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# COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL OF EUROPE

DUNJA MIJATOVIĆ

**2<sup>ND</sup> QUARTERLY ACTIVITY REPORT 2019**

**1 April to 30 June**

Presented to the Committee of Ministers  
and the Parliamentary Assembly

This report contains a summary of the activities carried out by the Commissioner for Human Rights, Dunja Mijatović, between 1 April to 30 June 2019.

## **1. Visits and Missions**

### ***Contact mission to Russian Federation***

The Commissioner carried out a contact mission to the Russian Federation from 1 to 5 April to engage in dialogue with the Russian authorities and civil society on selected human rights issues and to prepare the ground for a subsequent country visit by the end of 2019 or in the first half of 2020. The topics raised during the mission by the Commissioner included, inter alia: the situation of human rights defenders; domestic violence and violence against women; and freedom of expression, including in the context of the application of anti-extremism legislation.

During her visit, the Commissioner met with the Minister of Justice, Alexander Kononov; the First Deputy Minister of Interior, Igor Zubov; the First Deputy Minister of Labour and Social Protection, Alexey Vovchenko; and Deputy Minister of Foreign Affairs, Sergey Vershinin. She also held meetings with the High Commissioner for Human Rights in the Russian Federation (Federal Ombudsman), Tatiana Moskalkova; the Chairman of the Council under the President of the Russian Federation on the Development of Civil Society and Human Rights, Mikhail Fedotov. The Commissioner also held a series of meetings with a number of NGOs and civil society representatives.

While in Moscow, the Commissioner was shown some of the cells in the Federal-Purpose Pre-trial establishment (SIZO) No. 2 (Lefortovo). She met certain inmates, including three of the Ukrainian sailors seized during the November 2018 Kerch Strait incident, as well as Viktor Kudryavtsev, a 75-year old Russian physicist held on charges of alleged treason since July 2018, who had various health problems and was in a weakened state.

### ***Mission to Ireland***

On 29-30 May, the Commissioner visited Dublin to address the High-Level Forum “Ireland and the Council of Europe: 70 Years of Human Rights – the challenges and the future”. In her opening statement, the Commissioner referred to Ireland’s role as a founding member of the Council of Europe in placing from the outset human rights at the heart of the Organisation’s activities and outlined the current human rights challenges in Europe. During the visit, she held talks on topical human rights issues with the President of Ireland, Michael D. Higgins; the Deputy Prime Minister and Minister for Foreign Affairs and Trade, Simon Coveney; the Minister for Justice and Equality, Charles Flanagan; the Minister for Health, Simon Harris; and the Minister of State for Equality, Immigration and Integration, David Stanton. The Commissioner also met with representatives of civil society and human rights defenders.

## 2. Reports and continuous dialogue

### ***Letter to the Minister of Justice of Serbia concerning life imprisonment***

On 15 May, the Commissioner published a letter addressed to the Minister of Justice of Serbia, Nela Kuburović, in which she called on the authorities to reconsider the draft legislation introducing the sentence of life imprisonment without eligibility for conditional release for persons convicted of some of the gravest crimes. The Commissioner recalled that for a life sentence to be compatible with Article 3 of the European Convention on Human Rights, which is binding on Serbia, it must be reducible, or in other words there has to be a prospect of the prisoner's release and the possibility of a review of the sentence. She also raised her concerns about the authorities' decision not to hold a public debate regarding the draft legislation and encouraged them to do so. Lastly, the Commissioner stressed that the Serbian authorities should ensure that this or any future legislative initiative of this kind is fully compliant with the case-law of the European Court of Human Rights.

The Commissioner regrets that despite her recommendations to the authorities in this regard, on 21 May the Serbian parliament adopted the aforementioned legislation introducing the sentence of life imprisonment without the possibility of a review for some of the gravest criminal offences, contrary to the European Court's case-law relating to Article 3 of the European Convention on Human Rights.

The letter is available on the Commissioner's website.

### ***Report on Hungary***

On 21 May, the Commissioner published a report following her visit to Hungary from 4 to 8 February, focusing on the human rights of asylum seekers and refugees; human rights defenders and civil society; independence of the judiciary; and gender equality and women's rights.

The Commissioner found that the government's stance against immigration and asylum seekers had resulted in a legislative framework which undermined the reception of asylum seekers and the integration of recognised refugees. She called on the government to repeal the decreed "crisis situation due to mass immigration" and urged the authorities to refrain from using anti-migrant rhetoric and campaigns which fan xenophobic attitudes.

The Commissioner also urged the government to extend access to the international protection procedure and to ensure that the protection needs of all asylum seekers present on the territory can be assessed. She considered that the systematic detention of asylum seekers, including children, in the transit zones without adequate legal basis raised issues about the arbitrary nature of the detention and expressed concern that many asylum seekers detained in the transit zones under an alien policing procedure had been deprived of food.

The Commissioner pointed out that the recent legislative measures imposing restrictions on civil society space had stigmatised and criminalised NGO activities which were fully legitimate in a democratic society. She found that the associated sanctions had the potential to incur devastating consequences for the work of human rights defenders and NGOs and urged the repeal of the legislation. The Commissioner also observed that civil society organisations had been subject to

intimidation, stigmatisation and smear campaigns. She called on the government to reverse its alarming course in relation to human rights defenders and NGOs, and to create an enabling environment conducive to their work, in line with human rights standards.

