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by Dunja Mijatović
Commissioner for Human Rights

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1. Overview

During the summer period, my Office continued to work on a variety of important subjects for the protection of human rights in Europe. The main areas of focus were the human rights of disadvantaged and vulnerable groups; gender equality and women's rights; children's rights; migration; transitional justice; and the situation of human rights defenders.

In my country visits and reports I sought to shed light on the worrisome situation of groups that tend to get left behind in our societies, are subject to various prejudices and are sometimes the target of hatred and intimidation.

The human rights of disadvantaged and vulnerable groups were the focus of my visit to Armenia. I dealt with the rights of persons with disabilities in my report on Albania and the human rights of older persons in my report on Estonia.

In Armenia and in Albania, I pushed for further efforts towards the deinstitutionalisation of persons with disabilities, and I welcomed the commitment of both governments to engage and deliver in this important endeavour. However, I was concerned that many persons with intellectual and psychosocial disabilities remain, for extended periods, in social care institutions, deprived of their legal capacity and - as a consequence - of their civil and political rights. I therefore called on the respective authorities to end plenary guardianship and revise legislation that makes it possible to deprive such persons of their legal capacity.

In my third party intervention before the European Court of Human Rights in a case concerning a person with intellectual disabilities whose right to vote had been withdrawn by a court in Spain, I pointed to a number of positive obligations of states to make the right to vote effective for persons with intellectual and psychosocial disabilities. In relation to this topic, I also welcomed later the decision by the lower house of the Spanish Parliament to recognise the right of all persons with disabilities to vote and I urged other Council of Europe countries to follow suit.

I analysed the effects of poverty and inequality in Europe in a Human Rights Comment entitled *Keeping the promise: ending poverty and inequality*. Poverty has a devastating impact on vulnerable groups and tends to be handed down through generations, while the growing gap between the rich and the poor inevitably feeds societal tensions and erodes trust in public institutions. There tends to be a high rate of poverty among older persons, as I have observed during my visit to Armenia and in my report on Estonia. The authorities must ensure that older persons can live in dignity and enjoy their human rights.

Gender equality and women's rights were another key focus of my visit to Armenia and my report on Estonia. Despite progress in the field of gender equality, more should be done to improve the representation of women in decision-making, challenge gender stereotypes and tackle the gender pay gap. I also addressed the issue of domestic violence and called on the authorities to ensure effective investigations and prosecutions in cases of violence against women.

Children's rights featured in my report on Albania and during the visit to Armenia. In both countries, I stressed that a solution other than placement in an institution must be identified for children whose parents are unable to take care of them. I pushed for inclusive

education to become an effective reality, in particular for children with disabilities in Armenia, and Roma and Egyptian children as well as children with disabilities in Albania. I also raised the problem of violence against children, including in schools and discussed with the authorities how to tackle it in a more systematic and effective manner.

The human rights of migrants, refugees and asylum seekers remained high on my agenda. In July, I commented on a number of developments in European asylum and migration policy and I urged European states to put human rights at the centre of their migration policies. I noted that NGOs should be free to use ports and facilities for their rescue activities. I also called for transparency and accountability in external migration co-operation, by publishing thorough analyses of the potential human rights impact of any plans, including with regards to the regional disembarkation platforms proposed by the European Council.

In September, I took part in a hearing before the Grand Chamber of the European Court of Human Rights in relation to a case of two complaints concerning alleged summary returns of migrants from the Spanish city of Melilla to Morocco.

The situation of human rights defenders continued to be of concern. In July, I addressed a letter to the Russian Prosecutor General urging the release of the leading member of the Human Rights Centre Memorial, Oyub Titiev, who has been detained in the Chechen Republic since January and whose important and courageous work to defend human rights in the North Caucasus has been widely recognised. My Office participated in the Inter-mechanisms meeting for the protection of human rights defenders, which regularly brings together the human rights protection mechanisms from different regions of the world.

During the period under review, I also took part in the commemoration of the 23rd anniversary of the Srebrenica genocide in July, where I delivered a speech in which I made an appeal to all political leaders in Bosnia and Herzegovina and in Serbia to show compassion towards the victims, survivors and their families, and make the search for missing persons a top priority and ensure that justice is served. In August, I went to Auschwitz-Birkenau Memorial to participate in the commemoration of the Roma Holocaust during the Second World War, where I stressed the duty to remember and the crucial importance of combating persisting prejudices and hatred against Roma.

My continuous dialogue with member states also related to certain cases requiring urgent attention, notably those of persons detained or imprisoned since 2014 in the Russian Federation and Ukraine. I addressed letters to the Ministers of Foreign Affairs of the respective countries where I offered my good offices to contribute to a satisfactory resolution, including through their release.

In addition, I had an exchange of letters with the Prime Minister of the United Kingdom on the topic of a judge-led inquiry into detainee mistreatment and renditions following the terrorist attacks on 11 September 2001.

In order to prompt a reflection on the challenges of artificial intelligence and help member states to meet them while respecting human rights, I published a Human Rights Comment entitled *Safeguarding human rights on the era of artificial intelligence*. Obviously, the governments and the private sector – which are the driving forces in this area – have a responsibility to uphold human rights standards. Artificial intelligence can have effects on

many issues pertaining to my mandate, and I will continue to keep a close eye on this subject.

