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## **2<sup>ND</sup> QUARTERLY ACTIVITY REPORT 2015**

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Commissioner for Human Rights**

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and the Parliamentary Assembly

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## 1. Overview

Media freedom was one of the most frequent substantive areas of work in the period under review. It was a thematic focus in the report on Bulgaria and a country visit to San Marino. In the former, among the most problematic issues is the levying of large fines by the financial regulator directly on media outlets for “market manipulation”. In the latter, I focused on the government’s efforts to create what would ostensibly be a media self-regulatory body, but one in which membership would be obligatory, along with a governing body consisting primarily of political appointees, whose regulatory powers would extend to actual content of all media, including commercial and print media.

The quarter also marked the launch of the Council of Europe’s internet platform for the protection of journalists. I sought to contribute to this mechanism by intervening in several cases, including the Russian authorities’ closure (by dint of not re-registering) of ATR TV in Crimea, threats against a journalist in “the former Yugoslav Republic of Macedonia”, and others. I raised concerns about a draft law on surveillance in France, which could also affect media freedoms by putting the confidentiality of journalistic sources at risk. I continued to speak out against the repression of critical voices, including journalists, in Azerbaijan.

A second substantive focus was national human rights structures. I wrote letters to the Ukrainian and Serbian authorities urging them to safeguard the independence of their respective ombudsperson institutions. I examined the national infrastructure for human rights in a report on Norway and in country visits to Germany, San Marino and Slovakia. I welcomed the reform of the Norwegian National Institute for Human Rights and urged expanding the powers of the Equality and Non-Discrimination Ombud. In Germany I focused on the need to enhance democratic oversight of security and intelligence services, as well as to grant adequate resources to Federal agencies dealing with anti-discrimination and the prevention of torture. In San Marino I encouraged the authorities to strengthen the independence and effectiveness of ongoing work in the field of equality by establishing a national human rights structure complying with the Paris Principles, which could also act as an equality and anti-discrimination body. In Slovakia I noted with interest the establishment of commissioners for the rights of persons with disabilities and children, but encouraged the authorities to co-operate more intensively with the Ombudsman and to strengthen the National Institute for Human Rights.

I dealt with issues related to the rights of persons with disabilities in reports on Norway and Bulgaria, as well as in country visits to San Marino and Slovakia. In all of these countries, one focus was on the need to align national legislation on legal capacity with the requirements of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). In Norway, an additional focus was on the need to reduce coercion in psychiatry, while in Bulgaria and Slovakia the spotlight was on the imperative of de-institutionalisation and the provision of community-based services. I also participated in a high-level meeting on disability rights organised by the Latvian presidency of the Council of the EU. As disability rights is an area where the EU has competence, I called for a more coherent policy at the European level and ambitious plans at national level to implement deinstitutionalisation using EU structural funds.

A final common topic of both country and thematic work was the human rights of immigrants, asylum seekers and refugees. This was a focus in the report on Bulgaria, as well as the country visit to Germany. During the period in review, I also sought to participate in Europe-wide debates over the need to reform immigration and asylum policy, in particular by setting up mechanisms for solidarity not only in search and rescue operations in the Mediterranean, but also in the reception of refugees. I believe we are on the cusp of significant changes in Europe in this issue area, a topic which I develop further in the concluding section of this report.

## **2. Missions and Visits**

### ***Visit to Germany***

The Commissioner carried out a visit to Germany on 24 April (Karlsruhe) and from 4 to 8 May (Berlin and Potsdam), focusing on the human rights of asylum seekers, refugees and immigrants, on the fight against racism and extremism and on the legal and institutional framework for the protection and promotion of human rights.