With reference to the future system of administrative courts, the Commissioner remained concerned about the pivotal role of the Minister of Justice in establishing and running it. While welcoming the recent amendments made to the original legislation on administrative courts in response to the related Opinion of the Venice Commission, she pointed out that they were not sufficient in addressing the serious concerns identified by the Commission. The Commissioner recommended that the extensive powers of the Minister be counterbalanced by strengthening judicial self-governance.

The Commissioner found that Hungary was backsliding in gender equality and highlighted the low political representation of women. She noted that women's issues were closely associated with family affairs in government policy and that the focus of the newly adopted family protection action plan lay on women as child bearers. The Commissioner warned that this carried the risk of reinforcing gender stereotypes and instrumentalising women. She called on the authorities to address the unequal representation of women in public life through positive measures and to take determined action to eradicate gender stereotypes in educational materials. The Commissioner also urged the authorities to ratify the Istanbul Convention on preventing and combating violence against women and domestic violence and to strengthen training about violence against women among the judiciary, prosecutors and the police.

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

***Letter to the Chairwoman of the Committee on Internal Affairs and Community of the Parliament of Germany on the bill "Geordnete-Rückkehr-Gesetz"***

On 23 May, the Commissioner published a letter addressed to the Chairwoman of the Committee on Internal Affairs and Community of the Parliament of Germany (Bundestag), Andrea Lindholz, in which she raised concerns about some aspects of the bill that aims at facilitating removals of people obliged to leave the country ("Geordnete-Rückkehr-Gesetz"). In the letter, the Commissioner expressed concerns about the measure that classifies information relating to the practical steps leading to a removal as state secrets, because this may result in members of civil society and NGOs being prosecuted for aiding or abetting the disclosure of confidential information. The Commissioner notably underscored that this provision could have an impact on freedom of expression, had the potential to criminalise NGOs' activities, and could create a chilling effect on freedom of information of the concerned organisations. Therefore, she called on the Parliament to refrain from taking any measures criminalising, stigmatising or putting at any disadvantage individuals and NGOs providing humanitarian assistance to, and defending the rights of, refugees, asylum seekers and migrants, and to restore an enabling environment conducive to their work. In this context, the Commissioner underlined that information regarding the timing of a removal is an essential element for ensuring that the rights of persons concerned are adequately protected. In addition, the Commissioner expressed concerns about the fact that the bill expands the grounds for detention of migrants pending expulsion, instead of developing alternative measures to detention.

The Commissioner regrets that, on 7 June, the German Parliament adopted the bill with the above-mentioned provisions.

The letter is available on the Commissioner's website.

***Letter to the Marshal of the Senate of Poland concerning amendments to the Criminal Code***

On 27 May, the Commissioner published a letter addressed to the Marshal (Speaker) of the Senate of Poland, in which she raised concerns regarding a proposed set of amendments to Poland's Criminal Code which would deprive certain categories of life prisoners of eligibility for conditional release. The Commissioner recognised member states' duty to protect members of the public from violent crime and their right to freely design their criminal justice systems, as long as these do not contravene the standards of the Council of Europe. However, she considered that the proposed amendments ran afoul of the case-law of the European Court of Human Rights which requires that life prisoners be afforded a prospect - even if it is tenuous or distant - of an eventual release, as well as the possibility of a review of their sentence. The Commissioner also criticised the hurried enactment of the legislation in question, encouraging the Marshal to organise a broader public debate in the Senate to carefully assess the impact of the legislation on human rights with the aim of ensuring its compatibility with Council of Europe standards.

In a statement which accompanied the publication of the letter, the Commissioner regretted that, despite her concerns, the Polish Parliament had adopted the problematic amendments. However, the Commissioner notes that the President of the Republic has since referred the impugned amendments for review by the Constitutional Tribunal.

The letter is available on the Commissioner's website.

***Report on Poland***

On 28 June, the Commissioner published a report following her visit to Poland from 11 to 15 March focusing on the independence of the judiciary and the prosecution service, women's rights, gender equality and domestic violence.

The Commissioner found Poland's wide-ranging judicial reform, which was accompanied by a polarising publicly-funded anti-judiciary campaign and sparked protests by the legal profession and the general public, to have fundamentally affected the functioning and independence of all key building blocks of the country's justice system. Stressing that improving accountability or efficiency of the justice system may not be pursued at the expense of judicial independence, she called on the members of the executive and the legislature to uphold the independence of the judiciary and to avoid undermining public confidence in it. The Commissioner also recommended subjecting any legislation relating to the judicial reform to thorough consultation with members of the judicial community and other relevant actors. While the Commissioner welcomed the reinstatement of all forcibly retired judges of the Supreme Court and of the Supreme Administrative Court, she called on the authorities to urgently resolve the prolonged deadlock seriously compromising the independence and credibility of the Constitutional Tribunal. Expressing regret over the pre-term removal of the members of the National Council for the Judiciary, the Commissioner urged the authorities to bring the legislation governing the composition of that body in line with Council of Europe standards and the Polish Constitution.

The Commissioner was also struck by the dismissal and replacement of more than 150 court presidents and vice-presidents, reports of an even higher number of dismissals and demotions of prosecutors, as well as numerous cases of disciplinary proceedings instituted against judges and prosecutors in recent times. Recalling that the case-law of the European Court of Human Rights protects the right of judges and prosecutors to express their views on matters of public interest, the Commissioner urged the authorities to ensure that disciplinary proceedings are not instrumentalised and to secure the right to a fair trial of any person subjected to such proceedings. The Commissioner also invited Poland to separate the functions of Minister of Justice and Prosecutor-General, and to limit each office's powers vis-à-vis judges and prosecutors.

