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# **1<sup>ST</sup> QUARTERLY ACTIVITY REPORT 2017**

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Commissioner for Human Rights**

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Presented to the Committee of Ministers  
and the Parliamentary Assembly

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## 1. Overview

During the period in review, the most common topics I addressed in my country and thematic work were media freedom, the human rights of migrants including asylum-seekers, of Roma, of LGBTI persons, and women's and children's rights. However, I also had occasion to examine transitional justice issues (in Kosovo\*), the rights of persons with disabilities (in Monaco and at the launch of the Council of Europe Disability Strategy), and the effects of economic deprivation upon the enjoyment of human rights (in Slovenia).

As I have stressed on numerous occasions, media freedom is fundamental, as it affects the exercise of many other rights. Thus, if the media situation in a country is in any way problematic, I seek to address it during a visit and in a country report. Media freedom was a focus not only of a memorandum to the Turkish authorities, but also during the mission to Kosovo and in a number of statements.

The deteriorating situation of media freedom in Turkey has attracted my attention regularly over the last several years. The memorandum I addressed to the authorities on the topic is the last of three memoranda I published after my visits to the country in April and September of last year. In the latest memo, I critically evaluate the use of state resources to favour pro-governmental media and various measures which have stifled critical media, including disproportionate fines, defamation proceedings, inappropriate use of counter-terrorist provisions, internet throttling and take-downs, as well as fully-fledged takeovers of media without judicial proceedings.

In a mission to Kosovo I stressed the urgency of conducting effective investigations into past deaths of journalists, as well as current threats and attacks against them. I also drew attention to the need to ensure the independence and impartiality of the public service broadcaster by finding an appropriate funding model. During the period in review, I made a number of statements about threats to media, including disproportionate fines against journalists or media outlets in Serbia and Latvia, the possible closure of two Greek newspapers, and threats against a journalist in Chechnya in the Russian Federation.

Migration and human rights remained an important focus of my work. I wrote a letter to the Slovenian authorities about problematic legislative changes that risked violating Slovenia's refugee protection obligations by denying the possibility to receive asylum and placing persons in need of protection at risk of *refoulement*. I followed up on my letter during a subsequent country visit and also urged the Slovenian authorities to invest more in integration policy, particularly in doing outreach to receiving communities.

I devoted considerable attention to the issue of migrant detention, which is used far too often in many member states. According to Council of Europe standards, detention should be used only as a last resort with a view to removal, and each detention decision should be individually reasoned. I set out the standards and recent European policy trends in this domain in a Human Rights Comment where I also reiterated that children should never be detained. Prior to a European Union summit, I issued a statement on Europe's duty to avoid migrant detention and make use of alternatives. I also published a statement

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\* All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 (1999) and without prejudice to the status of Kosovo.

criticising Hungary's move towards automatic migrant detention and sent a letter to the Luxembourg authorities criticising their decision to extend the maximum period of detention for migrant children and families.

I addressed Roma and Traveller rights issues in a report on Ireland, and in visits to Portugal and Slovenia and the mission to Kosovo. In Ireland, I welcomed the government's recognition of Traveller ethnicity and urged investment in this community to counteract the negative impact of austerity-era cuts. I also urged the authorities to take more vigorous steps towards the inclusion of Roma, most of whom are from Central and Eastern Europe. In Kosovo, efforts to ensure that all Roma displaced by the war have identity documents should continue.

In Portugal and Slovenia, I was struck by the contradictory signals I received. In the former, I witnessed first-hand the excellent co-operation of the local authorities in Torres Vedras with a Roma mediator and the progress made there in Roma education and employment. On the other hand, I heard alarming reports of hate crimes targeting Roma in another part of Portugal. In Slovenia, progress made in promoting Roma education, especially at kindergarten and primary level, was sometimes overshadowed by the squalor in which some Roma continue to live, without electricity, clean water or sanitation.

I addressed the rights of LGBTI persons in a country visit to Monaco, a Human Rights Comment and through several video messages. The Human Rights Comment urged member states to consider following the recent European trend towards granting legal recognition to same-sex couples, a step I also encouraged the Monegasque authorities to take. I participated in two LGBTI events virtually through video messages – in a conference on gender identity in Croatia and a conference on same-sex partnerships in Ukraine.

I raised women's rights issues during the mission to Kosovo, in the report on Ireland, and in an opinion editorial in Russia. In Kosovo I encouraged efforts to provide adequate support and reparation to women victims of wartime sexual violence. The report on Ireland examined several women's rights issues: the need to improve the response to domestic violence and ratify the Istanbul Convention; the way in which the restrictive legal framework governing abortion impinges on women's rights; and dealing with past abuses against women in various institutional and health care contexts in a more consistently human rights compliant manner. In response to moves to decriminalise domestic violence, I published an opinion editorial in a Russian newspaper pointing to the human rights risks in such a step in light of the international standards. Finally, I had a very good exchange on women's rights and gender equality with GREVIO, the expert body charged with monitoring implementation of the Istanbul Convention.

Finally, I addressed children's rights issues not only in the aforementioned letter to the Luxembourg authorities on migrant child detention, but also in the visit to Monaco and the report on Ireland. In Monaco, I urged the authorities to ban corporal punishment and expand the powers of the High Commissioner for the protection of rights, liberties and for mediation to deal with children's rights issues. In Ireland, I examined several children's rights issues: the inclusive education deficit in a context where the vast majority of state-funded schools are denominational and religion is used as an admissions criterion; child poverty; the rights of immigrant children, and remedying past abuses in Mother and Baby Homes and in schools.

## 2. Missions and Visits

### *Visit to Monaco*

The Commissioner carried out a visit to Monaco on 18 and 19 January 2017. The main themes of the visit were the institutional and legal framework for the protection of human rights and the rights of persons belonging to vulnerable groups, such as children, persons with disabilities and LGBTI persons.

The Commissioner met with HSH Prince Albert II of Monaco. He also held meetings with the Minister of State, Serge Telle; the Minister of Foreign Affairs and Cooperation, Gilles Tonelli; the Minister of the Interior, Patrice Cellario; and the Minister of Social Affairs and Health, Stéphane Valeri; as well as with the Head of the Judicial Services, Philippe Narmino; the President of the National Council, Christophe Steiner; and members of the Monegasque delegation to the Parliamentary Assembly of the Council of Europe. He held a meeting with the High Commissioner for the Protection of Rights and Freedoms and for Mediation, Anne Eastwood. The Commissioner also had meetings with civil society organisations.

During his visit, the Commissioner visited the Princess Charlene Home for Children. He also gave a presentation of his work to students of the Lycée Albert Premier of Monaco, which was followed by a session of questions and answers.

While welcoming the growing role played by the High Commissioner for the Protection of Rights and Freedoms and for Mediation, the Commissioner recommended granting to this institution the authority to initiate investigations of its own motion, notably in the area of discrimination and as regards the rights of children, who currently cannot refer matters directly to the High Commissioner. He also invited the authorities to adopt a framework law on protection against all forms of discrimination and to strengthen the protection of children's rights by banning all forms of corporal punishment of children.

The Commissioner welcomed the progress made in Monaco regarding the rights of people with disabilities, in particular legislation on support and assistance and on the accessibility of buildings. Nonetheless, he called on Monaco to ratify as soon as possible the United Nations Convention on the Rights of Persons with Disabilities, a key instrument for improving the protection of the rights of persons with disabilities, including persons with intellectual and psycho-social impairments.

The Commissioner also encouraged the authorities to swiftly act upon a recent bill aimed at enabling non-married partners, including those of the same sex, to obtain legal recognition and protection of their union, taking full account of the case-law of the European Court of Human Rights in this regard.

Lastly, the Commissioner encouraged the Monegasque authorities to make every effort to ensure that the committee set up to monitor the implementation of the 2015 law on the preservation of national security had the appropriate independence and resources to fulfill its role effectively.

A press release was issued at the end of the visit. It is available on the Commissioner's website.

### ***Mission to Kosovo***

The Commissioner conducted a mission to Kosovo from 5 to 9 February, focusing on certain issues pertaining to transitional justice and social cohesion, and on freedom of the media.