During his visit the Commissioner held discussions with the German authorities, including the Federal Minister for Foreign Affairs, Mr Frank-Walter Steinmeier; the Federal Minister of Justice, Mr Heiko Maas; the Federal Minister of Labour and Social Affairs, Ms Andrea Nahles; the State Secretary at the Federal Ministry of the Interior, Ms Cornelia Rogall-Grothe; the State Secretary and Federal Government Commissioner for Migrants, Refugees and Integration, Ms Aydan Özoğuz; the Federal Government Commissioner for Human Rights Policy and Humanitarian Aid, Mr Christoph Strässer; the Federal Government Commissioner for Human Rights, Ms Almut Wittling-Vogel; the Deputy Director-General for the Federal Intelligence Services, Mr Hans-Jörg Schäper; the Foreign policy advisor to Chancellor Angela Merkel, Mr Christoph Heusgen; members of the German delegation to the Parliamentary Assembly of the Council of Europe; the Chairman of the NSA investigative committee of the German Bundestag, Mr Patrick Sensburg; and the Federal Prosecutor General, Mr Harald Range.<sup>1</sup>

In Potsdam, the Commissioner met with the Minister of Justice of Brandenburg, Mr Helmut Markov, and with the Minister of Interior of Brandenburg, Mr. Karl-Heinz Schröter. In Karlsruhe, he met with the Chief Administrative Officer of the Karlsruhe District (*Regierungspräsidentin*) and the Head of Department for the reception of asylum seekers and refugees in Baden-Württemberg.

The Commissioner also held meetings with the Director of the German Institute for Human Rights, Ms Beate Rudolf; the Director of the Anti-Discrimination Agency, Ms Christine Lüders; the Federal Commissioner for Data Protection and Freedom of Information, Ms Andrea Voßhoff; a member of the Joint Commission of the States of the National Agency for the Prevention of Torture, Mr Hartmut Seltmann; and a member of the G-10 Commission, Mr Ulrich Maurer. In addition, the Commissioner met with representatives of non-governmental organisations in Berlin, Potsdam and Karlsruhe and with UNHCR.

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<sup>1</sup> As of 4 August 2015, Harald Range is no longer Federal Prosecutor General.

At the end of his visit, the Commissioner commended Germany's action in the field of asylum in recent years, including the launch of three humanitarian admission programmes for Syrian refugees (concerning 20 000 individuals) and the registration of more than 200 000 asylum applications in 2014. However, with an estimate of 400 000 asylum applications for 2015, the Commissioner highlighted the need to address remaining difficulties in some areas, including the registration of asylum claims, long delays in asylum proceedings, the lack of formal language courses and the access of asylum seekers to health care in a number of Länder.

The Commissioner welcomed the recent decision of the government to increase the number of staff at the Federal Office for Migration and Refugees (BAMF) and stressed the need to ensure that the reception centres for asylum seekers are also adequately staffed. During his visit to four such centres in Karlsruhe and Berlin, the Commissioner was impressed by the commitment and professionalism of the staff, but also by the support provided by the local population. However, he was also seriously concerned at clear signs that intolerance is on the rise in the country, as reflected in an upsurge of attacks against facilities for asylum seekers and in regular demonstrations against a supposed "Islamisation" of Germany and Europe.

The visit to Germany was also an opportunity for the Commissioner to further his assessment of the human rights impact of the European asylum system on the ground. Noting the figures on returns of asylum seekers to and from Germany under the Dublin regulations, he considered that the Dublin system is not only problematic for the protection of human rights, but it is also a broken system which is being kept alive artificially. He called on the German authorities to take the lead for a European overhaul of the system based on full respect for the human rights of asylum seekers and genuine solidarity between states.

With regard to the fight against racism and extremism, particular focus was given to the follow-up to the National Socialist Underground (NSU) affair, which exposed clear institutional bias and other serious deficiencies among the police and security services in dealing with racially motivated crime. The Commissioner expressed concern that thus far changes appeared to have remained limited with the creation of a new centre focusing on right-wing, left-wing, and nationalist violent extremism, new databases and the promise of more diversity in the police. Noting the continuing focus on crimes committed by extremist groups, the Commissioner also urged the German authorities to take the opportunity of the ongoing reform to improve their overall response to racially motivated crimes, which are often perpetrated by persons outside organised extremist groups.

