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## **4<sup>TH</sup> QUARTERLY ACTIVITY REPORT 2011**

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Commissioner for Human Rights**

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and the Parliamentary Assembly



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## **1. Overview**

During the last quarter of 2011 strong emphasis was put on the need to ensure a well functioning system of justice, free from corruption and political interference. Developing a meaningful human rights response in relation to the dramatic changes in the media landscape was another priority. These issues were also covered in some of the missions undertaken during the period.

In Turkey I visited Istanbul, Diyarbakır and Ankara. The focus this time was on the administration of justice. I had a long and constructive discussion with the Minister of Justice and also met judges and prosecutors on different levels, defence attorneys, prisoners and civil society representatives. The report was published in January.

In Ukraine I went to Kyiv and Simferopol in Crimea. The main subject here was also the administration of justice and, again, I had a constructive exchange with the Minister of Justice. Other meetings included the Foreign Minister, Presidential advisors, the Head of Security, defence lawyers, and different parts of the judiciary and prosecutorial authorities. At the end of the visit I gave some of my preliminary impressions to the media, including on the detention on former government officials. The report will be published in February.

In Simferopol I met representatives of the Tatar community and representatives of other formerly deported national minorities. A letter on the recommendations emerging from this part of the visit will also be made public in February.

The visit to the United Kingdom took me to Belfast and London. A number of different human rights issues were raised, including the situation of Roma and Travellers, the rights of persons with disabilities, children's rights, housing for disadvantaged groups and migration policies. I will summarise my concerns to the authorities in letters which will be made public in late February.

In London I also had discussions with government representatives and parliamentarians on the Human Rights Act and the implementation of the European Convention. These matters were covered in two public lectures which I was invited to give.

While in London I also took part in a launch event for the publication "Human rights and a changing media landscape" during which some of the authors presented their analyses and recommendations. This was a follow up to the previous six public lectures on media issues: the need to protect journalists and their sources; the importance of ethical journalism; ways of promoting public service media; measures to ensure media pluralism; protecting access to information; and the human rights response to new social media.

Another major event was a meeting in Strasbourg with representatives of non-governmental human rights organisations from all over the Council of Europe area (plus Belarus). Among the issues covered during this consultation were methods to protect defenders at risk and to encourage their co-operation with national human rights structures.

An important follow-up meeting was held with representatives of the Prosecutor General of Poland on the issue of illegal CIA detention and torture of terrorist suspects during the “war on terror” during which we made an in-depth presentation of our information on the issue.

## **2. Missions and Visits**

### ***Visit to Turkey***

The Commissioner carried out a visit to Turkey (Istanbul, Diyarbakır and Ankara) from 10 to 14 October. In the course of this visit, which focused on human rights issues related to the administration of justice, the Commissioner held meetings with national authorities including the Minister of Justice, Mr Sadullah Ergin, the Minister of the Interior, Mr İdris Naim Şahin, and the Director General of Multilateral Political Affairs of the Ministry of Foreign Affairs, Ambassador Erdoğan İçcan. He also met the Chair of the Commission of Human Rights of the Turkish Grand National Assembly, Mr Ayhan Sefer Üstün. The Commissioner further held discussions with the Acting President and members of the High Council of Judges and Prosecutors, the Secretary General of the Constitutional Court, and the Secretary General and members of the Court of Cassation.

The Commissioner visited Turkish courts and met with judges and prosecutors, including prosecutors with special powers. He also held discussions with representatives of the Bar Associations in Istanbul and Diyarbakır, lawyers, academics, and representatives of non-governmental organisations. In addition, the Commissioner visited the Silivri Penitentiaries Campus in Istanbul and the D-type prison in Diyarbakır, where he held discussions with prison authorities and inmates.

In a press release issued at the end of his visit the Commissioner noted that 700 of the 2 200 judgments delivered by the European Court of Human Rights against Turkey in the period 1995-2010 concerned violations of the right to a fair trial. More than 500 of these judgments related to the right to personal liberty and security. While acknowledging major reforms undertaken by the Turkish government in recent years, the Commissioner encouraged the authorities to step up their efforts in order to redress the structural shortcomings and align the administration of justice in Turkey with Council of Europe standards and the Court’s case-law.

The Commissioner identified excessive delays in criminal, civil and other courts in Turkey as a serious problem that needed to be addressed through further measures. In addition, the excessive length of detentions on remand was seen as a chronic problem that adversely affected the personal liberty of thousands of persons. Noting that in many cases domestic courts had failed to take into account non-custodial alternatives to detention already provided for by law, the Commissioner underlined that this issue requires not only legislative changes but above all attitude changes on the part of prosecutors and judges who appear to approve this practice rather too easily.

The Commissioner welcomed the abolition of state security courts but remained seriously concerned by the establishment and operation of the assize courts with special powers, competent to deal with cases of organised crime and terrorism. He expressed his concern at a number of problematic practices of these courts and prosecutors

affecting the rights of defence, in particular in connection with the anti-terror legislation, such as the incommunicado custody for 24 hours, the restriction of the number of defence lawyers to one, the restriction of access by defendants to the prosecution file, and censorship of correspondence between the defendants and their lawyer.

Lastly, the Commissioner underlined that courts also have a major role to play in the fight against impunity for serious human rights violations, especially those committed by law enforcement officials. A number of serious cases have been brought to his attention, such as the one concerning the death in police custody of a Nigerian, Festus Okey, in 2007. The Commissioner stressed that law and the courts should enhance the standing of the victim and their family in investigations and proceedings.

A report following this visit was published in January 2012.

### ***Visit to the Republic of Moldova***

The Commissioner's visit to the Republic of Moldova on 19-22 October 2011 focused on certain human rights issues, namely follow-up to his previous report on April 2009 events and anti-discrimination, including draft legislation and the situation of Roma. During the visit, the Commissioner met the Deputy Prime Minister, Mr Eugen Carpov, the Minister of Justice, Mr Oleg Efrim, the Minister of Labour, Social Protection, and Family, Ms Valentina Buliga, the Deputy Minister of Foreign Affairs and European Integration, Mr Andrei Popov, the Deputy Minister of Education, Ms Tatiana Poting, as well as the Head of the Office of Parliamentary Advocates, Mr Anatolie Munteanu, and two other members of the Office, Parliamentary Advocates Mr Tudor Lazăr and Ms Aurelia Grigoriu. He also met with representatives of civil society and international diplomatic missions in Chişinău.

During his visit, the Commissioner participated in the conference "Fighting discrimination against Roma: working towards inclusion" where he delivered a speech, and travelled to Schinoasa Village, a Roma community.

