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COMMISSAIRE AUX DROITS DE L'HOMME



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# **1<sup>ST</sup> QUARTERLY ACTIVITY REPORT 2018**

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**by Nils Muižnieks  
Commissioner for Human Rights**

1 January to 31 March 2018

Presented to the Committee of Ministers  
and the Parliamentary Assembly

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## 1. Introduction

This document contains a report on activities carried out by the Commissioner for Human Rights, Mr Nils Muižnieks, between 1 January and 31 March 2018, date of the end of his six year mandate.

## 2. Missions and Visits

### ***Mission to “the former Yugoslav Republic of Macedonia”***

The Commissioner conducted a follow-up mission to "the former Yugoslav Republic of Macedonia" between 29 January and 2 February. The main theme of the mission was the promotion of social cohesion, interaction and understanding in a multi-ethnic society, including through inclusive education to overcome the current situation of segregation between ethnic communities. The Commissioner also followed up on topics from his previous visit to "the former Yugoslav Republic of Macedonia" in November 2012, including certain aspects of the implementation of the Ohrid Framework Agreement, transitional justice and the human rights of Roma.

In the course of the mission, the Commissioner had discussions with President Gjorge Ivanov, Prime Minister Zoran Zaev, Deputy Prime Minister and Minister of Interior Oliver Spasovski, Deputy Prime Minister in charge of European Affairs Bujar Osmani, Deputy Prime Minister in charge of Implementing the Framework Agreement and the Political System Hazbi Lika, the Minister of Justice, Bilen Saliji, the Minister of Foreign Affairs, Nikola Dimitrov, the Minister of Labour and Social Policy, Mila Carovska, the Minister of Education, Renata Treneska Deskovska, and the Minister in charge of Implementing the Roma Strategy, Aksel Ahmedovski. In addition, the Commissioner met with Talat Xhaferi, the Speaker of Parliament, and attended a meeting with members of the Macedonian delegation to the Parliamentary Assembly of the Council of Europe (PACE), as well as other parliamentarians. He also met with the mayor of the city of Tetovo, Teuta Arifi, and representatives of the Agency for the Exercise of the Rights of Persons belonging to the communities.

Furthermore, the Commissioner had exchanges of views with the Ombudsman, Ixhet Memeti, the members of the Commission for the Protection against Discrimination, as well as representatives of civil society and the international community, including the European Union delegation and the Organisation for Security and Cooperation in Europe (OSCE) Mission to Skopje. In order to better understand the situation in the education system in the country, the Commissioner visited two primary schools in Tetovo with a mixed ethnic composition – one of which featured physical separation in different buildings based on language of instruction - and one in the municipality of Šuto Orizari in Skopje where 99% of pupils are Roma. He also gave a lecture entitled: “Human Rights under Attack: Current Challenges in Europe” at the Law Faculty “Justinian I” in Skopje.

With regard to achieving a cohesive society, the Commissioner noted with concern that Macedonian society remains deeply divided along ethnic and linguistic lines. The Commissioner learned that separation between ethnic communities may even have worsened since his last visit, because of geographical concentration and through

separation in education. While the implementation of the Ohrid Framework Agreement, which ended the inter-ethnic conflict in 2001 led to changes, for example in the fields of equitable representation of communities in public institutions, decentralisation and the use of languages, social cohesion has not been achieved. The Commissioner called on the government to develop a long-term vision and strategy to overcome divisions along ethnic lines.

The Commissioner was particularly concerned about increased separation between ethnic Macedonian and ethnic Albanian children, who have little opportunity to meet because the education system is divided according to language of instruction. The Commissioner urged the authorities to continue current projects that foster joint activities between children of different ethnic backgrounds but noted that such ad hoc projects cannot replace a more systematic and long term policy to ensure that the education system promotes interaction and understanding between ethnic communities. The Commissioner also encouraged the authorities to ensure that all children have an opportunity to learn at a young age the Macedonian language and Albanian and other non-majority languages in areas where such communities live in significant numbers.

The Commissioner welcomed the work carried out by the authorities to re-evaluate Roma children who may have been wrongly directed to special schools and to reintegrate them in regular schools. He observed, however, that certain schools in different parts of “the former Yugoslav Republic of Macedonia” had a student body composed almost entirely of Roma, as a result of geographical segregation and “flight” by non-Roma linked in part to societal prejudices. Young persons graduating from those schools face discrimination when trying to continue their education.

Having regard to concerns about the very limited inclusion of children with disabilities in regular schools, the Commissioner also emphasised that such children should be included in regular classes (not special classes) and that the education system should adapt to their needs.

Overall, the Commissioner recalled that children are the future of any society and must be given the skills to build mutual understanding, respect and tolerance. He encouraged the authorities to work to create a truly inclusive and integrated education system for children of all ethnic groups as well as children with disabilities, including through proper outreach to parents and communities.

In relation to the human rights of Roma, the Commissioner welcomed efforts to eliminate ethnic profiling at the borders of those seeking to leave the country, an issue that was of particular concern during his 2012 visit. He encouraged the authorities to devise policies to support people returned from abroad, who may have difficulties in reintegrating into Macedonian society and the education system, and thus risk sinking into poverty or marginalisation. He also recommended decisive action to solve the situation of the approximately 500 people in “the former Yugoslav Republic of Macedonia” who are de facto stateless because of a lack of identity documents.

With regard to various other human rights issues, the Commissioner welcomed plans to expand the list of prohibited grounds in the anti-discrimination legislation to include sexual orientation and gender identity, and to strengthen the functioning of the Commission for the Protection against Discrimination. He encouraged the parliament to adopt the necessary legislative amendments to create an Independent Police Oversight Mechanism.