The Commissioner regretted that several judgments issued by the European Court of Human Rights against Poland in cases concerning access to abortion and the related care have not yet been implemented. She urged the Polish authorities to urgently adopt the necessary legislation to ensure the accessibility and availability of legal abortion services in practice, and called on the Polish Parliament to reject any legislative proposals – including one currently pending in the Parliament – that seek to further erode women's sexual and reproductive rights. The Commissioner further invited the Polish authorities to consider making abortion 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. She also encouraged the authorities to eliminate barriers in women's and girls' access to contraception, including by removing the recently-introduced requirement for a medical prescription for emergency contraception.

The Commissioner commended Poland's solid legal framework for equality between men and women but recommended that its policy framework be updated, in particular through the prompt adoption of a new national action plan on gender equality. The Commissioner also encouraged the adoption of dedicated programmes and measures to further the advancement of women and their political participation, as well as measures to prevent and combat sexism and its manifestations in the public and private spheres. Welcoming the significant increases in government funding for, and the availability of, public childcare, she encouraged the authorities at central and local level to pursue this approach.

Welcoming the Polish authorities' stated commitment to combating domestic violence, the Commissioner encouraged them to give practical and effective application to the Council of Europe Istanbul Convention, including by applying existing legislation coherently across the country, and by making available a sufficient number and quality of shelters dedicated specifically to women victims of violence and their children. Concerned by the negative impact that the recent interruption of access to central government funding has had on the ability of some of the leading women's rights organisations to help victims of domestic violence, she urged the authorities to create and maintain safe and favourable conditions for the activities of those organisations. The Commissioner also invited the Polish authorities to increase public awareness about domestic violence and encouraged all politicians and opinion-makers to give vocal support to the advancement of women's rights and gender equality.

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

### 3. Themes

#### ***Safety of journalists, freedom of expression and media freedom***

On 2 May, ahead of World Press Freedom Day, the Commissioner called for greater political commitment to protecting press freedom. She highlighted the alarming state of journalists' freedom and safety in Europe and underscored that protecting the press is essential to safeguarding everyone's freedoms and rights.

#### ***Freedom of assembly***

On 21 June, the Commissioner published a statement following the violent confrontation between the Georgian police and demonstrators which took place in Tbilisi the previous night in connection with the session of the Inter-Parliamentary Assembly on Orthodoxy held in the Georgian Parliament. Appealing to all sides for restraint and peaceful dialogue, she expressed her concern about the injuries, in some cases very severe, sustained by dozens of demonstrators, journalists and police officers. The Commissioner also called for prompt and effective investigations in order to ensure accountability for violence, and urged the authorities to issue clear instructions to the police to guarantee that operations to maintain public order are carried out with due respect for human rights.

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

On 18 June, the Commissioner published her Recommendation 'Lives saved. Rights protected. Bridging the protection gap for refugees and migrants in the Mediterranean'. The Recommendation analyses the current approach regarding refugees and migrants who attempt to reach Europe by sea in light of Council of Europe member states' interconnected obligations under maritime, refugee and human rights law. The Recommendation highlights specific obligations of coastal states and flag states, but also sets out shared responsibilities of member states to preserve life and protect the rights of refugees and migrants at sea.

It sets out 35 recommendations for member states to incorporate when acting individually and collectively, including through membership of the EU, focusing on five key areas: effective search and rescue; prompt and safe disembarkation; co-operation with non-governmental organisations; co-operation with third countries; and the prevention of dangerous sea journeys by providing safe and legal routes. Whilst acknowledging the challenges faced by coastal states, she emphasised that these cannot justify measures that endanger the lives and safety of human beings, and that the effective protection of human rights should always prevail over political dilemmas or uncertainty caused by the interaction of different legal regimes, policies and practices.

The Commissioner also continued her work on the rights of refugees to family reunification through a third-party intervention with the Court (see under 'European Court of Human Rights').

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

On 28 May, the Commissioner issued a statement calling on Council of Europe member states to urgently repatriate their under-age nationals stranded in the camps of Northern Syria. Stressing that

the deplorable living conditions prevailing in these camps seriously endanger the lives of these children, the Commissioner stated that one of the primary responsibilities of Council of Europe member states is to take all feasible measures to ensure that children affected by armed conflict receive protection and care as provided for by several conventions to which all Council of Europe member states are party. She further underlined that these children should be treated first and foremost as victims.

The Commissioner also urged Council of Europe member states to consider repatriating the children's mothers as well, in order to safeguard the best interests of the children, as required by the UN Convention on the Rights of the Child, and stressed that their repatriation does not prevent these states from bringing the mothers to justice where appropriate, in accordance with their legislation and international and European applicable standards.

Finally, the Commissioner called on member states which have not yet taken steps to repatriate their under-age nationals to urgently follow suit and invited Council of Europe member states to provide adequate medical, psychological and social support to these children upon their return to their home country.

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

On 23 May, the Commissioner held an exchange of views with the Council of Europe Gender Equality Commission in Strasbourg. During the discussion, she stressed that gender equality and women's rights were among her priorities and that she had raised the topics, including violence against women, in most of the countries she had visited to date. The Commissioner also highlighted the issue of artificial intelligence and its implications for gender equality. In addition, the discussion covered questions related to the situation of NGOs and human rights defenders, the safety of journalists and the protection of refugees. The Commissioner expressed her willingness to cooperate with the Commission on topics of shared interest.

