigations Unit. Concerning the legacy inquest cases and the execution of a number of pertinent judgments of the European Court of Human Rights, the Commissioner welcomed the appointment of the Lord Chief Justice of Northern Ireland as President of the Coroner's Court.

Lastly, regarding the issue of surveillance, the Commissioner met with a number of key players who provide oversight of national security services, including the Independent Reviewer of Terrorism Legislation, David Anderson QC; the President of the Investigatory Powers Tribunal, Sir Michael Burton; and the Chairman of the Intelligence and Security Committee, the Rt. Hon Dominic Grieve QC. The Commissioner prepared a Memorandum which looks at some of the oversight mechanisms which are now in place and the plans to reform the legislative framework by way of the Investigatory Powers Bill, currently before Parliament.

### ***Visit to Poland***

The Commissioner carried out a visit to Poland from 9-12 February, focusing on the framework for the protection of human rights, the administration of justice and gender equality and women's rights. During the visit, the Commissioner held discussions with the Polish authorities, including the Deputy Prime Minister and Minister of Culture and National Heritage, Mr. Piotr Gliński; the Minister of Justice, Mr. Zbigniew Ziobro; the Minister of Foreign Affairs, Mr. Witold Waszczykowski; and the Minister in the Prime Minister's Chancellery, Mr. Maciej Wąsik. He also met the Deputy Ministers in the Ministries of: Foreign Affairs, Mr. Aleksander Stępkowski; Justice, Mr. Łukasz Piebiak; Family, Labour and Social Policy, Ms. Renata Szczęch; Interior and Administration, Mr. Tomasz Zdzikot; Culture and National Heritage, Mr. Krzysztof Czabański; the Treasury, Filip Grzegorzczak; and the Deputy Minister and Government Plenipotentiary for the Civil Society and Equal Treatment, Mr. Wojciech Kaczmarczyk. The Commissioner had further meetings with the Marshal of the Sejm, Mr. Marek Kuchciński; the Marshal of the Senate, Mr. Stanisław Karczewski; and the Chairperson of the Polish Delegation to the Parliamentary Assembly of the Council of Europe, Mr. Włodzimierz Bernacki. He also met with the First President of the Supreme Court, Ms. Małgorzata Gersdorf; the President of the Constitutional Tribunal, Mr. Andrzej Rzepliński; and the President of the National Council of Judiciary, Mr. Dariusz Zawistowski, as well as the Polish Commissioner for Human Rights, Mr. Adam Bodnar, and the Commissioner for the Rights of the Child, Mr. Marek Michalak. The Commissioner also met with police officers from the Warsaw Police Headquarters and from the General Police Headquarters. He held meetings with representatives of international and non-governmental organisations and visited a shelter and a counselling centre for women victims of domestic violence, run by an NGO in Warsaw.

Referring to several laws hastily adopted by the Polish parliament in previous months and impacting on a number of human rights (including media freedom and the right to privacy), at the end of the visit the Commissioner strongly urged the authorities to secure the public debate that is required in a democratic society when considering changes in such vital areas.

As concerns the institutional and legal framework for the protection and promotion of human rights, the Commissioner was concerned that the paralysis affecting the Constitutional Tribunal at the time of the visit bore heavy consequences for the human rights of all Polish citizens. He stressed that the Polish authorities should find a way out

of this situation by fully abiding by the rulings of the Constitutional Tribunal and the opinion of the Council of Europe's Venice Commission, which has since then been adopted. He also stressed that there can be no real human rights protection without mechanisms guaranteeing the rule of law, in particular by ensuring checks and balances among the different state powers. Calling for a strengthening of the Offices of the Polish Commissioner for Human Rights and the Commissioner for the Rights of the Child, the Commissioner stressed the need to enhance their budgets and ensure their independence, notably by inserting all the necessary safeguards into a draft law on the procedure to lift their immunity.

As regards democratic oversight of surveillance activities in particular, the Commissioner expressed concern at amendments to surveillance legislation which entered into force on 8 February 2016 and which expanded the powers of police and special services without establishing the corresponding safeguards for the protection of the right to privacy, journalistic sources and information covered by professional secrecy. In the Commissioner's view, the powers to access telecommunication and internet data and the democratic and judicial oversight system of surveillance activities should be reviewed and brought fully into line with the European Convention on Human Rights.

The Commissioner also expressed concerns at the adoption in December 2015 of transitional legislation in the field of public service media, pending the adoption of a wider reform in this area expected before the summer of 2016. The legislation placed public service media under direct government control by giving the latter the powers to appoint and dismiss the members of the supervisory and management boards of public service television and radio, thereby contradicting Council of Europe standards. The Commissioner strongly encouraged the Polish authorities to consult civil society, the Council of Europe and all national and international partners when drafting the announced reform, which should include strong safeguards to protect the independence and pluralism of public media, enabling it to play its role of a watchdog in a democratic society.

As concerns women's rights and gender equality, the Commissioner welcomed the ratification by Poland of the Council of Europe Convention on preventing and combating violence against women and domestic violence in April 2015. He called on the Polish authorities to translate international commitments into concrete measures to tackle domestic violence, including by allocating adequate funds to ensure the proper running of shelters for women victims of violence. Negative stereotypes against women among police officers, prosecutors and judges seriously hamper women's equal access to justice and jeopardised progress in women's rights, but the Commissioner noted that this situation can be reversed through measures to raise awareness and train relevant stakeholders who are in contact with women victims of violence.

The Commissioner's report following his visit to Poland is forthcoming.

### ***Visit to Ukraine***

The Commissioner carried out a visit to Ukraine from 21 to 25 March, focusing on serious human rights violations. He also followed up on issues raised in his 2015 report, in particular access of humanitarian organisations to the conflict-affected population, freedom of movement and social payments. As part of this mission, he travelled to Kyiv,

Dnipropetrovsk, and Donetsk, the latter city located in territory outside government control.

In Kyiv, the Commissioner met with the President of Ukraine, Mr Petro Poroshenko; the Minister of Finance, Ms Natalie Jaresko; the Deputy Prosecutor General and Chief Military Prosecutor, Mr Anatolii Matios; as well as officials of the Security Service of Ukraine, including Mr Valery Hrebeniuk, Chief Diplomatic Adviser, and Mr Vitaliy Mayakov, Deputy Head of the Investigative Department. In addition, the Commissioner held an exchange of views with representatives of international organisations, including UN OHCHR and UNHCR, as well as non-governmental organisations.

In Donetsk, the Commissioner had discussions with Mr Dmitriy Popov, head of the office of the local commissioner (ombudsperson) for human rights, and representatives of international intergovernmental and humanitarian organisations operating on the ground. The Commissioner also visited a psychiatric hospital and a home for elderly persons.

In both Kyiv and Donetsk, the Commissioner and his delegation interviewed at length several persons, most of them civilians, who had previously been detained or held in captivity on either side of the contact line, and who claimed that they had been subjected to various forms of ill-treatment.

The Commissioner's discussions with officials from the Security Service and the Prosecutor's Office in Kyiv focused on accountability for serious human rights violations in the east of the country. The Commissioner emphasised that such grave crimes as unlawful killings, enforced disappearances and torture committed by those participating in the armed hostilities on both sides should be investigated in a timely, efficient and impartial manner, and the perpetrators should be held accountable. The authorities concerned indicated that a number of steps had been taken in order to address this issue. The Commissioner also emphasised the importance of ensuring the participation of victims of human rights abuses, as well as their families, in the relevant criminal proceedings.