Following his visit to the Republic of Moldova, the Commissioner sent a letter to Prime Minister Vlad Filat in which he shared his findings and observations on non-discrimination as well as human rights issues related to the April 2009 events. The letter and reply from the Prime Minister were published in January 2012.

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

The Commissioner visited Kyiv and Simferopol from 19 to 26 November 2011, with a view to assessing the situation of the administration of justice and the level of protection of human rights in the justice system. He specifically focused on the ongoing reforms in the criminal justice system, the independence and effective functioning of the judiciary, detention on remand and the observance of the right to a fair trial during judicial proceedings. Other issues discussed included the situation of national minorities, freedom of assembly and freedom of expression.

In the course of the visit, the Commissioner had meetings with representatives of different governmental institutions, namely the Minister of Justice Mr Olexandr Lavrynovych, the Minister of the Interior Mr Vitaliy Zakharchenko, the Speaker of Parliament Mr Volodymyr Lytvyn, the Head of the Security Service Mr Valeriy

Khoroshkovskyi, and the Minister of Foreign Affairs, Mr Kostyantyn Hryshchenko as well as representatives of various courts (High Specialised Court on Criminal and Civil Cases, the Supreme Court and the Constitutional Court) and prosecutorial authorities. The Commissioner's interlocutors also included advisers to the President of Ukraine on judiciary, media and legal matters, members of the Ukrainian delegation to the Parliamentary Assembly of the Council of Europe, the Parliamentary Ombudsman, and representatives from civil society, the legal profession and the media.

During his meetings with various interlocutors, the Commissioner highlighted the need to pursue further reforms in the justice sector, with a view to strengthening the independence and efficiency of the judiciary and reinforcing the guarantees to the right to a fair trial. It is important to ensure close co-operation with Council of Europe experts to this end. He encouraged the authorities to inquire into any allegations of undue pressure on judges or improper interference in the work of various judicial institutions. Future reforms should reinforce the protection of judges from any outside influence and further strengthen their independence and impartiality both in law and practice. The planned adoption of a new Criminal Procedure Code represents a unique opportunity to address several outstanding systemic problems in the justice system, such as excessive delays in court proceedings, non-enforcement of domestic judicial rulings and excessive resort to preventive custody.

In the Autonomous Republic of Crimea, the Commissioner had meetings with the Prime Minister, Mr Anatolii Mohyliov, as well as the speaker, Mr Vladimir Konstantinov, and members of the local Parliament. He also visited one of the Crimean Tatar settlements close to Simferopol, and had discussions with local civil society organisations and representatives of various ethnic communities.

The Commissioner addressed various human rights issues relating to the situation of different ethnic and linguistic communities, including Crimean Tatars, living in the area. While acknowledging the efforts undertaken by the authorities to promote tolerance and to get engaged in a constructive and open dialogue with all minority groups, he recommended taking further measures aimed at preserving the unique ethnic and linguistic heritage of the region and avoiding any possible discrimination.

Following this visit, a report on the functioning of the justice system in Ukraine and a letter with recommendations related to the situation of national minorities in the Autonomous Republic of Crimea will be published.

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

From 8 to 14 December the Commissioner travelled to the United Kingdom (London and Belfast) to discuss various human rights issues and participate in several public events. In the discussions he had during the visit, a particular focus was made on the protection of the human rights of Roma and Travellers, children, and migrants and asylum seekers. Another issue covered was the follow-up given by the United Kingdom authorities to the Commissioner's 2008 memoranda on asylum and immigration, juvenile justice and corporal punishment. Throughout the visit the Commissioner also addressed issues relating to the priorities of the United Kingdom Chairmanship of the Committee of Ministers of the Council of Europe, as well as the current debate around the interaction of the European Convention on Human Rights and the Court with the United Kingdom's domestic legal system.

In London, the Commissioner met with the Lord Chancellor and Secretary of State for Justice, the Rt Hon Kenneth Clarke QC MP, the Minister of State at the Foreign and Commonwealth Office, Jeremy Browne MP, the Minister of State at the Home Office, Damian Green MP, and the Attorney General, the Rt Hon Dominic Grieve QC MP. The Commissioner also met with a number of Members of Parliament, notably from the All-Party Parliamentary Groups for Gypsy Roma Travellers and Human Rights.

In Belfast, the Commissioner met the Junior Minister at the Office of the First Minister and Deputy First Minister in the Northern Ireland Executive, Jonathan Bell MLA, as well as members of the Northern Ireland Human Rights Commission, including the Chief Commissioner, Professor Michael O'Flaherty.

In both London and Belfast, the Commissioner also met with many national and local civil society organisations active in the subject areas mentioned above as well as other human rights fields, including the rights of persons with disabilities, social rights and marginalised groups, administration of justice and freedom of the media.

In particular, representatives of Roma, Gypsy and Travellers' organisations provided the Commissioner with extensive information regarding the respect of the human rights of the members of these groups in the United Kingdom. A special focus was made on housing and education, with the situation of Travellers in the aftermath of the evictions which took place in Dale Farm, Essex, in October 2011 featuring prominently in the discussions. During the visit, the Commissioner also visited Travellers' sites in Coalisland, Northern Ireland.

The visit also provided the opportunity for the Commissioner to speak at various public events and express his views on human rights issues of particular relevance to the United Kingdom. The Commissioner delivered a lecture for the Equality and Diversity Forum in London ("*British contributions are needed in the global struggle for equality and diversity*", available on the Commissioner's website), and also delivered a speech ("*Progress in meeting human rights obligations is too slow*", available on the Commissioner's website) at a Conference organised by the European Movement UK entitled "Are Member States and the EU meeting their human rights obligations?" In addition, he addressed the participants of an event organised by the British Institute of Human Rights. While in London, the Commissioner also launched his publication on freedom of the media (see below). In Northern Ireland, the Commissioner spoke at events organised by the Human Rights Consortium and Disability Action on the occasion of Human Rights Day.

Throughout his visit, including at the events mentioned above, the Commissioner discussed political and other attitudes in the United Kingdom towards the European Convention on Human Rights and the Court, as well as towards human rights in general. He highlighted the essential contribution made by the United Kingdom to the development and promotion of human rights standards in Europe including through the Human Rights Act 1998, which combines in innovative and positive ways the country's own long-established legal and political traditions with the modern expression of human rights principles set out in the Convention. The Commissioner stressed the need for Europe to continue to be able to avail itself of the United Kingdom as a positive example advancing human rights protections. At the same time, the Commissioner pointed to risks arising from negative public perceptions surrounding human rights in the United



Kingdom, which have their basis in misinformed views, sometimes propagated by politicians and the media. In this context, the Commissioner also discussed issues relating to ethical journalism, including the current public inquiry into this matter, with several interlocutors. The Commissioner stressed the intrinsic value of human rights as an indispensable tool for policy-makers and the duty of public authorities to fight misperceptions concerning human rights.