In the course of his mission, the Commissioner held discussions<sup>1</sup> with the Prime Minister, Isa Mustafa; the Minister of Foreign Affairs, Enver Hoxhaj; the Minister of Justice, Dhurata Hoxha; the Minister for Dialogue, Edita Tahiri; the Minister of Labour and Social Welfare, Arban Abrashi; the Minister of Communities and Return, Dalibor Jevtić; and the Deputy Minister of Interior, Valdet Hoxha. In addition, the Commissioner met with the Inter-Ministerial Working Group on Dealing with the Past and Reconciliation and the Ombudsman, Hilmi Jashari. He also met with the UN Secretary General's Special Representative for Kosovo, Zahir Tanin; the European Union Special Representative in Kosovo, Nataliya Apostolova; the Head of the European Union Rule of Law Mission in Kosovo (EULEX), Alexandra Papadopoulou; the Head of the OSCE Mission in Kosovo, Jan Braathu; and the Head of the UNHCR Mission in Kosovo, Narashima Rao.

In his observations at the end of his mission, the Commissioner expressed concern about the fact that the on-going political deliberations have not focused sufficiently on the needs of victims of the 1998-1999 war in Kosovo, including thousands of displaced persons, families of missing persons and victims of wartime sexual violence, leaving them with the feeling of abandonment and hopelessness. He noted the need for a paradigm shift in order to put the victims at the centre of the political dialogue, and prioritise their human rights.

Regretting the lack of results of the work of the Inter-Ministerial Working Group on Dealing with the Past and Reconciliation, established in 2012, Commissioner Muižnieks expressed his hope that the lessons learned from this process will help the authorities address the issues of transitional justice with more commitment and in a more systematic manner, while ensuring that the voices of all victims are heard in any future relevant process.

Noting with concern that the process of establishing the truth about some 1 660 missing persons has slowed down, the Commissioner underlined the need to enhance domestic forensic expertise, increase regional co-operation, and ensure access to archives which may hold information that could help locate the remains of missing persons. He also noted that the lack of effective prosecution of serious human rights violations committed during the war has exacerbated the suffering of victims and their families and the feeling of injustice which seriously hampers reconciliation efforts and the return of displaced persons. The Commissioner noted with concern that hate crimes on ethnic grounds seriously hamper the voluntary return of forcibly displaced persons and highlighted the importance of the systematic recording, effective investigation, prosecution and sanctioning of these offences.

The Commissioner welcomed the inclusion of women victims of wartime sexual violence in a 2014 law which provided for benefits for certain categories of war victims. He stressed, however, the importance of establishing a comprehensive reparation programme that would ensure effective access to employment, health care and education, and help these women overcome their fear and the social stigma they face.

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<sup>1</sup> All references to the authorities with whom the Commissioner met shall be understood within the context of the general status neutrality of the Council of Europe.

On a positive note, the Commissioner found it encouraging that the number of displaced Roma lacking personal identity documents had decreased, notably due to co-operation between Kosovo and Montenegro, and encouraged the authorities to continue addressing this issue in order to ensure that no Roma is left stateless or at risk of statelessness.

Stressing the important role that media freedom plays in a democratic society, the Commissioner highlighted the need for the authorities to effectively address and investigate all reported cases of attacks and threats against journalists, which have a serious chilling effect on journalism. Kosovo was urged to establish sustainable, appropriate and transparent funding for the public service broadcasting organisation and to secure its editorial independence and institutional autonomy. At the same time, he underscored that journalists have to uphold the principles of ethical and professional journalism and that self-regulation needs to be improved, in order to ensure that unethical reporting does not lead to or exacerbate existing socio-political tensions.

Last but not the least, the Commissioner noted the need for urgent measures to address serious structural shortcomings in the domestic judicial system especially given that domestic courts are taking up more responsibilities, including in the field of wartime crimes. In this context, the Commissioner urged the authorities to draw upon the rich expertise of the Council of Europe and its expert bodies, such as the European Commission for Democracy through Law (Venice Commission).

The Commissioner's memorandum on this mission is available on the Commissioner's website.

### ***Visit to Portugal***

The Commissioner carried out a visit to Portugal from 6 to 7 March, as a follow-up to his visit of May 2012. The human rights of Roma were the main focus of the visit.

The Commissioner met with the State Secretary for Citizenship and Equality, Catarina Marcelino; the High Commissioner for Migration, Pedro Calado; and the Mayor of Torres Vedras, Carlos Bernardes. He also held meetings with members of the Portuguese delegation to the Parliamentary Assembly of the Council of Europe, including its president, Catarina Mendes, and with the two deputies to the Portuguese Ombudsman, Jorge Jacob and Henrique Antunes. The Commissioner also had meetings with a number of civil society organisations and paid a visit to the former President of Portugal, Mr Jorge Sampaio.

During the visit, the Commissioner focused on measures to combat discrimination and support the empowerment of Roma people. To this end, he visited the city of Torres Vedras, which has developed a participatory approach to decision-making, including through Roma mediators and a community action group aimed at developing co-operation between the Roma community and the majority population. Torres Vedras being one of seven Portuguese municipalities participating in the Council of Europe Romed programme, the Commissioner invited the authorities to provide further support to such positive initiatives and to encourage their replication in other municipalities throughout the country.

The Commissioner also raised issues related to education and housing. While welcoming the launch of a programme of scholarships for young Roma to take part in higher

education, he invited the authorities to adopt further measures to reduce the high drop-out rates among Roma pupils and combat illiteracy, especially among women and girls. He also encouraged the authorities to pursue programmes aimed at addressing the housing needs of the most vulnerable in society, ensuring that Roma fully benefit from these programmes, and pointed to the continuing need to eradicate substandard and segregated Roma settlements.

Additionally, the Commissioner expressed concerns about recent violent incidents including threats, arson, and attacks against properties of Roma people, which took place in a municipality near the city of Moura (Alentejo). While welcoming the reaction of the authorities, who filed a criminal complaint, he urged them to ensure a prompt and adequate investigation so as to apprehend and adequately punish the perpetrators of such acts.

### **Visit to Slovenia**

The Commissioner visited Slovenia from 20 to 23 March. The main topics of the visit were the human rights of Roma; the human rights of migrants, asylum seekers and refugees; and the impact of economic deprivation and poverty on the enjoyment of human rights.

In the course of the visit, the Commissioner held discussions with the President of Slovenia, Borut Pahor; the Prime Minister, Miro Cerar; the President of the National Assembly, Milan Brglez; the Minister of Education, Maja Makovec Brenčič; the Minister of the Environment and Spatial Planning, Irena Majcen; the Minister of Health, Milojka Kolar Celarc; the Minister of Justice, Goran Klemenčič; the Minister of Labour, Family, Social Affairs and Equal Opportunities, Anja Kopač Mrak; the State Secretary at the Ministry of Foreign Affairs, Sanja Štiglic; and the State Secretary at the Ministry of Interior, Boštjan Šefic. The Commissioner also met with the Director of the Office of the Government of the Republic of Slovenia for National Minorities, Stanko Baluh, and several members of the National Assembly, including members of the Slovenian delegation to PACE. In addition, the Commissioner had exchanges with the Ombudsman, Vlasta Nussdorfer; the Advocate for the Principle of Equality, Miha Lobnik; and with representatives of UNHCR and civil society. Furthermore, he gave a lecture entitled “Human Rights Under Attack: Current Challenges in Europe” at the University of Ljubljana.

The Commissioner visited the former Rog bicycle factory in Ljubljana, a social and cultural community centre where migrants and asylum seekers can receive support with language learning and integration. He also visited a preschool in a Roma settlement in Krško, and went to the Roma settlement of Dobruška vas 41 in Škocjan municipality, where some Roma families live in poverty and without access to basic infrastructure. While in Dobruška vas, the Commissioner also met the mayor of Škocjan municipality.

Nearly 500 000 migrants and asylum seekers passed through Slovenia in 2015 and 2016, which was a major challenge for the country. The Commissioner recognised the efforts made by the Slovenian authorities to address the needs of those persons in a humanitarian manner, and welcomed the country’s participation in the EU relocation programme and its commitment to resettle 60 Syrians from countries neighbouring Syria. The Commissioner expressed the hope that the amendments to the Aliens Act adopted in 2017 would be challenged before the Constitutional Court, as they fall short of providing appropriate guarantees against *refoulement* – including chain *refoulement* – and of establishing adequate safeguards of everyone’s right to seek and enjoy asylum. As such,

they are contrary to Slovenia's obligations under international human rights and refugee law. The Commissioner further encouraged the Slovenian authorities to intensify their efforts to integrate refugees in Slovenian society, notably by providing them with rapid access to social benefits, facilitating their access to private housing, and involving them in the development of integration programmes. The Commissioner also underscored that Slovenian politicians have a responsibility to avoid language which fuels fear and hostility and encouraged the authorities to increase outreach toward local communities to overcome prejudices against migrants and asylum seekers.