He also urged the authorities to combat human rights violations against migrants and asylum seekers, in particular trafficking, and to end pushbacks. He praised current efforts to take forward and complete the process of de-institutionalisation, which began several years ago. Noting an opportunity to achieve real change in the country, the Commissioner called on political leaders of all sides to work together in a constructive spirit so that all members of Macedonian society can enjoy their human rights.

The press release which was published at the end of the mission is available on the Commissioner's website.

### ***Mission to Serbia***

The Commissioner carried out a follow-up mission to Serbia from 19 to 22 February, focusing on certain issues relating to transitional justice, freedom of the media and inclusive education.

During his mission, the Commissioner held discussions with national authorities, including the Prime Minister, Ana Brnabić; the Minister of Education, Science and Technological Development, Mladen Šarčević; the Minister of Culture and the Media, Vladan Vukosavljević; the Assistant Minister of Justice, Čedomir Backović; the State Secretary of the Ministry of Interior, Biljana Popović-Ivković; the Prosecutor for War Crimes, Snežana Stanojković; and the Acting Director of the Office for Minority and Human Rights, Suzana Paunović. In addition, the Commissioner met with the Ombudsman, Zoran Pašalić, the Commissioner for the Protection of Equality, Brankica Janković, and the Commissioner for Information of Public Importance and Personal Data Protection, Rodoljub Šabić.

Meetings were also held with civil society organisations active in the field of human rights and transitional justice, representatives of the media sector and of the international community. The Commissioner visited two schools in the Belgrade area, "Sutjeska" in Zemun and "Duško Radović" in Sremčica.

Noting as an important step forward in addressing the legacy of the past, the recent discussions of the presidents of Serbia and Croatia, related to the issue of missing persons from the 1990s' war in the region, the Commissioner called on all the countries in the region, including Serbia, to step up their work in addressing the remaining obstacles to establishing the fate of missing persons, including by opening of military and police archives that may hold important information about missing persons.

While noting with interest information indicating that the prosecution of wartime crimes has been stepped up in recent months and that regional co-operation in this field has continued, the Commissioner urged the authorities to ensure that all perpetrators of serious human rights violations committed during the 1990s' wars are brought to justice without further delays. The Commissioner also called on the authorities to put this issue higher on their agenda and draw from positive legislative examples in the region, in particular as concerns reparations for victims of war related crimes of sexual violence.

The Commissioner was seriously concerned that certain persons convicted for war crimes by the International Criminal Tribunal for the former Yugoslavia (ICTY) have been given a public platform in Serbia to promote their views and deny the crimes for which they were convicted, while leading politicians have not distanced themselves from such persons, and even included them in some political processes. He stressed that this approach to dealing

with the past is harmful for reconciliation in the region and is an insult to the victims of those crimes. He also underlined that raising young generations in Serbia in the spirit of peace, tolerance and respect for the other, will be difficult as long as persons convicted for wartime crimes are treated in society as heroes.

The Commissioner was pleased to note the additional progress made by Serbia in ensuring systematic birth registration of Roma and providing them with personal identity documents and encouraged the authorities to make additional efforts to resolve about 2000 remaining cases of Roma lacking personal identity documents.

As concerns freedom of the media, the Commissioner noted that Serbia has a solid legislative framework governing this field and great investigative journalists, some of whom have been presented with prestigious international awards. He emphasised the important role played by the Commissioner for Information of Public Importance in this field stressing that he should be fully supported by the authorities and his decisions need to be fully complied with.

The Commissioner noted that, despite some efforts by the authorities to ensure a better institutional response to crimes committed against journalists, few such cases have been effectively prosecuted. Smear campaigns, inflammatory remarks and other forms of pressure against journalists have increased and have led to self-censorship and discouraged journalists from performing their important work. The Commissioner urged the authorities to investigate and prosecute all crimes against journalists and politicians to unequivocally condemn all cases of violence targeting journalists. Concerning the project-based funding of media, introduced in 2014, the Commissioner evoked that lack of transparency as well as politically motivated decisions and funding awarded to tabloids and media known to be violating media ethics are among the serious challenges that need to be addressed by the authorities in this context.

Underlining the importance of inclusive education for social cohesion and the educational opportunities of all children, the Commissioner was pleased to note the authorities' clear commitment to inclusive education and their wide acceptance of the principle of inclusion of all children in mainstream education, including children with disabilities and Roma. Another positive development noted by the Commissioner is that Roma children are no longer systematically sent to special schools. Moreover, the authorities have recognised the importance of mandatory pre-school classes and the work of pedagogical assistants for better inclusion of children in mainstream education and that further improvements in this context have been planned.

Notwithstanding these positive developments, the Commissioner called on the authorities to enhance their efforts to ensure full inclusion in mainstream education of all Roma children and children with disabilities. He was seriously concerned by the effects of 2009 legislation which provides for a possibility that parents choose a school for their children regardless of their place of residence, which has facilitated so-called "flight" of non-Roma from certain elementary schools and exacerbated the segregation of Roma children. The Commissioner urged the authorities to address this issue by reintroducing the catchment area system as a precondition for de-segregation of such schools.

Noting the importance of the provision of children with disabilities with personal assistants for their better inclusion in mainstream education and the lack of funding in some local communities for the engagement of such assistants, the Commissioner called on the

authorities to find a systemic solution in this regard to further inclusion. Last but not least, the Commissioner urged the authorities to make enhanced efforts to include children with disabilities residing in six institutions for social care in mainstream education.