As part of his focus on the institutional and legal framework for the protection and promotion of human rights, the Commissioner examined the effectiveness of the German oversight system of intelligence and security services, a topical issue in both Germany and Europe following recent revelations exposing both human rights violations and disregard for the rule of law. In the Commissioner's view, the parliamentary oversight currently operated by the Parliamentary Control Panel must be bolstered by considerably strengthening its support staff and the latter's technical expertise. As for the surveillance operated by the German intelligence services over non-German citizens outside of Germany, the Commissioner stressed that Article 8 of the European Convention on Human Rights, guaranteeing the right to private life, applies to all activities of the state, including all its national security and intelligence activities.

Finally, the Commissioner stressed that a number of institutions for the protection and promotion of human rights in Germany currently have inadequate means and powers available to them and/or are not sufficiently independent. While it is positive that the German Institute for Human Rights will soon have a legal basis, this institution, the Federal Anti-Discrimination Agency and the National Agency for the Prevention of Torture are in need of considerable strengthening to ensure they can fulfil their mandates effectively.

The Commissioner's report on his visit to Germany is forthcoming.

### ***Mission to Oslo***

The Commissioner visited Oslo, Norway, from 1 to 3 June, to meet with Norwegian authorities and to participate in a conference presenting the results of the work of the Norwegian Tater/Romani Commission (on the conference see below under "Human rights of Roma and Travellers"). While in Oslo, the Commissioner met with Ms Erna Solberg, the Prime Minister; Mr Bård Glad Pedersen, State Secretary at the Ministry of Foreign Affairs; and Ms Anne Karin Olli, State Secretary at the Ministry of Local Government and Modernisation. During his meetings with the Norwegian authorities, the Commissioner outlined the findings and recommendations of the report on his visit to Norway published on 18 May and discussed possible follow-up measures planned by the authorities.

### ***Visit to San Marino***

The Commissioner carried out a visit to San Marino from 9 to 10 June, focusing on media freedom, the national human rights architecture, the human rights of persons with disabilities, violence against women and women's rights, and the human rights of LGBTI persons.

In the course of his visit, the Commissioner was granted an audience by Their Excellencies the Captains Regent and met with the Minister of Foreign and Political Affairs, Mr Pasquale Valentini; the Minister of Internal Affairs, Public Function, Justice and Relations with the Township Councils, Mr Gian Carlo Venturini; the Minister of Education, Culture and University, Scientific Research, Social Affairs and Gender Equality, Mr Giuseppe Morganti; the Minister of Health and Social Security, Family, National Insurance and Economic Planning, Mr Francesco Mussoni; and the Minister of Labour, Co-operation and Information, Mr Iro Belluzzi. The Commissioner also met with the Bureau of the Grand and General Council (the Parliament of San Marino) and members of the Delegation of San Marino to the Parliamentary Assembly of the Council of Europe. In addition, the Commissioner met with magistrates from different branches of the judiciary, including the President of the Guarantor's Panel, Mr Carlo Fusaro, as well as representatives from various public bodies competent in the field of human rights, including the Commission for Equal Opportunities, the Authority for Equal Opportunities, the Social-Health Department of the Social Security Institute, the Minors' Service and the Mental Protection Service.

The Commissioner also held meetings with representatives of civil society and visited a centre and workshops catering for persons with disabilities, the Territorial Domiciliary Service and the Minors' Service.

As regards media freedom, the Commissioner concentrated in particular on a law on publishing and information professionals adopted in December 2014, and expressed concerns about certain provisions in this law. While the law foresees the adoption of a code of conduct for journalists by a consultative body of information professionals, it entrusts the enforcement of this code to a primarily politically appointed body which will thus have the power to impose disciplinary sanctions relating to journalistic content. The Commissioner encouraged the Sammarinese authorities to review certain aspects of this law, so as not to jeopardise media freedom.

