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1. Overview

In several country visits and reports, conference presentations and media interventions over the period in review, I focused on shortcomings in investigative processes. A related, but distinct area of work involved examining human rights in the judiciary and the important role of judicial review and judicial oversight in various areas affecting human rights. In the period under review, I addressed these issues in Armenia, Azerbaijan, Hungary, Northern Ireland, Russia and Ukraine. The role of judicial oversight was also an important component of an Issue Paper I published entitled “The rule of law on the Internet and in the wider digital world.”

Prompt, effective investigations of serious human rights violations followed by efficient, independent adjudication and dissuasive penalties are too often lacking. Impunity for perpetrators and the lack of accountability not only leave victims and their families yearning for justice, they also undermine public confidence in the rule of law and encourage further violations. During a visit to Ukraine in December, I continued to raise the need for effective investigations for serious human rights violations, including for the killings and excessive use of police force during the Maidan events, the tragic events leading to the deaths of scores of persons in Odesa, and, more recently, for violations by all parties to the conflict in and around the Donetsk and Luhansk regions.

My work on this issue complements that of the international advisory panel supervising investigations in Ukraine, an initiative of the Council of Europe’s Secretary General. The prosecutors I met claimed that their discussions with the advisory panel not only prompted them to see the investigative process in a new light, but also helped them in their dialogue with civil society. Similarly, in the report following my mission to Kyiv, Moscow and Crimea, I stressed the imperative of investigating several politically motivated killings and enforced disappearances that took place in Crimea over the last year.

I attended a conference on transitional justice in Belfast, Northern Ireland, which highlighted that the lack of accountability can have a corrosive effect on social cohesion and the rule of law over the long-term. What is needed is not only justice for human rights abuses, but also reparations to victims, a truth process, and guarantees of non-recurrence through institutional reforms. In Northern Ireland, I witnessed the visible role of the European Convention on Human Rights in setting the standard for what constitutes an effective investigation. In a sign of the weight of the Convention, a question frequently raised in Belfast regarding various justice mechanisms was: “Is it Article 2 compliant?”

In a country visit to Armenia, I examined not only shortcomings in investigative processes (e.g., an over-reliance on confessions), but also on the need to strengthen the self-governing mechanism in the judiciary, curb arbitrary disciplinary proceedings, and ensure adequate resources for the administration of justice. In an urgent visit to Azerbaijan, I focused on the dire situation of human rights defenders, who have suffered from a broad government crackdown and reprisals. The *Ilgar Mammadov v. Azerbaijan* judgment, in which the Strasbourg Court found that the plaintiff had been detained for purposes other than having committed an offence, put the spotlight firmly on the problem of selective or politicised justice in the country.

Judges and the judiciary are not only important in securing the right to a fair trial and accountability for human rights violations. They also often ensure that other actors in the state administration adhere to the rule of law. Thus, in Hungary one of the issues I touched upon was the inadequacy of judicial review in processes of asylum detention. Without well-reasoned and individualised decisions for imposing or prolonging detention, the process can become arbitrary.

Similar arbitrariness is a risk when states interfere with freedom of expression, association and assembly by blocking and filtering Internet content. As I stressed in the recommendations of the Issue Paper on “The rule of law on the Internet and the wider digital world” published during the period in review, “domestic courts must examine whether any blocking measure is necessary, effective and proportionate, and in particular whether it is targeted enough so as to impact only on the specific content that requires blocking.”

This is true not only of content such as child pornography and incitement to racial hatred, but also in the struggle against terrorism. Terrorists are increasingly using the Internet not only to communicate among themselves and threaten targets, but also to recruit and plan attacks. I return to topical human rights challenges in the context of counter-terrorism in the observations at the end of this quarterly report.

2. Missions and Visits

Visit to Armenia

The Commissioner visited Armenia from 5 to 9 October. The visit focused on two major themes: the administration of justice and the protection of human rights in the justice system; and the rights of women and gender equality.

In Yerevan, the Commissioner met with Mr Serzh Sargsyan, the President of the Republic and Mr Hovik Abrahamyan, the Prime Minister. In the National Assembly, he met the Chairman (Speaker), Mr Galust Sahakyan, as well as representatives of the different parliamentary faction. From the executive branch, he also met the Minister of Defence, Mr Seyran Ohanyan, the Minister for Foreign Affairs, Mr Edward Nalbandyan, the Minister of Justice, Mr Hovhannes Manukyan, the Minister of Labour and Social Affairs, Mr Artem Asatryan, and the Head of the National Police, Mr Vladimir Gasparyan. From the judiciary, he met the Chairman of the Constitutional Court, Mr Gagik Harutyunyan, the Chairman of the Court of Cassation, Mr Arman Mkrtumyan, the General Prosecutor, Mr Gevorg Kostanyan, the Head of the Special Investigation Service, Mr Vahram Shahinyan, the Military Prosecutor, Mr Artavazd Harutyunyan, and the Head of the Judicial Department, Mr Karen Poladyan, as well as representatives of the Association of Judges and members of the Chamber of Advocates. In addition, the Commissioner held discussions with the Human Rights Defender (Ombudsman), Mr Karen Andreyan, representatives of civil society, and the international community.

The Commissioner visited the town of Vanadzor located in the northern region of Lori, where he met with representatives of the regional and local authorities, a judge of the Lori first instance court, and a number of civil society actors.

With regard to the administration of justice, the Commissioner stressed the importance of strengthening the independence of individual judges and of protecting them from undue external and internal interference. He recommended reviewing the procedures for the selection, appointment, promotion and dismissal of judges - underlining that judicial self-governing bodies should play a greater role in these processes - and taking action to address allegations of pressure on judges through the arbitrary application of disciplinary proceedings against them. He highlighted the need to have a well-resourced judiciary in order to ensure the efficiency and quality of justice, having regard to the increase in caseload and the comparatively low number of judges per capita. In the field of criminal justice, the Commissioner sought to understand the factors contributing to the prosecutorial bias in the justice system, as evidenced inter alia by the low acquittal rate (3.1%). Recalling the importance of equality of arms, he stressed the need to respect the presumption of innocence, and also expressed concern about the frequent resort to pre-trial detention.

The Commissioner urged the authorities to enhance their efforts in combating torture and ill-treatment and ensuring accountability for public officials who are implicated in such practices. The offence of torture, defined in accordance with international standards, should be part of the criminal legislation. It is important to ensure the effectiveness of safeguards against ill-treatment, as well as proper oversight over the work of law enforcement bodies. Investigative techniques which would decrease reliance on testimonies and confessions should be developed. The Commissioner also discussed the state of play as regards the investigation into the ten deaths which occurred during the March 2008 events. He regretted that no progress had been made in clarifying the circumstances of the deaths and in identifying the perpetrators. With regard to the human rights situation in the army, the Commissioner insisted on the need to effectively investigate cases of deaths in non-combat situations and to enhance prevention efforts. He commended the Armenian authorities for resolving the long-standing issue of the right to conscientious objection.

The Commissioner welcomed the adoption of gender-related policies and the 2013 Law on Equal Rights and Equal Opportunities for Men and Women as steps in the right direction. He urged the authorities to implement them in practice, and recalled the international obligations accepted by Armenia in this regard. The Commissioner insisted on the importance of adopting a comprehensive anti-discrimination law, on the basis of the work already performed by the Office of the Ombudsman, and taking into account international standards and good practices. The Commissioner stressed the importance of adopting specific legislation against domestic violence and of ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence. Noting with concern that domestic violence cases in Armenia are not being effectively identified, investigated, prosecuted and punished, the Commissioner urged the authorities to remedy these shortcomings and effectively protect the victims of violence. Furthermore, he encouraged political and community leaders to send an unequivocal message that such practices can never be acceptable. He also noted that pre-natal sex-selection, which is reflected in skewed sex ratios documented at birth, is another manifestation of gender bias. Finally, the Commissioner highlighted the important work performed by civil society actors, in particular human rights organisations and defenders working in the field of women's rights, and stressed the need to ensure that they can carry out their activities in an environment free from intimidation and threats.