On 24 May, the Commissioner addressed the conference "Women's rights at the crossroads: strengthening international co-operation to close the gap between legal frameworks and their implementation" in Strasbourg. It was organised by the Council of Europe with the French Presidency of the Committee of Ministers in co-operation with the UN Special Rapporteur on violence against women. In her statement, the Commissioner highlighted the role of international co-operation in the development of the concept of gender-based violence against women as a violation of their human rights. She also stressed the need to focus on the implementation of the Istanbul Convention and the importance of imparting co-ordinated and consistent messages from independent monitoring mechanisms on violence against women.

### ***Human rights of Roma***

On 4 April, ahead of the International Roma Day (8 April), the Commissioner published a Human Rights Comment entitled "European states must demonstrate resolve for lasting and concrete change for Roma people", urging member states to step up efforts to improve the human rights of Roma in Europe.

She highlighted that the continuation of human rights abuses targeting Roma, such as racially motivated attacks, forced evictions, and school and housing segregation, goes against all efforts



otherwise made to improve their access to education, health care and employment and prevents them from fully participating in society. She deplored that, according to recent reports, national strategies to improve the situation of Roma had not led to the expected substantial and lasting changes in the daily lives of Roma across Europe. According to her, this is largely due to a lack of meaningful commitment to combating racism and discrimination against Roma.

The Commissioner recalled that anti-Gypsyism, a deeply-rooted phenomenon in Europe, not only forms the bedrock for the repetition of serious human rights violations but also stands as a major obstacle on the way to improving the situation of Roma. Therefore, it needs to be tackled far more vigorously by means of heightened political will and commitment. She provided a list of concrete actions that should be implemented to enhance the fight against anti-Gypsyism, from reinforcing the capacity of equality bodies to deal with discrimination against Roma, to more effective desegregation policies in areas such as education, housing and health care.

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

On 4 April, the Commissioner published a statement in which she welcomed the announcement by the Bosnia and Herzegovina LGBTI community of the organisation of the first Pride next September in Sarajevo, and expressed her full support for the organisation of this event. Expressing her dismay at some negative reactions to this announcement from elected officials, the Commissioner reminded the authorities of Bosnia and Herzegovina's obligations under the European Convention on Human Rights, including freedom of assembly without discrimination on any ground. The Commissioner called on the authorities in Bosnia and Herzegovina to ensure a peaceful & dignified atmosphere and on elected officials to refrain from statements that discriminate or may incite hatred against LGBTI people.

On 16 May, on the occasion of the International Day Against Homophobia, Biphobia and Transphobia (IDAHOBIT), the Commissioner published a statement paying tribute to LGBTI human rights defenders, who work to secure the enjoyment of equal human rights for LGBTI people. In the statement, the Commissioner noted with concern that these activists are particularly vulnerable and face increasing pressure, harassment and threats. She called on all member states of the Council of Europe to uphold their commitments to fight discrimination against LGBTI people and to take measures for the protection of LGBTI defenders so that they can carry out their important work.

A member of the Office of the Commissioner for Human Rights participated in the 2019 IDAHOT+ Forum and in the 22nd meeting of the European Governmental LGBTI Focal Points Network hosted by the government of Norway from 13 to 15 May in Oslo. The IDAHOT+ Forum is an opportunity for representatives of participating states, international organisations and civil society organisations to exchange information on the latest developments, progress and challenges in advancing the human rights of LGBTI people in Europe. Some of the items on the programme and issues discussed included: hate crimes and hate speech against LGBTI people; gender diversity in health and implication of the ICD-11; LGBTI civil society; and LGBTI people with ethnic minority backgrounds.

On 27 May, the Commissioner welcomed the adoption by the World Health Assembly of a new version of the International Classification of Diseases (ICD-11) as an important stride toward the depathologisation of transgender people, as pathologisation had served to justify serious human rights violations against them. The ICD-11 no longer classifies transgender health issues under the chapter devoted to mental disorders. However, the Commissioner expressed concern that

pathologising language on intersex people remains in the ICD-11, leaving the possibility open for medically unnecessary sex-normalising surgeries on intersex children, which can amount to inhuman or degrading treatment.

Pride marches took place in June in a growing number of places in Europe; however, several marches were banned, in violation of the rights to freedom of assembly and to freedom of expression. In Georgia, in light of growing tensions around the announced Pride march, the Commissioner issued a statement recalling that all citizens in Georgia enjoy the same human rights to freedom of expression and right of peaceful assembly, free from discrimination, violence and hate. She called on the authorities to ensure the safety of the participants and to investigate death threats made against the Public Defender. Following a series of unrelated demonstrations in the capital, the Pride event was postponed, and a smaller-scale march was spontaneously held in Tbilisi on 8 July. The Commissioner sent a message of support to the 2019 Europride in Vienna. On 27 June, she congratulated North Macedonia for hosting its first ever Pride march in Skopje, highlighting that it was a step toward better inclusion of LGBTI people in society.

On 27 June, members of the Office of the Commissioner for Human Rights participated in an exchange of views with representatives of ILGA-Europe and three of its member organisations on current challenges and opportunities in the promotion of equal rights for LGBTI people.

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

The Commissioner was invited by the Parliamentary Assembly to participate in a plenary debate entitled “Ending coercion in mental health: the need for a human rights based approach” on 26 June. In her statement made at the beginning of the debate, the Commissioner welcomed the Report at the origin of the debate, and expressed her agreement with the draft Resolution and draft Recommendation proposed by the relevant Committee of the Parliamentary Assembly.