2. Missions and Visits

Visit to Armenia

The Commissioner carried out a visit to Armenia from 15 to 20 September, focusing on women's rights, gender equality and domestic violence, the human rights of certain disadvantaged and vulnerable groups, and questions related to accountability for past human rights violations.

In the course of the visit, the Commissioner met with the President of the National Assembly, Ara Babloyan; the Prime Minister, Nikol Pashinyan; the Minister of Foreign Affairs, Zohrab Mnatsakanyan; and Deputy Prosecutors-General, Armen Harutyunyan, Davit Melkonyan and Hayk Aslanyan. In addition, the Commissioner's delegation met with various officials, including the Minister of Labour and Social Affairs, Mane Tandilyan, and her Deputies, Arsen Manukyan and Zaruhi Batoyan; Deputy Minister of Education and Science, Arevik Anapioşyan; Deputy Minister of Justice, Vigen Kocharyan; Deputy Minister of Healthcare, Anahit Avanesyan; the Chairman of the Investigative Committee, Arthur Ghambaryan; and the First Deputy Chief of the National Police, Arman Sargsyan. The Commissioner and her delegation also had meetings with the Human Rights Defender, Arman Tatoyan, as well as with various members of civil society, political and legal experts, and international representatives, and carried out several field visits.

The Commissioner recommended that the political participation of women – which remains low in Armenia, especially at the highest levels of decision-making and at the local level - be more effectively promoted by setting concrete and ambitious targets and through the use of temporary special measures. She also called on the authorities to ensure equal pay and equal access to the labour market for women, to identify and promote role models and champions of women's equality, and to foster a gender-equal education environment. Addressing the issue of domestic violence, the Commissioner welcomed the recent legislative changes and the signature by Armenia of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), expressing hope that the new legislation would be effectively applied, including by opening new shelters for victims and by raising awareness of the new standards. The Commissioner visited the only operational shelter for victims of domestic violence in Armenia, where she heard residents' accounts of their traumatising experiences, and learned about the interruption of their children's schooling.

Noting that the legal framework on disability rights was being reviewed, the Commissioner called on Armenia to put an end to plenary guardianship for persons with psycho-social disabilities and to introduce a regime for supported decision-making. While welcoming Armenia's efforts towards the de-institutionalisation of persons with disabilities and its commitment to make all education inclusive for children with disabilities by 2025, she recommended that this also be done at the pre-school level. The Commissioner reaffirmed several of these messages in a keynote speech at a conference on the social rights of persons with disabilities held in Yerevan. She visited the Dzorag Psychiatric Care Centre, a large state institution providing care for adults with disabilities, and also travelled to

Spitak, where she could observe a more personalised model of care at a small home run by a local NGO.

On children's rights, a visit to the Nork children's home in Yerevan showed that, even with good quality of care and adequate material conditions, a solution other than placement in an institution must be identified for children whose parents are unable to care for them. Urging the authorities to allocate sufficient support to parents resuming care over their children and to continue in parallel to promote foster care, the Commissioner reiterated that disability or poverty should never justify the placement of children in institutions. She also recommended that Armenia ratify the Council of Europe Lanzarote Convention to enhance the level of protection of children from all forms of sexual exploitation.

Regrettably, the Commissioner found the level of social protection of older persons in Armenia to be largely inadequate. She encouraged the authorities to adopt a comprehensive strategy on older persons, give priority to increasing old age benefits, and uphold the right of older persons to a dignified life in the community and to affordable healthcare.

The Commissioner also recommended the prompt adoption of a comprehensive anti-discrimination law and urged the government to take a firm stance in combating incidents of hate speech and hate crime against LGBT persons.

Regarding accountability for past human rights violations, the Commissioner welcomed the steps recently taken to establish responsibility for the ten deaths that occurred during the violent events of March 2008, but underlined the importance of carrying out such processes in full respect of the rule of law and judicial independence. She also encouraged politicians and opinion leaders to avoid using polarising or inflammatory language in their discourse.

The Commissioner's report on her visit is forthcoming.

3. Reports and continuous dialogue

Letters to the Ministers of Foreign Affairs of the Russian Federation and Ukraine

On 21 August, the Commissioner published letters addressed to the Ministers of Foreign Affairs of the Russian Federation and Ukraine concerning the situation of several persons who have been detained or imprisoned since 2014 in the respective countries. Expressing her profound concern about the alarming situation of some of those individuals, the Commissioner appealed to the authorities of both member states to take urgent action in order to prevent any further deterioration of their situation, as well as to do their utmost in order to achieve meaningful progress in the resolution of those cases. She also confirmed her willingness to offer her good offices to assist with overcoming the existing impasse and invited the authorities to discuss, at their earliest convenience, the possible modalities for such an engagement on her part.

The letters are available on the Commissioner's website.