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

#### ***Report on Slovakia and letter to the Deputy Prime Minister for Human Rights and National Minorities of Slovakia***

On 20 December the Commissioner published a report on the protection of the human rights of Roma and persons with disabilities following his visit to Slovakia from 26 to 27 September. On the same day, he also published a letter to the Deputy Prime Minister for Human Rights and National Minorities of Slovakia, Mr Rudolf Chmel, on the protection of the human rights of national minorities.

In his report the Commissioner stresses the need to place the fight against anti-Gypsyism and discrimination at the heart of efforts to promote the inclusion of Roma in Slovak society. He therefore calls for further efforts to prevent the spreading of prejudice against Roma, including through self-regulation within political parties and the media, and to ensure better implementation of the criminal provisions establishing racial motivation as an aggravating circumstance in respect of all crimes. The Slovak authorities are also called upon to ensure that the anti-discrimination framework in place includes an independent and adequately resourced equality body mandated notably to assist the implementation of antidiscrimination legislation. The establishment of an independent body entrusted with the investigation of, *inter alia*, alleged cases of racial discrimination and racially-motivated misconduct by the police is another measure that should be considered by the Slovak authorities.

The Commissioner notes that many Roma children continue to receive education of lower quality than their non-Roma peers due to policies and practices resulting in segregation, whether in the form of the disproportionate placement of Roma children in special schools for children with mild mental disabilities or through the assignment of Roma children to Roma-only mainstream schools or classes. In spite of commitments made by the Slovak authorities against segregation and legal initiatives to the same end, more determined steps are needed to make inclusive education a reality. In the field of housing, tackling Roma segregation appears particularly urgent. In thorough consultation with the persons involved, priority should be given to investing in the development of safe and affordable housing solutions for Roma in integrated communities. The building of walls separating Roma from non-Roma areas should be countered. In the short term, improvements in the material conditions prevailing in many Roma settlements are urgent, with progress on the front of resolving the status of informal settlements also remaining necessary.

The Commissioner emphasises that progress remains to be made in Slovakia in dealing with past practices and cases of sterilisation of Roma women without their full and informed consent. Effective investigations into all such allegations and adequate

punishment of those responsible must be ensured. Reparation for these violations should also be secured, including a public expression of regret over forced sterilisations and adequate compensation. The Commissioner is also concerned at the reportedly disproportionate representation of Roma children among children placed in institutional care in Slovakia. He recalls that children should not be placed in institutional care solely on grounds relating to the poor housing conditions or financial situation of their family and that priority should instead be given to supporting the development of the child within the family.

As regards the protection of the human rights of persons with disabilities, the Commissioner welcomes the ratification by Slovakia of the UN Convention on the Rights of Persons with Disabilities (CRPD) as a welcome development, which needs to be built upon through the establishment of adequate mechanisms for monitoring and co-ordination and the adoption of strategies. In particular, noting that many persons with disabilities in Slovakia live in large institutions separated from the rest of society and that most children with intellectual disabilities are educated in special schools, the Commissioner calls on the Slovak authorities to adopt a comprehensive action plan on de-institutionalisation and make concrete advances in meeting their obligations to provide children with disabilities with inclusive education in mainstream schools. Furthermore, noting that persons with psycho-social and intellectual disabilities are often deprived of their legal capacity, the Commissioner calls on the Slovak authorities to ensure that any interference with a person's legal capacity is in full compliance with international standards and encourages them to establish a system of supported decision-making for persons with psycho-social or intellectual disabilities who need assistance to this end.

As regards the protection of the human rights of national minorities, in his letter to Deputy Prime Minister Chmel, the Commissioner calls for further efforts to achieve a fair balance between the promotion of the state language and the protection and promotion of national minority languages, in line with the recommendations of the Venice Commission and the Advisory Committee on the Framework Convention on the Protection of National Minorities. In particular, the Commissioner recommends that the Slovak authorities consider abolishing the punitive provisions in all legislation regulating the use of languages.

### ***Continued Dialogue with the Prosecutor General's Office of the Republic of Poland***

Following the Commissioner's mission to Warsaw in September 2011 and the invitation he made to the Polish Prosecutor General's Office to continue the dialogue on investigations into the counter-terrorism operations of the US Central Intelligence Agency (CIA) in Poland, the Commissioner met with two representatives of the Prosecutor General's Office on 19 and 20 December 2011 in Strasbourg. The meeting focussed in particular on investigations into the alleged use of Polish territory by the CIA to operate a so-called "Black Site" prison and provided an opportunity for the Commissioner to share relevant information and analyses.

## 4. Themes

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

On 22 November, the Commissioner published a Human Rights Comment entitled 'The right to leave one's country should be applied without discrimination' which addressed the measures which the governments in the Western Balkans have taken in order to prevent their citizens from travelling to and seeking asylum in the countries of the European Union. The Commissioner stressed that although states have a legitimate authority to regulate immigration, the rights of the individual to leave his or her country and to seek and to enjoy asylum from persecution are established human rights. The number of asylum seekers has gone up considerably since the EU agreed that people in Balkan countries would no longer require visas to enter EU territory. Governments within the European Union have reacted and warned that the entire process of visa liberalisation might now be in jeopardy.

The Commissioner highlighted that, for example, the former Yugoslav Republic of Macedonia has decided to criminalise 'abuse of the European Union visa-free regime and of the Schengen agreement' and has determined that those who have been forcibly returned as failed asylum seekers could have their passports temporarily confiscated. Other countries in the region have also taken steps to prevent certain people from travelling to EU countries.

The Commissioner noted that the pressure from the European Union has been justified by references to the need to stop networks of organised migrant smuggling, and that while it is important to put an end to the exploitation and manipulation of migrants by smugglers such practices appear not to be the typical pattern in this case. The Commissioner highlighted that minorities, in particular the Roma, have become targeted in this context, which has resulted in another layer of discrimination against them. The increase in asylum applications is a symptom rather than the core problem. It is a sign that Europe has failed to break the cycle of anti-Gypsyism, discrimination and marginalisation of Roma. It should be seen as a reminder that serious action is overdue. Lastly, it was noted that measures such as improved dissemination of information about the asylum rules in the Schengen area would be constructive. However, pressure on Balkan governments to undermine the human rights of their citizens to leave their country is not.