The Commissioner's report following his visit is forthcoming.

Mission to Turkey

The Commissioner travelled to Turkey from 18-22 October to deliver a lecture at Bilgi University in Istanbul, and to participate in the second international symposium on Ombudsman institutions hosted by the Turkish Ombudsman Institution in Ankara.

The lecture at Bilgi University took place on 19 October in the framework of an international conference entitled "*Contemporary Turkey at a Glance: Turkey transformed? Power, History, Culture*". The Commissioner highlighted the complexity of the picture which emerges from the work of his Office on human rights in Turkey. He referred to several important legal and institutional advances made in recent years, while pointing to worrying setbacks which occurred during the same period. He also shared his view that the civic orientation and strong human rights alliances in Turkish civil society, as well as the interest of its public opinion in human rights issues were particular strengths of the country. At the same time, the Commissioner placed the developments in Turkey in a broader European context, stressing that Turkey not only faces the same problems as many other member states, but that the way it is grappling with a number of cutting-edge human rights issues, such as Internet governance, surveillance and transitional justice, will also have a direct impact elsewhere. He also referred to Turkey's role in the Syrian refugee crisis, which brought to the fore serious problems in the European migration and asylum policies.

The Commissioner took the opportunity of his presence in Istanbul to meet with academics and representatives of civil society, in order to exchange views about recent developments affecting human rights in Turkey.

On 21 October, the Commissioner spoke at the opening session of the aforementioned international symposium on Ombudsman institutions. The symposium brought together a number of European ombudspersons and was attended by high-level Turkish officials, including the President of the Republic, the Speaker of the Parliament and several Ministers. In his speech the Commissioner stressed the importance he attaches to co-operation with national ombudspersons, giving several concrete examples of countries where such co-operation led to tangible positive results. He welcomed the achievements of the Turkish Ombudsman Institution in the short period since its establishment in 2013 and called on the Turkish authorities both to reinforce this institution and to improve compliance of administrative authorities with its decisions.

On the occasion of this visit to Ankara, the Commissioner also met with the Turkish Minister of Foreign Affairs and the President and other members of the Turkish Human Rights Board. He also had a meeting with the Director-General of AFAD (Turkish Disaster Management Presidency), who briefed him about the latest developments relating to the Syrian refugees in Turkey.

Visit to Azerbaijan

The Commissioner carried out a visit to Azerbaijan from 22 to 24 October, focusing on the situation of human rights defenders. The urgency of this visit was dictated by the arrest and detention of virtually all the civil society partners of the Commissioner's Office over the summer of 2014.

In the course of his visit, the Commissioner held discussions with the authorities, including the Minister of Justice, Fikrat Mammadov, the Deputy Minister for Foreign Affairs, Mahmud Mammad-Guliyev, and the Prosecutor General, Zakir Garalov. He also met with the Ombudsman, Elmira Suleimanova, and went to Kurdakhani detention center, where he talked with Anar Mammadli, Leyla Yunus, Rasul Jafarov and Intigam Aliyev. In addition, the Commissioner met with family members of prisoners, defence lawyers and some civil society representatives.

The Commissioner shared with the authorities his concerns relating to deficiencies in the protection of freedom of expression, assembly and association in Azerbaijan, and shortcomings in the NGO (non-governmental organisations) legislation and the way it is implemented, noting that legislation should not make human rights work impossible. The Commissioner also raised the issue of the full and effective execution of judgments of the European Court of Human Rights, referring in particular to the case of Ilgar Mammadov. He noted that this judgment, which found that the applicant had been detained for purposes other than having committed an offence, put the broader issue of selective justice at the forefront and called on the Azerbaijani authorities to deal with this and similar cases as a matter of priority.

At the end of his visit, the Commissioner reiterated his concerns regarding the continued targeting of human rights defenders in Azerbaijan. On 24 November, he published on Facebook a personal account of his visit and meetings with imprisoned human rights defenders, noting that while most of his partners were in detention, others had discontinued their human rights work, had left the country over the summer, or had gone into hiding as reprisals spread. Noting that these developments also made co-operation between Azerbaijan and the Council of Europe extremely difficult, the Commissioner urged the authorities to immediately stop the reprisals against the Organisation's partners in the country.

Visit to Ukraine

The Commissioner carried out a visit to Ukraine from 1 to 5 December, focusing on the situation of displaced persons and investigations into serious human rights violations (Articles 2 and 3 of the ECHR).

As part of this mission, the Commissioner visited places of accommodation and/or registration for internally displaced persons (IDPs) in Dnipropetrovsk, Dniprodzershinsk and Kyiv. In Dnipropetrovsk, the Commissioner had a meeting with the local authorities, including Mr Genadiy Korban and Svyatoslav Oliynyk, deputy heads of the Dnipropetrovsk regional state administration, as well as the local representatives of security and law-enforcement structures. He also travelled to the Donetsk region (*oblast*) in the east of the country, where he visited the towns of Kurakhove and Krasnoarmiysk – situated 15 and 30 kilometres, respectively, from the front line of fighting. In Kurakhove, he had discussions with the representatives of the local council and the mayor's office, as well as representatives of the social services from the town of Maryinka, who have been relocated to the premises of the social services in Kurakhove. He also spoke to persons coming from the areas outside of the control of the Ukrainian government and were seeking to complete the paperwork for the payments of their pensions. In Krasnoarmiysk, he had discussions with the head of the local social services.

Both in Kyiv and Dnipropetrovsk, the Commissioner had meetings with the representatives of various international organisations operating on the ground, including the UN and the OSCE, non-governmental organisations and volunteers providing assistance to displaced persons. In particular, he had an in-depth discussion on the situation of IDPs with Mr Oldrich Andrysek, UNHCR Regional Representative. He also met with Ms Heidi Tagliavini, the Special Representative of the OSCE Chairperson-in-Office in Ukraine. Furthermore, in Kyiv he had a meeting with the head of one of the local NGOs working on Roma issues.

At central level, the Commissioner had meetings with the Minister of Foreign Affairs, Mr Pavlo Klimkin, and the Prosecutor General, Mr Vitalii Yarema.

During his meeting with the Minister for Foreign Affairs, the Commissioner expressed great concern over the decision by the government to suspend payments of pensions and other benefits to persons residing on the territories outside the control of the Ukrainian authorities. He expressed the view that this is likely to lead to the further isolation of those regions and exacerbate the already difficult situation of the population there, having a particularly detrimental impact on the most vulnerable groups (pensioners, people with disabilities, families with children, persons with HIV and others). The Commissioner urged the authorities to adopt a flexible approach to paying pensions to persons travelling from the conflict areas, as well as to work in close co-operation with international organisations and humanitarian groups – most notably, those who have access to these territories – with a view to finding a solution which would allow them to reach people in need. The Commissioner welcomed the adoption of the law on IDPs, but pointed out that there was a need to address some specific obstacles to its implementation at local level. He also encouraged the possible development, in close consultation with civil society representatives, local authorities and relevant international organisations, a detailed plan for the implementation of the IDP legislation, which would include measures for ensuring long-term integration of IDPs who are unable or unwilling to return to their homes.

The discussions with the Prosecutor General focused on the investigations into: the events on Maidan square in Kyiv in the period between November 2013 and February 2014; the events in Odesa in May 2014; and serious human rights violations in the east of the country. The Commissioner was informed about the state of the above-mentioned investigations and the ongoing co-operation with the International Advisory Panel, as well as about certain investigative proceedings and several criminal cases which have been opened in relation to crimes implicating representatives of the Ukrainian armed forces and volunteer battalions. The Commissioner strongly emphasised the importance of ensuring effective, prompt and adequate investigations into all cases of serious human rights violations and accountability for those responsible, irrespective of the side of the conflict they represent.