The Commissioner welcomed the progress San Marino has achieved in recent years in combating violence against women, including a sound legal framework against this phenomenon and awareness raising efforts, and urged the authorities to ratify the Istanbul Convention without delay. He also addressed the effects of the stay permit system on foreign carers (*badanti*), a group considered at higher risk of exploitation and abuse by ECRI and GRETA, and encouraged the authorities to change this system as soon as possible. The Commissioner was heartened by improvements regarding the rights of persons with disabilities, in particular in terms of inclusion in mainstream education, as well as recent efforts to reduce recourse to substituted decision-making, which however still remains legal. He highlighted the need for further efforts to develop support systems promoting autonomy and independent living, and to tackle barriers to employment, especially in the private sector. As concerns the rights of LGBTI persons, the Commissioner considered that San Marino should improve the protection of the human rights of this group, including by affording legal protection for same-sex couples.

Finally, the Commissioner called on San Marino to increase the resources and working capacity of its existing equality bodies, and consider setting set up a human rights body with a broad mandate in compliance with the Paris Principles and adopting a national human rights action plan.

The Commissioner's report following his visit to San Marino is forthcoming.

### ***Visit to Slovak Republic***

The Commissioner carried out a visit to Slovak Republic from 15 to 19 June, focusing on the human rights protection system and the human rights of Roma, persons with disabilities and LGBTI persons.

During his visit, the Commissioner engaged in a dialogue with representatives of the national authorities, including the Deputy Prime Minister and Minister of Foreign and European Affairs, Mr Miroslav Lajčák; the Minister of Justice, Mr Tomáš Borec; the Minister of Education, Science, Research and Sport, Mr Juraj Draxler; the Minister of Labour, Social Affairs and Family, Mr Ján Richter; the Minister of Interior, Mr Robert Kaliňák; the First Deputy Prosecutor General, Mr René Vanek, and the Deputy Prosecutor General for Penal Matters, Mr Peter Šufliarsky. The Commissioner also held meetings with the Public Defender of Rights, Ms Jana Dubovcová; the Executive Director of the Slovak National Centre for Human Rights, Mr Marian Mesároš; the Plenipotentiary of the Slovak Republic for Roma Communities, Mr Peter Pollák; and members of the Parliamentary Committee for Human Rights and National Minorities. Furthermore, Commissioner Muižnieks met with civil society representatives. In eastern Slovakia the Commissioner met with representatives of the local and regional authorities of Košice and carried out visits to the social care institution for persons with disabilities in

Šemša, the elementary school in Kecerovce, and the Roma settlements of Moldava nad Bodvou and Vel'ká Ida.

At the end of his visit, the Commissioner urged the Slovak authorities to set ambitious targets for the social inclusion of Roma and persons with disabilities and to reinforce the effectiveness of the existing national human rights institutions.

The Commissioner expressed concern at the chronic, pervasive segregation of Roma children in the education system and their very high rates of school drop-out. While welcoming pilot projects and recent legislative proposals aimed at preventing the placement of Roma children in special schools, the Commissioner called on the authorities to take measures to reduce the isolation of Roma children in mono-ethnic schools and encourage interaction between Roma and non-Roma children.

As regards the allegations of excessive use of force by police officers during raids carried out in Roma settlements, the Commissioner called on the authorities to ensure the thorough and prompt investigation of all instances of ill-treatment by law enforcement officials and to impose dissuasive penalties on those responsible. The establishment of an independent complaints mechanism covering the action of law enforcement authorities would be a useful step in this direction.