On 21 and 22 November a member of the Commissioner's Office attended the Fundamental Rights Conference 2011 on 'Dignity and Rights of Irregular Migrants', organised in Warsaw by the European Union Agency for Fundamental Rights with the support of the Polish Presidency of the Council of the European Union. More than 300 participants, including representatives from EU institutions and the governments of member states, international organisations, national human rights institutions and equality bodies, labour inspectorates, social partners and civil society organisations discussed how to improve access to human rights for irregular migrants. The debates highlighted the need to apply a human rights approach in migration management. Proposals to facilitate access to justice and respect for the rights to education and health were made. It was also discussed how the best interests of the child can be preserved

and how immigration detention can be reduced. Solutions to combat labour and other forms of exploitation were proposed and the need to find durable and sustainable solutions for migrants who cannot be removed was underlined.<sup>1</sup>

### ***Statelessness in South Eastern Europe***

On 26 and 27 October a representative of the Commissioner's Office participated in the Regional Conference on the Provision of Civil Documentation and Registration in South Eastern Europe, which took place in Zagreb. The conference was hosted by the Croatian government and organised by UNHCR and OSCE. The aim of this conference was to highlight current issues relating to civil registration and access to documentation in South Eastern Europe. Particular emphasis was put on access to civil documentation by members of national minorities, in particular Roma. At the end of the conference the participants adopted a declaration<sup>2</sup> which listed measures to be taken in the region, at local and national level, in order to effectively tackle these issues.

### ***Post-war justice in the former Yugoslavia***

On 3 November, the Commissioner published a Human Rights Comment entitled 'Only genuine justice can ensure durable peace in the Balkans'. The Comment addressed the pending issues concerning post-war justice in the former Yugoslavia, notably the situation of refugees and other displaced persons, missing persons, the prosecution of war-related crimes and the need to establish and recognise the truth for the gross human rights violations that occurred in the 1990s. He stressed that there are still about 438 000 refugees and other displaced persons in the region for whom durable solutions have not been found. The efforts to find solutions will require extra funding. It is estimated that some 500 million Euros will be needed over a five year period. European institutions should realise the importance of this opportunity to repair the war damages and invest in peace.

The Commissioner emphasised that more needs to be done to resolve about 14 000 pending cases of persons missing due to the wars in the region. The search for gravesite locations should be intensified. State archives should be carefully screened for information on the fate of those missing. States should exchange information unconditionally on this matter.

Turning to the issue of the prosecution of war-related crimes, the Commissioner emphasised that it is extremely important that any pattern of impunity be countered and that amnesty laws should not be misused to avoid accountability for these crimes. He stressed that the positions taken recently by the presidents of Serbia and Croatia, Mr Boris Tadić and Mr Ivo Josipović, in stressing the need to recognise past crimes have paved the way for further progress in national war-related crimes procedures.

Finally, the Commissioner stressed that more needs to be done to counter the ignorance and denial of the gross human rights violations which took place in the 1990s, still prevalent in public and political discourse in the region. He noted that a coalition of non-governmental organisations has been campaigning for a region-wide, independent truth

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<sup>1</sup> The conference summary conclusions are available at: [http://fra.europa.eu/fraWebsite/attachments/FRA-2011-FRC-summary-conclusions\\_EN.pdf](http://fra.europa.eu/fraWebsite/attachments/FRA-2011-FRC-summary-conclusions_EN.pdf).

<sup>2</sup> Available at: <http://www.unhcr.org/4ec12d0d9.html>.

commission which would investigate all alleged international humanitarian and human rights law violations committed during the wars. This proposal is a challenge to politicians all over the region. The rest of Europe should stand ready to support these efforts for genuine justice and durable peace.

### ***Human Rights of LGBT Persons***

On 6 October, the Commissioner's Office presented the Commissioner's report *Discrimination on grounds of sexual orientation and gender identity in Europe* in a side event "Challenges and Perspectives regarding hate crimes against LGBT Persons" at the OSCE Human Dimension Implementation Meeting in Warsaw. The side event was jointly organised by the governments of Belgium, Finland, Germany, the Netherlands, Norway, Spain, Sweden, Switzerland and the United Kingdom.

On 27-30 October, the Office presented the Commissioner's report at the Annual Conference of ILGA-Europe on 'Human Rights and "Traditional Values": clash or dialogue?' in Turin. The aim was to discuss ongoing opportunities for civil society advocacy efforts to encourage governments to implement the recommendations made in the Commissioner's report and in CM Recommendation (2010)5. Over 340 lesbian, gay, bisexual, trans and intersex activists, European and national politicians and representatives of other organisations from 43 countries attended the conference.

On 19 November, the Office introduced the Commissioner's report and recommendations at the TransHelsinki 2011 Seminar in Helsinki. The event was organised by leading Finnish LGBT organisations and focused on gauging the health care needs of transpersons through the eyes of users and experts alike.

On 21 November a roundtable was organised in Ankara by Transgender Europe (TGEU) with support from the Commissioner's Office. The roundtable, entitled 'Hands on – Making trans equality a reality!', brought together representatives of national equality bodies, transgender human rights organisations and officials from the LGBT Focal Point network. A representative of the Commissioner's Office presented the Commissioner's report *'Discrimination on grounds of sexual orientation and gender identity in Europe'* and the Commissioner's 2009 Issue Paper on Human Rights and Gender Identity.

On 24 November, the Commissioner's Office organised a Roundtable "Opportunities for governments in implementing the recommendations of the Commissioner's report *Discrimination on grounds of sexual orientation and gender identity in Europe*" in Bern. The roundtable identified opportunities and obstacles to the implementation of the recommendations in member states with particular reference to legislative reform, education, awareness raising and training. This roundtable was organised in conjunction with the 7<sup>th</sup> Roundtable Meeting of the Informal Network of Governmental LGBT Focal Points, hosted by the Swiss Ministry of Foreign Affairs, and brought together over 30 governmental experts from member states. A representative of the Commissioner's Office participated in the latter roundtable on 25 November, where an overview of national developments in legislation and practice on LGBT human rights issues was provided.

### ***Systematic implementation of human rights***

On 10-11 October, a representative of the Commissioner's Office participated in a meeting organised by the European Union Agency for Fundamental Rights (FRA) entitled "Connecting rights: a joined-up governance approach to fundamental rights implementation", in Utrecht. The FRA's joined-up governance project carries out research and mutual learning activities on multi-level implementation of human rights with a particular emphasis on local authorities. Focus group research has been undertaken in five EU Member States to validate methods and approaches on how different levels of government can work together for fundamental rights protection. Two cross-cutting challenges in the examined projects were discussed at this meeting: community involvement and evaluation/monitoring. The Office made a presentation on evaluation and continuous monitoring with particular reference to the Commissioner's 2009 Recommendation on systematic work for implementing human rights.