In this speech, the Commissioner stressed that her experience as Commissioner for Human Rights confirmed many of the findings in the Report, especially regarding the negative effects of the use of coercion in the mental health system on the enjoyment of human rights. She repeated her call for urgent reforms to the mental health systems in Council of Europe member states to reduce and end coercion. Highlighting the contribution of the United Nations Convention on the Rights of Persons with Disabilities to this debate, she also reaffirmed her view that the Council of Europe should redirect its efforts from developing standards that might be in contradiction with this treaty towards developing guidelines on ending coercion in mental health.

### ***Protection of national minorities***

On 25 June, the Commissioner held an exchange of views with the Advisory Committee on the Framework Convention for the Protection of National Minorities.

The Commissioner informed the Committee about her work of relevance for the rights of persons belonging to national minorities. She mentioned, in particular, work concerning the use of languages and the linguistic rights of persons belonging to minorities, the human rights of Roma, transitional justice and school segregation. She stressed that she would continue the good co-operation between her Office and the Committee and make full use of its findings and recommendations in her own work.

### ***Ethnic profiling***

On 9 May, the Commissioner published a Human Rights Comment entitled “Ethnic profiling: a persistent practice in Europe”. Despite a growing body of judicial decisions at the national and international levels, ethnic profiling continues to be present in several different areas, notably in the use of stop and search procedures vis-à-vis minority groups and foreigners, as well as additional identity checks or interviews of persons or groups at border crossing points and transportation hubs. Furthermore, in certain contexts, persons belonging to minority groups have been prevented from leaving the country of which they are nationals. Racial and ethnic profiling also occurs in the criminal justice system, and is in some cases being perpetuated by machine-learning algorithms which are increasingly used in the field of “predictive policing”.

To overcome these challenges, the Commissioner set out the following key steps Council of Europe member states should take: (1) collect reliable data on ethnic profiling; (2) clearly define and prohibit ethnic profiling in the law; (3) circumscribe the discretionary powers of the police; (4) avoid perpetuating prejudices in the media; (5) regulate the use of machine-learning algorithms in police work; (6) promote and strengthen access to remedies; and (7) invest in public awareness and AI literacy.

### ***Safeguarding human rights in the era of artificial intelligence***

On 16 April, the Commissioner participated in the Stanford Global Digital Policy Incubator event, hosted at Stanford University and focusing on “The Future of Human-Centered AI: Governance Innovations and Protection of Human Rights”. Speaking on the closing panel looking at the issue of government regulation, national strategies and geopolitics of AI, the Commissioner called for greater knowledge/dissemination of and adherence to existing international standards when dealing with human rights challenges posed by AI.

On 14 May, the Commissioner published a Recommendation – entitled “Unboxing artificial intelligence: 10 steps to protect human rights” – providing a number of steps which national authorities can take to maximise the potential of artificial intelligence systems and prevent or mitigate the negative impact they may have on people’s lives and rights. It focuses on 10 key areas of action and contains a checklist to help implement the measures recommended in each key area. It is based on existing standards and builds on work done in this area by the Council of Europe and other international organisations. The Recommendation is addressed to member states, but the principles concern anyone who significantly influences – directly or indirectly – the development, implementation or effects of an AI system. The Commissioner intends to use this Recommendation as a toolkit in her dialogue with national authorities but also with national human rights structures and AI actors in general, so that all those involved directly or indirectly in the development or application of AI systems have the necessary knowledge and understanding about AI’s impact on human rights to take action, if necessary.

On 11 and 12 June, the Commissioner participated in RightsCon, the world’s leading summit on human rights in the digital age, which took place in Tunis. Speaking at the opening ceremony, the Commissioner stressed that technology should maximise our freedoms and rights and keep those in power accountable. An important step would be to provide more support, funding and digital literacy training to human rights defenders. It is also crucial that the private sector and state authorities uphold human rights standards in the designing and implementation of all technological

tools. The Commissioner concluded by underlining that living in an increasingly digital world does not mean living artificial lives with artificial liberties: our rights must be real, all the time.

### ***Transitional justice and human rights***

On 12 April, the Commissioner participated in the ceremony commemorating the liberation of the extermination camp run between 1941 and 1945 by the fascist Ustasha regime in Jasenovac, in Croatia. In her statement published on this occasion, honouring the more than 80 000 victims of the camp, the Commissioner emphasised that denial of the Holocaust, genocide and war crimes remains a serious problem in Europe today, and that politicians have a duty to promote respect for the memory of the victims and ensure the rights of the survivors. She added that “there are politicians and public figures in Croatia who minimise the responsibility of perpetrators, glorify them or outright deny the occurrence of past crimes. The history of Jasenovac shows very clearly why this is a very dangerous road. Historical revisionism should have no place in today’s Europe.” The Commissioner underlined the need to promote teaching of history based on truth, respect for all the victims and an open dialogue about past crimes. On 11 and 12 April, in Zagreb and in Jasenovac, the Commissioner met with representatives of the Serb National Council, the Coordination of Jewish Communities in Croatia, the Roma Union 'Kali Sara' and the Croatian Alliance of Antifascists who organised the commemoration, as well as with the survivors of the camp.