Letter to the Prime Minister of the United Kingdom

On 4 September, the Commissioner published her exchange of letters with the Rt. Honourable Theresa May, Prime Minister of the United Kingdom, on the topic of a judge-led inquiry into detainee mistreatment and renditions following the terrorist attacks of 11 September 2001. The Commissioner called for such an inquiry to follow up on questions that had remained unanswered and uninvestigated in the report of the Parliament's Intelligence and Security Committee (ISC). She noted that agreeing to such an inquiry would enable the United Kingdom to learn all necessary lessons of the past, which could be used to strengthen the human rights compliance of current policies and practices aimed at addressing the challenge of terrorism. It would also send out a positive signal about the United Kingdom's commitment to combating impunity, she noted.

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

Report on Albania

On 13 September, the Commissioner published a report following her visit to Albania from 21 to 25 May, focusing on children's rights, the rights of persons with disabilities, and access to free legal aid.

Noting with satisfaction that Albania has banned all forms of violence against children - including corporal punishment - in all settings, the Commissioner was concerned at the reported high level of such violence, including in education settings. The Commissioner called on the authorities to tackle this problem in a more systematic and effective manner, including by strengthening the capacities of child protection services and education professionals to identify violence and to adequately respond to it, while putting an emphasis on the prevention of violence and mediation. Noting with concern the negative impact of domestic violence on children in Albania and certain reported shortcomings in domestic judicial proceedings related to the prosecution of such violence, the Commissioner urged the authorities to implement the recommendations of the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence in this regard.

The Commissioner was also concerned that some 700 children still live in care institutions, sometimes for very long periods of time without clear prospects for leaving before they become adults. Underscoring that Council of Europe standards require that the placement of children in such institutions remains exceptional, the Commissioner recommended accelerating the deinstitutionalisation process and preventing the placement of children in state care, including by providing more support to families raising children and by developing an effective system of family-type services.

While noting with satisfaction that the principle of inclusive education and the prohibition of discrimination in education are enshrined in Albanian legislation, the Commissioner was concerned about the lack of inclusion of some Albanian children, in particular Roma children and children with disabilities, in mainstream education. She called on the authorities to sustain their efforts aimed at the inclusion of Roma children in mainstream education, by working closely with Roma parents and increasing their efforts to tackle the lack of inclusion of Roma in pre-school education. As regards children with disabilities, the

authorities were called upon to provide them with the necessary individual support and reasonable accommodation in mainstream education settings.

Regarding some 4 900 people who are reportedly stateless or at risk of statelessness in Albania - many of whom are Roma, including children, the Commissioner called on the authorities to address this issue in line with Albania's human rights obligations, starting by establishing a dedicated statelessness determination procedure. Albania was also urged to accede to the Council of Europe Convention for the Avoidance of Statelessness in relation to State succession.

As regards the protection and inclusion of persons with disabilities, the Commissioner was pleased to note the improved legislative framework in this area, however she recommended a better implementation of the legislation, resolving structural problems in the social care system, and improving access to quality education and to employment. The Commissioner was also concerned that there remain persons with intellectual and psychosocial disabilities, including children, in institutions for social care in Albania. She recommended drawing up and implementing a comprehensive plan on deinstitutionalisation and replacing institutions with community-based services, providing the necessary protection and support to individuals and their families after they leave institutions and abstaining from any new placement of persons with disabilities in institutional settings.

The Commissioner also called on the Albanian authorities to review the legislation that makes it possible to deprive persons with intellectual or psychosocial disabilities of their legal capacity and, as a consequence, of their civil and political rights. The authorities were called upon to align domestic law and practice with UN standards and the case-law of the European Court of Human Rights in this field, in order to ensure that these persons can exercise their legal rights and obligations on an equal basis with others in all aspects of life.

Lastly, the Commissioner welcomed the enactment of the law which broadens the category of persons benefiting from legal aid and called on the authorities to step up their efforts in removing the obstacles vulnerable people still face in accessing justice.

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

Report on Estonia

On 28 September, the Commissioner published a report following her visit to Estonia from 11 to 15 June, focusing on gender equality and women's rights, the human rights of older persons, and national human rights structures.

While noting clear progress in the field of gender equality, and the adoption of specific laws and policies in that area, the Commissioner found that further efforts are required to combat discriminatory gender stereotypes in Estonia. She recommended awareness-raising campaigns on gender equality, the consideration of temporary special measures to promote better representation of women in decision-making, and increased salary transparency - in addition to other comprehensive measures - to close the gender pay gap. The Commissioner congratulated Estonia on the ratification of the Council of Europe Istanbul Convention and noted the well-developed system of protection and support for

victims of gender-based and domestic violence. She called on the authorities to ensure the effective investigation and prosecution of violence against women, by continuing to pursue training for law enforcement and judicial officials, strengthening legal assistance to victims, and considering establishing specialised teams of prosecutors and judges to handle such cases.

The Commissioner noted that it was urgent for Estonia to address the needs of older persons - a growing segment of the country's population - in a manner fully compliant with human rights, and suggested the adoption of a comprehensive strategy on older persons. To tackle discrimination, she recommended adopting the proposed amendments to the Equal Treatment Act, and conducting public campaigns to combat ageism. The Commissioner also recommended that the Estonian authorities increase the social minima in order to combat poverty among older persons. The authorities were further invited to adopt a human rights based approach to the long-term care of older persons, which includes de-institutionalisation and protecting older persons' autonomy and right to live independently in the community as long as they can or wish to do so. Given Estonia's rapid progress toward the digitalisation of state services, the Commissioner recalled the responsibility of the authorities to ensure that older persons also have access to new technologies in order to fully exercise their right to participate in a democratic society. As to the deployment of robots and artificial intelligence in the care of older persons, the Commissioner invited the authorities to consider the ethical and human rights aspects involved as they develop any related laws and policies.