The press release which was published at the end of the mission is available on the Commissioner's website.

### ***Mission to the Slovak Republic***

The Commissioner carried out a follow-up mission to the Slovak Republic from 12 to 16 March. The Commissioner's mission focused on inclusive education and on the follow-up to issues addressed in his country report of October 2015. He also raised the issue of the murder of the journalist Jan Kuciak and the related investigation.

During this mission, Commissioner Muižnieks was accompanied by the Commissioner Elect Ms Dunja Mijatović.

The Commissioner presented oral observations following this mission at his exchange of views with the Ministers' Deputies on 21 March.

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

### ***Letter to Joseph Muscat, Prime Minister of Malta***

On 16 January 2018, the Commissioner published a letter sent on 5 December 2017 to the Prime Minister of Malta, Joseph Muscat, following his visit to Malta, held from 7 to 10 November 2017.

In his letter, the Commissioner urged the government to ensure that the Bill on gender-based and domestic violence and additional measures giving effect to the bill effectively address gender inequality and violence against women. He called on the Maltese authorities to ensure that the Domestic Violence Strategy and Action Plan lift obstacles to the implementation of the legislative framework, such as the inadequate reporting of domestic violence, the lack of social support and the need for systematic training for law enforcement officers, prosecutors and judges dealing with domestic violence. The Commissioner also urged the government to allocate more financial resources to social care provided to victims of domestic violence and to address the shortage of places in women's shelters.

Lastly, the Commissioner reiterated his call for an open and informed public debate on women's access to abortion care. He stressed that the authorities should decriminalise abortion and facilitate access to safe and legal abortion care on a woman's request.

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

***Letter to Tsveta Karayancheva, President of the National Assembly of Bulgaria***

On 22 January, the Commissioner published a letter addressed to the President of the National Assembly of Bulgaria in which he urged the Bulgarian Parliament to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) as soon as possible and promote an objective debate so as to facilitate public awareness and policies able to foster the implementation of the Convention. Welcoming the decision by the Council of Ministers to submit to the National Assembly a bill to ratify the Convention, the Commissioner stressed that the Istanbul Convention was a unique legal instrument requiring states to implement a comprehensive array of measures to prevent violence against women, protect the victims and prosecute the perpetrators. He underlined that the Convention had no other hidden purposes or effects. He therefore expressed concern about misconceptions that had been propagated in the public debate around the Convention in Bulgaria, in particular concerning the use of the term “gender”. In this connection, he noted that the Istanbul Convention rested on the presumption that violence against women was a manifestation of a broader pattern of inequality between women and men which must be effectively tackled and reinforced the obligation to combat gender stereotyping through education and awareness-raising as a form of prevention of violence against women and domestic violence. Noting the view sometimes put forward that the Convention would endanger societies based on traditional families, the Commissioner stressed that on the contrary, all the measures provided for by the Istanbul Convention reinforce family foundations and links by preventing and combating the main cause of destruction of families, that is, violence.

The letter is available on the Commissioner’s website.

***Letter to Michael Farrugia, Minister for Home Affairs and National Security of Malta***

On 1 February 2018, the Commissioner published a letter sent on 14 December 2017 to the Minister for Home Affairs and National Security of Malta, Michael Farrugia, concerning the protection and integration of migrants.

Expressing appreciation for Malta’s policy changes to end the automatic detention of migrant and its participation in the EU refugee relocation programme, the Commissioner underscored the need to lift obstacles to migrant integration, such as the lack of affordable housing, distinctions between refugees and beneficiaries of other forms of international protection concerning social security benefits, bureaucratic barriers to migrants’ access to the labour market and their exploitation. He stressed that Malta should ensure that all migrants in need of international protection are entitled to family reunification in a prompt, flexible and effective manner and should facilitate the access of long-term residents to citizenship.

The Commissioner also invited Malta to tackle shortcomings in the work of the Refugee Appeals Board and to provide a full judicial review of its decisions.

The letter is available on the Commissioner’s website, along with the reply of the Minister for Home Affairs and National Security.



***Letter to Mateusz Morawiecki, Prime Minister of the Republic of Poland***

On 6 February, the Commissioner published a letter he had addressed on 19 January to Mateusz Morawiecki, Prime Minister of the Republic of Poland, setting out some of his concerns after his mission to Poland in December 2017, notably as to: recent developments affecting the independence of the judiciary; women's access to sexual and reproductive rights; the deteriorating environment for NGOs active in the area of women's rights and assistance to victims of domestic violence; and attacks against the independence and effectiveness of the Ombudsman.

In his letter, the Commissioner stressed that certain recently adopted laws – in particular, the amendments to the Act on the National Council of the Judiciary and to the Act on the Supreme Court – further compromise judicial independence, separation of powers and the rule of law in Poland, and asked for clarifications on how the authorities intend to apply the new provisions in practice while retaining legal certainty and the protection of constitutional human rights and freedoms. The Commissioner further highlighted his concerns about increased barriers hindering women's access to emergency contraception and abortion care, and urged the authorities to ensure comprehensive sexuality education, repeal any retrogressive laws and reject new measures that would diminish women's sexual and reproductive health and rights. He also cautioned against the dangerous chilling effect that recent police searches may have on the work of NGOs active in the area of women's rights and assistance to victims of domestic violence. The Commissioner recommended that the Polish authorities ensure an enabling environment for NGOs and also urged them to preserve the independence of the Ombudsman's office and the office holder.

The letter is available on the Commissioner's website, along with a reply from Jacek Czaputowicz, Minister of Foreign Affairs of Poland, and another reply from Piotr Wawrzyk, Undersecretary of State at the Ministry of Foreign Affairs.