Commissioner Muižnieks called on Slovakia to enhance the efficiency and effectiveness of the existing national human rights institutions. He noted with interest the upcoming appointment of a Commissioner for the protection of the human rights of persons with disabilities and encouraged the authorities to provide adequate resources and support for the efficient functioning of this institution. He welcomed the ongoing legislative reform aiming to prohibit the full incapacitation of persons with psychosocial and intellectual disabilities and called on the authorities to finalise this process as a matter of priority and develop a flexible system of supported decision-making, based on individual consent. The Commissioner also urged the authorities to speed up the implementation of the national strategy and action plan for the deinstitutionalisation of social care services and refrain from placing further persons with disabilities in residential institutions. In addition, the authorities should promote inclusive education and design clear plans for the transfer of children with disabilities from special to mainstream education.

The ongoing work on the adoption of an action plan concerning the human rights of LGBTI persons and the establishment of an advisory committee with competencies in this area are positive developments. However, the Commissioner was concerned at the virulent anti-LGBTI statements made by a number of politicians and members of the Catholic Church in the context of the recent public debates on the human rights of LGBTI persons. He called on the authorities to pay particular attention to the recording of hate speech and hate crimes and to ensure that law enforcement officials and legal professionals are adequately equipped to recognise and effectively confront such incidents, which have deeply destructive effects not only on the victims but also on society.

The Commissioner's report on this visit to the Slovak Republic is forthcoming.

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

#### ***Report on Norway***

On 18 May, the Commissioner published a report following his visit to Norway from 19 to 23 January 2015. The report focused on the human rights of people with disabilities, the situation of Romani people/Taters (Norwegian Travellers), Roma and Roma immigrants, and the human rights protection system.

While welcoming Norway's ratification of the UN Convention on the Rights of Persons with Disabilities (CRPD), the Commissioner pointed out that Norway still failed to fully promote the self-determination, legal capacity and effective equality of people with psycho-social and intellectual disabilities. The 2013 Guardianship Act continues to allow substituted decision-making and plenary guardianship in this area, a practice which is not in line with CRPD obligations. The Commissioner urged the Norwegian authorities to revoke plenary guardianship and full incapacitation regimes and to develop new systems of supported decision-making, based on individual consent, together with people with psycho-social and intellectual disabilities.

The Commissioner noted the Norwegian national strategy 2012-15 to reduce the use of coercion in mental health care but recommended a more comprehensive approach to bring about fundamental changes. He called on Norway to reform legislation on involuntary placements in order to apply objective and non-discriminatory criteria which are not specifically aimed at people with psycho-social disabilities. Medical treatment should be based on free and fully informed consent with the exception of life-threatening emergencies when there is no disagreement about the absence of decision-making capacity. The Commissioner was not convinced that the documented use of electroconvulsive therapy without consent in Norway was in line with human rights standards.

The Commissioner expressed serious concerns about the situation of the Roma community in Oslo. The extremely frequent use of child protection measures which separate children from their families and low school attendance were identified as the main problems. The Commissioner urged the Norwegian authorities to review Roma children's alternative care decisions for their human rights compliance and to provide support to Roma parents in exercising their parental role. The best interests of the child should be the primary consideration. He also recommended the development of programmes for mediators and teaching assistants to improve Roma children's school attendance.

While welcoming the withdrawal of the Government's proposal for a nation-wide prohibition of begging, the Commissioner remained concerned about bans at municipal level on begging and "sleeping rough". He stressed that a blanket ban on non-aggressive begging had a discriminatory impact on Roma immigrants and that it interfered with freedom of expression. The Commissioner recommended the revocation of such bans and pointed out that the authorities should ensure the sufficient availability of emergency accommodation to those in need, including immigrants.

The Commissioner observed that the arrival of Roma immigrants to Norway had been accompanied by worrying manifestations of anti-Gypsyism and hate speech. He urged

the authorities to firmly condemn all instances of racist and xenophobic hate speech and to ensure effective investigations into such cases. The Commissioner also highlighted the positive and inclusive work of the Government Commission set up to establish a shared understanding of past injustices and abuses experienced by Romani people/Tatars in Norway.