The Commissioner acknowledged the steps taken by the Slovenian government to implement the judgments of the European Court of Human Rights on the "Erased" but took note of the remaining concerns expressed by representatives of the Erased persons. He urged the authorities to enable the regularisation of the remaining Erased persons in Slovenia.

In relation to the human rights of Roma, the Commissioner welcomed the efforts made over the past few years to improve their access to education. He was interested to learn about innovative projects aimed at preparing small children for primary school and promoting their inclusion in Slovenian society by supporting their access to preschools. Even so, the school dropout rate remains high among Roma children. The Commissioner urged the Slovenian government to work with local municipalities to resolve the long-standing housing problems of certain Roma settlements located in the Dolenjska region, where some families live in insalubrious conditions, with no access to drinking water, electricity or sanitation.

The Commissioner also examined the situation of people living under the poverty threshold in Slovenia, whose numbers have grown since the 2008 economic crisis and who now represent 14.5% of the population, even after social assistance. The Commissioner was informed that the groups at the greatest risk of poverty are the elderly – in particular older women – the long-term unemployed, the working poor, and children growing up in vulnerable families. The Commissioner encouraged the Slovenian government to strengthen policies to enable all categories of the Slovenian population to effectively enjoy their human rights to adequate standards of living, to health care, to social security, proper housing and adequate working conditions.

Finally, the Commissioner was pleased to learn about initiatives to strengthen the national human rights structures in Slovenia. Amendments to the Human Rights Ombudsman Act are currently being prepared to make the Ombudsman's office compliant with the UN Paris Principles on the status of national institutions. The proposed amendments would, inter alia, create a human rights centre in the Ombudsman's office to increase its capacity to conduct human rights research and education. The Commissioner also welcomed the adoption in 2016 of the revised Protection Against Discrimination Act, which strengthens the position of the Advocate for the Principle of Equality. At the same time, he encouraged the authorities to provide the Advocate with additional resources so that he can carry out his mandate effectively, and also encouraged the Advocate to rapidly outline his priorities and work plan.

The Commissioner's report on this visit is forthcoming.

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

#### ***Letter to Milan Brglez, President of the National Assembly of Slovenia, regarding amendments to the Aliens Act***

On 17 January, the Commissioner published a letter he had addressed on 12 January to Milan Brglez, President of the National Assembly of Slovenia, in which he expressed concerns about proposed amendments to the Aliens Act that risked jeopardising access to asylum in Slovenia.

In his letter, the Commissioner noted that the envisaged exceptional measures, which would be activated in case of a sudden change in the migration situation threatening “public order and internal security”, would allow the police to close borders and return migrants and asylum seekers found on Slovenian territory to the country from which they entered Slovenia. The Commissioner warned that these measures were not compatible with Slovenia’s legal obligations under international human rights and asylum law. He referred to the growing case-law of the European Court of Human Rights according to which states should provide asylum seekers with effective access to an individual procedure enabling them to present their personal reasons not to be refused entry or returned, as well as with an effective remedy against decisions taken in this regard.

The Commissioner also regretted that the Slovenian government presented the amendments to the Aliens Act as “necessary to lower security risks to the Slovenian population”, thus sending a negative message that portrays migrants as a threat, instead of recognising that many are fleeing conflicts and are in need of protection. The Commissioner stressed that, in preparing for any possible emergency situation, Slovenia should preserve individualised asylum procedures and ensure that it has sufficient material and human resources. He urged the members of the National Assembly to reject any amendments that are contrary to international law, but welcomed a positive provision in the proposed amendments, whereby a dedicated Migrant Welfare and Integration Office would be created.

The letter is available on the Commissioner’s website, along with the reply of the President of the National Assembly.

#### ***Memorandum on freedom of expression and media freedom in Turkey***

On 15 February, the Commissioner published a memorandum on freedom of expression and media freedom in Turkey. This memorandum is based on two visits of the Commissioner to Turkey, which took place from 6-14 April and from 27–29 September 2016.

The memorandum sets out the serious concerns of the Commissioner about the deterioration of freedom of expression in Turkey, which further intensified after the coup attempt in July 2016, reversing tangible progress made in the period following the publication of the Commissioner’s predecessor’s 2011 report on this subject. The Commissioner acknowledged that the recent decline in freedom of expression came about in a very difficult context; however, neither the attempted coup nor other terrorist threats faced by Turkey justified measures which constituted not only an unprecedented

infringement of media freedom but also a clear disavowal of the rule of law and due process.

The Commissioner examined the deterioration in media pluralism and independence characterised notably by the use of state resources to favour pro-governmental media, the imposition of disproportionate fines to stifle critical reporting, pressure exerted on media companies to change editorial policy or fire journalists, the arbitrary exclusion of media and journalists and the appointment of trustees to media outlets critical to the authorities. He noted that media freedom has significantly worsened under the on-going state of emergency, which confers almost limitless discretionary powers to the Turkish executive to apply sweeping measures, including the outright closure of media outlets by virtue of a series of decrees, without any involvement of the judiciary.

The Commissioner further addressed the intensification of judicial actions targeting increasingly large strata of society, including journalists, members of parliament, academics and ordinary citizens. In this respect, the Commissioner particularly criticised the overly wide application of the concepts of terrorist propaganda and support for a terrorist organisation, including to statements and persons that clearly do not incite violence. He therefore urged the Turkish authorities to separate terrorist action from criticism and dissent. The Commissioner examined the excessive use of defamation both in criminal and civil law proceedings and the increased resort to criminal provisions against insulting the President of the Republic or defamation of public officials which had become a tool to stifle any criticism of political figures. The erosion of the independence and impartiality of the Turkish judiciary was of special concern to the Commissioner, who was particularly alarmed at the role played by the criminal judgments of peace in some of the most obvious violations of the right to freedom of expression. He expressed concern at the increased cases of prosecutions and excessive use of detention on remand against persons who had exercised their freedom of expression and whose statements should clearly be considered protected under Article 10 of the ECHR.

The Commissioner also looked into the issue of the safety and security of journalists, who had borne the brunt of the deterioration in the area of media freedom and freedom of expression. The Commissioner expressed his deep concerns about the serious reported cases of violent attacks on journalists and media actors, noting that most of his interlocutors argued that there was a clear link between these attacks and the vilification of journalists by public officials and through smear campaigns in pro-government newspapers. The Commissioner further expressed alarm about the rapid increase in cases where journalists were detained on the basis of spurious charges and with little evidence suggesting any guilt. Commenting on some such cases, the Commissioner noted that the judges showed no consideration for freedom of expression in their decisions ordering the journalists' detention pending trial and stressed that these practices had a clear chilling effect. The Commissioner further noted that the Turkish authorities' defense that journalists are not prosecuted or detained in connection with their journalistic activity but for other crimes, lost credibility in view of the fact that their journalistic activity was often the only evidence available to establish such crimes.

The Commissioner also raised concerns about the increased internet censorship, controlling of information available to the general public on the internet, and intensified prosecution and detention of individuals for social media sharing which does not contain violent or hateful content. The legal framework in place in Turkey is inadequate, confers extensive powers on an administrative body to block access to websites or to remove

content, and fails to provide sufficient safeguards against abuses. The Commissioner also noted that the Turkish authorities had reportedly been resorting to bandwidth throttling (slowing down) or full internet shutdowns during times of domestic crises, although there were no provisions in the Internet Law allowing such practices. He furthermore observed that the changes effected since July 2016 in the area of digital communications are, if anything, likely to compound existing problems.

The Commissioner stressed that the aforementioned measures led to the worst forms of chilling effect on freedom of expression and media freedom and also resulted in the impoverishment of the Turkish media landscape. He called on the Turkish authorities to urgently change course by overhauling criminal legislation and practice, re-developing judicial independence and reaffirming their commitment to protecting free speech.

The memorandum is available on the Commissioner's website along with the Turkish authorities' comments.

### ***Report on Ireland***

On 29 March, the Commissioner published a report following his visit to Ireland, which took place from 22-25 November 2016, focusing on the human rights of Travellers and Roma; women's rights and gender equality; and the human rights of children.