Following this mission, a video film was produced on the situation of displaced persons in Ukraine, which includes several interviews the Commissioner had with various individuals during his visit to Kyiv and the east of the country. On 17 December 2014, the Commissioner also published an article on the website *Open Democracy* entitled “Eastern Ukraine: the humanity behind the headlines”. Both the video film and the article are available on the Commissioner’s own website.

At the outset of the visit on 1 December, the Commissioner took part in a meeting – organised by his Office in partnership with the UN Office of High Commissioner for Human Rights – on developing a national action plan for human rights in Ukraine (see below).

Visits to Roma sites in Strasbourg

On 9 December, the Commissioner carried out a mission to Strasbourg focusing on the human rights of Roma. After meeting with representatives of civil society active in this field, the Commissioner visited an unofficial Roma camp (“La petite forêt”) situated next to a highway, with no electricity or running water. He spoke with around 50 Roma from Romania who live there with their families, in harsh conditions. The Commissioner also visited a municipality-run “transitional centre” (“Espace 16”) which hosts approximately 135 Roma in decent conditions and provides them with social welfare assistance.

The Commissioner’s mission was concluded with a meeting with the Sub-prefect of the Bas-Rhin, Mr Jean-Luc Jaeg, the Strasbourg deputy mayor in charge of social affairs, Ms Marie-Dominique Dreyssé, the head of the municipal department in charge of Roma-related issues, Mr Jean-Claude Bournez, and the deputy director of the NGO managing “Espace 16”, Ms Amina Bouchra, with whom he shared his views on Roma inclusion. (see also Commissioner’s International Human Rights Day statement ‘Roma inclusion is mission possible’, published on 10 December 2014 and available on the Commissioner’s website).

3. Reports and continuous dialogue

Report on the Netherlands

On 14 October, the Commissioner published a report following his visit to the Netherlands from 20 to 22 May 2014. The report focuses on the legal and institutional framework for the protection and promotion of human rights, the human rights of asylum seekers and immigrants and the human rights of children.

While noting that the Netherlands possesses a well-established system for promoting and protecting human rights, the Commissioner urged the Dutch authorities to refrain from cutting the budget of national human rights structures and to strengthen the financial independence of the Netherlands Institute for Human Rights. The welcome adoption of the first National Action Plan on Human Rights in 2013 should be accompanied by a more thorough involvement of civil society in its implementation and followed by an independent evaluation, while future action plans on human rights could include more ambitious and measurable goals. The Commissioner invited the Dutch authorities to explicitly include human rights in the attainment targets for primary and secondary education and to ensure that civil servants working at central and local levels are trained on human rights. In the context of the transfer of various areas of responsibility from central government to local authorities, the Commissioner called on the Dutch authorities to monitor the decentralisation process and ensure that it does not impact negatively on the practical enjoyment of human rights. As concerns the ongoing reform of the legal framework for the oversight of the Dutch intelligence and security activities, the new legislation should take into consideration the evolution of technologies

(such as use of metadata) and fully comply with the ECHR and the Court's case-law concerning the protection of privacy and personal data.

Regarding the human rights of asylum seekers and immigrants, the Commissioner focused on the extensive use of administrative detention for these persons in the Netherlands, a practice at variance with international standards which only allow it as a measure of last resort, for the shortest possible period of time and when no effective alternative is available. Addressing specifically the systematic detention of asylum seekers arriving at international (air)ports from non-Schengen countries, the Commissioner urged the Dutch government to stop detaining all children seeking asylum and all asylum seekers in particularly vulnerable situations. Concerning immigration detention, the Commissioner focused on the need to ensure that foreigners whose deportation is not feasible are not detained, in accordance with the case-law of the European Court of Human Rights, and to improve the strict regime applicable to immigration detention.

The Commissioner urged the authorities to address the problem of a number of irregular immigrants living in a legal limbo and ending up in destitution on the streets or in camps as they do not manage to access existing emergency shelters. He recalled that everyone, regardless of their residence status, has the right to an adequate standard of living, including food, clothing and shelter. The Commissioner welcomed the steps taken to grant residence permits to some of the immigrants who cannot be returned and to child asylum seekers whose applications were rejected but who have been living in the country for a certain period of time (Children's Pardon). However, he invited the Dutch authorities to ease the restrictive conditions applying to these schemes.

As regards the human rights of children, the Commissioner recommended a number of steps to improve the juvenile justice system, including increasing the minimum age of criminal responsibility (currently at 12 years), changing the law which allows, by way of exception, 16 or 17-year-old children to be treated as adult criminals, and using alternatives to pre-trial custodial settings more extensively. Addressing growing child poverty and its impact on the enjoyment of children's rights, the Commissioner urged the Dutch authorities to develop strong anti-poverty measures at both national and local level. He also expressed concern at the occurrence of child abuse in the context of domestic violence, through social media or bullying at school. While welcoming the measures already taken to combat different forms of child abuse, the Commissioner invited the Dutch authorities to proactively implement the existing tools against this phenomenon.

The Commissioner expressed concerns at the fact that many children with disabilities are separated from their peers in the Dutch education system. While noting that recent legislation in this field represented a step in the right direction, he stressed that there is still progress to be made to ensure that inclusive education is adopted as a fundamental principle. Recalling that the lifetime exclusion of persons with disabilities from society often begins with their exclusion from mainstream education, he encouraged the Dutch authorities to develop access to inclusive education beyond the framework of "appropriate education".

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

Report on mission to Kyiv, Moscow and Crimea

On 27 October 2014, the Commissioner published a report following his mission to Kyiv, Moscow and Crimea¹ from 7 to 12 September. The report contains an overview of the main human rights issues which have been discussed with various interlocutors in Ukraine and the Russian Federation.

As regards the human rights situation in Crimea, the Commissioner emphasised the need to ensure accountability for serious human rights violations and highlighted the main principles established in the case-law of the European Court of Human rights with regard to effective investigations. On the topic of minority rights, he urged the relevant stakeholders to put an end to the practice of intrusive searches which have been carried out in religious institutions, businesses and private homes belonging to members of the community of Crimean Tatars. He further emphasised the need to create a sense of security for Crimean Tatars, ethnic Ukrainians and any other minority communities which have been rendered more vulnerable by the changed circumstances in the region. Furthermore, he highlighted the need to ensure that the media outlets in the region continue to perform their function of a “public watchdog” in a democratic society.

As to the auxiliary “Self-Defence” forces (*Samooborona Kryma*) which have reportedly been performing police-like functions, the Commissioner noted that their legal status is unclear and some of their actions have led to serious concerns among various human rights organisations and structures. He expressed the opinion that such forces should be disbanded, while individual members - who are not implicated in human rights violations – may be integrated, if they so wish, into regular police forces.

The Commissioner examined several issues related to the granting of citizenship of the Russian Federation to residents of the peninsula, emphasising that the wishes of the person concerned should be the paramount consideration in this regard, and that such consent should be active and clearly stated. The Commissioner also appealed for free and unhindered access of international organisations and missions to the region, including those whose mandate is to provide independent and impartial monitoring of the human rights situation.

In the course of discussions with various interlocutors throughout the mission, the Commissioner emphasised the need to promote safe and favourable conditions for the work of human rights defenders. During his meetings in Kyiv, the Commissioner stressed the urgent need to ensure accountability for human rights abuses, including those reported in the east of the country and elsewhere. He also encouraged the government to develop a comprehensive human rights action plan to address human rights reforms in a more systematic manner.