The Commissioner noted with satisfaction the process of reforming the Norwegian National Institution for Human Rights and recommended that the mandate of the Equality and Non-discrimination Ombud be reinforced with the authority to provide assistance and legal representation to victims of discrimination.

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

### ***Report on Bulgaria***

On 22 June, the Commissioner published a report following his visit to Bulgaria from 9 to 11 February 2015. The report focuses on the human rights of persons in institutions, the human rights of immigrants, asylum seekers and refugees, and media freedom.

While noting that the deinstitutionalisation process for children living in social and medical care institutions had already yielded positive results, the Commissioner called on the Bulgarian authorities to address a number of concerns including a risk of re-institutionalisation of children in smaller residential settings, the continuing placement of children and the overrepresentation of Roma children, poor children and children with disabilities in those institutions. He called on the authorities to step up efforts towards supporting families and preventing their separation and to develop a fully-fledged system of community-based services and alternative care for all children in need. Expressing serious concern at the situation of children placed in correctional boarding schools and socio-pedagogical boarding schools created in the 1950s to deal with children's "anti-social behaviour", notably as regards their right to education, the Commissioner urged the authorities to stop placing children in these institutions and to continue with the rapid phasing out of the latter. He also called for a more general reform of the juvenile justice system. Noting recurrent reports of human rights violations perpetrated against children living in all types of above-mentioned institutions, the Commissioner called for full and effective investigations into such allegations.

The Commissioner noted that Bulgaria had committed to deinstitutionalising adults with disabilities. However, this process started only recently, progress is very slow and there have been cases of re-institutionalisation in smaller settings. Noting that one of the main obstacles to the deinstitutionalisation of adults with intellectual and psycho-social disabilities was the legal capacity regime currently in place, which often leads to the placement of persons under full or partial guardianship in institutions, the Commissioner urged the Bulgarian authorities to move forward with plans to change the legislation, implementing a shift from substituted to supported decision-making.

While the living conditions of asylum seekers in reception centres had improved since the refugee crisis of mid-2013, the sustainability of the public funds for covering the costs of basic assistance for asylum seekers remained a matter of concern. The Commissioner called on the Bulgarian authorities to improve the system for the early identification of, and support for, vulnerable asylum-seekers with specific needs. Noting

that asylum seekers were sometimes subject to administrative detention until their claim was formally registered and that children accompanied by their families could be kept in immigration detention for up to three months, the Commissioner called upon the Bulgarian authorities to ensure that, in law and in practice, the detention of asylum seekers was compliant with Bulgaria's human rights obligations and that children were not subjected to immigration detention, whether with or without their families. Against the background of measures taken since the end of 2013 to prevent irregular entry at the Bulgarian-Turkish border, the Commissioner expressed concern about consistent reports of push-backs of migrants carried out by the Bulgarian law enforcement authorities at this border. He recalled Bulgaria's obligations to respect the right to seek and enjoy asylum, to refrain from summary returns and collective expulsions, and to fully and effectively investigate all related allegations. Noting that the system to support the integration of refugees in Bulgarian society still suffered from serious deficiencies, the Commissioner called for further efforts in this field.

Despite existing legal guarantees, media freedom in Bulgaria is currently impeded or threatened by a combination of practices which, taken together, create an environment conducive to widespread self-censorship among journalists and undue external pressure on media. Recalling that media pluralism is the institutional guarantee for the fulfilment of the right to receive and impart information, the Commissioner called on the Bulgarian authorities to take action to secure it by establishing independent monitoring of media ownership and financing and rules aimed at limiting excessive concentration of media ownership and favouring media pluralism. The Bulgarian authorities should also take action to address the lack of independence of media outlets from political and economic influence, including by distributing revenues from public advertisement and information contracts to private media outlets in a transparent and non-discriminatory way. Alarmed at numerous reports of sanctions imposed on media including by the Financial Supervisory Commission and alleged attempts to force media outlets to reveal their sources in relation to their reporting on the banking and financial sectors, the Commissioner recalled the importance of fully respecting the obligations of Article 10 of the ECHR as interpreted by the Strasbourg Court and of reviewing current legislation and practice so as to reinforce the protection of journalistic sources. Noting that attacks on journalists' properties and threats against investigative journalists had continued, the Commissioner called on the Bulgarian authorities to do their utmost to protect journalists from physical and other forms of violence. There is also a need to fully decriminalise defamation and to address shortcomings in self-regulation and other limits in the regulation by the Council for Electronic Media.