As concerns the human rights of Travellers, the Commissioner welcomed the government's recent recognition of Travellers' ethnicity. However, he remained concerned at the very negative impact of the reduction in the state support for the Traveller community following the economic crisis in 2008. The Commissioner called on the Irish authorities, including at local level, to reinvest in the community and improve access of Travellers to education, health, housing and employment, as well as legal remedies in cases of discrimination, in particular in the context of the current economic upturn. Noting that many Traveller families still live in dire conditions mainly due to shortcomings in services provided by local authorities, the Commissioner stressed the urgent need to address these situations, notably by providing adequate safeguards against forced evictions.

Noting that Roma, most of whom are from Central and Eastern Europe, suffer from disadvantage, discrimination and racism, the Commissioner called on the Irish authorities to strengthen their efforts to ensure full respect of their human rights, including their rights to work, housing and education.

While welcoming the positive steps taken in recent years by the Irish authorities to promote women's rights and gender equality, such as the preparation of the Second National Women's Strategy, the Commissioner called on Ireland to tackle persistent gender inequalities, including through a review of the constitutional provisions that perpetuate negative stereotypes against women and long-term measures aimed at overcoming gender bias in the media and education system. The Commissioner also encouraged the Irish authorities to improve the legislation and overall response to domestic violence, including by improving access to emergency safety orders and accommodation for women victims of violence, and ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence.

The Commissioner noted that Ireland possessed one of the most restrictive legal frameworks on abortion in Europe, whose negative impact on women's rights has been

widely documented in recent years. He strongly urged the Irish authorities to make progress towards a legal regime governing the termination of pregnancy, including in the Constitution, that would be more respectful of the human rights of women. He recommended decriminalising abortion within reasonable gestational limits. However, at the very minimum, abortion performed to preserve the physical and mental health of women, or in cases of fatal foetal abnormality, rape or incest should be made lawful.

Stressing the need to promote inclusive education in a context where the vast majority of state-funded schools are denominational, the Commissioner called on the Irish authorities to remove the exemption allowing state-funded schools to use a child's religion as admission criteria and to ensure options for students who opt out from religious classes. In addition, the Commissioner called for the removal of the parental rule, which allows state-funded schools to use a connection with former students of the school as an admission criterion, notably in view of the discriminatory impact this rule has on Traveller children, migrant children and children of parents with disabilities.

Against a background of growing child poverty, including a significant rise in child homelessness, the Commissioner urged the Irish authorities to reverse the negative impact of austerity measures on children's access to social protection, education and health, in particular in the current context of resumed economic growth. The Commissioner also stressed the need to address shortcomings in the protection of the rights of immigrant children flowing from the system of Direct Provision accommodation for asylum seekers and from the lack of avenues allowing undocumented children to secure a legal status.

Noting that the state had taken a number of measures to address past human rights abuses against women and children in institutions, including women's homes, schools and healthcare institutions, the Commissioner called on the Irish authorities to ensure full respect of the applicable international human rights standards when dealing with all such abuses. Devoting specific attention to shortcomings regarding measures aimed at addressing past abuses that occurred in the context of the Magdalene Laundries, the Mother and Baby Homes, medical procedures for childbirth in maternities, and sexual abuses in national schools, the Commissioner recalled that all groups of victims of past serious human rights abuse have a right to truth, full support and effective remedies, as well as prompt, independent and thorough investigations, capable of ensuring accountability, into allegations of abuses.

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

## 4. Themes

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

On 27 January, the Commissioner published a statement regretting the adoption by the Slovenian National Assembly of amendments to the Aliens Act restricting access to asylum in Slovenia in certain exceptional circumstances. While taking note of last-minute changes that introduced an individualised registration procedure for asylum seekers, the Commissioner stated that he remained concerned that the revised amendments still fell short of providing adequate guarantees against *refoulement* and onward *refoulement*, as

well as access to an effective remedy. The Commissioner warned that the adoption of the amendments to the Aliens Act could have a negative impact on the human rights of migrants and asylum seekers in the whole region, and called on the Slovenian authorities to reconsider them. The statement is available on the Commissioner's website.

On 31 January, the Commissioner published his Human Rights Comment "High time for states to invest in alternatives to migrant detention." The comment highlighted the harmful effects detention has on migrants, and the legal and policy imperatives to ensure that alternatives to detention are used as much as possible. The Commissioner called on Council of Europe member states to earnestly invest in these alternatives. Furthermore, he called for the urgent abolition of the detention of migrant children, for whom detention is particularly harmful and never in their best interest.

The Comment outlined a number of practical issues encountered by the Commissioner in the implementation of alternatives to detention. These include: the ad hoc and limited nature of such alternatives; the need for a well-stocked toolbox of alternatives complemented by coaching and case management; the danger of trading off improvements in detention conditions against implementing alternatives; and the need to ensure that alternatives are applied to all places where migrants are deprived of their liberty.

The Commissioner recommended five steps to make effective alternatives to immigration detention a reality: (1) to ensure that the obligation to provide sufficient alternatives is clearly set out in domestic law and policy; (2) to set up comprehensive programmes of viable and accessible alternatives in practice; (3) to present a roadmap, including a firm deadline, for the abolition of child detention; (4) to exchange good practices more systematically, including through Council of Europe mechanisms; and (5) to improve data gathering on the use of immigration detention and alternatives.

On 2 February, an opinion article by the Commissioner was published in the Huffington Post. The article was published ahead of the meeting of EU heads of state and government in Malta, which would address the EU's co-operation with third countries on preventing irregular migration, in particular with Libya. The Commissioner emphasised that such co-operation should be compliant with European states' human rights obligations. This, he argued, would require first of all that a thorough assessment of the human rights risks involved in new arrangements be carried out and the findings thereof published. If clear risks for the human rights of migrants exist, such arrangements should be avoided until tangible improvements occur.

When an arrangement is made, constant, independent monitoring and reporting of the human rights situation in the third country should be in place. This also requires transparency to enable public and democratic scrutiny. In this regard, the Commissioner particularly pointed to the recent decision of the EU Ombudsman, according to which reporting on the human rights effects of the EU-Turkey statement had not been adequate. Lastly, the Commissioner reiterated the importance of ensuring that co-operation with third countries would not lead to push-backs and further violations of the European Convention on Human Rights (ECHR).

On 28 February, a staff member of the Commissioner's Office participated in the Inter-parliamentary committee meeting "The third reform of the Common European Asylum System (CEAS) – Up for the Challenge", organised by the European Parliament's Civil

Liberties, Justice and Home Affairs Committee (LIBE). The meeting brought together European and national parliamentarians to discuss different aspects of the European Commission's proposals for a third reform of CEAS. The Commissioner's Office was invited to give a presentation during one of the parallel workshops, devoted to legal assistance and alternatives to migrant detention. The presentation emphasised the need for European states to step up their investment in alternatives to migrant detention, and highlighted a number of key areas in which work on alternatives should be improved. The Commissioner's representative also participated in the plenary sessions that dealt with challenges to CEAS, access to asylum and fair distribution, safe countries of origin and safe third countries, and the protection of migrant children.

On 8 March, the Commissioner issued a statement to express concern at the adoption by the Hungarian Parliament of a bill on border management. He stressed that the bill was likely to exacerbate the already highly problematic situation of asylum seekers in Hungary, by allowing the automatic detention of all asylum seekers, including families with children and unaccompanied minors from the age of 14, in shipping containers surrounded by high razor wire fence at the border for extended periods of time. The Commissioner recalled that under the case-law of the European Court of Human Rights, detention for the purpose of denying entry to a territory or for removal must be a measure of last resort, only if less coercive alternatives cannot be applied, and based on the facts and circumstances of the individual case; automatically depriving all asylum seekers of their liberty would therefore be in clear violation of Hungary's obligations under the ECHR. He called on Hungary to invest in effective, accessible alternatives to detention. The Commissioner stressed in particular that Hungary should refrain from detaining children, as this is never in their best interests, as found by the UN Committee on the Rights of the Child.

On 9 March, the Commissioner published a statement entitled "Europe's duty to avoid detaining migrants". The statement followed recommendations to EU member states issued by the European Commission aimed at making return procedures more effective when implementing the EU's legislation on returns which provides for the possibility of migrant detention for up to 18 months. The Commissioner expressed his concern at the recommendation that states increase their detention capacity since this could lead to even longer and more immigration detention in member states. As for the recommendation that, as a last resort, the detention of migrant children be possible, the Commissioner noted that this would clash with the findings of the UN Committee on the Rights of the Child and the Commissioner's position that immigration detention is never in the child's best interest. Lastly, the Commissioner called upon member states to invest in alternatives to migrant detention that can help strike the right balance between states' legitimate need to control migration and the protection of the rights of migrants subject to return.