***Report on Sweden***

On 16 February, the Commissioner published a report following his visit to Sweden from 2 to 6 October, focusing on the human rights of immigrants, refugees and asylum seekers and the human rights of persons with disabilities.

While welcoming Sweden's renewed commitment to participate in the relocation of asylum seekers and to increase resettlement, the Commissioner called on Sweden to move beyond emergency mode and return to the levels of protection in place before the surge of arrivals in 2015. He notably recommended the lifting of the restrictions on the right to family reunification and the granting to refugees and beneficiaries of subsidiary protection of the same rights in this regard. Concerned by the humanitarian consequences of the amendment to the Law on the Reception of Asylum Seekers, the Commissioner also recalled that the authorities should ensure that the basic needs of those rejected asylum seekers who cannot be returned and are at risk of destitution are met. In addition, he recommended that the authorities strengthen the support they provide to unaccompanied migrant children and ensure that the best interest of the child is a primary consideration in all decisions relating to asylum and migration. This included considering the cases of unaccompanied minors as a priority so as to avoid long waiting periods, which contribute to psychological distress, and granting minors the benefit of the doubt if uncertainty remains as to their age. In this respect, the authorities should not rely only on a medical assessment of age, but establish multidisciplinary procedures. Concerning the particular

vulnerability of unaccompanied minors whose asylum claim has been rejected and who face forced return to Afghanistan, the Commissioner stressed that any decision on return should be based strictly on individual circumstances and that states should not return a child to a country where there are substantial grounds for believing that they are at risk of irreparable harm. Furthermore, he recommended the establishment of a statelessness determination procedure and that persons identified as stateless be granted a permanent residence permit on this ground.

As regards the human rights of persons with disabilities, the Commissioner called for the full incorporation of the UN Convention on the Rights of Persons with Disabilities (CRPD) into Swedish law. Welcoming the extension of the protection afforded by the Discrimination Act to include the denial of reasonable accommodation to persons with disabilities, he encouraged the authorities to further expand the scope of protection to all spheres of life. The Commissioner was particularly concerned at reports of a trend towards re-institutionalisation as a result of a decrease in state-funded personal assistance. He called on the authorities to closely monitor the impact of these cost-reduction measures, notably in terms of access to education and employment, resort to congregated settings and remedicalisation of the approach to disability. In the context of labour market measures for person with disabilities, he recommended phasing out the term “reduced capacity to work” and instead focusing on the ability of the person to work, with adequate support. The Commissioner also called on the authorities to sustain progress in replacing all forms of substituted decision-making with supported decision-making, in line with the CRPD. Lastly, the Commissioner urged the authorities to review the legislation on involuntary placement in a way that it applies objective and non-discriminatory criteria, which are not specifically aimed at people with psychosocial disabilities. He also stressed that the authorities should clearly signal that their goal is to reduce and progressively eliminate recourse to coercion in psychiatry and to put sufficient safeguards in place.

The report is available on the Commissioner’s website along with the authorities’ reply.

***Letter to the President of the French National Assembly, the President of the Law Committee and the members of the Law Committee***

On 13 March, the Commissioner published a letter addressed to the French National Assembly regarding a draft law on migration and asylum. While welcoming a number of measures securing the right of residence of refugees and beneficiaries of subsidiary protection, the Commissioner raised concerns about reduced time-limits for filing asylum applications and for lodging complaints against negative first instance decisions. He also urged the members of the Law Committee of the National Assembly not to extend the maximum length of administrative detention of migrants, to abolish the detention of migrant minors and to set up alternatives to detention for adult migrants. Finally, the Commissioner invited the French legislator to seize the opportunity of the parliamentary discussion on this draft law to reform the provisions on the facilitation of unauthorised entry and residence, to avoid hampering or deterring the necessary solidarity towards migrants.

The letter is available on the Commissioner’s website.

## 4. Themes

### ***Antisemitism and the Holocaust remembrance***

On the occasion of the International Day of Commemoration in memory of the victims of the Holocaust, on 25 January, the Commissioner published a statement in which he urged European states to honour the victims of that tragedy and to renew their commitment to peace and freedom for all.

In a context where the antisemitic hate speech, racism and xenophobia are recurrent, the Commissioner recalled the importance of a press which fulfils its fundamental obligation to impart information and ideas in an ethical and pluralistic way. Moreover, he stressed the crucial role of the education programmes on the lessons of the Holocaust. Children must learn about the past and acquire the necessary skills to identify, critically analyse and counter the pernicious ideas spread by racist and intolerant discourse.

### ***Media freedom, independence and diversity***

On 15 February, the Commissioner held an exchange of views on Internet related activities during a meeting convened by the Thematic Co-ordinator on Information Policy (TC-INF) of the Committee of Ministers of the Council of Europe. After an overview of the work on the Internet and digital rights undertaken during his mandate, he highlighted some of the current challenges in this area. He stressed that the Internet has destroyed the core revenue source for traditional media, but has not replaced weakened quality media. With the proliferation of new actors, fewer funds were available for traditional media; the decrease of revenues has also implications for the independence of media. In addition, social media have created an “echo chamber effect” wherein people are only exposed to views similar to their own, thereby contributing to exacerbating social, political and cultural divisions in societies. The Commissioner also underlined that technological advances, weak democratic oversight of national security services, and pressure to prevent terrorist attacks have led to bad surveillance laws which threaten privacy. Furthermore, the emergence of Internet trolls, “propaganda” or “weaponization of information” and “fake news” in social media has not yet been satisfactorily addressed through the human rights framework. Lastly, he expressed concern at the risks of outsourcing censorship to private companies in the context of current European efforts to combat hate speech and fake news on-line.