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

## **4. Themes**

### ***Human rights of Roma and Travellers***

On the occasion of International Roma Day (8 April), the Commissioner published a Facebook post on housing segregation and forced evictions of Roma with a focus on Italy, which was also published in Italian media on the same day. He recalled that keeping Roma in segregated camps results in serious human rights violations and called

for an end to this practice and of forced evictions, which make integration impossible. He advocated for a policy shift, making the most of promising rehousing projects already in place in several Italian municipalities, and for more focus to be placed on the housing needs of Roma as a starting point to advance Roma inclusion. The Commissioner also recommended a more effective implementation of Italy's National Roma Inclusion Strategy and of existing anti-discrimination laws.

On 1 and 2 June, the Commissioner participated in a Conference presenting the results of the work of the Norwegian Tater/Romani Commission in Oslo, Norway. He made a keynote address on the need to promote reconciliation between national authorities and Roma and Traveller communities in Europe. The Commissioner stated that age-old myths and deeply-rooted prejudices must be replaced by a narrative based on sound knowledge and understanding of the past. The history of rejection, exclusion and persecution of Roma and Travellers in Europe should be brought to light and explained to the majority populations. Roma should be recognised as victims of massive human rights violations.

The Commissioner pointed out that truth and reconciliation efforts on the model of the work undertaken in post-conflict situations should also apply to the history of Roma and Travellers in Europe. He said that truth or historical commissions, such as the ones established in Norway and Sweden, were a promising way of dealing with the task of reconciliation. These commissions can show the way forward for many other countries. To succeed, this work must be carried out together with the Romani and Traveller communities concerned. It is time that Roma and Traveller views on their own history are heard. The Commissioner stressed that the work of such commissions could also contribute to establishing new and more effective forms of co-operation between Roma and Travellers and state institutions in member states.

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

On 11 May 2015, the Commissioner participated in a high-level meeting on disability entitled "From Inclusive Education to Inclusive Employment for People with Disabilities", which took place in Riga and was hosted by the Latvian Presidency of the Council of the EU. In his opening address, the Commissioner concentrated on the main pitfalls in the implementation of the human rights of persons with disabilities, based on his extensive monitoring work on disability issues. He focused mainly on the right to an inclusive education, integration in the labour market and deinstitutionalisation, as well as the right to legal capacity for persons with disabilities, highlighting major common shortcomings in member states, and cases where superficial changes in legislation and semantics may disguise a lack of progress in reality. The Commissioner also called for a more coherent EU policy on disability, in the light of the EU's clear competence in the field. The text of the speech is available on the Commissioner's website.

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

On 2 June, the Commissioner delivered a video message on the occasion of a conference on the eradication of statelessness among children, organised by the European Network on Statelessness in Budapest ("*None of Europe's Children Should be Stateless*"). Expressing his continued commitment to addressing child statelessness in future work, the Commissioner highlighted key steps that should be taken to eradicate and prevent statelessness among children, such as easing access to birth registration

and granting children who would otherwise be stateless the nationality of their country of birth. He also underlined the need for member states to accede to the relevant UN and Council of Europe conventions and reiterated his support to UNHCR's world campaign against statelessness.

