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**by Thomas Hammarberg
Commissioner for Human Rights**

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1. Overview

Media freedom was a priority for my office during the first quarter of 2011. Issues relating to freedom of expression and media diversity were raised during missions to member states, including when I visited Hungary. In that particular case the discussions were followed up through an Opinion analysing the media law provisions adopted in Hungary in light of the relevant case law of the European Court of Human Rights.

A series of lectures was initiated on Media and Human Rights. The first one, which was presented by the General Secretary of the International Federation of Journalists, addressed problems in the area of "Ethical Journalism". Points made in this lecture and at a discussion in Brussels were also reflected in an Issue Paper which the office published. Plans were made for other such lectures and Issue Papers on media issues for the second quarter of the year.

The Office has also been working on a project in co-operation with the permanent representations to identify and present examples of good practices in how to concretely address problems of human rights implementation. It was decided that the first examples would relate to the human rights of Roma and be presented on the international day of Roma inclusion.

Human rights in relation to migration was another key concern. During the visit to Malta in late March I visited a detention centre and several open centres and had detailed talks with a great number of refugees and other migrants. I also had constructive discussions with a number of representatives of the Maltese administration, including militaries responsible for rescue at sea operations. A report is being prepared.

I have been concerned about the detention of migrant minors in several member states and addressed this problem in a Human Rights Comment. I also raised issues relating to requests for family reunification and the best interest of the child in this context.

An expert meeting was organised on the rights of persons with mental health problems or intellectual disabilities - resulting in concrete plans for further initiatives to contribute to a wider understanding of the importance of better human rights protection for people in such situations. A Human Rights Comment has already been published about the right of disabled persons to take part in elections and a contribution given to a manual on the implementation of the UN Convention on the Rights of Persons with Disabilities. Issue Papers are planned on de-institutionalisation and on the consequences of deprivation of legal capacity.

During the period of reference, I was involved in attempts to assist governments in the response to political tension or violence with human rights implications. The dialogue with the Armenian authorities continued and I visited Yerevan again for discussions on March 2008 events – when ten persons were killed and more than one hundred arrested (other issues discussed were the media situation and violence within the army). A report will be published in early May.

A somewhat similar situation struck Albania on 21 January, when four persons were killed in connection with a demonstration. During my visit there I had extensive talks with

the two opposing political blocs, the President and the General Prosecutor and recommended that the office of the prosecutor be given support and co-operation in the investigations in order to establish responsibility for the violations. The response to our intervention appears to have been largely constructive, though some tensions remain.

Finally, the relationship with the Congress of Local and Regional Authorities has developed in a positive spirit. At its session in March I took part in a forward-looking debate about the role of local and regional politicians and officials in the struggle for human rights. I welcomed the increased Congress activities to support the systematic promotion and protection of agreed human rights standards.

2. Missions and Visits

Visit to Armenia

The Commissioner visited Armenia from 18 to 21 January to review human rights issues related to the March 2008 events in Yerevan, fundamental freedoms (expression, peaceful assembly and association), and the human rights situation in the army.

During the visit, the Commissioner met with President Mr Serzh Sargsyan, the Minister of Defence, Mr Seyran Ohanyan, the Minister of Foreign Affairs, Mr Edward Nalbandyan, the Minister of Justice, Mr Hrayr Tovmasyan, the Deputy Head of the National Police, Mr Arthur Ossikyan, the Head of the Armenian delegation to the Parliamentary Assembly of the Council of Europe, Mr Davit Harutyunyan, the Prosecutor General, Mr Aghvan Hovsepyan, the Military Prosecutor, Mr Gevorg Kostanyan, and the President of the National Commission on Television and Radio, Mr Grigor Amalyan. He also held discussions with the Human Rights Defender, Mr Armen Harutyunyan, and representatives of the international community and civil society.

The Commissioner also went to prison establishments, where he talked with several persons imprisoned in connection with the March 2008 events, including former member of the National Assembly Mr Sasun Mikaelyan, Mr Nikol Pashinyan and Mr Harutyun Urutyun, as well as conscientious objectors belonging to the community of Jehovah's Witnesses.

The Commissioner discussed in detail the cases of the remaining persons - all of whom are opposition activists - imprisoned in connection with the March 2008 events, including as regards possibilities for their release. Three of them were subsequently freed.

Serious concerns remain about the lack of results of the investigation into the ten deaths that occurred during the March 2008 events. To date, the investigation has not led to the identification of those responsible for the deaths, and it appears that command responsibility was not seriously examined in this context. The Commissioner urged the Armenian authorities to complete the investigation into the ten deaths and to take appropriate measures to bring all those responsible to account. It is essential for the public to be informed of the investigation process and outcome.

In the field of freedom of expression and freedom of the media, the Commissioner welcomed the decriminalisation of libel and insults. However, he noted reports of an

increase in civil lawsuits on such matters brought against media outlets. The Commissioner also urged the Armenian authorities to take steps to foster the principle of pluralism of the audio-visual media in the applicable legislation and in practice, including in the context of broadcast licensing procedures, so that the public can have access to a range of opinions and comments reflecting the diversity of voices in the country.

Cases of hazing and violence have been reported in the Armenian army, some of which have had fatal consequences. The Armenian authorities should intensify their efforts to conduct effective investigations into such serious crimes and to hold those responsible to account. The Commissioner finds it encouraging that these issues are now part of the public debate and believes that enhancing the role of independent complaints and monitoring mechanisms would contribute to identifying and addressing human rights abuses in the armed forces.

A report following this visit was published on 9 May.

Mission to Hungary

The Commissioner visited Budapest on 27-28 January, on the occasion of his participation in the Conference on "Social Networks" marking Data Protection Day 2011. During the mission, which focused mainly on freedom of expression and media pluralism and the protection of the human rights of Roma, the Commissioner held meetings with the State Minister for Social Inclusion, Mr Zoltán Balog and the President of the National Media and Infocommunication Authority, Ms Annamária Szalai. The Commissioner also had meetings with a number of non-governmental organisations and visited a school in Erdélyi street, in the 8th district of Budapest, which is mainly attended by Roma children. Following this mission, the Commissioner published an Opinion on *Hungary's media legislation in light of Council of Europe standards on freedom of the media*, available on the Commissioner's website (see below page 12).