### ***Media Freedom***

On 9 January, the Commissioner issued a statement via his website and on social media, condemning the threats publicly made by the Speaker of the Chechen Parliament against the journalist Grigoriy Shvedov, editor-in-chief of *Caucasian Knot*, a Russian independent media outlet which covers news from the North Caucasus, including about human rights violations in the region. The Commissioner expressed his solidarity with Mr Shvedov, as well as his disappointment that there had been no firm reaction by political leaders at regional and federal level to the threats made against the journalist. He stressed that the state should not tolerate such attacks on the press, and urged the Russian authorities on

the regional and federal level to better protect media freedom and to promote a safe and enabling environment for journalists to work.

On 10 January, the Commissioner issued a statement in which he expressed his concern about the possible negative impact on media freedom of the decision of the High Court in Belgrade to fine, in defamation proceedings, the political weekly *NIN* for damaging the reputation of the Minister of Interior of Serbia, following its publication in June 2016 of an article on the demolitions of Belgrade's Savamala district. Recalling the case-law of the European Court of Human Rights concerning Article 10 of the ECHR, Commissioner Muižnieks noted that the concept of defamation should not be overly protective of reputational interests or provide far-reaching remedies or sanctions that can have a chilling effect on freedom of expression and public debate. He underlined that the Serbian courts need to ensure that domestic case-law concerning defamation is in line with ECHR, while politicians should be open to uninhibited public criticism and should prevent actions that can have a chilling effect on freedom of expression, especially by journalists.

On 26 January, the Commissioner published a statement (website and social media) expressing concern about the decision of the Riga Higher Court in Latvia to impose a 50,000 EUR fine on the portal Tvnet.lv for an article damaging the reputation of the National Opera. The decision was handed down following an appeal procedure and – though it lowered the first instance fine – the Commissioner considered that the revised fine remained disproportionately high in the Latvian context and could stifle media freedom and free speech in the country. While striking a fair balance between the right to protect one's reputation and that of ensuring freedom of expression is not an easy task, it is essential to avoid undermining free speech. The Commissioner recalled that defamation and libel can only be dealt with through proportionate civil sanctions, in line with the case-law of the European Court of Human Rights. The statement is available on the Commissioner's website.

On 30 January, the Commissioner issued a statement in which he expressed deep concern about the possible termination of the publication of the historic Greek newspapers, *Ta Nea* and *To Vima*, due to a lack of agreement between their owner and their lenders. Noting that this situation deals a harsh blow to media pluralism in Greece and shrinks the diversity of sources of information available to citizens, the Commissioner stressed the acute need that the government and private companies alike pay more attention to the impact that business enterprises have on human rights. Underlining that media freedom and pluralism are a core element of a functioning democracy and must be preserved from public and private activities that can threaten them, the Commissioner called for a solution which would allow the publication of these newspapers to resume rapidly. This should also respect the socio-economic rights of the newspapers' employees. The government was urged to better protect media pluralism and media freedom, including by ensuring that laws and regulations are in place and enforced to avoid media concentration.

### ***Human Rights of LGBTI people***

From 24 to 25 January, a member of the Office of the Commissioner attended a public consultation organised by the recently appointed United Nations Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Vitit Muntarbhorn.

On 21 February, the Commissioner published a Human Rights Comment in which he urged all Council of Europe member states that have not yet done so to enact legislation providing legal recognition for same-sex couples. He observed that there has been a growing trend toward such recognition over the past few years, in Europe and beyond. Today, a majority (27) of Council of Europe member states provide same-sex couples with access to either registered partnerships or marriage. The absence of legal recognition creates tangible difficulties in the daily lives of “rainbow” families, notably in the fields of access to health insurance through a partner, inheritance rights, visitation rights in case of hospitalisation, custody of children and maintenance rights in case of separation. Same-sex couples face the same needs and problems as other couples and need the same protection. The Commissioner recalled Council of Europe standards calling for legal recognition of stable couples without discrimination between different-sex and same-sex couples. He also referred to the evolving case-law of the European Court of Human Rights in this field and observed that the 2015 *Oliari and others vs. Italy* judgment arguably creates a positive obligation on states parties to the ECHR to provide legal recognition to same-sex couples as a way to protect their right to family life under Article 8 of the Convention. While recognising that international human rights law currently does not oblige states to open up civil marriage to same-sex couples, the Commissioner expressed his position that genuine commitment to equality would require states to give it serious consideration. The Commissioner concluded by highlighting the reality that our societies are made up of a diversity of individuals, relationships and families and that this should be seen as an asset.

On 28 February, the Commissioner sent a video message on the occasion of a round-table entitled “Gender identity – basic human rights”, organised by the non-governmental organisation Transparent Initiative in Croatia. In his message, the Commissioner underscored that transgender children and youth face particular difficulties when exercising their right to self-determination, notably with regard to access to health care, and that they frequently experience bullying in school. The Commissioner noted that more should be done to advance the human rights of transgender people. Governments should adopt legislation that protects the dignity of trans people in all aspects of life, adopt a firm stance against discrimination and violence and undertake specific outreach efforts to educate the public about gender diversity.

On 21 March, the Commissioner delivered a keynote address by video message at the conference “Same-sex partnership in Ukraine: today and tomorrow” organised by the non-governmental organisation *Nash Mir* in Kyiv. The Commissioner stressed that granting legal recognition to stable same-sex couples through registered partnerships is a matter of equality. Such legal recognition also has a direct impact on the daily lives of the persons concerned. The Commissioner welcomed the fact that, according to of the Ukrainian national action plan on human rights, a law on same-sex and different-sex registered partnerships should be submitted to the Ukrainian parliament this year.

### ***Women’s rights and gender equality***

On 6 February, the Commissioner published an opinion editorial on the duty to combat domestic violence in the Russian newspaper *Kommersant*. In his article, he stressed that the newly adopted law decriminalising domestic battery in Russia counters the efforts that the authorities have made in recent years to combat domestic violence, such as launching programmes and opening shelters in different regions. The Commissioner referred to the scale of the problem of domestic violence at the European level and in the Russian

Federation – where it represents 40% of all violent crimes – and emphasised that it constitutes a human rights violation which should be tackled by comprehensive measures. In particular, he recommended that the Russian authorities ratify the Istanbul Convention, adopt a national action plan to combat domestic violence, raise public awareness and improve education on women's rights and gender equality. Subsequently (8 March) the Russian Government adopted a National Action Strategy on women's rights for 2017-2022, one section of which relates to women's social welfare and the fight against domestic violence.

In a video message released on 8 March to mark International Women's Day, the Commissioner focused on the need for sustained action to lift women out of the second-class status in which too many are still kept. While there had been progress, notably in awareness about women's rights, political participation, and laws promoting equal rights and opportunities in a number of countries, old and new obstacles remained. These included the gender pay gap, exclusion from political and economic decision-making and the inability for women to make free choices about their bodies. Stressing that all these inequalities had as a common denominator a patriarchal organisation of society which relegated women to subordinate roles, the Commissioner emphasised that this was irreconcilable with human rights and a vision of equality and dignity for all. He invited all to join him in making Europe a place where all women - in all their diversity - live the life they want, free from gender-based violence and from sexism.

On 15 February, the Commissioner had an exchange of views with the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO). He updated GREVIO on his thematic and country work related to women's rights and gender equality, including promoting the ratification and implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence. The discussions, which also explored possibilities for closer co-operation, focused on different subject areas, among which featured: the complementarity of the work of the Commissioner and GREVIO; the need to respond to growing unsubstantiated concerns about the implications of the use of the word "gender" in the Convention; and the specific situation of some groups of victims, including migrant women.