### ***Freedom of association***

On 15 February, the Commissioner issued a statement expressing concern at a draft legislative package announced by the Hungarian government containing new restrictions to the work of NGOs, in this case targeting those working specifically on migration-related issues. He stated that the proposed measures would further stigmatise NGOs and introduce restrictions on freedom of association, in the form of administrative and financial burdens, which cannot be regarded as necessary in a democratic society and are therefore at variance with international human rights standards. The Commissioner noted in particular that the package contained mandatory licences for NGOs “organising, supporting or financing migration in Hungary”, a 25% tax on funding from abroad received by any such NGO, and sanctions, including fines and ultimately dissolution, for NGOs failing to abide by these requirements. The package also foresaw the creation of

“immigration restraining orders” that could result in arbitrary restrictions on the freedom of movement of any person deemed to “support the unlawful entry and residence of a third-country national”. These proposed measures raised particular concerns because of the likelihood that they would be applied to organisations and individuals who carry out activities in the field of protecting the human rights of immigrants, asylum seekers and refugees that should be fully legitimate in a democratic society. Finally, the Commissioner was also alarmed at the escalating rhetoric used by the Hungarian government to portray NGOs and immigrants as a threat to national security, stirring up among the general population intolerance towards foreigners and mistrust towards civil society organisations. He called on Hungary to refrain from penalising, stigmatising or putting at any disadvantage whatsoever NGOs, including those working in the field of migration, and to restore an enabling environment conducive to the work of human rights defenders.

### ***Human rights of older persons***

On 18 January, the Commissioner published a human rights comment entitled “the right of older persons to dignity and autonomy in care”. Highlighting the fact that older persons face a number of specific challenges in enjoying their human rights, the Commissioner focused on two main issues in his comment, namely long-term care and palliative care. As regards long-term care, the Commissioner underlined that such care should not be limited to care homes, but that member states should offer older persons the possibility to choose their living arrangements, with adequate supports. He drew attention to the fact that problems exist in all member states, notably due to a lack of resources and the failure to use a human rights-based approach in the design and delivery of long-term care. Independent monitoring of residential institutions in member states also show many examples of acute neglect and disrespect of the basic rights of older persons, demonstrating the urgent need to thoroughly review long-term care policies.

As for palliative care, the Commissioner pointed to the fact that older persons are disproportionately affected by shortcomings in the delivery of appropriate palliative care and that the denial of pain relief in particular may amount to inhuman or degrading treatment. Highlighting common problems in the palliative care policies of most member states, he concluded that older persons’ dignity and autonomy should be at the heart of the necessary policy reviews, including, for example, by providing for so-called “advance directives”, which allow for the will of a person to be respected when they are no longer in a position to express it themselves.

### ***Human rights of LGBTI people***

On 23 February, the Commissioner sent a video message on the occasion of a conference entitled “Challenge without response: hate crimes against LGBT people in Ukraine” organised in Kyiv by the NGO Nash Mir, with international participation. In his message, the Commissioner welcomed measures taken in Ukraine to improve cooperation between police and LGBT civil society organisations in order to prevent homophobic and trans phobic attacks and protect LGBT people. He regretted, however, the lack of progress in effectively investigating hate crimes against LGBT persons and punishing their perpetrators. The Commissioner urged the authorities to implement the measures foreseen in Ukraine’s National Human Rights Strategy and Action Plan to effectively combat hate speech, hate crime and discrimination against LGBT persons.

On 3 March, the Commissioner delivered a video message on the occasion of the opening of the 100 Days of Pride in Latvia, welcoming that this year's Baltic Pride will take place in the capital city of Riga, and calling on the authorities to ensure that participants can exercise their right to assembly and free speech safely. Noting that Latvia scored last of all EU member states in the 2017 edition of ILGA Europe's progress report on LGBTI equality, he urged the Latvian authorities to implement systemic policies to ensure that the human rights of LGBTI people are respected in all areas of life, including through providing sexuality education in schools and adopting legislation recognising same-sex partnerships.

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

On 1 March, the Commissioner addressed the European Parliament plenary on the issue of women's rights and gender equality upon invitation by the President of the Parliament in view of International Women's Day. In his address, the Commissioner noted that despite progress in recent decades, no European Union state had yet fully achieved equality between women and men. He encouraged the European Union and all its member states that had not yet done so, to quickly ratify the Istanbul Convention and take all necessary measures to fully implement it. Noting that women's sexual and reproductive health and rights was the most striking domain in which progress had stalled or was even being rolled back, the Commissioner stressed the need to eliminate all barriers impeding women's access to comprehensive sexuality education, modern contraception and safe and legal abortion care. He concluded by calling upon all states and members of society, men and women alike, to join efforts to make Europe a place where all women live the life they want, free from gender-based violence and sexism.

The address is appended to this report and available on the Commissioner's website.

## **5. Other meetings**

### ***Exchange of views with the EU Working Party on OSCE and the Council of Europe (COSCE)***

On 2 March, the Commissioner held an exchange of views with COSCE in Brussels. In his introductory intervention, the Commissioner presented his recent activities as well as the main challenges in the field of the protection of human rights during his 6 year mandate.

He stressed that his term of office was marked by a series of crises such as the economic crisis and its impact on the enjoyment of human rights; the situation in and around Ukraine; the migration policy crisis; and the government responses to terrorist attacks in member states. During his mandate, there was also backsliding on human rights in a number of Council of Europe member states, as well as direct and indirect challenges to the European human rights protection system.