Visit to Albania

The Commissioner visited Albania between 13 and 15 February in order to assess the human rights aspects of events in connection with the demonstration of 21 January during which four demonstrators lost their lives and a number of policemen and demonstrators were injured.

During the visit the Commissioner held meetings with the President of the Republic, Mr Bamir Topi, the Prime Minister, Mr Sali Berisha, the Minister of Justice, Mr Bujar Nishani, the Minister of the Interior, Mr Lulzim Basha, the Prosecutor General, Ms Ina Rama, the Acting Ombudsman, Ms Florina Nuni, the Commissioner for the Protection against Discrimination, Ms Irma Baraku and the Commissioner for Personal Data Protection, Ms Flora Çabej. He also met four leading representatives of the Socialist Party. In addition, he had meetings with a number of Ambassadors present in Albania as well as representatives of non-governmental organisations and media. Discussions during these meetings focused on the circumstances around the demonstration of 21 January, including the crowd control measures, shootings and the behaviour of the demonstrators, the arrests effected thereafter, the allegations of ill-treatment by the police and the investigation conducted by the Prosecutor General. Following the visit, the Commissioner published a special report (see below page 8).

Visit to Malta

The Commissioner visited Malta from 23 to 25 March to discuss issues relating to the protection of the human rights of migrants, including asylum seekers. During the visit, the Commissioner met with the Permanent Secretary of the Ministry of Justice and Home Affairs, Mr. Mario Debattista, the Director General of Operations of the same Ministry, Mr. Mario Caruana, the Director of the Agency for the Welfare of Asylum Seekers, Mr. Alexander Tortell, the Refugee Commissioner, Mr. Mario Friggieri, the Chairman of the Refugee Appeals Board, Mr. Henry Frendo, and the Commander of the Detention Service Colonel Brian Gatt. He also met with the Ombudsman Mr. Joseph Said Pullicino, the Commissioner at the National Commission for the Promotion of Equality, Ms Maud Muscat, and international and non-governmental organisations. The Commissioner also visited the migrant detention centre in Safi and the open centres accommodating migrants in Marsa and Hal-Far.

The Commissioner has underlined that the human rights challenges posed by irregular migration in the central Mediterranean can only be met through mutually-reinforcing efforts by Malta and other European countries. He emphasised that current events in Libya should prompt more solidarity at the European level, including support for the necessary reforms in the Maltese system of reception and integration of migrants.

The Commissioner discussed the policy of mandatory detention of all arriving migrants, including asylum seekers, and invited the Maltese authorities to reconsider this policy in light of the requirements of the European Convention on Human Rights and the case-law of the Court.

Discussions also covered the need to improve material conditions in the open centres, where at the time of the visit the vast majority of migrants were accommodated, and the need to strengthen efforts to ensure that vulnerable groups, such as children, families and pregnant women are systematically accommodated in adequate facilities.

A further subject covered in the discussions was the establishment of a support system that favours migrants' self-reliance and integration into Maltese society. The Commissioner stressed that a strengthening of the fight against racism and xenophobia was crucial to this endeavour. A report on the visit is forthcoming.

3. Reports and continuous dialogue

Letter to the Prime Minister of Turkey

On 3 February, the Commissioner published a letter addressed to the Prime Minister of Turkey. The letter followed up on visits and missions to Turkey carried out by the Commissioner in 2009 and 2010.

In the letter, whilst welcoming a number of positive steps taken by the Turkish authorities regarding the right to freedom of religion, the Commissioner urged the authorities to remove restrictions on the training of Greek Orthodox and Armenian clergy in the

country. The Commissioner further requested information as to the measures taken with regard to the execution by Turkey of two judgments of the European Court of Human Rights, namely the judgments in the cases of *Hasan and Eylem Zengin* and *Sinan Işık* which concern the right to education of children of members of the Alevi community in accordance with their religious convictions, and the issue of identity cards in Turkey which contain an indication of religion. The Commissioner finally asked the Turkish authorities to provide him with information on the measures taken concerning two issues that he had addressed in his report of 2009, namely the absence of financial aid available to the Alevi community and the non-recognition of Alevi places of worship as such.

The reply from the Turkish authorities is available on the Commissioner's website.

Special report following the visit to Albania to assess the human rights aspects of the events of 21 January in Tirana

On 22 February, the Commissioner published a special report following his visit to Albania from 13 to 15 February focusing on the human rights aspects of the events of 21 January in Tirana.

In his report, the Commissioner considered that impartial and credible investigations were needed into the human rights violations committed on 21 January. Welcoming the fact that representatives of both the government and the opposition regarded investigations by the Office of the Prosecutor General as the only alternative, the Commissioner asked the political forces not to interfere with the investigation and to avoid political statements in this regard. He also stated that it was crucial for all other authorities, including the police, to fully and promptly co-operate with the Prosecutor General. The Commissioner further underlined the value of the assistance provided by the US authorities to the Office of the Prosecutor General and suggested that all international actors should respond positively to requests for assistance.

Report on the Czech Republic

On 3 March, the Commissioner published a report following his visit to the Czech Republic from 17 to 19 November 2010 focusing on action against discrimination, racism and extremism and the protection of the human rights of Roma.

As regards the first issue, the Commissioner welcomed the action taken by the Czech authorities against extremist groups in recent years and called on them to continue to deal seriously and effectively with all such crimes, especially when violence has been used. The Commissioner also found that there is a continuing need for confidence-building measures in communities affected by particularly intense manifestations of racism and extreme right-wing activities. The legal and institutional framework against discrimination, racism and extremism should be kept under review, making full use of Council of Europe standards. In particular, the Commissioner recommended that the Czech Republic ratify Protocol No. 12 to the European Convention on Human Rights and extend protection against hate crimes by ensuring that all grounds on which these crimes are committed are equally covered.