Emphasising the key role of national human rights structures in the protection and promotion of human rights at the national level, the Commissioner welcomed the recent designation of the Chancellor of Justice as national human rights institution in Estonia, and invited the authorities to strengthen the independence and resources of the Gender Equality and Equal Treatment Commissioner.

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

4. Themes

Human rights of immigrants, refugees and asylum seekers

In her statement of 5 July, the Commissioner commented on a number of developments in European asylum and migration policy. Among other things, she noted that the situation in the Mediterranean required member states to make full use of available search and rescue capacities, including that of NGOs. She noted that NGOs should be free to use ports and facilities for their rescue activities and expressed concerns about some member states hindering NGO work in this respect. She also noted that member states should ensure that instructions given in the course of rescue operations safeguard the human rights of rescued migrants.

She also called for transparency and accountability in external migration co-operation, by making and publishing thorough analyses of the potential human rights impact of any plans, including with regards to the regional disembarkation platforms that were proposed

by the European Council. Any external migration co-operation should also be subject to independent and effective human rights monitoring.

She noted that any place of disembarkation of rescued migrants, whether inside Europe or outside, should provide effective protection against refoulement, the possibility to apply for international protection, and have adequately trained staff, interpreters, access to legal aid, and provide for decisions to be reviewed by an independent body. They should also provide adequate reception conditions and a safe environment, in particular for vulnerable individuals. The Commissioner noted the need to provide durable solutions.

She urged states to ensure that places of disembarkation do not become centres where people are automatically deprived of their liberty and that any restrictions imposed should be clearly established in law, necessary and proportionate, with effective alternatives to detention being made available, and ensuring children are not detained at all. Furthermore, she emphasised that regional migration solutions should not undermine the right of those who arrive in Europe to apply for asylum.

Media freedom

On 27 August, the Commissioner published a statement on Facebook in which she expressed her profound shock at the violent assault on Vladimir Kovačević, a journalist working for BN TV in Banja Luka, and her solidarity to him and all other journalists under attack in Bosnia and Herzegovina. She called on the authorities of Republika Srpska to identify and punish those responsible for the attack, and to step up their efforts to create a climate in which journalists can work freely and safely. She also stressed that leading politicians must stop using inflammatory remarks, including personal insults against journalists, which can lead to self-censorship of journalists and incite violence against them.

Human rights of LGBTI people

On 15 September, the Commissioner addressed the Pride Forum Serbia 2018 in Belgrade via a video message in which she welcomed the progress made in recent years in many Council of Europe member states as regards the protection and promotion of the human rights of LGBTI persons, but stressed that there was no room for complacency and that much still remains to be done in this field. The Commissioner also emphasised the significance of events like the Pride Week in fighting against discrimination against LGBTI persons and homophobia.

Safeguarding human rights in the era of artificial intelligence

On 3 July, the Commissioner published a Human Rights Comment entitled *Safeguarding human rights in the era of artificial intelligence*. While the benefits of grounding decisions on mathematical calculations can be enormous in many sectors of life, the Commissioner warned that relying too heavily on artificial intelligence (AI), which inherently involves determining patterns beyond these calculations, can also turn against users, perpetrate injustices and restrict people's rights.

AI in fact touches on many aspects of the Commissioner's mandate, as its use can negatively affect a wide range of human rights, from privacy and equality to freedom of expression and assembly. When data-based decision making reflects societal prejudices,

it reproduces – or even reinforces – the biases of that society. The Commissioner stressed that the problem is compounded by the fact that decisions are taken on the basis of these systems, while there is no transparency, accountability or safeguards in how they are designed, how they work and how they may change over time.

The Commissioner underlined that a number of standards already exist and should serve as a starting point in this area. Member states should notably make sure that the private sector, which bears the responsibility for AI design, programming and implementation, upholds human rights standards. In addition, people’s “AI literacy” should be increased and member states should invest more in public awareness and education initiatives to develop the competencies of all citizens, and in particular of the younger generations, to engage positively with AI technologies and better understand their implications for our lives. Finally, national human rights structures should be equipped to deal with new types of discrimination stemming from the use of AI.

The Commissioner intends to focus on AI during her mandate, to bring the core issues to the forefront and help member states to tackle them while respecting human rights.