On 26 June, the Commissioner opened the photography exhibition “Srebrenica – Mothers’ long fight for justice” presented in the lobby of the Parliamentary Assembly during its summer session from 24-28 June 2019. In her statement on this occasion the Commissioner stressed the importance of the fight against the denial of genocide. “This is all the more important because in the region a culture of genocide denial has taken root. Only by educating young generations about the past in a truthful way, can a genuine reconciliation take place.” The president and the deputy president of the Association of the Mothers of Srebrenica and Žepa, Munira Subašić and Kada Hotić respectively, who were the Commissioner’s guests, both addressed the audience with their moving narrative of grief and their fight for justice. The Commissioner’s predecessor Thomas Hammarberg also addressed the audience emphasising the importance of recognition and justice for the families of genocide victims. The Commissioner joined the Mothers of Srebrenica in calling on the Council of Europe to mark 11 July as an official Remembrance Day of the Srebrenica Genocide.

### ***Co-operation with National Human Rights Structures***

In order to strengthen co-operation with National Human Rights Institutions (NHRIs) in the area of asylum and migration, a member of the Office of the Commissioner for Human Rights contributed to the meeting of the Asylum and Migration Working Group of the European Network of National Human Rights Institutions (ENNHRI), which was held in Zagreb on 26 April. The discussion covered the various ways that NHRIs can collaborate and coordinate with the Commissioner’s Office, and how the Commissioner can reinforce the work of NHRIs at the national level.

On 26 June, the Commissioner expressed her concern via Twitter about the verbal attacks, including calls for dismissal, by public officials and some media outlets in Poland against the Ombudsman (*Rzecznik Praw Obywatelskich*) Adam Bodnar. The Commissioner found those attacks to be a worrying retaliation for the principled position taken by the Polish Ombudsman, in his capacity as the national preventive mechanism (NPM) under the UN Optional Protocol to the Convention Against Torture (OPCAT), regarding the rights of a person suspected of a serious crime. The

Commissioner called on the authorities and opinion-makers in Poland to put an end to these attacks and to ensure respect for Poland's national human rights institution and its office-holder.

### ***Human rights and the environment***

On 4 June, ahead of World Environment Day, the Commissioner published a Human Rights Comment on the interdependence between a clean and healthy environment and human rights. Citing concrete examples, the Commissioner's Comment aimed to demonstrate how environmental problems affecting large parts of the European population, including air pollution, water scarcity, improper disposal of waste, and the effects of climate change, result in violations of human rights, such as the right to life, the right to private and family life, and the right to health.

Referring to existing state obligations, Council of Europe standards and the UN 16 Framework Principles on human rights and the environment, the Commissioner recalled the extensive case-law of the European Court of Human Rights and of the European Committee of Social Rights in this area. She recalled that the Court and the Committee have pointed to the positive obligations of states to prevent human rights violations related to the environment, and emphasised that states must ensure that individuals confronted with environmental degradation have access to appropriate procedures, including the right to receive information, to participate in decision-making and to have access to effective redress.

The Commissioner further highlighted current efforts to assert human rights related to the environment, including youth mobilisation around the world, strategic litigation in national and regional courts, and the work of national human rights structures. She paid specific tribute to the work of environmental human rights defenders, urging states to ensure their safety and guarantee enabling conditions for their work.

The Commissioner recommended that states adopt ambitious policies to protect the environment and biodiversity, combat pollution and mitigate climate change. In doing so, states should pay extra attention to protecting the rights of those most vulnerable, and not lose sight of the consequences of the pollution produced in Europe for the human rights of people living in other parts of the world. They should also invest in educating their population at an early age about the need to preserve the environment. The Commissioner noted that the Council of Europe has an important role to play in assisting its member states in this work, and called on the member states to support efforts at international level to obtain explicit recognition of the right to a healthy environment.

## **4. Other meetings**

### ***EU side-event on Communicating Rights***

On 10 April, the Commissioner participated in a side-event on Communicating Human Rights organised by the EU representation to the Council of Europe, with the participation of the EU Fundamental Rights Agency. One of the key messages of the Commissioner was that international organisations have to adapt their communication and take a more holistic approach to human rights promotion and protection, in order to reach out to as many people as possible.

### ***Meeting with the EU Special Representative for Human Rights, Eamon Gilmore***

On 7 May, the Commissioner met in Strasbourg with Eamon Gilmore, European Union Special Representative on Human Rights, who took up his duties on 1 March 2019. The exchange of views focused on their respective work in member states of common interest. The Commissioner presented her priorities, including freedom of expression and media freedom, and the issue of artificial intelligence and human rights. She expressed her willingness to co-operate with the EU Special Representative for Human Rights on topics of common interest.

### ***Meeting with Patriarch Kirill of Moscow and All Russia***

On 27 May, the Commissioner met with Patriarch Kirill of Moscow and All Russia in Strasbourg as part of his visit to the Council of Europe. The Commissioner raised several human rights topics of relevance in the Russian Federation, including women's rights, combating and preventing domestic violence, the situation of human rights defenders and civil society, socio-economic rights and the rights of persons with disabilities. The Commissioner also invited the Patriarch to use his authority to influence the debate and help improve the human rights situation in the country.

## **5. Human Rights Defenders**

The Commissioner continued to devote close attention to the situation of human rights defenders in her country and thematic work, as well as in her awareness-raising activities.

As noted above (see section on *Visits and missions*), one of the main topics discussed during the Commissioner's contact mission to the Russian Federation from 1 to 5 April concerned the situation of human rights defenders. In her report on Hungary (see above section on *Reports and continuous dialogue*), the Commissioner raised concerns about the potentially devastating consequences for human rights defenders and NGOs stipulated by the sanctions associated with the "Stop Soros" legislative package, as well as about the intimidation, stigmatisation and smear campaigns that civil society organisations had been subjected to, and called on the government to reverse that alarming course.