In Moscow, the Commissioner discussed the follow-up to his report on the administration of justice and his Opinion on the legislation of the Russian Federation on non-commercial organisations in light of Council of Europe standards. He continued to advocate a comprehensive revision of the current legislation regulating the activities of

¹ The mission of the Commissioner for Human Rights was aimed at fostering the effective enjoyment of human rights. It cannot be interpreted as recognising either the authorities that exercise de facto jurisdiction or any altered status of the territory in question.

NGOs with a view to bringing it into line with the provisions of the European Convention on Human Rights and the case-law of the European Court of Human Rights.

Report on Hungary

On 16 December, the Commissioner published a report following his visit to Hungary from 1 to 4 July 2014. The report focuses on media freedom, the fight against intolerance and discrimination, and the human rights of immigrants, asylum seekers and refugees.

While welcoming improvements to Hungary's media legislation introduced since the adoption of a restrictive media package in 2010, the Commissioner expressed concerns that media in Hungary suffer from an inadequate legal framework and political pressures. The mere existence of some provisions, such as severe sanctions, chills media freedom and pushes a number of media outlets towards self-censorship. The extensive administrative regulatory powers of the Media Council coupled with its vulnerability to political influence and control also remain problematic. Moreover, measures such as the tax on advertising revenues and restrictions on political advertising threaten media pluralism. In the Commissioner's view, urgent action is needed to improve media freedom, including by repealing or reformulating the provisions of the Media Act on opinion and political views; extending the protection of sources to freelance journalists; excluding print and online media from the registration requirements; strengthening the independence of media regulatory bodies; and decriminalising defamation.

Though Hungary reinforced its legislation to combat hate crimes and hate speech and its implementation, the Commissioner is concerned at the deterioration of the situation as regards racism and intolerance, in particular targeting Roma, Jews, asylum seekers and refugees, LGBTI persons, and the poor and homeless persons. The visible presence of extremist organisations as well as their links with a political party represented in parliament whose members use anti-Roma and antisemitic rhetoric is an issue of particular concern. The Hungarian authorities should combat intolerance and discrimination more resolutely, including by better investigating the possible racial motivation of offences and imposing appropriate sanctions against individuals and groups who advocate or commit acts of racist violence, incite racial hatred and oppose the basic principles of democracy and the rule of law.

The Commissioner noted that the fight against all forms of discrimination also needed to be strengthened. Roma access to non-segregated education, decent housing and employment must be improved. Urgent progress is also necessary to ensure the rights of persons with disabilities. In particular, the Commissioner called on the authorities to stop placements of persons with disabilities in institutions and avoid opening new institutions, even if they are smaller. The authorities should move resources from institutions to individualised support services. In addition, noting the high number of persons placed under guardianship in Hungary, the Commissioner stressed that these persons' right to make decisions was not guaranteed in accordance with human rights standards. Concerning discrimination against LGBTI persons, the Commissioner regretted that progress made in fighting intolerance and discrimination against these persons had been marred by attempts to ban the Pride March and to introduce legislation criminalising the "promotion" of homosexuality.

The Commissioner also expressed concern at measures taken to prohibit sleeping rough and the construction of huts and shacks in Budapest and other cities, which had widely been described in practice as criminalising homelessness. He urged the Hungarian authorities to review the restrictive regulations, investigate reported cases of forced evictions without alternative solutions and of children being taken away from their families on the grounds of poor socio-economic conditions, and develop a national social housing strategy adapted to the needs of homeless persons.

Regarding the human rights of immigrants, asylum seekers and refugees, the Commissioner was concerned at the extensive use of detention for asylum seekers. In spite of legislative improvements introduced in 2013, around 25% of asylum seekers were detained at the time of the Commissioner's visit. The Commissioner reiterated that detention of asylum seekers can only be used as a measure of last resort, for the shortest possible period of time and based on individual assessments. He urged the authorities to use alternatives to detention more frequently and improve the asylum detention regime, which is still characterised by arbitrariness and lack of effective judicial review. Noting that the law still allows the detention of asylum seeking families with children, the Commissioner also called for this provision to be repealed, stressing that no children, whether alone or with their families, should be subjected to immigration detention. The Commissioner also focused on the need to improve the integration of refugees and other beneficiaries of international protection in Hungary, including by removing existing obstacles to family reunification.

Lastly, while commending Hungary's efforts to combat statelessness, the Commissioner noted that the existing limitations which prevent persons unlawfully residing in Hungary from applying for stateless status is in breach of Hungary's international obligations under the 1954 UN Convention and should be removed. He also called on the authorities to remove the obstacles which may impede children from acquiring a nationality.

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 has paid particular attention to the human rights of migrants, including asylum seekers, in the two Spanish exclaves of Ceuta and Melilla. In a Facebook message published on 17 October following the publication of video footage showing push-backs of migrants and excessive use of force by border control officials in Melilla, he referred to Spain's obligation to examine the situation of all migrants arriving on Spanish territory individually and to allow them to seek asylum. He also stressed the need for the Spanish authorities to effectively investigate and sanction all allegations of police brutality at the border. On 10 December, referring to Spain's plans to introduce an amendment to its Aliens Act, which would legalise automatic returns of migrants arriving in Ceuta and Melilla, the Commissioner stated in another Facebook message that such a step would be in clear breach of Spain's international obligations assumed under the

ECHR and the 1951 Convention Relating to the Status of Refugees, including the principle of non-refoulement and the prohibition of collective expulsions of aliens.

On 4 November the Commissioner published a statement by which he regretted the death of several migrants following the sinking of a ship near Istanbul. The Commissioner underlined that the practice of EU member states which erect walls and fences or resort to “push-backs” to deter migrants from reaching their territories is not only ineffective, but also bears tragic consequences as it exposes migrants to life-threatening risks. The EU should shift its focus from security to human rights and afford persons in need of international protection with more legal avenues to apply for asylum, so as to spare them dangerous routes and reduce their risk of becoming prey for smugglers. Moreover, a better sharing of responsibility in receiving refugees is needed among all Council of Europe member states, in order to avoid that the challenges of migrant flows are left to a few countries in Europe.

On 14 November, the Commissioner published a Facebook message voicing his concern over violent attacks against migrants at a reception centre in the Tor Sapienza neighbourhood of Rome, Italy, and against the police protecting the centre, with the victims including mostly asylum seekers and unaccompanied minors. The Commissioner was particularly worried about the fact that some politicians were exploiting these events for their anti-immigration agenda, thus contributing to the prevalence of a distorted image of migrants in Italy.

Human rights of Roma

Following his visit to two Roma sites (an unofficial site and a formal, municipal-run site) in Strasbourg on 9 December (see above), the Commissioner issued a statement (*Roma inclusion is mission possible*) on International Human Rights Day, in which he underlines that despite persisting challenges, Roma inclusion can be achieved. He firstly stresses that repressive policies against Roma, including forced evictions without adequate housing alternatives, prevent any form of integration, sustainable access to health and social care and deprive children of their right to education. Coupled with stigmatisation, hate speech and sometimes hate crime, these practices result in the prolonged exclusion and discrimination of the Roma throughout Europe. However, the situation could be reversed with the necessary political will. In this context, he commented on his visit to Strasbourg, underlining positive aspects of the project implemented by the municipality, including the absence of evictions, improved living conditions, access to education and social support. At the same time, he noted that the integration process remained slow and he regretted the substandard living conditions with which those living in informal settlements are faced. He concluded by insisting on the fact that national and local authorities should foster a more positive image of the Roma and develop constructive, long-term and Roma-led initiatives to end their exclusion.