As concerns the protection of the human rights of Roma, the Commissioner noted that deeply-rooted anti-Gypsyism, hate crimes and continuing segregation in education and

housing are among the main obstacles hampering Roma inclusion in Czech society. The Commissioner invited the Czech authorities to take measures, including by promoting self-regulation, to effectively address and eliminate racist and stigmatising speech against Roma in politics and the media. In order to address the apparent under-reporting of hate crimes, the Czech authorities were also encouraged to establish a more flexible and victim-friendly system to report such incidents. The Commissioner urged the Czech authorities to step up efforts to de-segregate the education system and fully and effectively execute the landmark judgment of the European Court of Human Rights in the case of *D.H. and Others*; to this end, he called on the Czech authorities to make tangible progress in transferring children from special to ordinary education already in the next school year. The Commissioner furthermore recommended that the Czech authorities put in place a coherent system of social housing and strengthen their efforts to promote local partnerships aimed at desegregating Roma localities and improving living conditions.

The Commissioner welcomed the Czech government's expression of regret in November 2009 for the unlawful sterilisations of women, mainly Roma, and called for further action to provide adequate reparation to the victims of these gross human rights violations. Lastly, the Commissioner noted that he remains concerned about the high numbers of children placed in institutional care and the disproportionate representation of Roma children among them. He called for measures to ensure that children are not assigned to institutional care solely on grounds related to the poor housing conditions or financial situation of their family.

The full report is available on the Commissioner's website, together with the comments of the Czech authorities.

Meeting with the Minister of Justice of Italy

On 8 March, the Commissioner met in Strasbourg with the Minister of Justice of Italy, Mr Angelino Alfano. The human rights challenges posed by the current events in North Africa was one of the issues discussed, with particular attention paid to the role of international solidarity in ensuring that these challenges are adequately met. The discussions also covered the measures taken in Italy to tackle the excessive length of civil proceedings and the resulting backlog of cases. Ongoing initiatives to address problems of overcrowding in Italian prisons were also in focus during the meeting. Lastly, Commissioner Hammarberg and Minister Alfano addressed developments concerning the establishment of an independent National Human Rights Commission in Italy.

Meeting with the German Federal Commissioner for Human Rights Policy and Humanitarian Affairs

On 15 March, the Commissioner met with Mr Markus Löning, the German Federal Commissioner for Human Rights Policy and Humanitarian Affairs, Ministry of Foreign Affairs. They had an exchange of views about a number of human rights issues, focusing in particular on: the situation of Roma in Europe; non-discrimination, including the human rights of mentally disabled people and their right to vote; Islamophobia; migration and refugees; and media freedom.

Report on Bosnia and Herzegovina

On 29 March, the Commissioner published a report following his visit to Bosnia and Herzegovina from 27 to 30 November 2010 focusing on the fight against discrimination, the human rights of people displaced by the war, asylum seekers and stateless persons and post-war justice and reconciliation.

In his report the Commissioner called on the authorities to take all necessary measures, including legislative ones, to eliminate discrimination towards national minorities and to provide persons belonging to national minority groups with real opportunities for political representation. The Commissioner welcomed the adoption of an anti-discrimination law, and the creation of a unified Human Rights Ombudsperson's Office at the State level. Nonetheless, he emphasised the need for full and effective implementation of anti-discrimination legislation and of the decisions of the Human Rights Ombudspersons. The Commissioner expressed his concern that the country's complex, multi-layered political and institutional structure constitutes an impediment to equal enjoyment of social and economic rights by different categories of vulnerable people, in particular persons with disabilities, civilian war victims and victims of war-related crimes of sexual violence. He called for a revision of social welfare legislation to enable the equal division of funds between different categories of disabled persons.

Whilst commending the efforts undertaken by the authorities to improve the situation of Roma, the Commissioner encouraged further efforts to be taken in order to enhance the protection of Roma. He called on the authorities to find durable solutions for the Roma who have been forcibly displaced from Kosovo*, and who have been living in Bosnia and Herzegovina for many years. The Commissioner expressed his concern at the significant number of stateless Roma in the region of the former Yugoslavia, including Bosnia and Herzegovina. He urged the authorities to take additional measures to facilitate access to citizenship by Roma, especially children.

The Commissioner urged the Entity and cantonal authorities to undertake effective measures to end the system of 'two schools under one roof' or mono-ethnic schools. He called for the introduction of a common, core curriculum, respecting the particularities of each constituent people's language, culture and heritage. He further called for the inclusion in the school curricula of the language, history and culture of national minorities so that persons belonging to national minorities may preserve their language and culture.

As regards the pending human rights and humanitarian issues following the 1992-1995 war, the Commissioner welcomed the adoption and called for the implementation of the Revised Strategy for the Implementation of Annex VII of the Dayton Peace Agreement that has provided for alternative solutions for those still displaced and unable to return, as well as for compensation for lost or damaged property. He urged the authorities to rapidly find durable solutions for seven thousand persons living in collective centres, and to take all necessary measures to enable IDPs and returnees to enjoy fully, and without discrimination, their rights to healthcare, social care and pension rights. The

* All reference to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

Commissioner called for accelerated efforts aimed at clearing the parts of the country's territory that remain contaminated by landmines.

The Commissioner underlined that genuine inter-ethnic reconciliation in Bosnia and Herzegovina cannot be achieved without justice. He encouraged the authorities to strengthen their efforts aimed at effectively investigating and prosecuting cases relating to war atrocities, in particular war-related crimes of sexual violence, ensuring access to justice and effective domestic remedies for victims and providing them with adequate, effective and proportionate reparation. He further urged the authorities to considerably improve the witness protection system in the context of war-related proceedings and to promptly investigate and prosecute all reported cases of threats and intimidation of witnesses.

Finally, the Commissioner recommended that the authorities: continue with determination their efforts aimed at identifying about 10 000 persons still missing due to the war; take effective measures to protect the impartiality and independence of the judicial institutions; adopt measures to improve the protection of lesbian, gay, bisexual and transgender persons; and fairly resolve the cases of the 220 police officers who were decertified in the late 1990s and provide adequate redress to those still in need of it.

Georgia

During the period of reference, the Commissioner closely followed the process of releases of persons detained as a consequence of the conflict and was regularly in contact with the relevant decision makers on the respective sides. The Commissioner welcomed the release of 14 persons, seven from each side, including the majority of ethnic Georgians held in Tskhinvali, on 21 February 2011. However, a number of persons remain in detention in Tskhinvali and should be released without delay. The Commissioner would like to recall that in early 2010 the sides positively responded to his Memorandum, in which he made recommendations concerning the release of persons detained as a consequence of the conflict. The Commissioner notes that the Georgian authorities have shown a particularly flexible approach in this regard.