In addition, the Commissioner discussed certain human rights-related aspects of the exchange of prisoners under the Minsk agreements, as well as access of the relevant international mechanisms to detainees. He urged his interlocutors in Donetsk to allow unimpeded access to places of detention to the relevant international actors. He also called for the establishment of an independent mechanism in the search for missing persons.

As a follow-up to his previous report on the humanitarian situation in the east of Ukraine, the Commissioner once again underlined the need to facilitate the access of international humanitarian organisations to all people in need, including those residing in territories outside government control, in the vicinity of the contact line and in the buffer zone. He devoted attention to the issue of freedom of movement for civilians across the contact line and encouraged the relevant authorities to address problems such as long lines and waiting times at check-points in a proactive manner.

During his meetings with the President and the Minister of Finance, the Commissioner discussed issues related to the payment of pensions and other social benefits to people residing on territories outside government control. He also urged his interlocutors to ensure an effective implementation of the activities envisaged in the National Human

Rights Strategy and Action Plan, as well those foreseen in the Comprehensive State Programme for Support, Social Adaptation and Reintegration of IDPs and the accompanying Action Plan. He further encouraged the authorities to step up the impetus on reforms in the judiciary and the prosecutor's office.

The Commissioner's report on this visit is forthcoming.

### **3. Reports and continuous dialogue**

#### ***Observations on Georgia***

On 12 January, the Commissioner published his observations on the human rights situation in Georgia following his visit from 9 to 13 November 2015. The observations, addressed to the Prime Minister of Georgia, provide an update on justice reforms, tolerance and non-discrimination, as a follow-up to the Commissioner's report published in 2014.

The Commissioner welcomed the dynamic pace of the justice reforms, noting that certain positive trends continued, such as the decrease in the concordance between the opinions of judges and those of the prosecutors. Moreover, the reform of the juvenile justice system has led to decreases in the number of convictions, the use of custodial sentences and recourse to pre-trial detention for juveniles.

However, a number of concerns regarding the independence and functioning of the justice system persisted. Several of the Commissioner's interlocutors pointed to shortcomings in relation to the selection, appointment and transfer of judges. For example, the interviews conducted with candidate judges appeared to have a formal character and did not genuinely allow for a qualitative assessment. Furthermore, the practice of filling vacant judge positions by transfer and not through competition was negatively assessed, as transfers and promotions did not appear to be regulated by specific rules and criteria. Recalling that the selection, appointment and transfer of judges should be transparent, merit-based and carried out in accordance with clear criteria, the Commissioner encouraged the Georgian authorities to enact the necessary changes, on the basis of the recommendations provided by the Venice Commission and the Directorate of Human Rights of the Council of Europe.

The Commissioner recommended the introduction of a procedure for the random allocation of cases among judges, with a view to improving the functioning of the judiciary and better shielding judges from internal and external interference. He also reiterated that the probationary period for judges before their appointment for life should be reviewed on the basis of recommendations by the Venice Commission and DHR. Allegations of unlawful interference with the work of judges should be adequately dealt with and sanctioned as appropriate. At the same time, the Commissioner underlined that it is important for judges to remain accountable and that disciplinary mechanisms should function properly.

Referring to allegations of politically-motivated measures and a biased approach vis-à-vis members of the opposition, in particular the United National Movement (UNM), the Commissioner observed that despite an overall decrease in recourse to pre-trial



detention as a preventive measure, certain problems could be observed in the use and extension of pre-trial detention in relation to members of the opposition.

More resolute efforts should be undertaken to increase the impartiality and accountability of the work of prosecutors in practice. The competence and capacity of prosecutors must be strengthened in order to perform effective investigations into allegations of human rights violations in accordance with the criteria defined in the case-law of the European Court of Human Rights. This notably pertains to alleged abuse, including ill-treatment, in some penitentiary institutions and police stations. A detailed and comprehensive account should be provided to the public regarding the scale of human rights violations which were the subject of complaints received after October 2012, including those occurring under the former administration and the actions undertaken to end the violations, punish the perpetrators, provide redress and compensation to the victims and prevent similar occurrences.

The Commissioner urged the Georgian authorities to establish the necessary conditions for an effective implementation of the anti-discrimination law, notably by adopting the proposed amendments to the law as this would strengthen the role of the Public Defender and extend the deadline for the submission of cases to courts. Law enforcement and judicial bodies should have a good understanding of the anti-discrimination law and be able to adequately identify, qualify and investigate hate crimes. The bias motive should be taken into account as an aggravating circumstance and perpetrators should receive punishment commensurate to the gravity of the offence. It is also crucial for the authorities, public figures and community leaders to send an unambiguous message in favour of human rights and tolerance, and against violence, hate speech and discrimination. Noting with regret persistent reports of intolerance and discrimination against members of religious minorities, the Commissioner stressed that this issue should be tackled urgently and in line with a human rights-based approach.

The Observations are available on the Commissioner's website, along with the authorities' comments.

### ***Report on Belgium***

On 28 January, the Commissioner published a report following his visit to Belgium from 14 to 18 September 2015. The report focused on the human rights of migrants and asylum seekers, persons with disabilities and Roma and Travellers.

Regarding the first topic, the Commissioner welcomed Belgium's bolstered reception capacity and increased resettlement quota. However, he expressed concerns about the slow pace of registration of newly arrived asylum seekers and urged the authorities to speed up the process so that they are not left without accommodation while registration is pending. The widespread practice of detaining asylum seekers at the border and lack of systematic and regular judicial review of the legality of detention were also of concern. The Commissioner called on the authorities to refrain from resuming the practice of detaining families of migrants with children in closed detention centres and encouraged them to expand the current positive practice of accommodating these persons in open family units instead. The Commissioner also focused on issues pertaining to children's rights in migration and asylum proceedings and in particular unaccompanied migrant minors, whose number grew in 2015. While welcoming the measures taken by the Belgian authorities to improve their protection, gaps in services provided to them by the

authorities at different levels needed to be addressed. With reference to the granting of residence permits on medical grounds, the Commissioner stressed the need to avoid returning persons to countries where they would face a real risk of being subject to treatment contrary to Article 3 ECHR, notably due to shortcomings in the assessment of the availability and accessibility of treatment in their country of origin. Finally, referring to measures that need to be taken for the integration of refugees, the Commissioner urged the Belgian authorities to refrain from limiting the access of these persons to a range of social and other rights. He also called for the integration of migrant children in mainstream education, on an equal footing with others.