Human rights of children

The Commissioner addressed the members of the Committee of Experts on the Council of Europe Strategy for the Rights of the Child (DECS - ENF) at the first meeting of the Committee on 13 November. The Commissioner provided an overview of his work on children’s rights since the beginning of his mandate. He mentioned that he had dealt with children’s rights in almost half of his country visits and illustrated the work he carried out in his priority areas for children’s rights, namely the persisting segregation of groups

of children in education (in particular children with disabilities and Roma children), the perpetuation of statelessness among children and the rights of children in migration and asylum procedures. He also described his work on the impact of austerity measures on children's rights.

On the occasion of the 25th anniversary of the UN Convention on the Rights of the Child, the Commissioner published, on 18 November, a Human Rights Comment (*Protecting Children's Rights: Europe should do more*), which highlights progress made since the adoption of the Convention in 1989, but also some remaining gaps. He underlined four key challenges regarding children's rights in Europe: firstly, the persisting practice of detaining children on the sole basis of their migration status or that of their parents. He expressed his firm conviction that migrant children should never be detained, whether travelling alone or with their family, and that alternatives to detention should be developed. Secondly, the fact that large groups of children, mainly children with disabilities and Roma children, are still barred from education in mainstream schools and are therefore likely to face a grim future of marginalisation and poverty needs urgent attention. He invited states to promote inclusion in education for all children and implement ambitious desegregation plans. The third challenge is the persisting problem of statelessness among children in some member states. He called on states to ensure that no child born on their territory is left stateless and to eliminate discriminatory laws and practices regarding access to nationality. Lastly, he underlined the growing problem of child poverty in Europe, which has a potentially devastating long-term impact for European societies. This phenomenon is often the result of austerity measures, which have in many places had a disproportionate impact on children. The Commissioner recommended the implementation of strategies to mitigate the impact of austerity measures and the development of long-term policies to tackle the root causes of child poverty.

On 2 October the Commissioner published a Human Rights Comment entitled "LGBTI children have the right to safety and equality", where he emphasises that the bullying and violence to which LGBTI children are often subjected in schools, at home and via social media has a serious effect on their well-being and prevents openness about their personal identity. Finding this situation to be unacceptable, the Commissioner underlines that LGBTI children, like all children, are entitled to enjoy human rights and need a safe environment in order to participate fully in society. LGBTI children should be able to exercise their participatory rights in all areas of life, which presupposes access to factual information about sexuality and gender diversity.

Referring to some of the fundamental principles of the UN Convention on the Rights of the Child - respect for children's views and the protection of the best interests of the child - the Commissioner urges governments to take systematic action to improve the safety and equality of LGBTI children, who must be protected from violence and bullying at home, in schools, on the internet, in sports and in public spaces. Governments have a duty to empower and protect LGBTI children. Child protection services, children's ombudspersons and the police should make particular efforts to include LGBTI children in their outreach.

The Commissioner addressed the European Conference on missing unaccompanied migrant minors (Brussels, 3-4 December 2014) in a video message, in which he recalled that around 10 000 unaccompanied children claim asylum in the EU every year, a figure that probably accounts for only a tiny fraction of all children entering Europe

unaccompanied. These children are extremely vulnerable to a range of serious human rights violations, such as violence, trafficking in human beings and extreme poverty. The Commissioner underlined that before being migrants, they are children, and that states should protect their rights accordingly. States should notably ensure that the best interests of children are a primary consideration in all decisions regarding them, which implies that they have access to adequate shelter and food, to education and health care, to asylum proceedings as appropriate, and to justice.

Human rights and the Internet

On 8 December, the Commissioner released an Issue Paper entitled *The rule of law on the Internet and in the wider digital world*, which addresses the pressing question of how to ensure that the rule of law is established and maintained in the digital environment. The four-section Issue Paper brings the threats derived from interfering on Internet activities without complying with international standards into sharp focus, in particular in relation to data protection and freedom of expression.

The Issue Paper notes that much of the Internet infrastructure is under the control of private companies, which are not directly bound by international human rights law. In addition, private entities are subject to the national laws of the countries in which they are established or active – and those laws do not always conform to international law or human rights standards either. Another crucial issue is the increasing pressure exercised by states and other actors on private businesses to reveal users' data or to actually police web content themselves. In the Commissioner's view, all this underscores the urgency of taking action to reaffirm the rule of law on the Internet. States should stop hiding behind private companies and using them to impose practices that violate human rights. The responsibility of states for failing to ensure the respect of human rights by private entities and the responsibility of business enterprises in relation to their activities affecting the Internet should both be clarified. The Issue Paper further highlights the threats posed by the increasing surveillance practiced by state security, law enforcement agencies and private companies, often in co-operation with each other. It also stresses the need to limit the exercise of extra-territorial jurisdiction in relation to transnational cybercrimes.

On releasing the Issue Paper, the Commissioner underscored that content restrictions on the Internet can take place only on the basis of a strict and predictable legal framework, and with thorough judicial oversight. He also warned that a protracted failure to protect human rights in the digital world through global arrangements lends legitimacy to calls by states to have their data routed and stored solely through local routers, cables and clouds, which risks destroying the Internet as we know it, by creating national barriers to a global network.

The full paper is available in printed form and on the Commissioner's website in English. The executive summary and the Commissioner's recommendations are also available in French, Turkish and Russian. It will be further translated into other languages.

Freedom of expression

On 3 November, the Commissioner participated in a seminar and inter-regional dialogue on the protection of journalists (*Towards an effective framework of protection for the work of journalists and an end to impunity*), organised jointly by the Council of Europe,

UNESCO, the Centre for Freedom of the Media of the University of Sheffield and the European Lawyers Union. He delivered opening remarks, in which he highlighted that issues related to the protection of journalists both online and offline are important areas of his work. The Commissioner referred in particular to the issue of police violence against journalists, as well as to the situation of journalists in conflict zones. He also mentioned a number of cases of violence, harassment and threats targeting journalists in Council of Europe member states, which are often symptomatic of more general human rights problems.

On 18 November, the Commissioner reacted through a Facebook post to the car assault against the journalist Lirio Abbate and death threats received by his colleague Francesca Fagnani following their work on organised crime. He denounced these cases as examples of the difficult environment in which journalists operate and called on Italian politicians to condemn such occurrences systematically and unequivocally.

On 9 December, the Commissioner published another Facebook message condemning the arrest and detention of Khadija Ismayilova, a prominent journalist in Azerbaijan and long-standing partner of the Commissioner's Office, whom the Commissioner had last met during his visit to Baku in October (see above). The Commissioner stated that these events provided yet another illustration of the selective use of criminal provisions against those expressing critical views in the country. On 27 December, the Commissioner expressed dismay following the raid by the police at the office of the Baku bureau of Radio Free Europe/Radio Liberty's Azerbaijani Service. On his Facebook page, he referred to the need for the Azerbaijani authorities to stop once and for all their crackdown on freedom of expression and media freedom and to abide by their human rights protection obligations.

On 15 December, the Commissioner voiced his deep concern on social media about the arrest of several journalists and media workers in Turkey. He expressed his view that such measures were disproportionate and unnecessary, and constituted a setback for media freedom in Turkey because of the chilling message they send. He referred to the urgent need for the Turkish authorities to put an end to such measures at the risk of negating recent efforts to improve freedom of expression in the country.

Social and economic rights

On 13 October, the Commissioner published a Human Rights Comment "Preserving Europe's social model" which finds that the adoption of austerity measures has so far contributed little to recovery but has rather exacerbated the dire living conditions of millions of people, resulting in widespread disillusionment in Europe. Growing evidence suggests that economic development are more likely to be sustainable and societies more resilient if social rights are protected. In this context, the European Social Charter is particularly relevant. By adopting the Charter and by modernising it over the decades, European Governments took a visionary decision: to base Europe's construction not only on the pursuit of economic prosperity and the protection of civil and political rights, but also on the rights of all citizens to have a job, decent housing, health protection, social security and quality education, and on protection from poverty and from social exclusion.