As contact representatives from the respective sides have recently indicated to the Commissioner, since the resumption of the meetings of the Incident Prevention and Response Mechanism (IPRM) on 28 October 2010, the issue of the releases of detained persons is being addressed under that framework. The Commissioner supports these efforts and encourages the sides to remain committed to the process of releases and to continue to work constructively towards the full resolution of the remaining cases of detained persons.

4. Themes

Human rights of migrants

Family reunification

On 2 February, the Commissioner published a Human Rights Comment entitled “Restrictive laws prevent families from reuniting” in which he highlighted the increased difficulties experienced by immigrants in Europe in this regard. Applicants have to fulfil unreasonable requirements, such as integration tests, which create insurmountable obstacles for them, preventing them from living with their loved ones. Another problem in several European countries is the slow processing of applications for family migration - even for those who do meet the strict conditions. The Commissioner stressed that family reunification is a right: immigrants and refugees, who are lawfully residing in a state, should be able to reunite with their family members as soon as possible, without going through laborious procedures. This leads to better integration.

Seminar on the “Human Rights dimensions of migration in Europe”

The Commissioner organised in co-operation with the Turkish Chairmanship of the Committee of Ministers a seminar on the “Human Rights dimensions of migration in Europe” in Istanbul on 17-18 February 2011.

The seminar was attended by European migration experts from governments, intergovernmental and non-governmental organisations, and academics. It provided an opportunity for a substantive, in-depth discussion on the most important discrepancies between European migration laws and practices and Council of Europe and international human rights standards, as well as on optimal ways in which more assistance may be provided to member states in reflecting on and revisiting their migration policies.

The seminar began with a general session on the major human rights challenges raised by migration in Europe today, and on possible strategies by which migration discourse may be guided, based on European and international human rights principles. The treatment afforded by countries to unaccompanied migrant children and the human rights issues arising in this context was the focus of the second session. It included an analysis of current state policies and a discussion on the best human rights compliant practices. The third and final session of the seminar focused on the humanitarian and human rights implications of migrant smuggling in Europe, affecting especially the Euro-Mediterranean member states which frequently serve as transit points for further migration to other European countries. Analysis and discussion of this theme aimed to divest the current discourse on this topic of its security-oriented character and highlight the human dimensions, and often life-threatening effects that smuggling has on migrants and their families.

A report bringing together the conclusions of the seminar drafted by the General Rapporteur, the speeches delivered by the speakers, the programme and the list of participants is available on the Commissioner’s website.

Non-discrimination

On 21 March, the Commissioner issued his Opinion on national structures for promoting equality,¹ which are bodies created by law to combat discrimination and promote equality at member state level. They are usually established pursuant to equal treatment legislation which prohibits discrimination, harassment and victimisation. Equal treatment legislation provides actionable rights to people with reference to prohibited grounds of discrimination such as gender or sex, racial or ethnic origin, disability, sexual orientation, age and religion or belief among others.

National structures for promoting equality have the potential to play a number of valuable roles. They examine and make findings on complaints of discrimination and so enable people to exercise their rights under equal treatment legislation. National structures also support employers, service providers and policy makers in developing effective equality policies and practices within their organisations and mobilise a wide range of stakeholder organisations to take action to promote equality and combat discrimination. They contribute to a culture of rights within society which recognises the value of strong equal treatment legislation. In addition, these national structures are essential for developing a knowledge base on issues of discrimination and inequality.

The Commissioner's Opinion builds on a broad range of international instruments that establish rights in relation to non-discrimination, require member states to set up national structures for promoting equality and set standards for these bodies. Through an analysis of the legislative framework and practice in member states, as well as specific recommendations, this Opinion aims to assist member states in enacting equal treatment legislation, establishing independent and effective equality bodies and enabling these structures to discharge their functions in an independent and effective manner.

Independence is key to the effectiveness of national structures for promoting equality. The independence of the bodies can be understood in terms of being able to allocate their resources as they see fit, to make decisions in relation to their own staff, to determine their own priorities and exercise their powers as and when they deem necessary. The legal structure of the bodies, the manner in which appointments of board members and senior staff are made, and the processes of accountability of the bodies are key factors in securing their independence.

To be effective, national structures for promoting equality should be able to deploy all of their functions and powers to a scale and a standard that ensures an impact on discrimination and inequality. The level of resources made available to the bodies and the nature and range of functions accorded to them are essential factors for effectiveness.

The internal operations of national structures for promoting equality also influence their independence and effectiveness. Leadership within the bodies is crucial for securing independence. Key factors for effectiveness are a strategic approach, ensuring the accessibility of their services, and engaging stakeholder organisations in their work.

¹ The Opinion - CommDH(2011)2 – is available on the Commissioner's website.

Freedom of media

Commissioner's Opinion on Hungary's media legislation

Following his visit to Budapest from 27 to 28 January, the Commissioner expressed concerns at Hungary's media legislation which was adopted in 2010. On 25 February he published an Opinion entitled *Hungary's media legislation in light of Council of Europe standards on freedom of the media*, available on the Commissioner's website.

In his Opinion the Commissioner made several recommendations to the Hungarian authorities, including the repeal or revision of a number of media law provisions. The recommendation concern: the establishment of subjective criteria relating to the information and coverage that media must provide; sanctions for infringements of media legislation; registration requirements for a broad range of media, including print and online media; protection of journalists' sources; media freedom especially in the context of the Constitution; appointments to media regulatory authorities; appointments to the management of public broadcasting services; appeals against decisions of the Media Council.

The Commissioner concluded that the wide range of problematic provisions in Hungary's media legislation coupled with their mutually reinforcing nature result in an unfortunate narrowing of the space in which the media can operate freely in Hungary – a comprehensive revision of the media law package as a whole was therefore highly recommended.

The concerns expressed in the Opinion remain valid after the adoption of a number of amendments by the Hungarian Parliament on 7 March 2011. Through this Opinion, the Commissioner intends to continue his dialogue with the Hungarian authorities on these important issues which he continues to follow closely.