The Commissioner's statement on the occasion of the International Day Against Homophobia, Biphobia and Transphobia paid special tribute to LGBTI activists and human rights defenders. Her Human Rights Comment on the right to a healthy environment highlighted the need to protect and empower environmental activists.

In her Recommendation on rescuing migrants at sea and protecting their rights, the Commissioner highlighted inter alia the invaluable contribution that NGOs provide to protect migrants, refugees and asylum-seekers in danger, while at the same time observing with regret that certain Council of Europe member states have toughened their stance against NGOs carrying out search and rescue operations in the Mediterranean.

On 20 and 21 June, as part of her regular dialogue with human rights defenders, the Commissioner held a round-table discussion in Strasbourg with defenders working to protect human rights in conflict-affected settings. The event gathered a diverse group of 25 participants. The round-table

sought to identify and assess the threats and challenges affecting the safety and liberty of human rights defenders working in particularly challenging and polarised environments and to discuss human rights related issues, including how to address serious human rights violations – i.e. extra-judicial executions, enforced disappearances, unacknowledged detention, torture and ill-treatment, impunity – and how to protect the rights of women, children, older people, internally displaced persons and refugees, Roma and ethnic or religious minorities, people with disabilities, and LGBTI persons. The stimulating and inspiring discussions during the round-table allowed the Commissioner to gain a more accurate understanding of the major challenges, risks and obstacles defenders encounter, which will help her to shape her future activities in support of human rights defenders.

## 6. European Court of Human Rights

### *Third Party Intervention before the European Court of Human Rights in the case of Dabo v. Sweden*

On 24 May, the Commissioner submitted to the Court her written observations in the case of *Dabo v. Sweden* (application no. 12510/18). The case concerns the refusal to grant family reunification to the family members of a person with refugee status in Sweden, because he did not meet the so-called maintenance requirement showing sufficient income and appropriate accommodation. This requirement was imposed because the request for family reunification was allegedly filed more than three months after the applicant received refugee status. In her submission, the Commissioner recalls that family reunification is an essential human right which enables refugees to resume a normal life. She notes that maintenance requirements, as well as short deadlines to qualify for exemptions, should preferably not be applied to persons granted international protection, and that member states should ensure these do not lead to unnecessary family separation.

## 7. Communication and Information work

The main media coverage for the period under review concerned the Commissioner's work on migration, Serbia, and the reports on Hungary and on Poland. Over 280 news items covering the Commissioner's work were published by national and international media outlets.

The Commissioner's work on migration, and in particular the Recommendation on rescuing migrants at sea, received coverage in a variety of media outlets in Europe (*Affaritaliani.it*, *AFP*, *Agence Afrique*, *Agence Belga*, *AGI*, *AgoraVox*, *Anadolu Agency*, *ANSA*, *Askanews*, *Boursorama*, *Bündner Tagblatt*, *Delo*, *Die Südostschweiz*, *Die Tageszeitung*, *Die Welt*, *DPA*, *EcoDiario.es*, *EFE*, *El Diario Vasco*, *Euronews*, *France Info*, *Frankfurter Rundschau*, *Giornale di Sicilia*, *Il Fatto Quotidiano*, *Il Mattino Online*, *Il Messaggero*, *Il Sole 24 Ore*, *InfoMigrants*, *Kathimerini*, *KNA*, *La Gazzetta dello Sport*, *La Repubblica*, *La Sicilia*, *La Vanguardia*, *Le Figaro*, *Le Matin*, *Le Soir*, *Lëtzebuurger Journal*, *Luxemburger Wort*, *Mediapart*, *Nau.ch*, *Nedeljnik.rs*, *Neue Luzerner Zeitung*, *Neue Zuger Zeitung*, *Ouest France*, *ORF*, *Rai News*, *ReliefWeb*, *Reuters*, *Ritzau*, *RSI*, *SDA/ATS*, *SIR*, *TGCom24*, *The Huffington Post*, *The London Economic*, *The Washington Post*, *Trend*, *Yahoo Nachrichten*, *Zeit Online*, *Haberlar*, *La Tribune*, *Open Democracy*, *Seznam Zprávy*, *Sud Ouest*, *The Conversation*, and *The Independent*).

The Commissioner's letter to the Minister of Justice of Serbia, in which she called on the authorities to ensure compliance of the legislation concerning life imprisonment with the case-law of the European Court of Human Rights, was covered by *AFP, Die Welt, Agence Europe*APA, *B92, BBC, BETA, Danas, Bloomberg, BNE, Cotidianul.md, Danas, DELO, Deon.pl, Dnevnik, DPA, Espresso.rs, Fox News, Hürriyet Anadolu, InfoMigrants, IntelliNews, Interia, Krstarica, Kurier Online, La Liberté, Libération, N1 Info, PAP, Politika, Radio Slobodna Evropa, RFE, RTS, SDA/ATS, SwissInfo, Tanjug, Telegraf, Tiroler Tageszeitung, The Associated Press, The Canadian Press, The New York Times, The Washington Post, and Zeit Online.*