The Commissioner expressed serious concerns about the widespread institutionalisation of persons with disabilities in Belgium. In order to support the right of persons with psychosocial and intellectual disabilities to live independently and be included in the community, a 2014 law on legal capacity must be applied in line with the UN Convention for the Rights of Persons with Disabilities (UNCRPD) and judges in charge of implementing this law must be trained and supported to this end. Alternatives to institutions and community-based services should be made available to persons with disabilities to enable them to lead an autonomous life and be included in the community, a right enshrined in the UNCRPD. The Commissioner was seriously concerned at the high number of children with disabilities who are educated separately from other children in specialised schools in Belgium. While noting positive steps taken in parts of the country to address this situation, the Commissioner called for a firm nation-wide commitment towards the inclusion of children with disabilities in mainstream education. The Commissioner also reviewed the situation of persons with psychosocial and intellectual disabilities detained in overcrowded psychiatric wards in Belgian prisons, who lack access to adequate treatment. He urged the authorities to take swift action to address the human rights violations to which these persons are subjected and speed up the implementation of judgments of the European Court of Human Rights in this regard.

As regards Roma and Travellers, the Commissioner invited the Belgian authorities to strengthen the implementation of the national Roma integration strategy and to update it, in co-operation with all the relevant stakeholders. He also stressed the need to tackle more forcefully all instances of hate speech and discriminatory practices against these communities. Moreover, he voiced concern about the marginalisation and acute destitution of a limited number of Roma migrant families and called on the authorities to develop sustainable solutions to improve their situation, based on promising practices implemented in some Belgian cities. With respect to Belgian Roma and Travellers, the Commissioner strongly recommended increasing the number of encampment sites available to them, ending evictions without provision of adequate alternative housing, ensuring that caravans are effectively recognised in law and that Travellers obtain domiciliation in municipalities in which they regularly reside so that they have access to basic rights and services. Lastly, the Commissioner urged the Belgian authorities to address the reported over-representation of foreign Roma children and children of Roma and Traveller background in specialised schools and to investigate all allegations of school enrolment denials opposed to them.

The report is available on the Commissioner's website, along with the authorities' comments.

***Letter to Ms Inger Støjberg, Minister for Immigration, Integration and Housing of Denmark***

On 15 January, the Commissioner published a letter addressed to Ms. Inger Støjberg, Denmark's Minister for Immigration, Integration and Housing, to convey his concerns regarding the compatibility with human rights standards of recent restrictive changes to asylum and immigration law in Denmark. Changes introduced in November 2015, which increased the possibilities for detaining asylum seekers under "special circumstances" and weakened the judicial review of detention, could lead to detention being used disproportionately and indiscriminately in respect of asylum-seekers, in contradiction with Article 5 of the ECHR. The Commissioner also expressed serious concerns about another legislative package (adopted in January 2016) restricting the access of certain beneficiaries of international protection to family reunification, tightening criteria to obtain a permanent residence permit and significantly diminishing the duration of residence permits, notably for persons granted international protection. Lastly, the Commissioner was dismayed at the proposal to seize assets of asylum seekers arriving in Denmark in order to cover their subsistence needs, which in his view could amount to an infringement of the human dignity of the persons concerned and also lead to violations of the right to property enshrined in Article 1 of Protocol 1 to the ECHR. He stressed that all these measures run counter to the aim of promoting a speedy and effective integration of refugees and migrants in Denmark.

The letter is available on the Commissioner's website along with the Danish authorities' reply.

***Letter to Ms Eglantina Gjermeni, Minister for Urban Development of Albania***

On 16 February, the Commissioner published a letter addressed to Ms Eglantina Jermeni, Minister for Urban Development of Albania, expressing his concern about reports of forced evictions of Roma and Egyptians. He was particularly concerned about the forced eviction in October 2015 of about 200 Roma and Egyptians, including children and elderly persons, from the irregular settlement near the Artificial Lake in Tirana. It was of concern to the Commissioner that these and earlier evictions reportedly took place without provision of adequate alternative accommodation to the affected families and of official notice of the eviction, and with no consultation with the persons concerned prior to the evictions. The Commissioner urged the authorities to take all necessary measures in order to put an end to the evictions of Roma and Egyptians without provision of adequate alternative accommodation. He also stressed that persons who had already been evicted must urgently be provided with adequate housing, giving priority to families with children and other vulnerable groups. Finally, he strongly recommended the development and implementation of long-term housing solutions and of a strategy aiming at the full and effective social integration of this population in Albania.

The letter is available on the Commissioner's website along with the reply of the Albanian authorities.

***Letter to Mr Boyko Borissov, Prime Minister of Bulgaria***

On 16 February, the Commissioner published a letter addressed to the Prime Minister of Bulgaria, Mr. Boyko Borissov, concerning reports of evictions of Roma families in different localities in Bulgaria, including Varna - where over 400 persons had been left

homeless in August 2015 as a result of the demolition of houses - and Garmen. The Commissioner recalled that any eviction without due process and without the offer of adequate alternative housing is a violation of Bulgaria's international obligations, particularly if these evictions result in homelessness. Noting that alternatives proposed to evicted persons had included the placement of children in institutions for social care, the Commissioner recalled that children should never be separated from their families on the basis of the socio-economic situation of their parents; families should instead be provided with support to help them out of poverty and find adequate housing solutions. The Commissioner also found very disturbing that these evictions had taken place in a context of widespread public manifestations of anti-Roma hostility, as evidenced by numerous anti-Roma demonstrations in various places and anti-Roma rhetoric used as a campaigning tool by politicians during the run-up to the municipal elections. The Commissioner urged the authorities to stop forced evictions of Roma families without provision of adequate alternative accommodation and to provide alternative solutions and effective remedies to the families already evicted. He also stressed the need to identify long-term housing solutions, which respect international human rights standards, for all persons at risk of eviction. Finally, he called on Bulgarian political leaders to speak up and take action against anti-Gypsyism in all its forms.

The letter is available on the Commissioner's website along with the reply of the Minister of Foreign Affairs.

***Letter to Mr Bernard Cazeneuve, Minister of Interior of France***

On 16 February, the Commissioner published a letter to Mr Bernard Cazeneuve, Minister of Interior. The Commissioner recalled that he had deplored, in his 2015 report on France, the persistence of evictions from illegally occupied land without long-term rehousing solutions for all occupants of such sites, in spite of a welcome inter-ministerial circular of August 2012 aiming at anticipating and supporting eviction operations. He noted reports indicating that 111 forced evictions took place in 2015 affecting 11 128 migrant Roma and reiterated his recommendation to stop forced evictions without provision of adequate alternative housing. The Commissioner also reiterated his concern regarding the long-standing climate of anti-Gypsyism in France which is illustrated by a series of recent hate acts and hate speech against Roma, and invited the French authorities to inform him about the measures taken to ensure effective respect of Roma's human rights.

The letter is available on the Commissioner's website along with the reply of the Minister of Interior.

***Letter to Mr Zoltán Balog, Minister of Human Capacities of Hungary***

On 16 February, the Commissioner published a letter addressed to the Minister of Human Capacities of Hungary, Mr Zoltán Balog, concerning reports of planned evictions of hundreds of Roma families in the "Numbered Streets" neighbourhood of the city of Miskolc, without provision of alternative accommodation. The Commissioner also expressed concern about recurrent joint raid-like controls carried out by a number of administrative authorities in segregated areas of Miskolc that have been considered by the Hungarian Ombudsman as raising serious human rights concerns, including in terms of the right to private life. The Commissioner recalled that any eviction without due process and without the offer of adequate alternative housing is a violation of Hungary's

international obligations, particularly if these evictions result in homelessness. He urged the authorities to address this problem as a matter of priority and to take urgent measures to protect Roma from forced evictions. Furthermore, he underlined the need to identify long-term housing solutions, respectful of international human rights standards, for all persons at risk of eviction. Finally, noting the continuing general negative climate of opinion against Roma, he called on Hungarian political leaders to counter all forms of anti-Gypsyism.