The Commissioner encourages the universal ratification of the Charter's provisions by member states in order to create a homogenous European space where citizens are able to enjoy comparable social protection. He also highlights the usefulness of the Charter's

collective complaint mechanism and advocates its wider application. A further positive step with the potential to have a major impact for people's everyday lives would be to increase the use of the case-law of the European Committee of Social Rights by national courts, tribunals and national human rights structures. The Charter has great value as a basis for the European social model, and its standards should be used to steer responses to the economic crisis.

Transitional justice

On 5-6 November the Commissioner travelled to Belfast to attend a conference organised by the Transitional Justice Institute of Ulster University on "Transitional justice in the context of European convention obligations: the right to life and dealing with the past". During the conference the Commissioner met with Mr Martin McGuinness, Deputy First Minister of Northern Ireland, Mr Michael Maguire, Police Ombudsman for Northern Ireland, and Mr John Larkin, Attorney General for Northern Ireland.

In his keynote speech, available online, the Commissioner underlined that in dealing with the past, durable solutions cannot be achieved unless they are based on the pillars of justice, reparations, truth, and guarantees of non-recurrence. States are under a clear legal obligation to carry out effective investigations into serious human rights violations, to hold perpetrators to account, and to provide effective remedy to the victims. Investigations into violations committed by law-enforcement authorities should adhere to the major principles for effective investigations developed in the case-law of the European Court of Human Rights: independence; adequacy; promptness; public scrutiny; and victim involvement. The Commissioner highlighted that it is only through open dialogue, knowledge of the truth – including through adequate teaching of history - and deep reflection that post-conflict societies may attain the social cohesion needed to preserve their inherent, valuable pluralism. In addition, institutional reforms, including that of the justice system, and the setting up of efficient and independent national human rights structures are necessary to prevent repetition of past events and attain sustainable peace and security. Finally, transitional justice mechanisms must draw upon and be rooted in the human rights principles enshrined in the Convention, as interpreted authoritatively by the Strasbourg Court.

In the context of this mission the Commissioner also took the opportunity to meet with Mr David Ford, Minister of Justice in Northern Ireland, Mr Michael Wardlow, Chief Commissioner, and Ms Evelyn Collins, Chief Executive of the Equality Commission for Northern Ireland, members of the Northern Ireland Assembly, and representatives of civil society. Discussions focused on transitional justice issues as well as other matters of broader human rights interest including housing, employment, education, and the fight against poverty and inequality.

Human rights protection in the context of anti-terrorism

On 12 December, the Commissioner issued a statement on his Facebook account welcoming the publication by the US Senate of its report concerning the CIA anti-terrorism work.

The Commissioner stressed that this report confirms the decade-long warnings of the international human rights community about unlawful CIA tactics, and marks a watershed in the fight against terrorism because intelligence agencies and political

leaders can no longer resort to the specious argument that torture is an effective method for obtaining useful intelligence.

The Commissioner underlined the need to establish accountability for what happened on European soil and called on governments to act so that their anti-terror policies are always human-rights compliant and subject to effective democratic oversight.

On 12 December, the Commissioner published a statement on his Facebook page in which he deplored recent violence in the Chechen Republic, where more than twenty people – including fourteen police officers – had been killed, and many others injured, in an attack carried out by armed insurgents on 4 December and during subsequent action by security forces. At the same time, the Commissioner expressed his dismay at a public statement by the Head of the Chechen Republic containing a warning that the families of those fighters (*boeviky*) who “kill a policeman or another person” would be expelled from Chechnya and their houses razed to the ground. Reportedly, following that statement, fifteen houses belonging to relatives of insurgents were destroyed. The Commissioner urged the effective investigation of those crimes, which should lead to accountability for those responsible. Moreover, he underlined that the relevant authorities should work in co-operation with and not against human rights defenders, who continue to face an increasingly hostile climate, and strongly emphasised the principle that the fight against terrorism cannot justify trampling upon human rights.

Human rights and criminal justice

On the occasion of an International Conference on “Urban violence: a new challenge for criminal justice systems” (Lisbon, 23-24 October 2014), organised by the Council of Europe together with the Ministry of Justice of Portugal, the Commissioner addressed participants in a video message. He highlighted, firstly, that some forms of urban violence result from human rights violations, including excessive use of force by the police. He also insisted on the fact that human rights must be protected when taking measures to combat urban violence, warning against possible infringements of the rights to freedom of expression, freedom of assembly and the right to privacy. Any surveillance of Internet activities, restrictions of access to the Internet and sanctions on those deemed to have instigated violence through new technologies should always strictly abide by the principles of proportionality and judicial oversight. Lastly, the Commissioner warned against the risk of stigmatisation of entire categories of persons, including foreigners, ethnic minorities and young people, in the aftermaths of episodes of urban violence.

5. Other Meetings

World Forum for Democracy

On 4 November the Commissioner participated in the World Forum for Democracy, which took place in Strasbourg from 3 to 5 November. The Commissioner addressed the workshop “No to Neo-Nazis, No to Hate Speech”, sponsored by the Parliamentary Assembly, the Youth Department of the Council of Europe, and the French branch of the International League against Racism and Anti-Semitism (LICRA). The debates focused on exploring innovative ways for young people to fight against racism and right-wing extremism online and offline, using examples of civil society initiatives presented in the

workshop. The Commissioner expressed his support for the recommendations included in the PACE [Resolution 2011 \(2014\)](#) on “Counteraction to manifestations of neo-Nazism and right-wing extremism”, which urges states notably to promote and support specific civil society initiatives and projects designed to prevent or combat neo-Nazism or other forms of racism, hatred and antisemitism, in the local arena and everyday life, including online.

FRA Fundamental Rights Conference

On 10 November the Commissioner participated and gave a speech in the annual Fundamental Rights Conference organised in Rome by the Fundamental Rights Agency and the Italian Presidency of the Council of the European Union. This year the conference was dedicated to the topic of fundamental rights and migration to the EU. In the context of the conference the Commissioner also met with the Speaker of the Italian Chamber of Deputies, Ms Laura Boldrini, and the German Minister of State, Commissioner for Immigration, Refugees and Integration, Ms Aydan Özoguz.

The Commissioner’s speech was entitled “Ensuring the rights of migrants in the EU: from vulnerability to empowerment”. He stressed that Europe is in urgent need of a migration paradigm shift. States should debunk the myth that migrants are not necessary or represent a threat instead of an asset. To this end they need to disentangle migration from security and abandon inefficient non-entry policies. He also called on the EU to overhaul the “Dublin” mechanism to ensure a solidarity-based, fair distribution of responsibility between member states for providing international protection to those in need. There was also noted the need for European states and societies to increase their awareness of the danger of religious or other forms of intolerance. Politicians should refrain from stigmatising discriminatory rhetoric aimed at migrants; they should also clearly and firmly condemn all hate speech and physical violence, and promote equality. The Commissioner added that Europe should keep its borders open to allow more Syrian refugees access to European soil to seek and enjoy asylum, including through resettlement or relocation programmes, and by granting humanitarian visas. Lastly, the speech underlined that migrants’ integration and empowerment de facto starts at local level. Local authorities in Europe need to realise and take all necessary measures in order to fulfil their crucial role in this domain. Non-nationals who are regular residents should be allowed to participate fully in public life at local level. To this end, the Commissioner called on all European states that have not as yet done so to accede to the 1992 Convention of the Council of Europe on the participation of foreigners in public life at local level.