### ***Equality and non-discrimination***

On 14-15 November, the Commissioner's Office participated in the 5<sup>th</sup> EU Equality Summit: Promoting Equality at the Local and Regional Level, in Poznan. The Summit, organised by the Polish EU Presidency and the EU Commission, focused on the implementation of equal treatment legislation at the regional and local levels. The main topics discussed included equality as a factor in regional development, the increase in regional and local partnerships for equality and the use of EU funds for local-level projects to promote equality and Roma inclusion. The representative of the Commissioner's Office made a presentation on partnerships for implementing expanding equality duties with particular reference to the Commissioner's 2011 Opinion on national structures for promoting equality.

On 29 November, the Commissioner addressed an EQUINET High-Level Meeting with Heads of National Equality Bodies "Realising the Potential of Equality Bodies" in Brussels. In his keynote presentation, the Commissioner pointed out that current austerity measures were leading to deepening poverty, growing discrimination and scapegoating, and often resulted in equality bodies, ombudsmen and national human rights institutions suffering significant cuts to their budgets and curbs on their independence. He underscored the importance of good anti-discrimination legislation in every country – equal treatment acts which should build on already existing international instruments and standards.

The Commissioner also referred to his 2011 Opinion on national structures for promoting equality which was developed with significant input from national equality bodies. He emphasised that the case for the central role equality bodies play in society has to be made clear and that standards need to be set for their effective and independent functioning. He also highlighted the need for equality bodies to focus in their work on particularly vulnerable groups, including Roma, LGBT people, children, people with disabilities and older persons.

### ***Freedom of expression, media independence and media diversity***

The Commissioner organised several activities in October in order to draw attention to the necessity to better protect journalists across Europe from violence and threats.

On 4 October, the Commissioner published a Human Rights Comment entitled “Protection of journalists is essential for media freedom in Europe”. He stated that the right of journalists to carry out their work under safe conditions, without fear of being harassed, attacked, beaten or killed is a topic of paramount importance for freedom of the press and freedom of expression in Europe today.

In recent years, some of the leading investigative journalists in Europe have fallen victim to brutal killings: Hrant Dink in Turkey, Georgyi Gongadze in Ukraine, Elmar Huseynov in Azerbaijan and Anna Politkovskaya in Russia. The Commissioner underlined that no effort must be spared to apprehend and bring to justice not only the actual killers, but also those who ordered these murders – impunity is unacceptable.

In connection with the Human Rights Comment on protection of journalists, an Issue Discussion Paper on “Protection of journalists from violence” was also published. In the Foreword the Commissioner underlines that there are many things authorities can do to protect journalists from violence and thus protect freedom of speech and the press, and he spells out the positions of his Office in this area.

The paper discusses the protection media professionals enjoy – or are meant to enjoy – under international humanitarian law. It highlights the concern that innumerable cases of violence with the aim of silencing journalists occur every year and that of the 30 murders of journalists that the OSCE has documented in the region since 2007, only one-tenth have resulted in the apprehension of suspects and successful prosecutions. It also notes that it requires strong commitment from governments, law enforcement agencies and legislators, as well as international organisations, civil society, and journalists’ own organisations to secure progress in order to strengthen the protection of journalists from violence – and that the best results can be achieved if they work together. The paper was prepared by Ms Dunja Mijatović, the OSCE Representative on Freedom of the Media.

In October 2011 five years had passed since Anna Politkovskaya, journalist at *Novaya Gazeta*, was murdered. On 5 October the Commissioner organised an open discussion about “Protection of Journalist in Europe” in her memory.

The open discussion took place at the Council of Europe in Strasbourg with a panel consisting of the Commissioner for Human Rights, Mr Thomas Hammarberg, Ms Dunja Mijatović, the OSCE Representative on Freedom of the Media and Mr Sergey Sokolov, Deputy Editor in Chief of *Novaya Gazeta*. After an introduction by the Commissioner, Ms Mijatović presented the above mentioned Issue Discussion Paper and Mr Sokolov reported on the situation of the investigation into the murder of Anna Politkovskaya. He underlined that the ones who ordered and financed the murders have not been named, let alone prosecuted, judged and punished. He also talked about the difficult situation concerning security issues for the journalists at *Novaya Gazeta* and other media outlets in Russia. The panel discussed what can be done to strengthen the right of journalists to carry out their work under safe conditions. Approximately 90 persons attended the event and many intervened in this important discussion.

On 8 November, the Commissioner published a Human Rights Comment entitled “Ethical journalism – self-regulation protects the independence of media”. He underlined that the enormously important role of media in the protection of human rights can be undermined by unethical behaviour by journalists and media outlets. He also noted that

unrestrained commercial ambitions can encourage a culture of illegal and unethical activity in the newsroom – as the phone hacking scandal in the United Kingdom has clearly demonstrated.

He noted that reckless and intrusive journalism can damage public confidence very quickly, and be used as an excuse by governments to impose media regulation or even censorship. This would, of course, further undermine the existence of critical, investigative journalism. The Commissioner argued that the media community therefore needs to develop a system of effective self-regulation – based on an agreed code of ethics and a mechanism to receive and respond to complaints. This issue is becoming more and more urgent in a changing media landscape. To develop, discuss and spread ethical journalism is highly relevant in this context.

In connection with the publication of the Human Rights Comment concerning ethical journalism, an updated version of the Issue Discussion Paper “Ethical journalism and human rights” was published. The aim of the paper is to set out a framework for fresh discussion of the ethical challenges that create tension between human rights and journalism, and the Commissioner lists the most important positions of his Office concerning this area.

The paper points out that journalists, at least as much as governments, have a vested interest in the defence and promotion of high standards of human rights. The objectives of the paper are two-fold: to identify the practical steps needed to strengthen the conditions for the exercise of ethical journalism and to raise awareness of the importance of ethical journalism and human rights protection – and how, together, they can contribute to a better society. The paper was prepared by Mr Aidan White, international media specialist and former General Secretary of the International Federation of Journalists.

On 17 and 18 November, a member of the Commissioner’s Office participated in the Conference on combating hate speech in South Eastern Europe, organised by the Council of Europe in Sarajevo, and presented the case law of the European Court of Human Rights and relevant standards applicable. Participants of the Conference included representatives of the Ministries of Justice, regulatory bodies, judges, prosecutors, editors and journalists from Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Romania and Serbia.