The letter is available on the Commissioner's website along with the reply of the Hungarian authorities.

***Letter to Mr Matteo Renzi, Prime Minister of Italy***

On 16 February, the Commissioner published a letter addressed to the Prime Minister of Italy, Mr Matteo Renzi, concerning reported evictions of Roma families in different Italian localities, particularly Rome and Milan. He was concerned that evictions had often taken place in violation of international standards, without formal notice or sufficient advance warning, meaningful consultation of the persons concerned and offers of adequate alternative accommodation, sometimes resulting in homelessness. Recalling that the segregation that characterises the "equipped villages" constructed during the so-called "Nomad emergency" impeded education, gainful employment, interaction with non-Roma persons and integration in society, the Commissioner stressed that these settlements should not be considered as adequate alternative housing in the context of forced evictions. The Commissioner called on the Italian authorities to take concrete measures to prevent homelessness, stop forced evictions that are incompatible with international standards and close existing Roma-only settlements and reception facilities by offering genuinely integrated, ordinary alternatives to the families concerned, in line with Italy's own National Strategy for the Inclusion of Roma, Sinti and Camminanti Communities.

The letter is available on the Commissioner's website along with the reply of the Italian authorities.

***Letter to Ms Zorana Mihajlović, Deputy Prime Minister of Serbia***

On 16 February, the Commissioner published a letter to Ms Zorana Mihajlović, Deputy Prime Minister of Serbia, expressing his concern at the continuing forced evictions of Roma from informal settlements and the authorities' failure to comply with legal safeguards during these operations. Of particular concern to him was the fact that most of these evictions were carried out without prior consultation with the families concerned and often at very short notice, while adequate alternative accommodation was not always provided. The Commissioner urged the authorities to ensure that any new legislation affecting access by Roma to adequate housing and regulating forced evictions was fully in line with relevant European and international human rights standards, notably the European Convention on Human Rights and the European Social Charter. He also called on the authorities to take all necessary measures in order to ensure that no further evictions of Roma are carried out without provision of adequate alternative accommodation, while the already evicted persons must be urgently provided with adequate housing.

The letter is available on the Commissioner's website along with the reply of the Deputy Prime Minister.

***Letter to Ms Alice Bah Kuhnke, Minister for Culture and Democracy of Sweden***

On 16 February, the Commissioner published his letter to Ms Alice Bah Kuhnke, Minister for Culture and Democracy of Sweden, concerning several reports of evictions of Roma immigrants in Sweden. The Commissioner was particularly concerned about the reported eviction of about 200 people – mostly Roma from Romania and Bulgaria – which took place in the Sorgenfri district of Malmö on 3 November 2015. The Commissioner was informed that many Roma were left homeless as a result of the eviction. The Commissioner recalled that rendering people homeless as a result of evictions was in contradiction with Sweden's human rights obligations under the revised European Social Charter and requested information on the measures the Swedish authorities intended to take to prevent homelessness among Roma immigrants and ensure that evictions which could not be avoided took place under conditions that fully respected human rights.

The letter is available on the Commissioner's website along with the reply from the Minister for Children, the Elderly and Gender Equality.

***Memorandum on the human rights of asylum seekers and immigrants in the UK***

On 22 March, the Commissioner published a Memorandum on the human rights of asylum seekers and immigrants in the UK, following up to his visit in January. The Memorandum was addressed to Immigration Minister James Brokenshire and consists of three major sections: a) the protection of the human rights of refugees through resettlement to the UK; b) the plight of 67 refugees and asylum seekers in the UK Sovereign Base Areas (SBAs) in Cyprus since 1998; and c) specific human rights issues arising from restrictive UK immigration policies: the development of policies and public discourse that criminalise and stigmatise migrants; human rights issues concerning migrant detention in the UK; migrants' right to adequate housing and the 'Right to Rent' scheme; restrictions on migrants' entry for family reunification. The memorandum concludes with the Commissioner's recommendations to the UK government.

The Commissioner welcomed the UK's initiatives and generous response to international appeals to provide aid to Syrian refugees and to countries neighbouring Syria. However, the authorities were urged to increase the number of refugees that may be resettled in the UK, given the fact that to date the UK has had relatively low numbers of asylum applications. As regards the refugees and asylum seekers who are in the SBAs in Cyprus since 1998, the Commissioner called on the authorities to live up to the UK's tradition of humanitarianism and to meet its legal obligations, thus ending the protracted mental and psychological suffering of the persons concerned by resettling them to the UK.

Commissioner Muižnieks expressed his concern about the dominant, migration-related political discourse in the UK which conveys a negative image of migrants. He urged political leaders to reflect on the language they use regarding foreign nationals and to avoid the term 'illegal (im)migrant' given that people are not illegal, while the use of this term renders migrants suspicious in the eyes of the general public. In addition, the Commissioner noted that national political discourse needs to be more objective and to highlight concrete positive effects that migrants have on UK society, as is the case in many other European states. The UK was also urged to radically overhaul the current

regime concerning migrant detention and to redress the long-standing shortcomings that have been highlighted in recent years by a number of international and domestic oversight institutions and authoritative reports. Concerning migrants' access to housing and on-going statutory amendments, the UK was called on to abstain from further criminalising the interaction of landlords with irregular migrants in order to prevent further stigmatisation and marginalisation of migrants. Lastly, as regards restrictive measures that have been adopted and affected migrants' right to family reunification, the authorities were urged to overhaul and enhance migrant family reunification rules whose excessively restrictive nature has in fact run counter to the government's proclaimed goal of promoting social cohesion and respecting equality.

The Memorandum is available on the Commissioner's website, along with the authorities' comments.

### ***Report on Cyprus***

On 31 March, the Commissioner published a report following his visit to Cyprus from 7 to 11 December 2015. The report focused on the protection of the human rights of immigrants and asylum seekers, and on the impact of the economic crisis on the enjoyment of human rights, in particular by women, children and older persons.

As regards the first issue, the Commissioner stressed that, despite some progress made in immigration law and policy, the asylum system in Cyprus still suffers from a number of shortcomings that need to be urgently redressed. Whilst welcoming some positive developments, such as the increase of refugee status recognition rates and the end of the practice of detaining Syrian asylum seekers, the Commissioner recommended remedying the long-standing problems of the asylum system, including lengthy procedures, limited access to legal aid and the risk of deportation before the final determination of asylum claims.

The Commissioner expressed his concern about the widespread use of lengthy detention for failed asylum seekers and for other migrants and the practice of re-arresting and re-detaining them and urged the Cypriot authorities to end the practice of detaining migrants, including asylum seekers, for whom there is no reasonable prospect of deportation. Cyprus was also called on to improve the identification procedure of particularly vulnerable migrants, such as unaccompanied children, adopt a multidisciplinary approach to determining the age of migrants, ease family reunification rules and improve the reception system for asylum seekers with families and children.