Meeting on “Systematic Work for Promoting and Protecting Human Rights in Ukraine: Developing a National Human Rights Action Plan”

The Commissioner’s Office and the UN OHCHR co-organised a meeting held on 1 December in Kyiv on developing a National Action Plan for Human Rights (NAP) for Ukraine. The Commissioner and the OHCHR have been consistently highlighting human rights action plans as key instruments for the systematic implementation of human rights at the national level. NAPs have proved to be particularly useful for clarifying the authorities’ responsibilities and for identifying and addressing gaps in human rights protection with reference to European and international human rights standards.

The event was held to support Ukraine's efforts to draft a National Strategy on Human Rights and to develop a subsequent NAP. It brought together 80 participants representing government agencies, the Ombudsperson, civil society and international organisations, as well as international experts, with the aim of assessing relevant experience and collectively reflecting on the procedural and substantive elements of NAPs. In particular, following the presentation of the draft National Strategy on Human Rights, the participants received first-hand information and advice on the Georgian and Moldovan experiences in developing NAPs, discussed the role of National Human Rights Institutions in this process, and outlined further steps for developing the Ukrainian NAP.

Hearing in the European Parliament on the impact of the Employers' Sanctions Directive

On 2 December, a representative of the Commissioner's Office participated in a public hearing on the impact of the EU's "Employers' Sanctions Directive", organised by the Platform for International Cooperation on Undocumented Migrants (PICUM) and the Association for Legal Intervention (Poland) at the European Parliament in Brussels. The debates highlighted the negative effects of the criminalisation of irregular migration and of phenomena linked to it, including the employment of irregular migrants, and the importance of strengthening the protection of undocumented workers, who are currently faced with exploitative labour conditions.

6. Human rights defenders

On 12 and 13 November, the Office participated in the fifth inter-mechanisms meeting on the protection of human rights defenders, which took place in Paris. The meeting was hosted by the International Organisation of la Francophonie (OIF) and convened by the UN Special Rapporteur on the situation of human rights defenders, Mr Michel Forst. Other participants included representatives from the UN, the African Commission on Human and Peoples Rights, the Inter-American Commission on Human Rights, the OSCE/ODIHR and the European Union, as well as international NGOs.

Participants reflected on ways to enhance co-operation and co-ordination between inter-governmental mechanisms relating to human rights defenders and in enhancing the follow-up of individual communications and recommendations from country visits. They also discussed good practices and strategies in tackling the issue of arbitrary detention of human rights defenders, with a focus on certain representative cases. There was also an exchange of views about the problem of impunity for violations against human rights defenders, as well as about NGO access to funding - including foreign funding - an area where restrictions are intensifying.

7. Communication and Information work

Almost 400 news pieces were published on the Commissioner's work during this quarter. The main coverage concerned the report on the Commissioner's mission to Kyiv, Moscow and Crimea, his work relating to human rights defenders in Azerbaijan, and the Issue Paper on the Rule of Law on the Internet and the digital environment.

The report on the mission to Kyiv, Moscow and Crimea was covered in interviews and articles published by *1 Tv, Actual Politics, Ager Pres, Aktuality, ATR - Tatar TV, B92, BBC, BBC Ukraine, Bloomberg, Business Press, Censor.net, Civic, KrymRealii, CrimeaHR Website, Deutschlandfunk, Die Welt, Die Zeit, DNI, DW Russian, DW Spanish, DW Ukraine, Espresso Tv, EU Plus, Euro Integration, Europe online magazine, Focus Online, Gazeta, Gigamir, Haber3, HotNews, Info Line, Interfax, ITAR-TASS, Jornal de Noticias, Jurist, Kasparov, Kyiv Post, Le Figaro, LB, Libération, Mediafax, N24, Nachrichten, Naftemporiki, NewsRu, Novaya gazeta, Objectiv, Osservatorio Balcani e Caucaso, Pravo Crym, Press Ukraine, Radio France Inter, Radio la voix de la Russie, RBC, Reuters, RosBalt, RT, Russian Planet, SDA, Sprotyv, Tageblatt, The Moscow Times, The World Street Journal, TV Rain, TV Ukraine, Ua Press, Ukrinform, Vedomosti, UNPO, Vgolos, VZ, and ZN.UA.*

The Commissioner's concerns about the situation of human rights defenders in Azerbaijan were covered by various national and international media, including *BBC, Radio Free Europe, Turan, Reuters, APA, Azadliq, Azer-Press, AzerTAc, Contact, Haqqin, Kavkaz Uzel, Media Forum, PanArmenian,, The American Interest, Trend News Agency, Voice of America, World bulletin, Azernews, Index on Censorship, Kavkaz Uzel, Trend, Turan, Armenia Today, Panorama, The Guardian, and Public Radio of Armenia.*

The Issue Paper on the Rule of Law on the Internet and the wider digital environment was covered by *ANSA, Blisty, Dow Jones Institutional News, FTSE Global Market, Il Secolo XIX, Kathimerini, L'Espresso, Newsbeast, Repubblica, RT, Swiss info, Tech Economy, The Guardian, Voice of America, Corriere Comunicazioni, Datamanager Online, Dire Giovani, Press TV, The register, Tom's hardware, Turkish Press, Wired, Anadolou Agency, AVGIR, World Bulletin, ZDNet, Dataskydd, and TechDirt.*

The Commissioner's work relating to Ukraine continued to be covered with articles published by *Ukrainian Week, The Washington Post, Glavnoe, The Moscow Times, London Evening Standard, NewsRu, Euronews, RBC, LTV1, Delfi, Regnum, and SIR.* An opinion editorial and a film produced by the Commissioner to raise awareness about the human consequences of the conflict in eastern Ukraine were published by *Open Security.* Further articles on his visit to eastern Ukraine were published by *Fraza, Novosti Mira Pressorg 24, RIA Novosti, Interfax, Ukrinform, DW, Economica, Euronews, Folkebladet, Kyiev Post, RBC, SIR, and The Ukrainian Week.* The Commissioner's intervention during the PACE session on the situation in Ukraine was highlighted by *European Pravda, FOREX, Kyivpost, Meest Online, PressOrg 24, Radio Free Europe, SIR, Svoboda Slova, Tolerance, TUT, Unian, Veooz, and Voice of America.*

The visit to Armenia was covered by *Arka News, Armen Press, Arminfo, Aysor, Kavkaz-uzel, Mediamax-Asbarez, National Assembly of the Republic of Armenia, News, Nouvelles d'Arménie, Oratert, Panorama, Public Radio of Armenia, RIA Novosti, and Vestnik Kavkaza.*

The Dutch TV channel *KRO* broadcast a report on HIV-affected migrants at risk of expulsion, featuring an in-depth interview with the Commissioner two days before the publication of his report on the Netherlands, which was also covered by *AD.nl, ANP Infonet, De Telegraaf, De Volkskrant, Dutch News, Elsevier, Nieuws, NL Times, Nooz, Trouw, and TVKRO Brandpunt.*

The Commissioner's concerns about police violence against migrants in Ceuta and Melilla were mentioned by *Agencia EFE, Antena 3, Diario SUR, El Diario, El Pais, El Periodico, La informacion, La Vanguardia, Panorama, Publico, Radio Onda Cero, RTVE, and Tele Cinco*. Furthermore, his concerns about the draft law aimed at legalising push-backs of migrants arriving in Ceuta and Melilla were covered by *EFE, 20Minutos, El Día, El Faro Digital, El Huffington Post, La Vanguardia, and The Wall Street Journal*. An opinion editorial on this issue was published in the Spanish version of the *Huffington Post*. Articles on migration by *Sächsische Zeitung, Daily Sabah, Observador, La Nazione, and La Repubblica* mentioned the Commissioner's call on member states and the EU to adhere to human rights principles in their migration policies.