Transitional justice

On 11 July, the Commissioner participated in the commemoration of the 23th anniversary of the Srebrenica genocide and delivered a speech in which she expressed her deepest condolences to the families of the victims and joined her voice to theirs, calling for truth, justice and respect. The Commissioner called on all political leaders in Bosnia and Herzegovina and Serbia to become more compassionate towards the victims, the survivors and their families and make the search for missing persons a top priority. In concluding her speech the Commissioner noted “as we mourn the victims today, let us remind ourselves that only through knowledge of the truth, respect for all the victims of the past crimes and open dialogue about these issues that this society may attain the social cohesion needed to achieve reconciliation and preserve its inherent, valuable diversity.” During her visit to Srebrenica the Commissioner met with mothers from the Association “Mothers of Srebrenica and Žepa enclave” and with young civil society activists from Srebrenica. On this day the Commissioner also published, in a number of regional and international media outlets, an opinion editorial “We must not forget Srebrenica.”

On 2 August, the Commissioner participated, in Auschwitz-Birkenau, in the 74th ceremony of commemoration of the Roma Holocaust during the Second World War. In her speech she paid tribute to the survivors of the genocide, stressed the duty to remember and the crucial importance of combating persisting prejudices and hatred against Roma, in order to stop the perpetuation of human rights violations against them. She emphasised the need to educate the public about past human rights violations, but also about Roma’s positive contribution to Europe and about the need to resist and confront hate speech against them today. She expressed her commitment to be vocal in countering anti-Gypsyism in all its forms. The Commissioner also visited the Auschwitz-Birkenau State Museum and held a meeting with its director, Mr Piotr Cywiński, and his team. After the commemoration, she had an exchange of views with young people involved in the TernYpe youth training course (“Dikh he na bister”) organised every year around the Roma Holocaust memorial day. The Commissioner’s speech can be found on her website.

Counter-terrorism and human rights

On 11-12 September, a member of the Commissioner's Office participated in a workshop on counter-terrorism and human rights organised in Belfast by the European Network of National Human Rights Institutions (ENNHRI). National human rights structures from Europe and elsewhere exchanged information about their experiences, best practices and challenges encountered in areas such as legislative advice, investigation, and communication about and ensuring accountability for human rights violations committed in the course of counter-terrorism operations. The representative of the Office presented the work of the Commissioner in this field, including recommendations on the important role of national human rights institutions in the protection of human rights while countering terrorism.

Poverty and inequality

On 21 July, the Commissioner published a human rights comment entitled *Keeping the promise: ending poverty and inequality*. Poverty and inequality still affect Europe, a comparatively wealthy continent. Being born into poverty not only limits one's opportunities in life, but tends to be perpetuated with each new generation, with entrenched inequalities contributing to societal tensions as trust in public institutions declines. This has a particularly devastating impact on children and other vulnerable groups, most notably Roma, older persons and persons with disabilities.

The Commissioner urged Council of Europe member states to place the fight against poverty and inequality at the heart of all state policies, including through: collecting accurate and reliable data, disaggregated by age and gender, about the impact of poverty on individuals as a prerequisite for designing, implementing, monitoring and evaluating effective policies; encouraging and empowering more people, and specifically those representing the most marginalised low-income groups, to participate in the relevant policy discussions; supporting and promoting access to quality healthcare, education, childcare, housing and public infrastructure, as well as access to justice; prioritising investing in people and areas that have been left behind; promoting sustainable and inclusive economic growth; and adhering to the revised European Social Charter. The Commissioner also stated her intention to contribute to on-going debates related to the universal basic income while focusing on human rights aspects of the debates and possible implications of the solutions being considered.

5. Other meetings

Arendal week event with the Norwegian NHRI and Human Rights Centres

On 13 August a member of the Commissioner's Office took part in a panel discussion entitled "Human Rights: Language and Power" at the invitation of the European Wergeland Centre, an Oslo-based resource centre for intercultural understanding, human rights and democratic citizenship, established in 2008 in co-operation between Norway and the Council of Europe. The panel discussion concerned general human rights trends and challenges globally and in Europe as part of a larger event called "Human Rights: a democratic imperative and a challenge", featuring the participation of the Council of Europe Secretary General, and hosted by the Norwegian NHRI (NIM) and the Norwegian

Human Rights Centres. The event was part of the Main Programme of Arendal week, the largest political gathering in Norway, which brings together members of the public as well as representatives of political parties, government ministers, business leaders, entrepreneurs, media, NGOs, universities, health institutions, and others. The Commissioner's representative discussed the Office's work on inclusive and integrated education, stressing its vital importance for social cohesion in diverse societies.

FRA Fundamental Rights Forum

The Commissioner addressed a video message to the FRA Fundamental Rights Forum held on 27 September. In her intervention, the Commissioner highlighted several significant challenges to human rights protection in Europe, including: artificial intelligence and its impact on human rights; migration and increasingly intolerant attitudes and behaviour towards minorities; and stigmatising rhetoric and restrictive legislation aimed against NGOs and individuals working to promote human rights. The Commissioner also underlined the need to work jointly towards upholding the values of equality, respect, diversity and inclusiveness in policy discussions. The Commissioner's Office took part in the different discussions held in the framework of the Forum.

6. Human Rights Defenders

Statement on developments in European asylum and migration policies

During the period under review, the Commissioner continued to urge member states to promote an enabling environment for human rights defenders and civil society organisations. On 5 July, the Commissioner issued a statement with regard to developments in European asylum and migration policies, highlighting the crucial role played by civil society organisations in providing assistance to migrants and asylum seekers in Europe. She noted with concern that certain Council of Europe member states hindered the work of NGOs carrying out rescue operations in the Mediterranean and underlined that NGOs should be free to use ports and other facilities for helping migrants (see *Human rights of immigrants, refugees and asylum seekers* above).