The report on Hungary was covered extensively, notably by *444.hu, ABC News, AFP, Agencia Lusa, Al Jazeera Balkans, ANSA, APA, Atlatzso, BBC, DPA, EFE, El País, El Periódico, Emerging Europe, EuObserver, Fox News, Gandul, Handelsblatt, Hungary Today, Independent Online, Index.hu, Jurist, La Vanguardia, La Voz de Galicia, Le Monde, MTI, Nachrichten, Narod.hr, Neue Zürcher Zeitung, News.bg, NU.nl, Politico, Radiochisinau.md, SDA/ATS, The Associated Press, The Canadian Press, The Guardian, The New York Times, The Organization for World Peace, The Washington Post, Tiroler Tageszeitung, Yahoo, Anadolu Agency, Il Fatto Quotidiano, Irish Independent, and The Independent.*

The report on Poland was covered by *ABC News, AFP, Agence Belga, Boursorama, Challenges.fr, Die Welt, DPA, Dresdner Neueste Nachrichten, Euractiv, Euronews, Helsingin Sanomat, Interia, Investing.com, Jurist, Le Figaro, Märkische Allgemeine Zeitung, Mediapart, Politico, Polityka, Reuters, RTBF, Rzeczpospolita, SDA/ATS, Spiegel Online, The Associated Press, The New York Times, The Washington Post, Wiadomosci, Wprost, Wyborcza, Yahoo News, Zeit Online, Agence Europe, Dziennik, Gazeta Wyborcza, Onet.pl, PAP, Polskie Radio, Polskie Radio 24, and Stern.de.*

The Commissioner's statement commemorating the victims and survivors of the Jasenovac concentration camp in Croatia was mentioned in articles published by *AFP, ANSA, Beta, Brantford Expositor, Croatia News, Danas, FENA, Hina, La Libre Belgique, N1 Info, Politika, Radio Slobodna Evropa, The Associated Press, The Canadian Press, The New York Times, The Times of Israel, The Washington Post, and Vijesti.*

The statement calling on member states to repatriate their under-age nationals stranded in Northern Syria was mentioned by *AFP, Agence Europe, ANSA, Askanews, Daily Sabah, Danas, RFE/RL, Le Figaro, Reuters, Le Monde, N1 info, STT, TRT, De Morgen,, Het Nieuwsblad, Le Soir, Libération, and Mediapart.*

The letter to the German Parliament in which the Commissioner called for an increase of the human rights safeguards of the bill for improving the implementation of expulsion of migrants was mentioned by *ADNKronos, ANSA, Der Tagesspiegel, Deutschlandfunk, DPA, Mandiner.hu, MTI, NDR.de, Süddeutsche Zeitung, and WebRadio.*

The mission to Russia was covered by *112.ua, AiF, Crimea-news, Evropeiskaya Pravda, Gazeta.ru, Glavkom, Gordon Censor, Interfax, Izvestia, Kiev post, Kommersant, Krym, Krym Realii, LB.ua, Lenta.ru, Liga.net, Moskovskiy Komsomolets, News.ru, Novoe vremya, Obozrevatel Korrespondent.net, Realii, RIA, RIA Novosti, Segodnya, Sputnik, Ukrainskaya Pravda, Ukrinform, UNIAN, UrduPoint, Vzglyad TV, Zvezda, Gordon, Interfax, Kommersant, RAPSİ, Sputnik, TASS, and Unian.*



*Al Jazeera Balkans, ANSA, Balkan Insight, Beta, Danas, DW, Fena, and Sarajevo Times* covered the Commissioner's speech and photography exhibition "Srebrenica – Mothers' long fight for justice" organised in the Council of Europe together with the Mothers of Srebrenica and Žepa to commemorate the victims and survivors of the Srebrenica Genocide.

Additional coverage concerned the annual report (*ANSA, Aravot, ArmenPress, EFE, La Vanguardia, N1, PanArmenian.net, and Reporter.gr*), freedom of expression (*Blic, Info, Insajder, N1, Tanjug, ANSA, Handelsblatt, Index.hu, and Teller Report*), the *Memorandum on maintaining public order and freedom of assembly in the context of the "yellow vest" movement in France* (*AFP, Express Online, Le Temps, L'Humanité, ANSA, L'Obs, and SDA/ATS*), freedom of assembly (*CAN and El Punto Avui*), LGBTI people (*Prime News, Sputnik, Trend, VoA, Dnevni avaz, Eastjournal.it, and iNews*), children's rights (*The Herald Holyrood*), Ukraine (*ABC News, Blic, Fox News, Index.hu, Kyiv Post, The Associated Press, The New York Times, Tanjug, and TASS*), the meeting with Patriarch Kirill of Moscow and All Russia (*AFP, Agenzia Nova, Danas, L'Obs, Ouest France, and RIA Novosti*), press freedom (*24tv, AFP, Censor, Hromadske, Süd Tirol News, Ukinform, Yahoo International, Zeit Online Beta, Danas, N1, and Vesti.rs*), the mission to Ireland (*Big News Network, Irish Legal News, and MerrionStreet.ie*), racism (*ADA, DPA, and Tiroler Tageszeitung*), artificial intelligence (*ANSA and Tiscali*), persons with disabilities (*La Stampa*), the visit to Azerbaijan (*Turan*), human rights and the environment (*ANSA and La Repubblica.it*), and human rights defenders (*Washington Examiner*).

Almost 50 000 unique visitors consulted the Commissioner's website during the period under review, almost 50% more compared to the same quarter of 2018. Social media activity continued to generate interactions particularly on Twitter, where the Commissioner's account attracted more than 2 000 new followers.