The Commissioner described his role and activities in coping with those challenges including country work, thematic work and awareness-raising activities and gave indications on where he saw a need for focus in the future. In the subsequent discussion, the issues raised included, among others, women's sexual and reproductive health and rights in Europe; how to support the ratification of the Istanbul Convention; work related to human rights and business; human rights work in conflict zones and territory under the

effective control of authorities which are not recognised internationally; co-operation with EU institutions relevant for human rights protection; and relations with the OSCE and relevant UN bodies.

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

On 5 March, Commissioner Muižnieks held a meeting in Geneva with the United Nations High Commissioner for Human Rights Zeid. The discussions mainly focused on their respective work in member states of common interest. Having regard to the high-level discussion co-organised by OHCHR and the Commissioner's office at the Human Rights Council on the day following the meeting (see below *Human Rights Council side-event: "Beyond Jargon: Reframing our Communication on Human Rights"*), Commissioner Muižnieks and High Commissioner Zeid also had an exchange of views on strategies that human rights institutions could consider to ensure that their message reaches larger numbers of people.

***Human Rights Council side-event: "Beyond Jargon: Reframing our Communication on Human Rights"***

On 6 March, on the margins of the 37th session of the Human Rights Council in Geneva, the Commissioner participated in a high-level panel discussion entitled "Beyond Jargon: Reframing our Communication on Human Rights". The other speakers were Kate Gilmore, United Nations Deputy High Commissioner for Human Rights, Michael O'Flaherty, Director of the EU Fundamental Rights Agency (FRA), Lora Vidović, Ombudswoman of Croatia and Chair of the European Network of National Human Rights Institutions (ENNHRI), Florence Simbiri-Jaoko, Special Envoy of the Global Alliance of National Human Rights Institutions (GANHRI), and Bruno Stagno-Ugarte, Human Rights Watch Deputy Executive Director for Advocacy.

The objective of the event was to bring together leaders from national, regional, international and non-governmental human rights institutions to discuss the difficulties they are facing in the current political environment marked by populism and widespread disaffection with institutions, and to identify ways to communicate more effectively to convince the public at large about the importance and value of human rights. The Commissioner emphasised that human rights actors are engaged in a battle of words with anti-rights politicians, and need to be better equipped to win this important battle. The panellists provided concrete examples of promising practices that help reach people beyond the circle of the human rights community and connect with those who are critical, undecided, and/or indifferent vis-à-vis the prevailing human rights discourse. While better communication is not the only answer to increasing attacks against human rights, the panellists agreed that human rights actors need to improve the way they communicate about their work. The Office of the High Commissioner for Human Rights, the Office of the Council of Europe Commissioner for Human Rights, FRA, ENNHRI and GANHRI adopted a joint statement in which they pledged to work harder and improve the way they reach out to people in order to build broader and stronger support for human rights, so that the promise contained in the Universal Declaration of Human Rights, which was adopted 70 years ago, can truly become a reality for all.

The joint statement is available on the Commissioner's website.

## 6. Human Rights Defenders

On 23 January, the Commissioner delivered the keynote speech at the hearings of the PACE Committee on Legal Affairs and Human Rights devoted to the protection of human rights defenders in Council of Europe member states. Anna Rurka, the President of the Conference of the INGOs, Egidijus Vareikis, the PACE rapporteur on Human rights defenders and Konstantin Baranov, an activist from the Russian Federation, also participated in the Committee's hearings. The Commissioner also made a public statement on 6 February 2018, to mark the 10th anniversary of the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities.

In his public interventions, the Commissioner noted, that despite the use of full spectrum of the tools at the disposal of the institution of the Commissioner for Human Rights and progress made in some European countries, there was a worrying trend of backsliding in the protection of human rights defenders and growing obstacles to their work in various member states. He noted that human rights defenders, activists, journalists and civil society groups are increasingly subjected to various forms of reprisals, including judicial harassment, smear campaigns, threats and even physical attacks. The Commissioner drew particular attention to the worrying situation of human rights defenders working under a state of emergency or on certain issues, such as migration, women's rights, the rights of LGBTI persons, and of those combating impunity for serious human rights violations.

To remedy the situation the Commissioner called upon states to uphold their commitments in good faith, as they bear the primary responsibility to protect human rights defenders. This should include ensuring their protection from attacks or harassment by non-state actors, bringing national legislation in line with European human rights standards, and providing access to effective domestic remedies. States should also create favourable conditions for human rights defenders to participate in public life, engage in dialogue with authorities, and cooperate with national and international stakeholders. The Commissioner also called upon the authorities of European countries to publicly acknowledge the crucial role of defenders in the development of human rights, democratic governance and the rule of law.

In January the Commissioner issued a series of social media posts (Facebook and Twitter) regarding a succession of alarming events threatening the safety of human rights defenders in the North Caucasus region of the Russian Federation. On 10 January, he drew attention to the arrest and detention of Oyub Titiev, a prominent human rights defender and head of the Human Rights Center Memorial in the Chechen Republic, whose work had included advocating accountability for human rights violations by Chechen officials. His arrest and prosecution was accompanied by negative rhetoric of the Chechen leadership against the work of human rights defenders in the region. Stating that the criminal prosecution of Mr Titiev lacked credibility and was based on dubious charges, the Commissioner called on the authorities of the Russian Federation to immediately release Mr Titiev and to provide him with all the necessary procedural safeguards. A week later (17 January), the Commissioner condemned the arson of the Nazran office of the Human Rights Center Memorial in neighbouring Ingushetia. Soon after (23 January), there was an attempt to torch Memorial's vehicle in Dagestan. The Commissioner noted that the foregoing events illustrated the dramatically threatening climate in which human rights

defenders work in the North Caucasus and the authorities' failure to uphold their obligations to ensure a safe and enabling environment for them.