Letter of the Commissioner for Human Rights to the Prosecutor General of the Russian Federation, Mr Yury Chaika

On 17 July, the Commissioner published a letter she had addressed on 11 July to Yury Chaika, Prosecutor General of the Russian Federation, regarding the situation of Oyub Titiev, the leading member of the Human Rights Centre Memorial, who has been detained in the Chechen Republic since 9 January 2018 and is under prosecution for alleged drug possession.

In her letter, the Commissioner underscored Mr Titiev's important work in defending human rights in the North Caucasus and, in particular, his quest for accountability for serious human rights violations by officials belonging to law enforcement agencies or other security structures. She stressed that decisive steps should be taken to ensure respect of Mr Titiev's rights, including by urgently releasing him from custody. In this respect, she also referred to an expert opinion of the Council on Human Rights and Civil Society Development under the President of the Russian Federation (the Presidential Human

Rights Council), which concluded that there had been insufficient follow-up to Mr Titiev's counterclaim that the charges against him had been fabricated and that law enforcement officers had "planted the evidence".

The letter is available on the Commissioner's website along with a subsequent reply by the Chairman of the Presidential Human Rights Council, indicating that this body is continuing to monitor the case closely.

8th Inter-mechanisms Meeting for the Protection of Human Rights Defenders

On 23-24 July, a member of the Commissioner's Office participated in the 8th Inter-mechanisms Meeting for the protection of human rights defenders in New York. Such meetings have taken place on a regular basis since 2008 upon the initiative of the Observatory for the protection of human rights defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH) with the aim of discussing current issues and exchanging experiences concerning the situation of human rights defenders worldwide.

Participants in the meeting included the UN Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on human rights defenders of the African Commission on Human and People's Rights, as well as representatives of the Rapporteur on human rights defenders of the Inter-American Commission on Human Rights, the OSCE/ODIHR, the European Commission (DG DEVCO), UN OHCHR, the international organisation of *La Francophonie*, and several international human rights NGOs.

A specific focus of the 8th Inter-mechanisms meeting concerned the work of human rights defenders in the context of the fight against terrorism. Participants reflected on how best to tackle the misuse of counter-terrorism laws and policies to silence and punish those expressing dissent. They had the unanimous position that action against terrorism must not target human rights defenders; on the contrary, human rights defenders should be considered as vital partners in counter-terrorism efforts.

The 8th Inter-mechanisms meeting also provided the opportunity for its participants to meet directly and exchange views with the relevant UN counter-terrorism bodies, including the Counter-Terrorism Committee Executive Directorate (CTED) and the Office of Counter-Terrorism (OCT).

7. European Court of Human Rights

Third party intervention before the European Court of Human Rights on the right to vote of persons with disabilities (case of María del Mar Caamaño Valle v. Spain)

On 17 July, the Commissioner published the written observations she had submitted to the European Court of Human Rights on a case concerning a person with intellectual disabilities whose right to vote had been withdrawn by a court in Spain.

Her observations are based on the work of the Commissioner's Office on the right to vote of persons with disabilities and an overview of Council of Europe and international standards regarding this issue, in particular the UN Convention on the Rights of Persons

with Disabilities. The Commissioner stressed that depriving persons of the right to vote on the basis of disability, including following an assessment made by a judge of the person's cognitive capacity or mental health status, is contrary to these standards. It is not compatible with any legitimate aim in a modern democracy and amounts to discrimination. Moreover, it perpetuates exclusion and stigma against persons with disabilities and deprives society of a legislature which represents its full diversity.

The Commissioner also pointed to a number of positive obligations states need to fulfil to make the right to vote effective for persons with intellectual and psychosocial disabilities. In addition to general accessibility measures and reasonable accommodation, this should include assistance and support to the person to understand the stakes in an election, to make a choice and to vote.

The Commissioner's observations can be found on her web site.

European Court of Human Rights Grand Chamber hearing on N.D. and N.T. v Spain

On 26 September, the Commissioner took part in a hearing before the Grand Chamber of the European Court of Human Rights in the case of N.D. and N.T. v. Spain in relation to two complaints concerning alleged summary returns of migrants from the Spanish city of Melilla to Morocco.

The Commissioner's intervention followed on from the written observations submitted by her predecessor in November 2015 and March 2018. It was her first appearance before the Court since the beginning of her mandate.

In her intervention, the Commissioner underlined the special importance that the cases have for the protection of the human rights of migrants, asylum seekers and refugees. Among the key human rights issues at stake in these cases, she emphasised the protection against collective expulsions and safeguards against violations of the principle of non-refoulement. She insisted that these were crucial components of a migration control system that is human rights compliant.

In her concluding words at the hearing, the Commissioner underscored that the practice of summary returns of migrants deprives them of the possibility of being identified, of having their individual situation duly assessed and of having access to an effective remedy. She stressed that the challenges states meet in managing migratory flows cannot justify practices incompatible with their obligations under the European Convention on Human Rights.