The report on Hungary was widely covered with interviews and articles on *Euronews, 444, A1on, ABC news, AFP, Agensir, Eulogos, Gandul, Hir24, Hirado, HVG, Le Figaro, Le Monde, MIA, Reuters, RTL Klub, DW, EFJ, Hungary Today, MNO, MTI, NSZO, Taz, Index, and Hungary Today*.

Several British media covered the Commissioner's participation in the workshop on transitional justice organised in Belfast, stressing the obligations under the European Convention on Human Rights to investigate human rights violations and combat impunity (*BBC, Sinn Fein, The Legacy, Traditional Unionist Voice, Belfast News, News Letter, The Belfast Telegraph, The Irish News, Belfast Telegraph, Slugger O'Toole, and Derry Journal*).

Concerns about the intimidation of journalists in Italy were covered by *ANSA, L'Espresso, BBC, Mail.ru, Radio La voix de la Russie, Ria Novosti, Stimme russlands, and The Moscow Post*. An essay on press freedom was published in the report of the Regent's University of London, covered by *Ossigeno per l'informazione*. Concerns expressed on the situation of media freedom in Turkey were covered by *BGN News, EU News, Hurriyet Daily News, Today's Zaman, 168 Ora, Antliwo, Hurriyet, Le Matin, Wall Street Journal, and Zaman France*.

An interview on child labour in Europe was broadcast by *ARTE* on the occasion of the anniversary of the UN Convention on the rights of the child, and the human rights comment on children's rights was covered by *Avvenire, Polskie Radio, Radio Belarus, and SIR*.

Further coverage concerned the Human Rights Comment on LGBTI children (*Holebi Info, The Economist, Yagg-Têtu*), the human rights situation in Latvia (*Latvian Radio 4, Regnum, Russkie.org*), defamation in Italy (*Ossigeno*), NGOs in Hungary (*Magyarhirlap*), Roma settlements in Italy (*Avvenire, Corriere della Sera, Il giornale, Lettera 43*), statelessness (*Delfi, Echo of Moscow, Pravda*), the Pope's visit to Strasbourg (*ANSA*), racism (*Delfi*), and the US Senate Report on the CIA rendition programme (*Newpost*).

New communication tools, such as infographics and e-books, have been developed to increase the accessibility and visibility of the Commissioner's documents. So far, three infographics have been produced, for reports on the Netherlands and Hungary and the Issue Paper on the Rule of law on the Internet, the latter having also been published as an e-book.

The number of followers on Twitter increased greatly, with an average of over 290 new followers per month (for a total of 8508 at the end of December, an 11% increase since

the last quarter and 47% more than in December 2013). The Facebook page also received more visitors, as shown by an increase of 34% in the number of likes since the last quarter (a total of 2296 likes at the end of the year, which amounts to an increase of 183% as compared to December 2013). More than 25000 unique Internet users visited the Commissioner's website, almost twice as many as in the previous quarter.

8. Next three months

January

13-16/01	Visit to Spain (Melilla and Madrid)
19-23/01	Visit to Norway
26-31/01	PACE session

February

09-12/02	Visit to Bulgaria
23/02	CommHR expert meeting on missing persons (Strasbourg)
26-27/02	2 nd CEPS Annual Conference on "The Future of Frontex: Challenges toward a European Border Service?" (Brussels)

March

12/03	Keynote speech at Danish Parliament European Affairs Committee debate on "Safeguarding the fundamental values of the European Union" (Copenhagen)
16-20/03	Visit to Serbia
26-27/03	High-level conference on "Joint responsibility between Member States and European Court of Human Rights for the implementation of the Convention" Belgium Chairmanship of Ministers' Deputies (Brussels)

9. Observations and reflections

The terrorist attacks on *Charlie Hebdo*, the kosher supermarket and police officers in Paris took place one week after the end of the period under review, but I feel compelled to share some initial reflections of both a personal and professional nature. I share the shock of many at the human tragedy – well-known journalists and cartoonists killed because of what they published, Jews again targeted just for being Jews, police officers killed in cold blood while on duty. I also share the foreboding that far-right political forces will manipulate these events and that some people will be more receptive to Islamophobic messages. But I also take heart at the solidarity expressed spontaneously not only in France, but all over the world through the now iconic slogan “*Je suis Charlie*”.

From a human rights perspective, several features of these events and their aftermath stand out. Attacks on journalists are attacks on democracy and require the highest level response from the authorities. *Charlie Hebdo* was already under police protection, but the military preparedness and huge firepower wielded by the attackers suggests that we must rethink the protection needs of journalists under threat.

The controversial nature of some of *Charlie Hebdo*'s output has also evoked heated debate about freedom of expression and given a new impetus to those wanting to reintroduce the offence of blasphemy. This would be a mistake. The European Convention on Human Rights protects individuals, not belief systems, and there appears to be a broad consensus that this is as it should be.

Some suggest that a double standard on hate speech is applied in France and elsewhere in Europe, whereby antisemitic speech is quickly punished, but Islamophobic and other hate speech is often permitted. I would submit that a particular sensitivity to antisemitism, one of the oldest hatreds, comes from the Holocaust – we all know the results of unchecked antisemitism. Many are only now learning about Islamophobia – the word itself gained currency only after a 1997 publication by the Runnymede Trust, a think tank in the UK. There is a widespread lack of sensitivity about how public discourse about Muslims, who are over-represented among the socially excluded, may reinforce racist currents in society. I hope that those wishing to test the limits of freedom of expression can engage in a dialogue with the anti-racist movement.

Law enforcement authorities have been quick to propose new legislation or to apply existing sanctions against those who declared support for the terrorist attacks. What are the standards in this realm? In April 2008 the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information adopted a Joint Declaration on defamation of religions, and anti-terrorism, and anti-extremism legislation, which provides good guidance. It states that:

The criminalisation of speech relating to terrorism should be restricted to instances of intentional incitement to terrorism, understood as a direct call to engage in terrorism which is directly responsible for increasing the likelihood of a terrorist act occurring, or to actual participation in terrorist acts (for example by directing them). Vague notions such as providing communications support to

terrorism or extremism, the ‘glorification’ or ‘promotion’ of terrorism or extremism, and the mere repetition of statements by terrorists, which does not itself constitute incitement, should not be criminalised.

The aftermath of the Paris attacks has also seen a broader debate about counter-terrorism in France and Europe. Some proposals – giving security services unfettered access to digital communications, banning encryption, etc. - suggest that little has been learned from the Snowden affair about the dangers to human rights, especially the right to privacy, of mass surveillance. Moreover, proposals to make internet service providers responsible for taking down content that incites to terrorism without any judicial review are highly problematic. In this context, the recent publication of my Issue Paper on “The rule of law on the internet and in the wider digital world” was timely.

The fact that the attackers had spent time in jihadi training camps abroad and in prison in France has focused attention on a number of dilemmas. What can European states do to prevent citizens from leaving their country to receive military training or fight abroad? What should European states do with regard to returning jihadis? Which de-radicalisation programmes are most effective? What can be done to lessen the appeal of violent Islamism among the young in Europe? What kinds of reforms need to be implemented in Europe’s prisons so they no longer serve as incubators for radicalism? Answers to these questions should be found in open and democratic debate, grounded in lessons learned for human rights protection from the so-called “war on terrorism” over the last fifteen years. Forfeiting human rights in the fight against terrorism was a grave mistake and an ineffective measure that helped the terrorists’ cause.

I urge caution in adopting new anti-terrorist legislation, which should be subjected to human rights proofing. I urge reinforcing democratic oversight of security services, which is woefully inadequate in many European countries. I acknowledge that this line of reasoning will not be very popular in the current climate, but am convinced that human rights need to be a central part of the counter-terrorism debate. Policies which are human rights compliant preserve the values the terrorists are trying to destroy, weaken support for radicalism among potential adherents, and strengthen public confidence in the rule of law.