On 29 January, the Commissioner issued a tweet condemning the assault against Dinar Idrisov, a human rights activist who was reportedly beaten severely by unidentified men during a rally in Saint Petersburg. The Commissioner reiterated the state's duty to foster a safe and enabling environment for human rights defenders and urged the authorities of the Russian Federation to promptly investigate the incident and punish those responsible.

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

The main media coverage during the period under review concerned human rights defenders in Hungary, the report on Sweden and the visit to Serbia. More than 125 news items were published by national and international media outlets between 1 January and 03 March.

The Commissioner's statement on proposed additional restrictions to the work of NGOs in Hungary was covered by national and international news outlets such as *24.hu*, *AFP*, *Die Welt*, *Zeit Online*, *ABC News*, *Agence Europe*, *ANSA*, *Il Secolo XIX*, *SDA*, *APA*, *Der Standard*, *Budapest Business Journal*, *Courrier international*, *Der Bund*, *Demokrata*, *DPA*, *Euobserver*, *Eurasia review*, *Euronews*, *Hirado*, *Lokal*, *HVG.hu*, *Index*, *Les Echos*, *Lokal*, *MTI*, *Magyar demokrataMediapart*, *Ouest France*, *Challenges.fr*, *L'indro*, *MTI*, *Zoom.hu*, *444.hu*, *Népszava*, *NTB*, *The New York Times*, *Tagesschau*, *The Associated Press*, *Webradio.hu*, *The Washington Post*

The report on Sweden received extensive coverage, including in *AFP*, *Aftonbladet*, *Hallans Nyheter*, *Ttela*, *Bohuslaningen*, *Hallansposten*, *GP*, *Norran*, *Ekurinen*, *SN*, *Kkuriren*, *HD*, *NT*, *Hetgotland*, *Corren*, *Sydsvenskan*, *MVT*, *Pitea Tidningen*, *VT*, *Uppsala Nya Tidning*, *NSD*, *Sydsvenskan*, *TT*, *Helsingborgs Dagblad*, *ANSA*, *Dagen*, *DPA*, *Info migrants*, *La Presse*, *Euronews*, *France soir*, *La libre Belgique*, *RTL*, *RTS*, *Romandie*, *L'express*, *France 24*, *La République des Pyrénées*, *Medias24 Maroc*, *Profi.ro*, *Läkartidningen*, *Metro*, *Pressenza*, *Sändaren*, *SR*, *SvD*, *Sveriges Radio*, *SVT*, *JP.se*, *Breitbart*, *Sputnik*, and *The Local*.

The press conference at the end of the visit to Serbia was attended by various journalists, which led to the publication of news items on *Ansa*, *B92*, *Balkan Insight*, *Beta*, *Euractiv Serbia*, *Novi magazine*, *N1*, *PTC*, *Danas*, *O21*, *Pink TV*, *Dnevnik*, *Tanjug*, *Radio Slobodna Evropa*, *Blic online*, *VoA*, *Vesti*, *Srpska Dijaspورا*, *Naslovi*, *Najvesti*, *Aktuelno*, and *Vecernje Novosti*.

The visit to "the former Yugoslav Republic of Macedonia" featured prominently in the national media, and included coverage in *Agenzia Nova*, *Beta*, *B92*, *CDM*, *Makedonija denes*, *MIA*, *A1on*, *MRT*, *SITEL*, *Nova Makedonija*, *Libertas*, *24 Vesti*, *TV21*, *Nova TV*, *Alfa*, *News Press*, *ALSAT*, and *Telma*, while the letter to Poland's Prime Minister was covered by *Agence Europe*, *ANSA*, *SDA/ATS*, *El País*, *Gazeta Wyborcza*, *Kommersant*, *Les Echos*, *Reuters*, and *Yahoo news*.

An open letter to President Erdoğan from 38 Nobel laureates published in the *Guardian*, *Le Monde*, *La Repubblica*, and *La Stampa* mentioned the Commissioner's memorandum



on freedom of expression in Turkey and was picked up by other media such as *Radio Free Europe*, *T24*, *Vanguard*, *Ahval News*, *Forward*, *The New Arab*, *Armenpress*, *Middle East Eye*, and *Deutsche Welle*.

Additional coverage concerned migration (*24 heures*, *EUObserver*, *Ahval News*, *SDA*, *VoA Afrique*, *Jornal de Noticias*, *Sapo24*, *Tvi*, *dnoticias*, *Porto canal*), transitional justice in the UK (*RTE*), media freedom (*EUObserver*) and women's rights (*AFP*, *Agence Europe*, *A Noticia*, *Arab News*, *Diario Catarinense*, *France 24*, *Euronews*, *i24News*, *Gaceta.es*, *Notizie Provita*, *La Nouvelle Tribune*, *LSM*, *Libération*, *Malta Today*, *Matla Today*, *OKO Press*, *Times of Malta*, and *Yahoo News*).

Two opinion editorials were published during the period in review. One focused on the ratification of the Istanbul Convention by Bulgaria (*24 Hours*) and the other on the need to reform abortion law in Malta (*Times of Malta*).