8. Communication and Information work

The main media coverage during the period under review concerned migration, the remembrance of the Srebrenica genocide and persons with disabilities. More than 170 news items were published by national and international media outlets.

The Commissioner's statement calling on European states to put human rights at the centre of their migration policies was widely covered by media outlets across Europe, in particular by *888*, *Adnkronos*, *Adresseavisen*, *Agence Belga*, *Agence Europe*, *AGI*, *Agder*,

ANSA, B92, Beta, Belga, Die Welt, DPA, EFE, El Diario Vasco, El Diario, El Mundo, EuroZpravy.cz, EVZ, Federalna.ba, Hoy, HVG.hu, Il Fatto Quotidiano, Il Giornale, Index, Klar Tale, Knack.be, La Vanguardia, Le Vif, Libération, Malta Today, MTI, Mandiner.hu, N1, Napi Gazdaság, News, Nieuws.be, NTB, RAI, Reporter, Repubblica, Reuters, RTV, STA, Stavanger Aftenblad, Tanjug, Krstarica, TG LA 7, The Conversation, The Local, The Huffington Post, Times of Malta, Vecer, Vesti, and Vita.

The Commissioner's speech on the occasion of the 23rd anniversary of the Srebrenica genocide, in which she expressed her deepest condolences to the families of the victims, honoured the memory of the victims and called on all political leaders in Bosnia and Herzegovina and Serbia to make the search for missing persons a top priority was covered by *ABC News, AP, Avaz, B92, Balcani e Caucaso, BBC, Canada, Danas, Diario Deia, Diario Noticias de Alava, Diario Noticias de Gipuzkoa, Delo, EcoDiario, EFE, Euronews, Exame Online, Fena, Haaretz, HINA, HRT, IBNA, Independent.ie, Islamische Zeitung, Klix, La Vanguardia, N1, Nezavisne Novine, openDemocracy, Oslobodjenje, Radio Sarajevo, Radio Slobodna Evropa, Siol.net, STA - RTV, Tanjug, Telegraf, The Canadian Press, The NY Times, The Press Association, TVN24, US News, Vijesti, and Western Telegraph.*

An op-ed on the same topic was published by *BBC Serbia, BIRN, Danas, Dnevnik, Jutarnij List, openDemocracy, Oslobodjenje, and Vijesti*

The Commissioner's third party intervention before the European Court of Human Rights on the right to vote of persons with disabilities was covered by *20 minutos, ABC, AFP, Business Immo, CBanque.com, Corse Matin, Diario de Pontevedra, Diario Vasco, EFE, El Huffington Post.es, Europa Press, Faire-face.fr, Galicia Press, Handicap.fr, ImmoWeek, La Provence, La Tribune, La Vanguardia, LaVielImmo.com, Le Figaro, Le Moniteur, and Sud-Ouest.*

Agence Europe, Echo Moskvyy, IA Krasnaya Vesna, Internfax, Kommersant, Newtimes.ru, Novaya gazeta, OC Media, RBC, RFE, TASS, and TV Rain focused on the Commissioner's letter to the Prosecutor General of the Russian Federation in which she requests decisive measures to safeguard Oyub Titiev's rights.

The Human Rights Comment on artificial intelligence was covered by *Actua, ANSA, EFE, La Vanguardia, Utima Hora, and Världen idag*, while an op-ed on the same topic was published by *openDemocracy*.

The letters calling for urgent measures to address the situation of several prisoners and detainees in Russian Federation and Ukraine were covered by *Al Jazeera Balkans, BBC, DPA, FENA, Interfax, Jyllands Posten, Kiev Post, Kommersant, TASS, TV2, Ukrinform, UNN, and Vijesti.*

The visit to Armenia received wide coverage at national level, in particular by *1news, ARKA, Armen Press, ArmlInfo, Aysor, Hetq.am, Interfax, News.am, PanArmenian, Panorama, and Tert.*

The report on Albania was also widely covered at national level, including by *Albania Daily News, Faxweb, Flaka, Gazetatema, Gazeta Shqiptare, IBNA, LAPSI, MAPO, Medial, ORA News, Politiko, Presheva Jo, Shekulli, Sot News, and Zeriamerikes.*

Additional coverage concerned the Human Rights Comment on poverty and inequality (*20 Minutos, Diario Vasco, DW, EFE, La Vanguardia, Ukrinform*), detention of migrant children (*Agence Belga, Paris Match, Courrier International, La Dernière Heure, La Libre Belgique, L'Echo*), the visit to Greece (*Aixim News, Typos-i*), Roma (*Kyiv Post*), Freedom of expression (*Interfax, Kyiv post, Ukrainian news, Ukrinform*), media freedom (*FENA, Oslobodjenje, RFE, RTV BN, The Associated Press, The Washington Post, Vijesti*), the remembrance of the Roma Holocaust (*PAP, Sputnik*), the report on Estonia (*Baltic Daily, Err.ee, Postimees, BNS*), counter-terrorism (*RT, The Guardian, The National*), human rights defenders (*Kavkazskiy uzel, RFE*), and LGBTI (*ANSA, SDA/ATS*).