On 23 November, a member of the Commissioner’s Office participated in the expert consultation at senior level organised by the Austrian Federal Ministry for European and International Affairs in Vienna under the working title: “Safety of Journalists: Towards a more effective international protection framework”. This workshop aimed at gathering a number of experts from international and regional organisations, governments and civil society to discuss the international and regional legal framework guiding the protection of journalists and its implementation at national level.

On 6 December, the Commissioner published a Human Rights Comment discussing two major threats to media freedom across Europe today. One is the attempt by state authorities to dominate the media market. The other is the commercialisation and monopoly tendencies we see across Europe. Public service media (PSM), defined as media that produce and transmit public-interest content, are funded by the state or the public and have boards appointed by public bodies, have an essential role as a counter-



balance to the business-driven entertainment media and the state or private media empires. Being independent, including non-dependent on advertisers, they could encourage good, investigative journalism and knowledge-based content.

The Commissioner noted that there is a need for studies and dialogues on how PSM actually function across Europe today and to what extent human rights principles are incorporated. He argued that this discussion must include what steps are necessary to ensure that the potential of internet-based social media can be fully exploited in the service of the public.

In connection with the publication of the Human Rights Comment on public service media and pluralism, two Issue Discussion Papers were published. The authors of the Issue Discussion Paper entitled “Public service media and human rights” call for the adoption of a rights-based approach to guide the reforms and policies related to PSM. They argue that if PSM base their development on a rights-based approach – encompassing principles of human rights, accountability, participation, non-discrimination and empowerment – their credibility will be strengthened and thereby enable them to act in the best interests of the public. They also bring forward the need for a system of human rights indicators that can be used to assess and improve PSM. The paper was prepared by Mr Boyko Boev, Senior Legal Officer, and Ms Barbora Bukovska, Senior Director for Law and Policy from the non-governmental organisation (NGO) Article 19.

The Issue Discussion Paper “Pluralism in media and human rights” argues that in today’s societies, the basic human right to freedom of expression and information cannot be properly exercised without the presence of a large number of rival media outlets which are free from the domination of political or commercial interests. Free speech, even if constitutionally granted, becomes a mockery if reduced to the information flow available through a few “authorised” or “winning” outlets. Access to a great variety of media is not just necessary for free speech; it is also crucial to make democracy work. Only a sufficiently diverse media environment can keep the public aware of facts, views and debates which hold governments to account. Media pluralism contributes to the development of informed societies where different voices can be heard. The paper was prepared by the former OSCE Representative on Freedom of the Media, Mr Miklós Haraszti.

Ahead of human rights day, on 8 December, the media freedom publication “Human rights and a changing media landscape” was launched in London.

The publication is the outcome of the six Media Freedom Lectures, which were held during 2011. In six chapters, eight international experts have contributed their personal assessments of trends and problems concerning one of the six topics and its relation to human rights: ethical journalism, access to official documents, protection of journalists from violence, public service media, social media and media pluralism. In a foreword the Commissioner gives an overview of the situation regarding media freedom in Europe today.

The event took place at the premises of the NGO Article 19 in London and the publication was presented by a panel consisting of the Commissioner and several of the contributors to the book: Mr Douwe Korff (Social Media), Mr Boyko Boev (PSM) and Mr Aidan White (Ethical Journalism). The Executive Director of Article 19, Ms Agnès Callamard, also participated.

There was a vivid discussion with the participation of the audience of approximately 90 persons, including journalists, academics, and national and inter-governmental officials. A prominent subject was ethical journalism and the importance of self-regulation – in view of the growing phone-hacking scandal in the United Kingdom. The discussion was also spread and commented through the twitter hashtag: #COEmediafreedom.

### ***Human rights of persons with disabilities***

On 4 November the Commissioner participated in a roundtable discussion organised by the Mental Disability Advocacy Centre (MDAC) on evolving standards in preventing torture and ill-treatment against persons with disabilities, which took place in Strasbourg. The discussion was also attended by representatives of the Committee for the Prevention of Torture, the Subcommittee on Prevention of Torture of the UN Optional Protocol to the Convention against Torture, the UN Committee on the Rights of Persons with Disabilities and various NGOs as well as academics.

The participants discussed the standards of the Convention on the Rights of Persons with Disabilities (CRPD) and their impact on the work of existing monitoring bodies. Bearing in mind the new national implementation and monitoring mechanisms which need to be set up under the CRPD, discussions also focused on the relationship between the future CRPD mechanisms and the existing international monitoring bodies, as well as with the national preventive mechanisms required under the UN Optional Protocol to the Convention against Torture. The attendees were informed about recent and upcoming work of the Commissioner concerning persons with disabilities.

### ***Impunity***

On 29 November the Commissioner published a Human Rights Comment on the need for effective investigations into politically-motivated murders of human rights defenders, journalists, lawyers and critical opinion makers. He recalled that a strong determination to fight against impunity is absolutely crucial to ensure that not only the perpetrators, but also the organisers of such crimes are held accountable. Measures should also be taken to punish officials who knowingly tolerate impunity. To enhance the effectiveness of investigations into sensitive cases, the Commissioner recommended that governments strengthen the mechanisms guaranteeing the personal security of the prosecutors, whistle-blowers and witnesses. He further recalled that the Guidelines on eradicating impunity for serious human rights violations adopted by the Committee of Ministers in March 2011 provide useful guidance in this respect.

### ***Social rights***

On the occasion of the 50<sup>th</sup> anniversary of the European Social Charter, on 18 October, the Commissioner participated in a brainstorming meeting on the ratification of the collective complaints procedure. He underlined the importance of this procedure, which contributes effectively to the enforcement of the social rights guaranteed by the Charter and regretted that only 14 states have accepted the procedure so far. He therefore encouraged the remaining member states to set aside any reservations they may have in this regard and promptly accept the collective complaints procedure. The Commissioner expressed the hope that this mechanism will be used more systematically in the future in order to protect social rights.

### ***Pre-trial detention***

On 10 November, the Commissioner delivered a keynote address during an event on pre-trial detention organised by the non-governmental organisation Fair Trial International (FTI) in the European Parliament in Brussels. FTI launched the report “Detained without trial” on this occasion, which contains a response to the European Commission’s Green Paper on detention.

The Commissioner indicated that there is a trend in Europe whereby pre-trial detention is used almost as an automatic instrument. While there is a need for pre-trial detention in some cases, such as when there is a reasonable suspicion that the accused will tamper with evidence or with witnesses or will abscond, these cases should remain the exception. There are many alternatives to detention which entail a limitation of freedom of movement, but governments have made only limited efforts to explore or implement these alternatives. There is therefore a need to raise and discuss the issue of pre-trial detention to ensure that the basic principle of the presumption of innocence is respected in practice.