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

On 27 March, the Commissioner gave a keynote speech at the Council of Europe Disability Strategy 2017-2023 launch conference, which was organised as part of the Cypriot Chairmanship of the Committee of Ministers. In his speech, the Commissioner stressed that persons with disabilities have a right to live autonomously in the community and urged European states to neutralise the barriers that prevent them from contributing to society on an equal footing with everyone else. He further called for the eradication of the segregation of persons with disabilities in large institutions and in "special schools" and underlined the need to promote their control over their life choices. Stressing that persons with disabilities should enjoy legal capacity on an equal basis with others in all aspects of life, the Commissioner underlined the need to phase out full guardianship regimes, to promote supported decision-making and to avoid involuntary placements and coercion. The Commissioner also called on states and international organisations, including the Council of Europe, to safeguard the involvement of persons with disabilities and their representative organisations in all policy-making processes.

### ***Children's rights***

On 6 February, ahead of the vote by the Luxembourg Chamber of Deputies on a bill extending the maximum period for the detention of migrant children and their families from 72 hours to 7 days, the Commissioner published a statement calling on Luxembourg to reject the proposed amendments. He reiterated his firm position that the detention of a migrant child, even if used as a last resort and for a short period, was never in the child's best interest, and risked causing harm to the child's mental well-being. He urged the authorities of Luxembourg to respect the country's international obligations while preserving the dignity and rights of migrants, and encouraged them to develop alternatives to the detention of minors and – ultimately - to put an end to the practice. In a communiqué published on the following day, the Minister of Foreign Affairs, Immigration and Asylum of Luxembourg, Mr Jean Asselborn, took note of the Commissioner's concerns, stressing Luxembourg's commitment to international standards of protection of refugees and migrants, explaining some of the reasons behind the proposed legislation, and pledging to limit the detention of migrant children and their families to the bare minimum. While the Chamber of Deputies did subsequently pass the amendments (8 February), it also adopted a motion requiring the government to draw up and present a review of the implementation of the new provisions, including an assessment of the conditions at the holding centre, as well as the duration and number of cases of detention of migrant children and their families.

### ***Non-implementation of judgments of the European Court of Human Rights***

On 20 January, the Commissioner issued a statement on his website and on social media in respect of the Russian Constitutional Court's decision of 19 January preventing the implementation of the 2014 judgment of the European Court of Human Rights in the case of the Yukos oil company. The Commissioner emphasised that preventing the implementation of the Court's judgments weakens the safeguards for individuals and companies against possible state abuses. He also stressed that the decision not to implement the Yukos judgment bore far-reaching consequences for human rights protection in Russia and undermined the integrity and legitimacy of the system of the ECHR. Therefore, the Commissioner urged the Russian authorities to amend the federal law which empowers the Russian Constitutional Court to prevent the implementation of judgments of the European Court of Human Rights.

## **5. Other meetings**

### ***Meeting with the Armenian Minister of Justice, Arpine Hovhannisyan***

On 16 January, the Commissioner met in Strasbourg with the Minister of Justice of Armenia, Arpine Hovhannisyan. The Minister updated the Commissioner on the reform of the judiciary including work on the future new judicial code. The discussion also covered the law on the Human Rights Defender (Ombudsman) newly adopted by the Parliament, as well as an update on the draft law on domestic violence and on the draft law on anti-discrimination.

***Meeting with the Federal Ombudsperson of the Russian Federation, Tatiana Moskalkova***

On 17 January, the Commissioner met with Tatiana Moskalkova, Federal Ombudsperson of the Russian Federation, who was carrying out an official visit to the Council of Europe. During the meeting, the Commissioner discussed a broad range of human rights issues in the Russian Federation as well as in several other CIS countries. In particular, the Commissioner shared with the Russian Ombudsperson his views on the need to promote media freedom and the safety of journalists in Russia in the light of recent instances of intimidation and reprisals against journalists working in the North Caucasus. They also discussed various specific issues pertaining to domestic violence in the Russian Federation, including the recently adopted legal amendments decriminalising domestic battery about which the Commissioner raised concerns. Furthermore, the Commissioner shared his preoccupation about the hostile environment in which Russian NGOs carry out their work, in view of the stigmatising impact of the “Foreign Agents Law”.

The Russian Ombudsperson informed the Commissioner about her co-operation with national human rights structures in neighbouring CIS countries. Most notably, joint efforts of the Russian and the Ukrainian Ombudspersons have been taken in order to solve various human rights issues, including the transfer of prisoners from Crimea. Other points raised during the meeting concerned possibilities for future co-operation between the Commissioner and the Russian Ombudsperson on various human rights issues.

***Meeting with the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein***

On 26 January, Commissioner Muižnieks held a meeting in Geneva with High Commissioner Zeid. The discussions mainly focused on their respective work in member states, and the discussions covered in particular the situation in Azerbaijan, Hungary, Poland, the Russian Federation, Turkey and Ukraine. High Commissioner Zeid underlined the importance of networking with the national human rights structures and mentioned that he regularly meets with the national Ombudspersons on the margins of the Human Rights Council meetings. High Commissioner Zeid and Commissioner Muižnieks also had a general exchange of views about the situation of refugees and migrants in Europe; the new US Administration’s policy on migration and its impact; and migration-related legislation adopted in Slovenia and some other European countries. Lastly, they exchanged their views on the most effective strategies of public communication about human rights

***Meeting with the UN High Commissioner for Refugees, Filippo Grandi***

On 26 January, Commissioner Muižnieks met with High Commissioner Grandi in Geneva. The discussions mainly focused on the movements of refugees in Europe, as well as on the risks of weakening the protection system of the ECHR on the regional level and that of the UN Refugee Convention on the global level. They also exchanged their respective analyses of the implementation of the EU-Turkey statement on migration, and the on-going negotiations concerning similar arrangements with other countries.

High Commissioner Grandi and Commissioner Muižnieks had an in-depth discussion on the situation of refugees arriving in Greece and the assistance provided by UNHCR there. They also exchanged their respective analyses of the refugee relocation and resettlement programmes, most notably in respect of France and Italy, and the migration-related

legislative amendments in Slovenia. Commissioner Grandi informed Commissioner Muižnieks about the UN global campaign “Together” aimed at mobilising support for refugees, and the UN’s co-operation with the OSCE/ODIHR in the framework of the global campaign to counter xenophobia. Lastly, they had a general exchange of views about the most effective ways to communicate to the public on the human rights of migrants, asylum-seekers and refugees.

***Meeting with the European Commission Coordinator on combating Antisemitism, Katharina von Schnurbein***

On 14 February, the Commissioner met in Strasbourg with Katharina von Schnurbein, EC Coordinator on combating Antisemitism. The EC Coordinator informed the Commissioner about the EC’s particular interest and action in this area, which includes education activities aimed at raising awareness among all teachers and students of issues of tolerance and non-discrimination. The Commissioner provided information on his own ongoing work in this domain, which includes migrant integration and inclusive education in Europe, and agreed to explore possibilities of future co-operation.

***Meeting with the First Vice-President of the European Commission, Frans Timmermans***

On 16 February in Brussels, Commissioner Muižnieks met with Frans Timmermans, First Vice-President of the European Commission. They discussed the general human rights situation in EU member states, including their respective recent work in Croatia, Hungary and Poland. They also exchanged views on the problem of hate speech in Europe and how to counter it in an efficient manner. The discussion covered the importance of public service broadcasting, including the current and future work of Commissioner Muižnieks on this issue.

***Meeting with the EU Commissioner for European Neighbourhood Policy and Enlargement, Johannes Hahn***

On 16 February in Brussels, Commissioner Muižnieks met with Johannes Hahn, EU Commissioner for European Neighbourhood Policy and Enlargement. They exchanged information on their recent respective work in Turkey. Commissioner Muižnieks provided information on the publication on 15 February of his Memorandum on freedom of expression and media freedom in Turkey and Commissioner Hahn provided an update on the EU-Turkey statement on migration. The discussion also covered the general human rights situation in Armenia, Azerbaijan, Bosnia and Herzegovina and Kosovo.

***Exchange of views with the EU Working Party on OSCE and the Council of Europe***

On 17 February, the Commissioner held an exchange of views with COSCE in Brussels. In his introductory intervention, the Commissioner focused on media freedom including the protection of journalists; the situation of human rights defenders; and the human rights of immigrants, refugees and asylum-seekers.

On each of these topics, he gave a brief overview of his recent work with concrete examples taken from his country visits as well as references to his thematic work and awareness-raising action. He also mentioned areas of co-operation with the other

institutions and monitoring mechanisms of the Council of Europe, as well as the human rights protection bodies of the UN, the OSCE and the EU.