29 tweets were published, which led to a total number of 909,000 impressions (i.e., the number of times users saw the tweets on Twitter) and an increase of about 1500 followers. The top tweets were about the opinion editorial on the commemoration of the Srebrenica genocide, the statement on migration following the EU Council conclusions, and the speech at the commemoration of the Roma Holocaust.

17 Facebook posts were published, with a reach of more than 56000 people and an increase of some 500 page likes. The top posts were the opinion editorial on the commemoration of the Srebrenica genocide and the statement on migration following the EU Council conclusions.

Over 26 000 unique Internet users visited the website of the Commissioner in the period under review.

9. Fourth Quarter

October

15-19/10 Contact mission to Turkey

24/10 Human Rights House Foundation side-event on HR defenders (Strasbourg)

November

06/11 Exchange of views with CPT Plenary (Strasbourg)

12-16/11 Visit to Romania

22-23/11 Warsaw Dialogue for Democracy and additional meetings (Warsaw)

December

13-14/12 CommHR roundtable on human rights defenders (Helsinki)

20/12 Exchange of views with OSCE Permanent Council (Vienna)

10. Observations and reflections

Since the beginning of my mandate and throughout the last six months, one subject which has constantly been on my radar is the situation of human rights defenders. Human rights defenders are important partners of my Office and I have met with many of them in different countries and on different occasions. I have already intervened in several cases where the safety and physical integrity of human rights defenders were at risk. I raised the situation of human rights defenders in my direct dialogue with the authorities in some countries. I urged member states, including through public statements, to promote an enabling environment for the activities of civil society organisations defending vulnerable groups, in particular migrants.

Activities relating to human rights defenders will continue during the next quarter. At the beginning of October, I intervened before the European Court of Human Rights in the case of *Emin Huseynov v Azerbaijan*, relating to the deprivation of nationality of the applicant, a prominent media freedom activist. During my contact mission to Turkey mid-October, I met with NGOs and civil society representatives, and I discussed the situation of human rights defenders at my meetings with state officials. In October, I also participated in a side-event organised in Strasbourg by Human Rights House Foundation, on the situation of human rights defenders in Europe. In November, I travelled to Warsaw to participate in the 7th edition of the Warsaw Dialogue for Democracy and to hold meetings with several state officials and representatives of civil society. In December, with the support of the Finnish Chairmanship, I will organise a round table in Helsinki on challenges faced by human rights defenders in the Council of Europe area.

Before the end of this year, we will celebrate the 20th anniversary of the UN Declaration on human rights defenders. Earlier this year, the Committee of Ministers' Declaration on Council of Europe action to improve the protection of human rights defenders and promote their activities marked its 20th anniversary. Recalling these landmark documents should prompt us to take a serious look at their implementation, identify current challenges and consider possible ways forward.

We cannot but recognise the clear trend of backsliding in the protection and safety of human rights defenders in too many European countries. Today, human rights defenders face various forms of reprisals, including judicial harassment, prosecution, deprivation of liberty, abusive checks and surveillance, smear campaigns, threats and intimidation. Some are subjected to physical attacks and, in the most severe cases, are exposed to possible torture, abduction and even killings. Activists defending the rights of migrants, LGBTI persons, or women, as well as human rights defenders working on sensitive issues, such as accountability for serious human rights violations and environmental issues, have been increasingly targeted by state and non-state actors. The legislative and regulatory space for the work of human rights NGOs is growing ever more restrictive in a number of European countries. Governments question the legitimacy of NGOs who benefit from funding outside their country and some countries are passing laws penalising NGOs who receive such funding, obliging them to register and self-label as "Foreign Agents". In parallel, some authorities try to direct finances towards NGOs close to the government.

In carrying out my mandate as Commissioner for Human Rights, I intend to use the various tools at my disposal to improve the situation of human rights defenders, assist

them when they are at risk and promote their work, and my special role in this regard is recognised in the Declaration of the Committee of Ministers.

Other institutions of the Council of Europe also have a relevant role. The European Court of Human Rights is fundamental, given the right to submit individual petitions to seek and obtain redress for human rights violations affecting defenders, and it has a burgeoning case-law on the subject. The Secretary General appointed a focal point in his Private Office to coordinate the response to cases of human rights defenders who allege that they have been subject to reprisals for their interaction with the Council of Europe. The Parliamentary Assembly has a Rapporteur on human rights defenders. The Conference of international non-governmental organisations also comes into play through its activities aimed at strengthening NGOs and civil society.

The role of human rights defenders is capital in ensuring the respect for human rights by national authorities. Defenders assist victims of human rights violations and help them to gain access to means of redress and remedies. Human rights NGOs and defenders are essential in all democratic societies. Governments must understand that they represent considerable resources for the improvement of everyone's lives and that their contribution to the peaceful functioning of society is precious. Instead of preventing them from carrying out their work and denigrating their action, the authorities should rather recognise that these people are quite simply indispensable for the tangible improvement of everyone's lives.

In my next report I will focus on another topic that my office prominently raised in the last two months, namely the attacks on freedom of speech through reprisals, intimidation and the impunity for the killings of investigative journalists in Council of Europe member states and the consequences this negative and dangerous trend has on journalism and our societies.