Media freedom discussion organised by the MEDIA intergroup of the European Parliament

On 1 March, the Commissioner participated in a panel and discussion organised by the President of the European Parliament's MEDIA intergroup, Mr Jean-Marie Cavada. The discussion focused on the media freedom situation in the European Union. The Commissioner noted that in their efforts to protect media freedom, states should decriminalise defamation and avoid awarding high amounts of compensation in civil cases which have chilling effects on journalists. Also, the Court's case-law on Article 10 of the European Convention on Human Rights needs to be recalled and be respected by all parties concerned at national and regional level. A system where broadcasting frequencies are allocated in a way which ensures media pluralism should be put in place, while national structures and public funding need to ensure that Public Service Media is independent. Lastly the Commissioner pointed out that it is important that journalists act professionally and responsibly, thus providing quality journalism.

First Media Freedom Lecture and Issue Paper on Ethical Journalism and Human Rights

On 1 March, the Commissioner launched in Brussels the first of a series of media freedom lectures to be held this year. Aidan White, at that time General Secretary of the International Federation of Journalists, spoke about ethical journalism and human rights.

On the same date the Commissioner launched an Issue Paper on the same subject, available on the Commissioner's website.

During the lecture and discussion it was pointed out that strengthening ethical journalism and human rights protection go hand in hand, even though some tensions may exist. Technological changes and economic pressures have made it more difficult for media to fulfil their role as a public watchdog. Defamation laws, lack of protection of journalists' sources, unsatisfactory laws and practices on access to official documents, dire working conditions, strict privacy laws, and threats and violence against media professionals have made it more difficult for them to work ethically. Finally it was noted that there is a need to reinvigorate ethical journalism, through collective professional efforts such as the *Ethical Journalism Initiative* of the International Federation of Journalists.

Children's rights

The Commissioner published on 8 February a Human Rights Comment entitled "Migrant children should not be detained". Every year thousands of migrant children endure prison-like conditions upon arrival in, or prior to their expulsion from European states. The detention of migrant children is not only in conflict with human rights standards but is also inhumane. Children are confronted with deep anxiety and living conditions which endanger their health. While there is, in every member state, a minimum age at which a child may be detained for a criminal offence such rules do not exist in migration cases and new-born babies are regularly detained with their parents. The argument that it is in the best interest of the children not to be separated from their parents is not acceptable. Alternative solutions exist and some countries, including Belgium and the United Kingdom, decided to change their detention policies. The Commissioner urged the other member states to also change their approach.

Human rights of persons with disabilities

Brainstorming on Rights of Persons with Mental Disabilities

On 11 March, the Commissioner held a meeting on the rights of persons with mental disabilities in Strasbourg. The meeting brought together Professor Gerard Quinn, Professor Peter Bartlett, Ms Anna Nilsson and Mr Oliver Lewis, experts in disability law and the human rights of persons with mental disabilities. The participants agreed that the United Nations Convention on the Rights of Persons with Disabilities should be accepted as the global standard (45 member states of the Council of Europe have signed or ratified this Convention), and identified the following as the key areas for further action in the field:

- Issues relating to the exercise of legal capacity;
- Right to independent living/de-institutionalisation;
- Participation in political life, in particular voting rights;
- The role of national human rights structures in the promotion and protection of the human rights of persons with mental disabilities.

Voting rights of persons with disabilities

On 22 March, the Commissioner published a Human Rights Comment concerning the right to vote of persons with disabilities. In this comment he drew attention to Article 29 of the UN Convention on the Rights of Persons with Disabilities and the paradigm shift it represents in empowering persons with disabilities, including mental disabilities, to participate in political life. The Commissioner also referred to a landmark ruling of the European Court of Human Rights, where a blanket, automatic removal of the right to vote of a person placed under partial guardianship for a mental disability was found to be in violation of the European Convention on Human Rights (case of *Kiss v. Hungary*). He observed with concern that while encouraging steps had been taken in some states, such automatic bans were still being applied in eighty per cent of member states. Finally, he reminded states of their obligation to recognise that persons with disabilities should enjoy their electoral rights and participate in political life on an equal basis with others, stressing the need for European societies to adapt to and accommodate the needs of persons with disabilities.

Gender equality and women's rights

On 8 March, the Commissioner addressed the problem of gender inequalities with a Human Rights Comment on the gender pay gap. He stressed that women are still all too often paid less than men for the same type of job and called on member states to take resolute action to improve women's conditions in the labour market.

Other

On 15 March, the Commissioner published a Human Rights Comment on the European Arrest Warrant (EAW), a "fast-track extradition scheme" which aims to facilitate the surrender of a person from one member state of the European Union to another to face trial or to serve a prison sentence. The Commissioner expressed some concerns regarding the overuse of the EAW, referring to concrete cases in which human rights violations resulted from the procedures, and highlighting some shortcomings of the system, including disproportionate arrests. The EAW has been used in cases for which it was not intended, sometimes with harsh consequences on the lives of the persons concerned. The Commissioner therefore called upon the European Union to reform a system that affects thousands of persons every year.

On 31 March, the Commissioner published a Human Rights Comment on the right to vote for prisoners. In the light of the ongoing discussion in the United Kingdom, following judgments of the European Court of Human Rights finding a violation of the Convention by that country, the Commissioner underlined that there should be no blanket ban against prisoners voting in general elections. Even if European countries are divided on this issue, the Commissioner stressed that to deprive prisoners of their right to vote is to undermine a crucial dimension of the very concept of democracy – and of human rights.

5. Other Meetings

Conference on "Social Networks" marking Data Protection Day 2011

On 27 January, the Commissioner delivered a speech to the "Social Networks" conference in Budapest, organised by the Hungarian Parliamentary Commissioner on Data Protection and Freedom of Information. The conference addressed the question of how human rights protection and other forms of regulation can be applied to the phenomenon of online social networking. In his speech, the Commissioner emphasised that our individual rights to privacy and data protection, notably under Article 8 of the ECHR, should not be sacrificed to social networks, but rather must be reinforced to meet the range of new challenges these networks present. Among the other participants in the event were members of data protection authorities from around Europe and beyond, as well as representatives of major corporate actors in the field, including Facebook and Google.