Concerned about the existence of many obstacles to migrants' integration, the Commissioner invited Cyprus to invest more in the social cohesion and integration of migrants by enhancing, in particular, their access to education, employment, health services and political participation. He highlighted the importance, in this context, of effectively fighting and sanctioning hate speech and other forms of hate crime targeting migrants and called on Cyprus to prevent statelessness and improve migrants' access to citizenship.

As regards trafficking in human beings, the Commissioner welcomed Cyprus' efforts and progress made in this domain. However, he underscored the need to take more resolute action in this field and invited Cyprus to continue the supervision of private employment

agencies, to improve the identification of trafficked people and to provide more adequate accommodation and social aid to these persons.

Lastly, as regards austerity measures, the Commissioner recommended paying more attention to the impact that these measures have had on large strata of society, in particular children, women, older persons, single-parent households and migrant families. Whilst welcoming the Guaranteed Minimum Income scheme, he called on the authorities to improve its implementation and to take more effective measures to reverse the worrying increase in child poverty. He also stressed the need for a thorough human rights impact assessment of budgetary restrictions, making sure that these cuts do not adversely affect access to vital sectors of life, such as education, employment and health care.

The report is available on the Commissioner's website, along with the authorities' comments.

## **4. Themes**

### ***Human rights of immigrants, refugees and asylum seekers***

The Commissioner participated in the EU Presidency high-level seminar 'EU fundamental values, immigration and integration: a shared responsibility' that was organised by the Netherlands in Strasbourg on 2 February. The aim of the seminar was to provide a forum for discussion on issues relating to EU fundamental values in the context of migration. The seminar was attended by participants representing the Council of Europe, EU institutions, civil society organisations and academia, as well as high-level representatives from EU member states. The Commissioner took part in a panel discussion along with the Director of the EU Fundamental Rights Agency, Mr Michael O'Flaherty, and the Mayor of the city of Rotterdam, Mr Ahmed Aboutaleb.

Based on his rich country monitoring experience, the Commissioner underlined that migrant integration and inclusive policies are pivotal for social cohesion in democratic societies. Thus, state policies and measures in this field should start to be applied at the very early stage of migrants' stay in the country, especially with young children. One important aspect of the migrant integration process is language learning. The Commissioner also noted the importance of facilitating access to the labour market by all migrants including asylum seekers. He expressed his concern about the imposition of strict conditions for migrants' family reunification that is necessary for the effective integration of all migrants. The Commissioner highlighted the key role played by education in the context of integration. All migrants need to be enabled by host states to access quality education. To this end, states should remove all legal or practical obstacles for all migrants to start or complete their education. Lastly, Commissioner Muižnieks stressed the need to counter with determination and to eradicate the xenophobic populist narrative employed by a number of political leaders in Europe, which undermine efforts made to enhance migrant integration and social cohesion.

On 26 February, the Commissioner published a statement in which he noted the dramatic situation of thousands of migrants and refugees in Greece and in the Western Balkans, underlining that European countries were drawing themselves into a more and



more vicious circle by closing their borders to asylum seekers. Commissioner Muižnieks underlined that Europe is in urgent need of a migration paradigm shift and suggested five steps that should be taken in this context. He stressed that European states had to put their weight behind the negotiations to find a political solution to the conflicts in countries such as Syria, Afghanistan and Iraq. Secondly, they have to ramp up the relocation of asylum-seekers from Greece and Italy and their resettlement from conflict areas and neighbouring countries. Thirdly, they have to significantly expand legal avenues for people to arrive in a safe and orderly way, such as family reunification and humanitarian visas. Fourthly, they must adopt effective return policies which allow the repatriation of those who do not have protection needs in a way which is compliant with human rights, thus avoiding sending people back to countries where their safety is not ensured. Finally, they have to increase support for UNHCR's efforts to provide for the basic needs of asylum seekers and refugees in and near conflict areas.

On 7 March, the Commissioner published a Human Rights Comment in which he addressed the growing concerns relating to the situation of refugee and migrant women and girls in light of the significant increase in their numbers arriving in Europe. The Commissioner noted that as female migration was increasing, so was female refugees' and migrants' vulnerability to human trafficking, exploitation, discrimination and abuse. He stressed that in developing and implementing more humane migration policies, member states should pay particular attention to the situation of women, girls and children, notably the victims of sexual and gender-based violence. He also underlined the need for states to establish a coordinated response system within and across borders that protects women and girls. States and EU agencies need to acknowledge the protection risks and put personnel and procedures in place specifically to prevent, identify, and respond to sexual and gender-based violence. In this regard, particular attention should be paid to female refugees and migrants' reluctance to report violence or to access services. Reception centres and accommodation facilities need to be safe, accessible and responsive to women and girls. Last but not least, it is crucial to prioritise women, children and survivors of sexual and gender-based violence in family reunification procedures, as well as in relocation and resettlement schemes. The Commissioner concluded that doing so would reduce incentives for these women and girls to move on by dangerous, irregular means and reduce their exposure to sexual and gender-based violence.

On 8 March, the Commissioner made a statement with the UN High Commissioner for Refugees, Filippo Grandi, emphasising that refugee women and girls, especially those travelling alone, face high risks of certain forms of violence along the migration route, and are therefore in need of protection and access to legal pathways of admission to Europe.

On 14 March, the Commissioner published an opinion article in the International New York Times in which he noted that the agreement that the European Council was discussing with Turkey to stem the flow of migrants and refugees runs contrary to human rights standards. The Commissioner underlined that collective expulsions of migrants, which were in fact included in that agreement, run contrary to the European Convention on Human Rights. They also violate the fundamental right to seek and enjoy asylum. The Commissioner also noted that the agreement would be ineffective, because it would not prevent Syrian and other refugees from taking dangerous routes because, risky as they were, these journeys offered more hope than the prospect of living for years in refugee camps or, worse, of being caught up in the continuing violence of the Syrian conflict.

Reiterating the need for long-term solutions in this context, the Commissioner underlined that member states must ramp up the relocation of asylum seekers from Greece and Italy. They should also ensure that the so-called hot spots in these countries have the capacity to assess asylum claims and return individuals who do not qualify for refugee protection in full compliance with human rights standards, in particular honouring the prohibitions of torture or cruel, inhuman or degrading treatment. The Commissioner also recommended that the European Union increase its support for Greece, Turkey and “the former Yugoslav Republic of Macedonia” to help them handle the immediate humanitarian emergency. In addition, more legal avenues must be made available to refugees to seek protection in Europe, such as humanitarian admission programs, private sponsorships, family reunion policies, student scholarships and labour mobility programs, in order to help refugees avoid resorting to smugglers.

On 21 March, the Commissioner published a statement by which he underlined that the utmost care should be given to the implementation of the EU-Turkey agreement in order to dispel a number of serious concerns that the agreement elicits from a human rights perspective. He noted that it was positive that the agreement contained some legal safeguards, such as the adherence to international and European laws which should prevent automatic collective expulsions. He noted however that in order for the deal to effectively comply with human rights law, the EU, Greece and Turkey have to ensure that additional principles guide its implementation, including the application of the aforementioned legal safeguards not only to Syrians, but to all migrants and refugees reaching Greece or any other EU country.