In the subsequent discussion, the issues raised included, amongst others, the follow-up to the Commissioner's reports and recommendations; the human rights of LGBTI persons; inclusive education; women's sexual and reproductive health and rights; the human rights of Roma; and threats to the human rights protection system.

***Meeting with the Austrian Minister of Interior, Wolfgang Sobotka***

On 22 February, the Commissioner met in Strasbourg with the Minister of Interior of Austria, Wolfgang Sobotka, and discussed issues pertaining to freedom of assembly, as well as to the human rights of asylum seekers, refugees and immigrants. Particular attention was paid to migrant integration, an issue of particular interest for the Commissioner and Austria. The Commissioner and Minister Sobotka agreed to remain in touch and continue their constructive dialogue.

***Meeting with the Georgian Minister of Corrections, Kakha Kakhishvili***

On 3 March, the Commissioner met with Minister Kakhishvili in Strasbourg. The Minister highlighted the penitentiary projects implemented in recent years with the support of the Council of Europe, as well as the efforts made by the Georgian government in decreasing deaths in prison and in keeping the prison population low. The Minister also pointed to Georgia's increased use of alternatives to detention and the growing tendency towards decriminalising less serious offences. The Commissioner requested information about the continued use by the authorities of the sanction of administrative arrest, the perspectives of closing a particular prison for high-risk prisoners, and the quality of co-operation of the authorities with the national preventive mechanism. Standards of health care in prisons, activities for inmates and reforms concerning their access to education were also discussed.

***Meeting with the Georgian Minister of Foreign Affairs, Mikheil Janelidze***

On 6 March, the Director of the Commissioner's Office met on his behalf with the Georgian Minister of Foreign Affairs, Mikheil Janelidze, in Strasbourg. The Minister was accompanied by Mr Irakli Giviashvili, Ambassador at Large on Human Rights. Topics of discussion included the human rights situation in Abkhazia and South Ossetia, the recent visa liberalisation agreement with the European Union, and media pluralism in Georgia. The Minister clarified the government's position on the recent Supreme Court judgment regarding the ownership of Rustavi 2 television and the interim measure ordered in this respect by the European Court of Human Rights, and informed the Director about Prime Minister Kvirikashvili's initiative to create an institution of Media Ombudsperson. The Minister also discussed the constitutional and judicial reform processes in Georgia.

***Meeting with the Cypriot Minister of Labour, Welfare and Social Insurance, Zeta Emilianidou***

On the occasion of his participation in the Council of Europe Disability Strategy 2017-2023 launch conference in Nicosia, the Commissioner met with Zeta Emilianidou, Minister of Labour, Welfare and Social Insurance of Cyprus on 27 March. They discussed issues

pertaining to the impact of the economic crisis and austerity measures on human rights as well as to the reception conditions of asylum seekers and to migrant integration.

### ***32<sup>nd</sup> Congress Session: Developments in human rights at local and regional levels, Strasbourg***

On 29 March, the Commissioner spoke to the 32<sup>nd</sup> Congress Session on developments in human rights at local and regional levels. The Commissioner underlined the important role local authorities can play in overcoming stereotypes and helping build a more inclusive society, particularly when supported by national and international partners. The Commissioner's speech is available online.

## **6. Human Rights Defenders**

On 17 March, the Commissioner's office organised a round-table with Russian human rights defenders, lawyers, journalists and civil society activists on the right to freedom of assembly and to freedom of association in the Russian Federation. The main aim of the round-table was to assess the legislation on freedom of assembly and its implementation by the Russian authorities in light of Council of Europe human rights standards. In particular, the discussions focused on specific issues pertaining to the exercise of freedom of assembly in three main areas: the compatibility of the Russian legislation with the relevant Council of Europe standards; the holding of public gatherings; and sanctions for violation of rules governing the organisation and holding of a public event. The exchange of views helped to identify the key features of the Russian legislation and practice on freedom of assembly, their shortcomings and possible solutions and remedies so as to encourage better compliance with human rights standards.

A separate session of the round-table focused on the right to freedom of association in Russia and, in particular, on the ongoing implementation of the Law on Foreign Agents and the consequences suffered by Russian NGOs. The information received from Russian human rights defenders and civil society activists on the right to freedom of assembly and association contributes to the Commissioner's follow-up work on the situation of human rights defenders and NGOs in the Russian Federation.

## **7. Communication and Information work**

The main media coverage concerned freedom of expression, migration, the human rights of LGBTI people and the visit to Kosovo, with more than 280 news items published by national and international media outlets.

The statements and comments on media freedom and freedom of expression were covered by *AFP, AgerPress, ANSA, B92, Baltic Times, Baltic Daily, Beta, Blic, Danas, Diena, Eleftherostypos, EurActiv, Golos-ameriki, InfoBalkans, Interfax, SDA/ATS, SwissInfo, TicinoNews, SeeBiz, Sputnik, Heise, DPA, In, iNewsGr, Protothema, Ta Nea, To Vima, and Tvnet*. In addition, the Memorandum on freedom of expression in Turkey was covered by *AFP, Agence Europe, Agência Lusa, ANSA, ArmenPress, Berliner, Morgenpost, Cumhuriyet, Der TagesSpiegel, DW, El diario, EPD, Europa Press, Te Interesa, Expatica, France 24, RFI, Yahoo, Le Courier des Balkans, Le Figaro, TV5,*

*FranceTVInfo, Frankfurter Rundschau, Hurriyet, Jurist, TAP, KleineZeitung, L' Orient-Le Jour, La Vanguardia, Le Monde, Les Echo, 7 sur 7, L'Experssion, Los Angeles Times, Lsm, Neue Luzerner Zeitung, Appenzeller Zeitung, Nouvelles d'Arménie, n-Tv, Platform24, Politico, Reporter, Reuters, RizopoulosPost, Sputnik, Süddeutsche Zeitung, Südwest Presse, Reutlinger Nachrichten, Metzinger Uracher Volksblatt, The Associated Press, The Washington Post, Yahoo News, Fox News, The New York Times, ABC News, Thurgauzeitung, ToVima, TR724, Turkish Minute, Welt, Welt Online, Wiler Zeitung, Zeit online, Wyborcza, Zeit Online, Die Welt, DPA, Europe Online, Agência Lusa, Diário de Notícias, SDA/ATS, SRF, Spiegel Online, Le Soir, Son, and News.*

The Commissioner's interviews, statements and Human Rights Comments on migration were reported by a variety of national and international media, including *Agence Europé, Al Jazeera, ANP, ANSA, ANSAmed, AzVision, Balkan Insight, Boursorama, Challenges, DELFI, Delo, Demokrata, Der Standard, Deutsche Welle, DnevnikEurActiv, El Pais, HINA, Narod.hr, Izvestia, Jurist, Krasnews, Kuruc, Mladina, NU, Protothema, Radio Capodistri, Reformatorish Dagblad, Reporter, Reuters, RT, RTv Slo, Sputnik, STA, Tass, Telegraf, Večer, Zonebourse, Agerpress, ANSAmed, B92, Corriere della Sera, Dailymail, Deutsche Welle, EFE, Euronews, Gordonua, Hungarian Spectrum, Hürriyet, Il Giornale, ANSA, Il Manifesto, La Repubblica, La Stampa, La Vanguardia, Lettera 43, Malta Today, Mediapart, Miami Herald, Mno, MTI, Nepszava, Radio Canada International, Radio Free Europe, RaiNews, STA, Südkurier, Tanjug, Terra, Tgcom 24, TG la 7, The Huffington Post, Tyden, Wort, and Wpolityce.*

The Human Rights Comment on same-sex partnership was covered by *Dagospia, DELFI, Euractiv, Gay, GaySite, Gorod, Human Rights Watch, ILGA Europe, IR, Kasjauns, La Stampa, LSM, MixNews, nra.lv, Pink News, PNP, Publico, Queer, RusPlt, SME, Telegraf, The Guardian, Towleroad, TV.Net, UINP, and Vesti.*

The visit to Kosovo was covered by *Balkan Insight, BETA, Novi Magazin, N1 Info, Blic, Bota Sot, Express, GazetaExpress, JavaNews, Koha, KosovaHaber, KTV, Lajmi, Osservatorio Balcani e Caucaso, Republic of Kosovo, RTK Live, RTV21, Telegraphi, and Zeri.*

The visit to Slovenia was widely covered (*Agerpress, B92, Delo, Dnevnik, Euronews, HINA, Jutarnji list, Le Figaro, Primorske Novice, Reuters, RTV, RTV 4, Siol.net, STASTA, Tanjug, and Večer*), while the visit to Portugal was reported by *Agência Lusa, Jornal do Fundao, Correio da Manha, D Noticias, Expresso, Jornal de Negocios, Observador, Publico, RTP Noticias, SIC, and TVI24.*

The concerns expressed about the decision of the Constitutional Court of the Russian Federation preventing the implementation of the judgment of the European Court of Human Rights on the Yukos case were reported by *AgenceEurope, BBC, DNI, Krasnews, Newsler, Newstes, Pravda, RIA, RusgosNews, Sputnik, TheRussianTimes, Polit-gramota, Tsargrad.tv, and Ukrinform.*

The report on Ireland was covered by *The New York Times, Reuters, RTE, the Independent, and the Irish Times.*

*RT, Turkish Minute, Deutschlandfunk, Kommersant, MK, RIA, and The Jerusalem Post* referred to the Commissioner's stance on the impact of counter-terrorism measures on human rights.