Speech at the 20th Session of the Congress of Local and Regional Authorities

On 22 March the Commissioner addressed the 20th Session of the Congress of Local and Regional Authorities with a speech emphasising that human rights work at the local level means bringing human rights protection closer to people. He stressed the important role of the Congress in this field and highlighted the usefulness of human rights budgeting and of the Council of Europe's Strategy for Innovation and Good Governance in the development of a comprehensive approach to human rights-based governance at the local level.

Meetings with European Union Institutions

Meeting with the Vice-President of the European Commission and Commissioner for Digital Agenda

On 8 March, in Strasbourg, the Commissioner met with Ms Neelie Kroes, Vice-President of the European Commission and Commissioner for Digital Agenda. They held an exchange of views on media freedom in general and also discussed issues relating to Hungary's recent media legislation.

Meeting with the Vice-President of the European Commission and High Representative of the Union for Foreign and Security Policy

On 9 March, in Strasbourg, the Commissioner met with Ms Catherine Ashton, Vice-President of the European Commission and High Representative of the Union for Foreign and Security Policy. The Commissioner and High Representative Ashton discussed the situation in Albania, Kosovo*, Georgia, Azerbaijan, Moldova and Ukraine. The meeting provided the opportunity to raise a series of issues on which the Commissioner and the High Representative held an in-depth exchange of views.

6. Human rights defenders

Sakharov project

During the period of reference, the exhibition *Alarm and Hope* on the life and human rights work of Andrei Sakharov travelled to Poland, Armenia, Moldova and Portugal. In Poland, the exhibition was displayed at the *Sejm* (lower house of parliament) of Poland and was officially inaugurated on 19 January by the Speaker of the *Sejm* and the Head of the Polish delegation to the Parliamentary Assembly of the Council of Europe. In Armenia, the exhibition was opened on 19 January at the Artists' Union of Armenia by the Commissioner, the Deputy Minister of Foreign Affairs and the Ombudsman. On 16 February, the exhibition was opened by the Deputy Minister of Foreign Affairs and the Deputy Minister of Culture of Moldova at the National Museum of Archeology and History in Chisinau. In Portugal, the exhibition was inaugurated on 30 March at the Mario Soares Foundation.

7. European Court of Human Rights

Follow-up to the Interlaken Declaration

During his visits to member states of the Council of Europe, the Commissioner continued to draw the authorities' attention to the need for the prompt implementation of judgments issued by the European Court.

During his visit to Malta, the Commissioner addressed the issue of the mandatory detention of irregular migrants, including asylum seekers. In this context, he referred to the judgment issued by the European Court in the case of *Louled Massoud v. Malta*, in which the Court found that Malta had violated the Convention by detaining an asylum seeker, whose claim had been rejected, for almost 18 months. The Commissioner therefore called upon the Maltese authorities to take all necessary legislative and other measures in order to fully and effectively implement this important judgment.

In a letter published on 3 February, the Commissioner expressed some concerns regarding the slow implementation by Turkey of the judgments of the European Court of Human Rights concerning freedom of religion. He noted in particular that the authorities appear not to have taken appropriate measures to give effect to the right to education for children of members of the Alevi community in accordance with their religious convictions, despite the fact that the Court had found a violation by Turkey in this regard, as the religion instruction failed to meet the requirements of objectivity and pluralism (*Zengin v. Turkey*). The Commissioner also drew the attention of the authorities to the judgment in which the Court held that there had been a violation of the right to freedom of religion on account of the very fact that the applicant's identity card contained an indication of religion (*Sinan Işık v. Turkey*). While calling for a solution to the issue of identity cards that contain an indication of religion, the Commissioner asked for more information on the measures taken or envisaged by the authorities to comply with the judgment.

During his visit to Armenia, the Commissioner held talks with the authorities on the case of A1+ television, which had been the subject of a judgment of the European Court of

Human Rights (*Meltex Ltd and Mesrop Movsesyan v. Armenia*), where the Court had found a violation of the right to freedom of expression. On this occasion, the Commissioner stressed the importance of ensuring that the media environment is sufficiently diverse and pluralistic.

Finally, in his Opinion entitled “*Hungary’s media legislation in light of Council of Europe standards on freedom of the media*”, published on 25 February, the Commissioner referred extensively to the case-law of the European Court under Article 10 of the Convention (freedom of expression), with a view to assisting Hungary in abiding by its commitments as a member state of the Council of Europe and a State Party to the European Convention.

8. Communication and Information work

More than 300 news items were published from 36 countries on 33 topics. 74 news items were found in media with an international reach (around 24% of the whole coverage). 17 press releases were sent out by the Commissioner.

The most covered topics were: activities in relation to the situation of migrants and asylum-seekers, the visit to Armenia, the media legislation in Hungary, prisoners’ voting rights, Roma, the European arrest warrant, children’s rights, and the visit to Albania.

Many German media reported the Commissioner’s criticism on the way European states deal with migrants (*IGMG, NGO Online, Paper blog, EPD, Die Welt, Dom Radio, Sabah, Der Tagesspiegel-Hamburger Abendblatt, Neues Deutschland*). The *Financial Times* mentioned the Commissioner in an article on the fate of asylum seekers in Greece, *Notizie Radicali* quoted the Commissioner’s observations on the situation in Italy in 2009 and *Nord Littoral* mentioned the visit to Calais of May 2010. *La Croix* referred to the 2008 report on France in an article on detention centres. *AFP* and the *International Herald Tribune* referred to the Commissioner’s third party intervention before the ECHR in the case of *M.S.S. v. Belgium and Greece*. The interviews and speech given at the seminar on the human rights dimensions of migration in Istanbul were covered by *Hürriyet Daily News, Zaman, Cumhuriyet, Zaman France, Toulouse 7, SIR, Vatican Radio, ANSA, and Anatolia News Agency*. *Ansa* reported also on the statement the Commissioner made on the arrivals of migrants in Lampedusa. The Norwegian *Morgenbladet* published a long article on the Danish immigration policy and referred to a previous interview of the Commissioner with a Danish paper, criticising that country’s approach to migrants and asylum seekers. The observations published at the end of the visit to Malta on the conditions of asylum-seekers and migrants triggered a debate in various media (*The Malta Independent, Times of Malta, Di-Ve, Dazebao, ANSA, SIR, Radio Vaticana*).