The Commissioner also stressed that the EU and its member states have to provide urgent help to Greece, whose dysfunctional asylum system has led to violations of migrants and refugees’ human rights, in particular as regards reception conditions and access to asylum. He also noted that both Greece and Turkey needed to abstain from detaining migrants, and that Turkey should apply legal and procedural safeguards to all migrants and refugees – not only Syrians – who return from Greece, including the principle of *non-refoulement* and the prohibition of collective expulsions.

### ***Human Rights of Roma***

In a Human Rights Comment “Travellers – Time to counter deep-rooted hostility” published on 4 February, the Commissioner addressed the deep-rooted hostility and persisting discrimination Travellers still face in several countries, including Belgium, France, Ireland, Norway, Switzerland and the United Kingdom. He pointed to a history marked by persecutions, expulsions and human rights violations aimed at forced sedentarisation and at eradicating their culture and way of life. He stressed that this way of life is seriously hampered by the lack of halting sites, sometimes in violation of domestic provisions, frequent evictions that are often in breach of applicable international standards, and obstacles to securing registration. Tense relations with the police, widespread discrimination and lack of access to education for children of Traveller families are also issues of serious concern. The Commissioner urged member states to eliminate all discriminatory provisions regulating the life of persons living in caravans and to fully acknowledge the specific culture, identity and way of life of Travellers. He called for an increase in the number and quality of sites available to Travellers and for more mediation work. The Commissioner stressed that racist statements against Travellers should be firmly condemned by the authorities, and hate

speech directed against them should be adequately sanctioned. He also advocated for more support for initiatives aimed at improving access to education for Traveller children.

### ***Freedom of expression and of the media***

On 5 January, the Commissioner published a statement on his website calling on the President of Poland not to sign a law on Public Service Media governance. Noting that the law placed public service media under direct government control by giving the latter the powers to appoint and dismiss the members of the supervisory and management boards of public service television and radio, the Commissioner stated that these arrangements contradicted Council of Europe standards, which notably require that public service media remain independent of political or economic interference. The Commissioner was also concerned that having been rushed through the Parliament the previous week, the law had not benefited from the public debate which is required in a democratic society when considering such important changes in the field of media freedom.

In a statement published on his website on 4 March, the Commissioner deplored the decision of an Istanbul court to entrust to court-appointed trustees the control of the media group to which the newspapers Zaman and Today's Zaman belong. The Commissioner saw this as an extremely serious interference with media freedom which should have no place in a democratic society, particularly considering what happened after a similar appointment of trustees to the Koza Ipek media group. Noting that the decision was the latest in a string of unacceptable and undue restrictions of media freedom in Turkey and that it reinforced an extremely worrying pattern of judicial harassment against dissenting media and journalists in the country, the Commissioner urged the Turkish authorities to take all necessary measures to reverse the effects of these interferences and to prevent them in the future.

### ***Transitional Justice and Human Rights Protection***

On 17 March, the Commissioner published an Issue Paper on missing persons and victims of enforced disappearance in Europe. The paper provides an overview of the situation concerning people who have been forcibly disappeared or have gone missing in Armenia, Azerbaijan, Cyprus, Georgia, Northern Ireland, the Russian Federation, Spain, Turkey, Ukraine and the Western Balkans. It then presents the major international and European standards and mechanisms which frame states' obligations in this field. A chapter is devoted to the major relevant case law of the European Court of Human Rights, noting the need to strengthen the execution of the Court's judgments by respondent states. It concludes with an assessment of current shortcomings in European states' law and practice and highlights good practices and initiatives undertaken worldwide.

The Commissioner proposes nine sets of recommendations intended to help states improve their legislation and practice. In particular, he recommends: providing direct victims and their families with adequate reparation, including the necessary legal, social and psychological support; enhancing the processes of exhumation and identification; training public officials on missing persons and enforced disappearance; supporting missing person mechanisms and truth-seeking initiatives; ensuring effective access to information and archives; strengthening domestic legislation in this field; carrying out

effective investigations and eradicating impunity; and promoting and implementing the relevant international and European standards.

## **5. Other meetings**

### ***Exchange of views with the Advisory Committee on the Framework Convention for the Protection of National Minorities***

On 23 February, the Commissioner held an exchange of views with the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC). The discussion focused on areas of work of the Commissioner which are of interest to the ACFC, including the situation of Roma and other persons belonging to minorities in a number of countries. Other topics which were debated included steps which could be taken to promote further ratification of the Framework Convention, the draft 4th commentary of the ACFC on the scope of application of the convention and co-operation with other international bodies on issues pertaining to the protection of national minorities. Following this fruitful discussion, it was decided that exchanges between the Commissioner and the ACFC should continue on a regular basis.

## **6. Human Rights Defenders**

On 9 and 10 March, the Commissioner issued statements via his website and on social media (Facebook and Twitter) in which he condemned a violent attack against several journalists and human rights defenders from the Joint Mobile Group (an association of several human rights NGOs), and the subsequent forcible entry into the Group's office by unknown armed men, which occurred on 9 March in the Republic of Ingushetia. The following day the Commissioner contacted the Russian authorities, expressing his concern and indicating the need for immediate protection for the persons who had come under attack. The Commissioner also emphasised that resolute action should be taken in order to shed full light on these events and to bring those responsible to justice. He reiterated that it was the state's duty to ensure a safe and enabling environment for the work of human rights defenders.

On 16 March, Igor Kalyapin, a prominent human rights defender and member of the Council on the Development of Civil Society and Human Rights under the President of the Russian Federation, was assaulted in the centre of Grozny, the capital of the Chechen Republic. In a subsequent interview with *Kommersant*, the Commissioner condemned the recent wave of attacks and once again expressed deep concern regarding the hostile environment for human rights defenders in that republic. The Commissioner stated that he would closely follow the situation and urged the authorities to conduct a prompt and thorough investigation into these incidents.

## 7. European Court of Human Rights

### *Third party interventions before the European Court of Human Rights*

On 13 January, the Commissioner published the written observations he had submitted to the European Court of Human Rights at the invitation of the latter pursuant to Article 36, paragraph 2 of the ECHR, in proceedings relating to two complaints against Austria (S.O. v. Austria and A.A. v. Austria, applications No. 44825/15 and No. 44944/15). The two complaints concerned the transfer of the applicants from Austria to Hungary under the Dublin III Regulation. Basing his observations on his visit to Hungary carried out from 24 to 27 November 2015, the Commissioner found that the very restrictive measures taken in the previous months by the Hungarian authorities translated into a deliberate intention to deter asylum seekers from entering the country and applying for asylum therein. He noted that a considerable proportion of those returned to Hungary in recent months under the Dublin III Regulation were detained in asylum detention centres, where a restrictive detention regime applies, without access to effective remedies against such detention. He also noted that these persons did not, as a rule, have their asylum applications examined on the merits, due to the fact that Hungarian legislation considered Serbia (the country through which the vast majority of asylum seekers initially entered Hungary) as a safe third country. This situation deprived asylum seekers of the right to have their claims properly assessed and exposed them to a very high risk of being subjected to deportation to Serbia and to further refoulement to other countries, with the corresponding risk of treatment contrary to the ECHR.

The Commissioner's written observations are available on his website.