Further coverage concerned the visit to Monaco (*Monaco Channel*), women's rights (*AftenPosten*), the letter sent to the Commissioner by the Ombudsman of Spain on a case concerning the extradition of an ETA member from Belgium (*Europe Press, La Razon, La Vanguardia, ABC, La Voz Digital, EFE, El Confidencial*), the ban on violence against children in Lithuania (*Agerpress, Baltic Daily, BNN, Realitatea, The Peninsula, Tribune de Genève*), freedom of assembly (*Interessant, RIA, TASS*), domestic violence (*BBC, Kommersant*), and disability (*i-Eidisi, SigmaLive, Palo, Parikiaki, Newsbomb*).

Three opinion editorials were published:

1. EU agreements with third countries must uphold human rights (*The Huffington Post, 02/02/2017*)
2. The duty to combat domestic violence (*Kommersant, 06/02/2017*)
3. Human rights in Turkey – urgent need for a new beginning (*Euronews, 10/03/2017*)

A total of 97 tweets were published, with an increase of 1631 followers (+10.6%) and a total reach of 1.2 million users. On the Commissioner's Facebook page, 295 more likes (+ 6.45% fans) were received, for a total reach of 75000 users.

Over 46000 unique Internet users visited the Commissioner's website, a slight increase compared to the first quarter of 2016.

## 8. Next three months

### April

- |          |   |
|----------|---|
| 03/04    | IOI-Europe symposium "Populism? Regression of rights and the role of Ombudsman" (Barcelona) |
| 04-07/04 | Platform for the Protection of Journalism event and other meetings (Kyiv)                   |
| 20/04    | Lecture on human rights at Kulak University, Kortrijk (Belgium)                             |
| 24-28/04 | PACE session  |

### May

- |          |   |
|----------|---|
| 11-12/05 | Croatia Ombudsman High Level International Conference "Reclaiming human rights in Europe: how to enhance democratic space?" and follow-up work (Zagreb) |
| 19/05    | 127 <sup>th</sup> CM Formal Session (Nicosia)   |
| 22-24/05 | Visit to Switzerland  |

## June

01/06	Debate on the 2016 Annual Report on the supervision of the execution of judgments and decisions of the European Court of Human Rights (Strasbourg)
02/06	Roundtable on national human rights action plans (Strasbourg)
06-07/06	Seminar “Defending Human Rights in Europe” and other meetings (Helsinki)
12-16/06	Visit to Bosnia and Herzegovina
28/06	PACE Migration Day (Strasbourg)

## **9. Observations and reflections**

An issue with human rights ramifications that has recently received international attention due to current events is academic freedom. Academic freedom derives from the right to education, but is also intimately linked with freedom of thought, freedom of opinion and freedom of expression. Some scholars or students can also be human rights defenders, working from within institutions of higher education, research institutes or law clinics. Academic freedom has an individual dimension, wherein scholars, students and academic personnel should have the right to conduct research, teach, express themselves and participate in public life without fear of repression. It also has an institutional dimension, in that institutions of higher education should not be subjected to pressure or government interference limiting academic freedom.

There are good international standards in this realm, though the case-law of the European Court of Human Rights and other international tribunals is relatively limited. A core reference document is the Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education of 1988 produced by the World University Service. UNESCO adopted a Recommendation concerning the Status of Higher Education Teaching Personnel in 1997. The Committee of Ministers of the Council of Europe adopted a Recommendation on the Research Mission of Universities in 2000 and a Recommendation on the responsibility of public authorities for academic freedom and institutional autonomy in 2012, while the Parliamentary Assembly adopted Recommendation 1762(2006) on Academic Freedom and University Autonomy.

While academic freedom pertains to all disciplines, it appears that scholars in the social sciences and law are particularly vulnerable to restrictive or retaliatory measures from governments. This is not surprising, as social scientists and legal scholars are ideally equipped to critically evaluate the work of governments, parliaments and judiciaries. Moreover, they can provide a historical or comparative perspective, as well as an analysis of how national practice diverges from international human rights standards – information that some decision-makers would like to suppress.

While I have touched on academic freedom in some of my country work, a good source for information on threats to academic freedom worldwide is the Scholars at Risk Network (see [www.scholarsatrisk.org](http://www.scholarsatrisk.org)), which has a broad array of partners, including in Europe. Its Academic Freedom Monitor identifies, assesses, tracks and verifies incidents posing a potential threat to academic freedom under six different headings: 1) killings, violence, disappearances; 2) wrongful imprisonment/ detention; 3) wrongful prosecution; 4) restrictions on travel or movement; 5) retaliatory discharge/loss of position/expulsion from study; 6) other significant events.

The Academic Freedom Monitor database contains information on threats to academic freedom starting in 2012, thus, roughly coinciding with my mandate as Commissioner. The incident data base (under the sections on “Europe” and “Western Asia”) contains information on threats in five Council of Europe member states: Azerbaijan, Poland, the Russian Federation, Ukraine and Turkey.

Incidents in Turkey (55), some of which I have analysed in my recent country reports or memoranda, have affected thousands of students and scholars. While early alerts pertain to reprisals against students and scholars following the Gezi events and various student protests, subsequently, the incidents refer to dismissals, arrests, detentions, travel bans and other restrictive measures targeting signatories or supporters of the “Academics for Peace” petition calling for an end to violence in South-East Turkey. The most recent series of alerts concerns scholars and students alleged to have links with the Fethullah Gülen movement.

The most recent incidents in Azerbaijan echo events in Turkey, as 50 Turkish teachers saw their jobs terminated for alleged ties with the Fethullah Gülen movement. Other incidents in Azerbaijan have to do with the arrests of students who participated in protests in 2014 and the 2013 closure of Azad Fikir University (“Free Thought University”), an internationally funded organisation with a focus on human rights to which I also referred in my 2013 report on this country. Many of the incidents in Russia and Ukraine appear to be linked to the conflict between these countries – two Russian scholars dismissed for statements criticising Russian actions in Crimea; the former head of the Moscow Library of Ukrainian literature placed under house arrest for alleged extremism; and investigations into academics from four Ukrainian universities for participating in an event in Crimea.

Poland has two incidents in the database – one concerns the detention and subsequent deportation of an Iraqi PhD student. The second concerns the questioning of Jan Gross, a prominent Polish-American scholar at Princeton University, for allegedly “publicly insulting the nation” following the publication of an article about an instance of Polish violence towards Jews during World War II. If convicted, Prof. Gross could face up to three years in prison.

While not yet included in the incident index as of this writing, the Scholars at Risk webpage features a prominent recent post expressing concern over proposed legislative amendments in Hungary that apparently target the Central European University (CEU). CEU is a top-notch university with highly ranked programmes in the social sciences and law that has taught students from the broader Central and East European region since 1991. The rector of the university is a world-renowned former Canadian politician and human rights scholar, Michael Ignatieff. The founder of CEU happens to be George Soros, a Hungarian-American philanthropist. As I recently noted in a Human Rights Comment on “The Shrinking Space for Human Rights Organisation,” NGO beneficiaries of Soros

funding have become targets of Hungarian government rhetoric and proposed policy measures. The targeting of CEU is thus a continuation and expansion of earlier anti-Soros moves.

Thus, like journalists and human rights defenders, academics are among the victims of clampdowns on freedom of expression more broadly, as well as international conflict. Academic freedom is a theme which deserves more attention from all of us in the human rights field.