The visit to Armenia was widely covered in the country and beyond (*A1+, Hürriyet, Armenia Liberty, PanARMENIA, RFE, Armenia Today, Express, Armenian Times, Azatutyun, IA Regnum, Haykakan Zhamanak, ITAR-TASS, Public Radio, ARMINFO New, Aysor, Nouvelles d’Arménie*).

The press release issued at the end of the visit to Hungary and the subsequent Opinion on the media legislation were also widely covered (*APA, Die Presse, EU logos, MTI, New Europe, Agence Europe, BBC, Europolitique, Europolitics, AFP, Dow Jones, Swiss*

Radio, Stern, HVG, MIT, Variety, Salzburger Nachrichten, Oberösterreichische Nachrichten, Xinhua, Ster, Népszava, Wiener Zeitung, Le Temps).

The Commissioner's position on prisoners' right to vote was widely covered by UK media in the context of the Parliamentary debate on that issue. In an opinion article published by *the Guardian*, the Commissioner recalled the November 2010 pilot judgment of the European Court of Human Rights and stressed the need for the British authorities to respect the Court ruling. Many interviews were subsequently published and broadcast, mainly by *Sky News, ITN, various BBC radios, the London Evening Standard, The Daily Express, and The Guardian*. The subsequent human rights comment on prisoners' voting rights was covered by *The Daily Telegraph, Express, Daily Mail, SIR and New Europe*.

Articles on Roma rights were published by *Café Babel* and *La Libre Belgique* with reference to the Commissioner's observations after the visit to Romania. *Süddeutsche Zeitung* referred to the Commissioner in an article on the commemoration of the Roma who were killed during the Holocaust, while the *Frankfurter Rundschau* and the *Rotenburger Rundschau* mentioned the Commissioner's opposition to forced returns of Roma persons to Kosovo*. The report on the Czech Republic and the situation of the Roma were covered by *Agence Europe, CTK, Prague Daily Monitor, Czech Press Agency-Romano Vod'!, AFP, EFE, ABC, CTK, European Voice, Romea, ČTK, The Prague Post*).

The Human Rights Comment on the risks of overusing the European arrest warrant resonated widely among news agencies and online media (*World Socialist Web Site, European Movement, EFE, ABC, Europolitics, EUObserver, Agence Europe, Toulouse 7, Eitb.com, ANSA, New Europe, ZD, Eitb*).

The Human Rights Comments on child poverty, the detention of migrant children and family reunification were covered by *Osservatorio sulla legalità, Linkontro, Place publique, El Mundo, EFE, Mediapart, Detention in Europe, Educations sans frontières, Stranieri in Italia, African news, Agence Europe, NosBambins, SIR, Trouw, NRC Handelsblad, Radio Netherlands, Dutch News, Nieuws, ANP, NU and De Telegraaf*. The *Daily Mail* and the *Sunday Times* quoted the Commissioner's interview on corporal punishment of children.

The visit to Albania was covered mainly by *Top Channel, ATA, Standard, Sot, Gazeta, ShekulliPanorama, Balkanweb, and TV Klan*. The report of the visit was largely covered by national media as well as *SIR ANSAme, Xinhua, and Balkan Insight*. The report featured extensively in the news programmes of the main Albanian TV Channels, including *Top Channel*. It was also discussed in the political talk show "Opinion" on *Klan TV*.

The *Voice of Russia* and *ITAR-TASS* focused on the South Ossetia conflict, while the cables released by Wikileaks containing references to the Commissioner were reflected in *Malta Today, Di-VE, EFE, The Guardian, Aftenposten, Norsk Telegrambyrå*.

Gaylive, Coc Pink News, Warning and the paper *DAN* from Montenegro referred to the Commissioner in articles concerning the human rights of LGBT persons. The online *TV of the European Parliament* broadcast a long interview focusing mainly on Roma,

discrimination and xenophobia in Europe. Interviews on Islamophobia were also published by *Global Magazine*, *Zaman* and *Islamische Zeitung*.

The Greek newspaper *To Vima* published an interview in its Sunday edition on the Greek asylum system and the establishment of a police complaints mechanism in the country.

The Issue paper on ethical journalism was covered by *UzReport.com*, *New Europe*, *Toulouse 7* and *ASCA*.

The Human Rights Comment on the gender pay gap was mentioned by *Le Quotidien*, *ANSA*, *AFP*, *Khaleej Times*, *The Sofia Echo*, *La Gazzetta del Mezzogiorno*, *2000 net*, *The Prague Post*, and *The Times of Malta*.

The publication of the report on the visit to Bosnia and Herzegovina was covered by the national media, which focused on the recommendation of the Commissioner to accelerate efforts to establish a more just society (*Moje Vijesti*, *Fena*, *Dnevni avaz*, *NovinarOnline*, *FENA*, *BHT1*, *Radio Sarajevo*, *HINA*, *ANSAMED*).

Further coverage concerned the Commissioner's report on Cyprus (*Le Monde*), the letter to the Turkish authorities on freedom of religion (*Deutschlandfunk*, *Bianet*, *ANSA*, *Hürriyet Daily News*, *Today's Zaman*, *SIR*, *Abhaber*, *FOCUS News Agency*), counter-terrorism (*Gazeta Wyborcza*) minorities (*Baltic Daily*, *Zaman Today*, *Die Welt*), terror crimes in Russia (*Interfax*), missing persons (*SIR*), NGOs in Armenia (*Armenia News*), the investigation into cases of torture and disappearances in Chechnya (*Europa Press*), press freedom in Turkey (*Hürriyet Daily News*), multiculturalism (*New Europe*), the Sakharov exhibition (*Agência Lusa*), persons with disabilities (*Servimedia*), and the opinion on equality bodies (*World Christian Press*).

The website has been kept regularly updated and has been further developed, in particular the pages on thematic work. The Twitter platform has also been used in connection with the publication of news.

The Russian version of the ISBN book "Andrei Sakharov and human rights" and the English version of the ISBN book "Human Rights in Europe: no ground for complacency" have been finalised and made ready for printing.