On 21 January, the Commissioner published his written observations submitted to the European Court of Human Rights on the case of Khadija Ismayilova v. Azerbaijan (Application No. 30778/15). The case relates to the institution of criminal proceedings against the applicant, a prominent journalist and human rights defender, and her remand in custody, as well as to the alleged use of these restrictions as a means to silence the applicant as an investigative journalist and civil society activist. In his submission – the sixth in cases against Azerbaijan relating to journalists and human rights defenders - the Commissioner underscores the structural deficiencies in the area of freedom of expression in Azerbaijan, including judicial harassment of those expressing critical opinions and a pattern of retaliatory measures against those who co-operate with international organisations to expose human rights violations in the country. The Commissioner stated that the case of Khadija Ismayilova, whom he had met several times in Strasbourg and Baku, was emblematic of the reprisals that journalists, bloggers and human rights defenders faced in Azerbaijan because of their work. These persons were often selectively targeted with criminal prosecutions on charges that defy credibility, a problem which both affected the human rights of the persons concerned and obstructed the functioning of international human rights mechanisms.

The Commissioner's written observations are available on his website.

On 16 March 2016, the Commissioner published his written observations submitted to the European Court of Human Rights on the case of the abduction and murder of Ms. Natalia Estemirova, a prominent human rights defender from the Russian Federation who worked in the North Caucasus (*application no. 42705/11 Svetlana Khusainovna*

*Estemirova against the Russian Federation*). The observations were prompted by the Commissioner's specific duty vis-à-vis human rights defenders. They are based on the assessment of the human rights situation in the North Caucasus made by the Commissioner and his predecessors who carried out several visits to the region over the last decade. The Commissioner and his predecessor have made repeated calls for a prompt and effective investigation into the murder of Natalia Estemirova, who was a key partner of the Commissioner's Office.

The Commissioner's intervention focused on three main issues: the safety of human rights defenders operating in the North Caucasus; the stigmatisation of their work by local authorities, and the consequences of the hostile environment for the protection of human rights in the region. The Commissioner pointed out that the prevalent climate of impunity for serious human rights violations has directly affected the safety of human rights defenders working in the region, and the murder of Natalia Estemirova should be viewed as a part of a broader pattern of intimidation. He also stressed that the local authorities in the North Caucasus and, particularly, in the Chechen Republic, have frequently stigmatised human rights defenders and impeded their work, contrary to the state's obligation to ensure a safe and enabling environment for human rights defenders. The spiral of violence against human rights defenders and the stigmatisation of their work have had a serious chilling effect on independent human rights work and have considerably weakened human rights defenders' capacity to act, thereby exerting a broader negative impact on the protection of human rights in the region. The Commissioner suggested the adoption of a series of measures of a general character, including the adoption of a specific legal framework, a comprehensive public policy and a national action plan in order to install a fully-functional rapid response mechanism to protect human rights defenders.

## **8. Communication and Information work**

The main media coverage concerned migration, counter-terrorism measures and the rights of LGBTI people, with more than 300 news items published by national and international media outlets.

The Commissioner's interviews, statements and op-ed on the migration situation in Europe and the EU-Turkey deal were widely covered by media outlets in several countries (*24, 444, 20 minutos, 24 heures, Agerpress, Altinget, ANSA, B92, Blic, Der Standard, DR, El diario, EU Observer, Focus, Fox News, FVN, Fyens, HVG, Il Fatto Quotidiano, Huffington Post UK, Independent, Information, La Vanguardia, Le Point, Lettera Donna, Online Post, ORF, Politics, Politiko, Reuters, RT, Sveriges radio, TV2, Belta, Berlingske, BTA, De Morgen, Effemeride, EPD, Europae, France Info, Heraldo, Il Mattino, Jyllands Posten, La Stampa, La Tribune de Genève, 24 heures, Magyarhirlap, New Europe, Osservatorio Balcani Caucaso, Radio vaticana, Reporter, Secolo d'Italia, Zeit Online, Affaritaliani, ANSA, AVGI, Deutsche Welle, Die Presse, Ekathimerini, Eunews, EurActiv, FG News, Hurriyet Daily News, Imola Oggi, Malta Today, Open Democracy, PRI, Redattore Sociale, Regnum, RIA Fan, STA, Tagesschau.de, The Guardian, Ticino online, Vesti, Vesti online*).

The concerns expressed on counter-terrorism measures also received wide media attention, in particular by *AFP, Ager press, ANSA, Boursorama, Bulletin Quotidien, C*

*dans l'air - France 5, EurActiv, Europe 1, Expatica, France 24, France Culture, La voix du Nord, Le Figaro, Le JSL, Le Point, Le Progrès, Open Democracy, Ouest France, Polske Radio, RFI Brazil, Sputnik, ZH Noticias, El Universal, Europe Online, Itar Tass, La Razón, La Vanguardia, Le Figaro, Le Monde, Le Point, Le Temps, L'Humanité, Libération, Mediapart, Noticias Tera, NTB, NY Times, Open Democracy, Ouest France, Politrussia, RFI, STA - RTV SLO, The Economist, WorldNews, and Zaman France.*

The Commissioner's position on the rights of LGBTI people were covered by *AFP, AgenParl, ANSA, Avvenire, Corriere della Sera, Eunews, EurActiv, Fanpage, Formiche, Giornale di sicilia, I Siena, Il Giornale, Il giornale d'Italia, Il messaggero, In Terris, Infolibre, Intelligonews, Isole 24 Ore, La Voce, Libération, L'Opinione, Ossigeno per l'Informazione, Politiken, Quotidiano, RAI News, Repubblica, Reuters, Sassari Notizie, Solo News, Stadio24, TGCom24, Tribuna Politaica Web, Wall Street Italia, HS, and Libération.*

The Commissioner's letters on evictions of Roma in several European countries were reported by *444, 24heures, Agenzia DIRE, Agerpress, ANSA, Ask a News, Balkan Insight, BIRN - Gazeta , RD, Bulletin Quotidien, Corriere della Sera, Eurocomunicazione, Focus, France Bleu, France Info, HVG, Interfax, iTélé, La Vanguardia - El Confidencial - Notícias ao Minuto, Le Monde, Libération, Le Figaro, TF1, L'Echo, L'Obs, Noticias ao Minuto, Novinite, Roma Today, SIR, Vice News, and Xinhua.*

The visit to Poland sparked considerable media attention, with news items published in *Agence Europe, Agerpress, Ask a news, BNR, Europe Online, Gazeta Wyborcza, Global Post, Golos ameriki, Handelsblatt Online, Le Soir, naTemat, Politika, Racionalista TV, Reformatorisch Dagblad, RP, Rzeczpospolita, San Francisco Chronicle, SIR, The Associated Press, TVP, Voice of America, and Xinhua.*