## **5. Other Meetings**

### ***Hearing of the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs***

On 10 November, the Commissioner took part in the hearing on the implementation of the EU Charter of Fundamental Rights organised by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament in Brussels. The objective of the hearing was to assess the EU’s efforts to respect, protect, promote and fulfil human rights two years after the entry into force of the Treaty of Lisbon.

In his speech, the Commissioner stressed that the protection of human rights and fundamental freedoms in the EU is still far from ideal. While co-operation between the Council of Europe and EU structures generally improved, the discussion on the Hungarian media laws demonstrated a lack of co-ordination which was particularly unfortunate as the EU normative basis was insufficient for a thorough discussion on issues relating to freedom of expression. The Commissioner mentioned four major human rights challenges which require more and sustained efforts by European states and institutions: discrimination against Roma and Travellers; immigration and asylum; the rise of xenophobia; and the role of European states in counter-terrorism activities, notably the operation of ‘Black Sites’ on European soil.

### ***Launch of the Swedish version of the book Human rights in Europe: no grounds for complacency at the Swedish Forum for Human Rights***

On 14 November, during the Forum for Human Rights in Stockholm – *MR-dagarna* – the Swedish version of the collection of the Commissioner’s viewpoints “Retoriken och verkligheten” (published by Atlas förlag) was launched.

The Commissioner took part in three seminars. One was devoted to the book, a second to migration issues and a third concerned abuses against human rights in connection

with the fight against terrorism. During the Forum the Commissioner was awarded the prize “European of the Year” by the NGO *Europarörelsen i Stockholm*.

***High Level Conference on “Determination of the problematic areas of Turkish legislation and legal practice in the scope of the ECtHR case-law and suggestions for solutions”***

On 15 November, the Director of the Office took part in a high level conference organised in Ankara by the Turkish Ministry of Justice, General Directorate of International Law and Foreign Affairs, Department of Human Rights.

She participated as a speaker in the second panel of the conference which was devoted to the “necessary amendments on legislation and implementation to prevent violations of freedom of speech”. During her intervention, the Director presented the main conclusions and recommendations of the Commissioner’s report on freedom of expression and media freedom in Turkey published in July 2011.

***International Conference under the auspices of the Slovakian Deputy Prime Minister for Human Rights and National Minorities***

On 5 December, the Director of the Office took part in the conference “Human Rights - Back to Basics” organised in Bratislava by Mr Rudolf Chmel, the Slovakian Deputy Prime Minister for Human Rights and National Minorities. She addressed the opening session of the conference and made an intervention covering the issue of the protection of human rights in times of economic crisis.

## **6. Human rights defenders**

***Round-Table on Human Rights Defenders in the Council of Europe area***

The Office of the Commissioner for Human Rights organised a Round-Table on Human Rights Defenders in the Council of Europe Area on 27 and 28 October in Strasbourg. Participants included representatives of international and regional inter-governmental organisations and international non-governmental organisations (NGOs), as well as over 30 human rights defenders from different parts of the Council of Europe area.

The event, which was led by the Commissioner, provided an opportunity to exchange information on the situation of human rights defenders and their work environment. Specific themes discussed included: hindrances to the work of human rights defenders and solutions to overcome them; access to human rights protection mechanisms, including cooperation between human rights defenders and National Human Rights Structures; and effective participation of human rights defenders in public consultation and decision-making processes.

Participants proposed several recommendations based on the discussions held during the event.

A report on the Round-Table will be issued in due course.

***Project of the Office of the Public Defender of Georgia on the protection of Internally Displaced Persons and other conflict-affected populations***

From 7 to 11 November, the Office of the Commissioner for Human Rights participated in activities organised by the Office of the Public Defender of Georgia (PDO) which were held in Kutaisi, Zugdidi and Batumi on the situation of Internally Displaced Persons (IDPs) in Georgia. In each region, the PDO organised an information-sharing meeting with the participation of IDPs and local representatives of the Georgian Ministry of Internally Displaced Persons from the Occupied Territories, Refugees and Accommodation; a discussion with local NGOs and representatives of international structures; and an awareness-raising session with students. The main issues debated were the privatisation and rehabilitation of housing for IDPs, the situation of IDPs in the private sector, and other questions pertaining to IDPs and conflict-affected persons.

Since January 2010, the Office of the Commissioner has been supporting the PDO with the aim of addressing the situation of IDPs and other persons affected by the August 2008 conflict in Georgia. As part of the project, staff from the regional offices of the PDO have been monitoring the situation of such persons in different regions of Georgia, a comprehensive report on the situation of IDPs and other conflict-affected populations was issued, and training sessions were organised for PDO staff and representatives of the above-mentioned Ministry.

## **7. European Court of Human Rights**

On 14 October, the Commissioner submitted his first third party intervention under Protocol No. 14 to the European Court of Human Rights, in a case concerning the treatment of a person with disabilities in Romania<sup>3</sup>. The case had been lodged by the Centre for Legal Resources on behalf of Valentin Câmpeanu, a young man of Roma ethnic origin, suffering from a severe learning disability and infected with the HIV virus, who died at the age of 18 at the Poiana Mare Psychiatric Hospital, after having spent his whole life in institutions.

So far the Court has never had the opportunity to examine a case concerning a person who died before the submission of an application in the absence of any heir or close relative and with no legal representative. The Commissioner stressed that persons with disabilities are all too often denied access to justice on an equal basis with others. He therefore considers that in exceptional circumstances, NGOs should be allowed to lodge applications with the Court on behalf of victims, even in the absence of a specific authorisation. This will enable the Court to address abuses committed against people with disabilities who live in institutions.

The written observations were made public on 18 October and are available on the Commissioner's website.

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<sup>3</sup> *The Centre for Legal Resources on behalf of Valentin Câmpeanu v. Romania* (Application No. 47848/08)

## 8. Communication and Information work

Among the most covered topics during this period were the Commissioner's work on media freedom, in particular the debate organised on violence against journalists and the report on Turkey (*Euronews, AFP, Swedish Radio, The Guardian, The Independent, Press Association, the Huffington Post, Metro, Daily Mail, ANSA, Focus News, Today's Zaman, Expatica, ITAR-TASS, Turan Information Agency, Ria Novosti, Times, Armtown, PanARMENIAN.Net, Tert, SIR, L'Humanité, LexTimes.fr, EFE, SIR, L'Espresso, Bianet, Il Fatto quotidiano*).