The Commissioner's website recorded over 67000 pages views and 25000 unique visitors. As of 03 March, 62 tweets were posted, with a reach of over 856000 impressions and an increase of 1338 followers in the period under review (6.4% more compared to the previous quarter). There were 27 Facebook posts during the quarter, with a reach of over 80000 users and an increase of over 588 page likes. A Live streaming video of the high level event organised on the margins of the Human Rights Council in Geneva on 6 March was viewed over 12000 times on Facebook and 5000 times on Twitter.

## Appendix

### ***European Parliament Plenary***

Brussels, 1 March 2018

Address by Nils Muižnieks, Council of Europe Commissioner for Human Rights

Dear President

Dear Ms Commissioner on Gender Equality

Ladies and Gentlemen

I would like to thank you for your invitation to speak on women's rights and gender equality a few days before International Women's Day.

It is a great honour to address you on an issue to which I have given considerable attention throughout my six-year mandate as the Council of Europe Commissioner for Human Rights. I have examined women's rights in many of my visits to the 47 member states of the Council of Europe. I have engaged with women's rights activists to hear their concerns and sought to support their work. I have published many articles and much research to try to raise awareness. But the situation is contradictory, and in some countries and issue areas, we are seeing backsliding.

First, though, let me mention some of the progress that has been achieved.

Women's suffrage, the development and availability of contraceptive means that can be controlled by women, the strengthening of anti-discrimination law, the establishment of equality bodies in many countries and other gains appeared to mark steps in an inexorable process that would culminate in full equality.

However, as shown by the Gender Equality Index, no EU state has yet fully achieved equality between women and men. A certain complacency seems to have set in after progress in recent decades. This could explain the stagnation in some areas.

Gender discrimination in employment has proven to be persistent and widespread. It is even more pronounced among minority and migrant women, especially women who wear headscarves. The gender pay gap is universal and has proven resistant to change. Women's representation in leading positions in business and politics remains inexcusably low. The same holds true for the average share of women on company boards.

To achieve full equality in the long-term requires a cultural change that can only come about through a comprehensive set of measures. These include creating more favourable conditions for an adequate work-life balance. I therefore follow and support the interesting initiatives that are being developed at national and EU levels such as the Commission's Proposal for a Directive on Work-Life Balance for Parents and Carers.

While stagnation or standing still is the norm in some areas, in others, we have witnessed retrogressive trends.

Violence against women, in all its forms – including domestic violence, rape, stalking and sexual harassment - constitutes a violation of human rights. The entry into force of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the so-called Istanbul Convention) in 2014 and the rapid movement towards its ratification constitute progress. So far, 17 European Union member states have ratified it and all the 11 others have signed it. I was also pleased to note that the European Union signed it in June 2017.

However, I have also seen in my country work the depth of resistance to change in this area in the reluctance of countries to ratify the Istanbul Convention or to rectify shortcomings in its implementation. In particular, I have encountered strong objections and a backlash towards the very use of the word “gender” in several EU member states.

Some pretend that the use of the word “gender” in the Convention has hidden purposes and effects. In effect, that there is a hidden agenda. This is simply not true. The text of the Convention itself indicates that while the term “sex” refers to the biological characteristics that define humans as female and male, gender “shall mean the socially constructed roles, behaviours, activities and attributes that a society considers appropriate for women and men.”

This term is used to define the phenomenon of “gender-based” violence against women, that is violence directed against them because they are women or that affects women disproportionately. This term also serves to make the point that “gender stereotypes” need to be tackled because they play a part in the perpetuation of violence against women.

An argument often used against the Convention is that it could endanger “traditional families”. I have had to stress repeatedly that it is violence that endangers families, not the fight against gender role stereotyping, which is essential to confront the ingrained patterns of inequality between women and men that lead to violence against women. I encourage each of you as parliamentarians to engage in the debate not only in this assembly, but also in your home country. We need to collectively deconstruct the misconceptions about the Istanbul Convention, overcome the unjustified resistance to it and speak up for ratification and full implementation of the Convention by each of our states.

Given the crucial role of the Istanbul Convention in advancing gender equality, I was very pleased to learn about the strong commitment shown by the EU institutions when signing it. I was heartened to see that the European Parliament spoke in favour of the rapid ratification of the Convention by the European Union in its 2017 Resolution adopted with a large majority. I would like to join my voice to this call and encourage the European Union, and all European Union member states that have not yet done so, to quickly ratify the Istanbul Convention and take all necessary measures to fully implement it.

The most striking domain in which progress has stalled or is even being rolled back is in women’s sexual and reproductive health rights.

In some EU member states, the problem is that sexuality education is not comprehensive, evidence-based and mandatory. With regard to contraception, some states impede women’s access through a number of barriers including third party authorisation requirements or denial of health insurance reimbursements. In childbirth and maternal health care, coercive and discriminatory practices continue to be reported from various European countries including within the EU.

A number of countries maintain extremely restrictive legal frameworks denying or limiting women's access to safe and legal abortion care. Even in the great majority of countries where abortion care may be accessible in theory, it is less so in practice notably because medical professionals sometimes refuse service on grounds of conscience and governments do not sufficiently regulate this sector to ensure the availability of care.

I recommend that states that have restrictive laws bring them into line with international human rights standards and regional best practices by ensuring that abortion is legal on a woman's request in early pregnancy, and thereafter throughout pregnancy to protect women's health and lives and ensure freedom from ill-treatment. In addition, in all states, any practical, financial and other barriers in access to safe and legal abortion care should be removed.

I call upon all states and members of society, men and women alike, to join efforts to make Europe a place where all women live the life they want, free from gender-based violence and sexism. I invite you to add your voice to the call for laws, policies and behaviour that finally respect women's dignity.

Thank you