Additional coverage concerned media freedom (*AFP, Angence Anadolu, ANSA, Avanti, Emetro, Fakty, Genova-Europa, Il Gazzettino, New Europe, Romandie, Skai, The Guardian, The Irish Times, TV5 Monde, El Pais, Hürriyet, L'espresso, Ordine dei Giornalisti, Ossigeno per l'informazione*), the observations on Georgia (*APSNY, Euronews, Europa Press, Newsday, NY Times, Radio Free Europe, Trend, Voice of America*), the situation and the visit to Ukraine (*Baltnews, Euronews, Pronedra, RIA Novosti, RU Informer, Süddeutsche Zeitung, 0623.com.ua, 06252.com.ua, Baltnews, Bigmir, Censor.net, Deutsche Welle, DN, Donetsk, E-News, FaceNews, Fap News, Gordonua, Kiev, Kiev Smi, Liga.net, MinProm, RBC*), the Third party intervention on the case of Natalya Estemirova (*Contact, Dy, Haqqin, Kavkaz Uzel, Kommersant, VOA*), Azerbaijan (*Observatorio Balcani e Causaso*), the visit to the United Kingdom (*The Guardian, HuffingtonPost*), Russia's judiciary (*Kommersant, RIA Novosti*), human rights defenders (*Aftenposten, EFJ, Kavkaz-uzel, Kommersant, NRK, RIA Novosti, Sputnik News, Swissinfo, Vestvit, La Vanguardia, Osservatorio Balcani Causaso*), missing persons (*CyNews, Dialogos, El Diario, La Vanguardia, NewsCy, PhileNews, Presenza, Sigmalive*), and human rights in Russia (*Russia Today*)

*Eight opinion editorials were published:*

1. 'Violence against women' (*New Europe*, January 2016);
2. 'Luttons contre le terrorisme dans le respect du droit' (*Le Monde*, 3 February 2016);

3. Reforms to UK Human Rights Laws Must Not Weaken Protection (*Huffington Post UK*, 3 February 2016).
4. 'Human rights in Europe should not buckle under mass surveillance' (*openDemocracy*, 12 February 2016);
5. 'As long as the judicial system of the Russian Federation does not become more independent, doubts about its effectiveness remain' (*Kommersant*, 26 February 2016);
6. 'Stop your backsliding, Europe' (*International New York Times*, 14 March 2016);
7. 'Diese Pläne sind schlicht illegal' (*Tagesschau.de*, *Osservatorio Balcani Caucaso*, 16 March 2016);
8. 'Safeguards needed for EU-Turkey migration deal' (*Huffington Post*, *openDemocracy*, *EurActiv.com*, 22 March 2016).

An issue paper on missing persons was published, accompanied by a Thunderclap campaign.

59 tweets were published, with an increase of 975 followers (28% increase in comparison to the 2015 monthly average). 288 more likes were received by the Commissioner's Facebook page, a monthly average similar to that of 2015.

Over 44000 unique Internet users visited the Commissioner's website, almost double compared to the previous quarter and the first quarter of 2015. A steep increase was also observed in the number of page views (20% more than in the previous quarter and 66% more than in the first quarter of 2015).



## 9. Next three months

### April

- |          |                                                                                                                   |
|----------|-------------------------------------------------------------------------------------------------------------------|
| 05/04    | CM Chairmanship conference launching the Council of Europe strategy for the Rights of the Child 2016-2021 (Sofia) |
| 06-14/04 | Visit to Turkey                                                                                                   |
| 18-22/04 | PACE session                                                                                                      |
| 25-29/04 | Visit to Croatia                                                                                                  |

### May

- |          |                                                                                                          |
|----------|----------------------------------------------------------------------------------------------------------|
| 09-11/05 | Visit to Andorra                                                                                         |
| 18/05    | 126th Session of the Committee of Ministers (Sofia)                                                      |
| 20/05    | Workshop with national human rights structures on their role in the context of counter-terrorism (Paris) |

### June

- |          |                                                         |
|----------|---------------------------------------------------------|
| 03/06    | Transgender Europe Biannual meeting (Bologna)           |
| 06-07/06 | Event organised by the Conference of INGOs (Strasbourg) |
| 08-10/06 | Visit to Iceland                                        |
| 21-23/06 | FRA Fundamental Rights Forum 2016 (Vienna)              |

## 10. Observations and reflections

One lesser-known aspect of the mandate of the Commissioner for Human Rights is the power to intervene as a third party in proceedings before the European Court of Human Rights. I can do this at the invitation of the Court or on my own initiative. Recently, I have begun to make much more active use of this power. For instance, in the period under review, I did so three times. Why have I begun to use this power more often? What criteria do I use to intervene? What does it mean when I intervene?

In order to intervene, I feel my intervention must bring added value. This means I should be able to bring to the deliberations specific thematic or country knowledge of the rights at stake. As my ability to draw on knowledge from my country visits was necessarily limited at the beginning of my mandate, I intervened quite rarely. Now, as I have already conducted visits to the vast majority of member states and have also done considerable thematic work, I feel more confident of being able to bring useful insights before the Court.

However, intervening requires considerable human resources, so I have to be selective and strategic – I cannot intervene every week. The three interventions from the period under review reflect well the kind of cases I feel I can usefully contribute to. Two cases – *Estemirova v Russia* and *Ismayilova v Azerbaijan* - deal with human rights defenders, whom I am specifically tasked to assist under my mandate. The *Estemirova* case allowed me to highlight the long-standing problems facing defenders in the North Caucasus. The *Ismayilova* case is the sixth I have intervened on regarding defenders in Azerbaijan. All six involved long-standing partners of the Council of Europe and my Office who were targeted by selective justice.

The third case related to two complaints against Austria challenging transfers to Hungary under the Dublin III regulation. As I have been particularly active in addressing human rights and migration, intervening on migration-related issues is quite logical. Moreover, the case deals with a central part of the European migration system – Dublin returns – in Hungary, a country whose migration policy I have examined in some detail. In some ways, I am following in the footsteps of my predecessor, who also intervened on a well-known case dealing with Dublin returns – the *MSS v Belgium and Greece* case.

What does it mean when I intervene in a case? Since I intervene rarely, when I do intervene, it appears to draw additional attention to the case in question. Thus, my intervention signals that I consider the case to be important in some way. In the six cases against Azerbaijan in which I have intervened thus far, I wanted to underline that these were not individual violations, but part of a broader pattern that needed to be remedied. Moreover, as my submissions are very legalistic, they appear to carry more weight in some circles than if they were merely statements or opinion editorials. I understand that my intervention in the two cases on Dublin returns to Hungary has been used by domestic courts in some countries to decide on concrete cases involving such returns.

The interventions can also usefully supplement my other work in the country in question. This was the case in the *Estemirova v Russia* case. The situation of human rights defenders in Russia in general and in the North Caucasus in particular has been a grave

concern for some time. I have sought to engage the Russian authorities on a key piece of legislation affecting the work of defenders in Russia - the “Foreign Agents Law”. In an Opinion, I analysed the compatibility of the law with European standards and in an update examined how the law was applied over two years.

I have sought to support the work of Russian defenders by meeting with them, organising roundtables with them, and intervening with the Russian authorities when they have come under threat or attack. The Estemirova case allowed me to highlight the plight of defenders in the North Caucasus, which remains very difficult many years after the murder of defender Natalia Estemirova. The same week I intervened in this case I also made two statements about attacks against defenders and journalists in the region.

What kinds of cases are logical candidates for my intervention? In addition to migration, my core thematic areas of focus have been counter-terrorism and surveillance, media freedom, children’s rights, disability rights, gender equality issues, Roma rights and LGBTI issues. Supporting the work of human rights defenders will remain a top priority as well. But not any case will do – it needs to be a case that will be deemed admissible, one which allows me to illuminate a broader human rights issue, one where my intervention could make a difference.