The visit to Turkey and the observations on the systemic dysfunctions of the Turkish justice system were largely covered, mainly by national media (*Bianet, NTV, Today's Zaman, Cumhuriyet, Dunya, New Europe, Agence Europe, MediaPart*).

*International Business Times, SVT, Swedish Radio* and *TVP* further mentioned the Commissioner's criticism of the counter-terrorism measures adopted in many European countries

*Reuters* and *News.az* referred to the Commissioner's work in Azerbaijan, while *PAP* and *Gazeta Wyborzca* focused on the Commissioner's visit to Poland, and in particular on children's rights with reference to Korczak.

*Swedish Television, The Parliament* and *EUObserver* focused on the general situation of human rights in Europe and the relations between the Council of Europe and the European Union.

*Malta Today* and *Times of Malta* mentioned the Commissioner's report on the rights of LGBT persons in articles concerning the new amendments to legislation proposed in the country on transgender rights. Yagg mentioned the Commissioner's work in this field concerning the French context.

Further coverage concerned Ukraine (*Ukrainian News, Unian, Kyiv Post*), the Nobel Peace Prize (*Dagens Nyheter*), minorities (*MIA*), Armenia (*Nouvelle d'Arménie, ARMINFO News, A1 Plus*), Russia (*El Pais*), Italy (*Global Perspectives*), migrants and asylum seekers (*Südwest presse, Malta Today, Il Levante*), general human rights issues (*Swedish Radio, Dnevnik*), the visit to the Republic of Moldova (*Moldova 1, Radio Free Europe*), LGBT (*Nouvel Observateur*), Roma and Travellers (*Romano Vod'I, New Europe, Dernières Nouvelles d'Alsace*) persons with disabilities (*EUZINE, New Europe*), post-war justice in the Balkans (*Ansa, SIR*) and the situation in Belarus (*Charter 97, SIR, Rosbalt*).

The following Human Rights Comments were published during this quarter:

*Protection of journalists is essential for media freedom in Europe* – 4 October

*Only genuine justice can ensure durable peace in the Balkans* – 3 November

*Ethical journalism: self-regulation protects the independence of media* – 8 November

*The right to leave one's country should be applied without discrimination* – 22 November

*Politically-motivated murders are not effectively investigated – this feeds a culture of impunity* – 29 November

*Public service media needed to strengthen pluralism* – 9 December

## 9. Next three months

### January

|         |                                                                               |
|---------|-------------------------------------------------------------------------------|
| 10/1    | Publication of CommHR report on Turkey                                        |
| 11/1    | Publication of CommHR letter to the PM of the Republic of Moldova             |
| 12/1    | Publication of CommHR letter to MFA of Hungary                                |
| 16-17/1 | Visit to the Republic of Moldova                                              |
| 19-20/1 | Launch of the Turkish version of the book "Human rights in Europe" (Istanbul) |
| 26/1    | PACE: Presentation of annual report 2011                                      |
| 27/1    | Solemn Hearing for the official opening of Court's judicial year              |

### February

|         |                                                                                                                                                                                  |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2/2     | OSCE Permanent Council meeting (Vienna)                                                                                                                                          |
| 6/2     | Seminar on "Roma in Europe" organised by the Swedish delegation to the OSCE (Stockholm)                                                                                          |
| 8-9/2   | Visit to Iceland                                                                                                                                                                 |
| 16-17/2 | Visit to Andorra                                                                                                                                                                 |
| 20/2    | Publication of Issue Paper on disability (legal capacity)                                                                                                                        |
| 20-23/2 | Visit to Switzerland                                                                                                                                                             |
| 22/02   | Publication of CommHR letter to MFA of Bulgaria                                                                                                                                  |
| 23/02   | Publication of CommHR report on Ukraine                                                                                                                                          |
| 24/2    | Visit to Lichtenstein                                                                                                                                                            |
| 27/2    | Launch of CommHR Report "The Human Rights Situation of Roma and Travellers in Europe"                                                                                            |
| 28/2    | Seminar "Human Rights in the Constitution - a Nordic comparison" organised by the Voksenåsen Cultural Centre in cooperation with the Parliamentary Human Rights Committee (Oslo) |

March

|       |                                                                                                        |
|-------|--------------------------------------------------------------------------------------------------------|
| 5/3   | Seminar "Human Rights in European Security Policy" organised by the Social Democratic Party (Helsinki) |
| 7-8/3 | Visit to Luxembourg                                                                                    |
| 9/3   | Amnesty Chair Lecture at University of Ghent (Belgium)                                                 |
| 14/3  | CM: Annual Report 2001 and QR 4/2011; report on QR 1/2012                                              |
| 18/3  | HR defenders roundtable (Sarajevo)                                                                     |
| 19/3  | Launch of IP on post-war justice and durable peace in the former Yugoslavia (Sarajevo)                 |
| 19/3  | Meeting with the Presidency of Bosnia and Herzegovina (Sarajevo, <i>tbc</i> )                          |
| 20/3  | Meeting with President of Serbia (Belgrade, <i>tbc</i> )                                               |
| 21/3  | Meeting with President of Croatia (Zagreb)                                                             |
| 27/3  | Conference on combating discrimination on grounds of sexual orientation (UK Chairmanship of CM event)  |

## **10. Observations and reflections**

A well-functioning, non-corrupt and non-politicised system of justice is of course absolutely essential for the protection of human rights in any country. Typically, the Court is inundated with complaints about unnecessary detentions before trial, slow procedures in domestic courts and non-execution of judgments.

In a good system, the executive authorities should avoid trying to influence the outcome of individual cases – but they, and the parliaments, have an obligation to ensure that laws on procedures are consistent with European standards. Rulings of the Strasbourg Court may require corrections in the individual case, but sometimes also changes in the justice system as such.

My conclusion is that judicial reform is still needed in a number of member states. Laws should be improved and the independence of justice better protected. There are still problems of corruption and political interference – concretely or based on “understandings”.

I have come across cases of “selective” justice in the sense that persons who have been seen as opponents have been singled out for worse treatment than others. This also appears to have delayed investigations into crimes committed against such individuals.



This is a strong *raison d'être* for the Council of Europe. The Court, the Venice Commission and the Directorate General of Human Rights and Rule of Law have all in their particular areas of competence a crucial role in assisting member states to improve their systems. I am sure that the Commissioner's office will continue to contribute within its mandate.

In these efforts it is necessary to go beyond the surface. On paper the system might appear almost perfect, while the reality is quite appalling. It is important to analyse the systems as they are in reality.