The list of Human Rights Comments published so far is as follows:

Prisoners should have the right to vote - 31 March
Persons with disabilities must not be denied the right to vote - 22 March
Overuse of the European Arrest Warrant – a threat to human rights – 15 March
Women are underpaid all over Europe – 8 March
Migrant children should not be detained – 8 February
Restrictive laws prevent families from reuniting – 2 February

9. Next three months

April

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| 4-6 April | Visit to Spain |
| 7-8 April | Day of Roma in Kamenci (Slovenia) and high-level meetings |
| 11-15 April | PACE 2 nd part |
| 13 April | Presentation of CommHR Annual Report 2010 to PACE |
| 19 April | Publication of CommHR letter to Ms Nimet ÇUBUKÇU, Minister of National Education of the Republic of Turkey |
| 18-20 April | Visit to Georgia |
| 26-27 April | High-Level Conference on the Future of the European Court of Human Rights (Izmir) |
| 28-29 April | Meetings with civil society in Turkey (Istanbul) |

May

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| 09 May | Publication of CommHR report on Armenia |
| 03 May | CommHR Media lecture #2 on access to state-held information by Swedish Parliamentary Ombudsman, Hans-Gunnar Axberger (Brussels) |
| 04 May | Meetings with European Union institutions (Brussels) |
| 05 May | Conference Save the Children in Europe (Brussels) |
| 11 May | 121st Session of the Committee of Ministers (Istanbul) |
| 13-18 May | Visit to the Russian Federation |
| 19-20 May | Sakharov Conference (Moscow) |
| 24 May | 50 th anniversary of Amnesty International: debate on the state of human rights in Europe in the European Parliament (Brussels) |
| 25 May | CM: Annual report 2010 and Quarterly Report 1/2011 |
| 26 May | Visit to Italy |
| 27 May | Prosecutor Generals conference and high-level meetings (Rome) |

June

- 01-02 June Open Society Initiative meeting on the UN Convention on the Rights of Persons with Disabilities and high-level meetings (Dublin)
- 07-08 June OSCE Conference on safety of journalists in the OSCE region (Vilnius)
- 07 June CommHR Media lecture #3 on protection of journalists from violence by Dunja Mijatovic, OSCE Representative on Freedom of the Media (Vilnius)
- 09 June Exchange of views with European Parliament DROI Subcommittee (Strasbourg)
- 10 June CommHR Media lecture #4 on public service media by Agnès Callamard, Executive Director of Article 19 (London)
- CommHR Media lecture #5 on digital media and human rights by Douwe Korff, Professor for International Law, London Metropolitan University and Ian Brown, Senior Research Fellow, Internet Institute, University of Oxford (London)
- 14-17 June Visit to Serbia
- 16 June Annual Meeting of European Federation of Journalists (Belgrade)
- 20-24 June PACE 3rd part
- 23 June Launch of report on “Discrimination on grounds of sexual orientation and gender identity in Europe” (Strasbourg)

10. Observations and reflections

1. The reason why we decided to step up our activities on the rights of persons with disabilities was simply that we have the impression that this is also a major human rights problem in Europe. The fact that our continent has an ageing population has made this issue even more urgent.

I believe it is imperative that more efforts be made to respond to the needs and protect the rights of people with mental health problems and intellectual disabilities. What I have seen during my travels has underscored that these individuals, still largely invisible in our societies, are particularly disadvantaged, vulnerable and non-prioritised in state and municipality budgets.

However, their situation is not only a matter of the allocation of limited resources but also a question of attitudes. Stigmatisation should be countered more effectively. In my opinion, the large, unsuitable institutions must be phased out and the fairly widespread deprivation of legal capacity be prevented. The fact that the UN Convention has been ratified by most member states is positive, but implementation is still less than impressive in most places.

2. As mentioned in the Overview we have also decided to focus more on media issues: the relationship between the media and human rights promotion and protection. This is obviously an absolutely relevant aspect – both traditional and modern social media influence attitudes to an extraordinary degree and this in turn affects the possibilities of pursuing policies in line with human rights standards.

There are several issues here. Journalists are threatened and penalised because of their reporting or commenting; defamation is still criminalised in some countries; critical media outlets have been closed or harassed; radio and television frequencies are allocated on political criteria; and public interest broadcasting is not allowed to be independent. At the same time there are monopoly tendencies in the media market undermining diversity and pluralism: media outlets are taken over by business interests which take no responsibility for professional journalism; and the room for serious investigative journalism has narrowed which has contributed to creating an ethical vacuum in the media world which has not been balanced by effective systems of self-regulation.

One dilemma is of course that some of these problems need to be addressed through political decisions – while state intervention into media matters should not lead to state (or government party) control of media and thereby undermine media freedom and diversity.

Our series of media lectures will address these problems and we hope this will contribute to a meaningful discussion on this complex and crucial matter.

3. Our visit to Albania after the tragic events on 21 January became a reminder of the need to have – in our office or in other parts of the Council of Europe – a capacity to assist in the most tense moments of national developments. Like in Armenia after the March 2008 events, I met many in Tirana who were extremely grateful that we came and gave mature and impartial advice on how to respond to the crisis and how to ensure that

justice be done - and doing so without causing further polarisation. The lesson is that we should be ready for such assistance and ensure that we have the capacity to fulfil such a role with the necessary competence.

4. Finally, a reflection on the co-ordination with the EU structures, notably the Commission. The relations have improved considerably, our Secretary General is held in high esteem in Brussels and I have regular, and often constructive, meetings with members of the Commission and the European Parliament. Our co-operation with the Fundamental Rights Agency in Vienna is also smooth and meaningful.

However, there are problems as well. For instance, the discussion on the Hungarian media laws demonstrated a lack of co-ordination which was particularly unfortunate as the EU norm basis was insufficient for a thorough discussion on dilemmas relating to freedom of expression (as covered, for instance, by the case law of ECtHR). I feel it is important that such situations be avoided in future so that the competence of the Council of Europe is not marginalised when it could be particularly relevant. Indeed, this also underlines the importance of pursuing the efforts to clarify the relationship between the two organisations and working towards the European Union being party to the ECHR.