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

On 11 May, the Commissioner addressed the IDAHO 2015 Forum "Ending hate crime and violence" in Budva, Montenegro, through a video message. He noted that hate crimes against LGBTI people remained a grim reality across Europe and that in addition to individuals, its targets included NGO offices and pride events. The Commissioner advocated a comprehensive response: legislation, reporting, investigations, sanctions, victim support and education are all essential elements for addressing homophobic and transphobic hatred in a coordinated manner. If public opinion is hostile towards LGBTI people, governments have a responsibility to raise awareness of diversity and respect for all persons' sexual orientation, gender identity and sex characteristics.

During the IDAHO Forum on 12 May, the Commissioner published an Issue Paper on human rights and intersex people. The six-chapter document addresses the medical, legal and administrative obstacles which prevent intersex people from fully enjoying their human rights. It points out that Europeans remain largely unaware of the painful personal histories of intersex people. Stereotypes and norms grounded in the binary female-male classification have led to unnecessary medical and surgical interventions on intersex infants without their consent and a climate of incomprehension in society.

The Issue Paper informs governments and practitioners about current human rights developments, including global best practices, already taken to protect and empower intersex people, for example through reforms of equal treatment legislation. It also contains the Commissioner's recommendations on ways to move forward in particular in the legal and medical fields. It is urgent to end unnecessary medical treatment and surgery of intersex individuals without their consent; to respect their right not to undergo sex assignment treatment; to review medical classifications which treat variations in sex characteristics as a pathology; and to ensure intersex persons' right to self-determination by facilitating their legal recognition in official documents.

The Commissioner recommends further measures giving intersex people full access to their medical records; raising public awareness; carrying out professional training and improving counselling of intersex children and their parents. Professional standards, legal safeguards and judicial control should be reinforced to ensure future human rights compliance. Measures to protect the human rights of intersex people should be developed together with intersex persons and organisations representing them.

On 29 June, the Commissioner gave a video message to the European Intersex Forum in Douarnenez, France. In his presentation, the Commissioner outlined the recommendations of the Issue Paper and stressed that national authorities, human rights structures, intersex activists and medical professionals should all be involved in responding to the serious human rights issues faced by intersex people.

### ***Transitional justice***

Marking the centennial of the beginning of the mass killings, deportations and dispossessions of Armenians in the Ottoman Empire in 1915, which resulted in the near-total elimination of Armenians from Anatolia, on 17 April the Commissioner published a Human Rights Comment entitled “Armenian-Turkish Reconnections and Human Rights”. In the Comment, he pays homage to the victims and their descendants and salutes the work of civil society activists, scholars, journalists and artists from both Armenia and Turkey who are seeking to promote mutual understanding, reconciliation and the reconstruction of a shared history, demonstrating a true human rights ethos. The Commissioner stresses that people-to-people diplomacy can lay the grounds for the national authorities to move from deadlock to dialogue on addressing the painful legacy of 1915 and that the latter should refrain from impeding or seeking to gain political advantage from such initiatives and seek to support them. Using the framework that applies to massive violations of human rights, the Commissioner suggests a number of steps that could be taken in Turkey, including political statements and institutional stances condemning perpetrators and acknowledging crimes, the establishment of commemorative dates, rituals and monuments, as well as the returning of property and the rehabilitation of Armenian cultural heritage in Turkey.

### ***Counter terrorism and human rights protection***

On 13 April, the Commissioner, along with the UN Special Rapporteur on the situation of human rights defenders, Michel Forst, and the UN Special Rapporteur on human rights and counter-terrorism, Ben Emmerson, published an article in *Le Monde*, entitled “French Bill seriously infringes human rights”. The article expressed the authors’ concerns about the French Bill on intelligence, which permits the use, without prior independent oversight, of intrusive surveillance methods, thus posing a serious threat to the right to private life. It was stressed that enjoyment of this right should not be limited without prior judicial review verifying the legality, expediency and proportionality of a surveillance measure. It was also underlined that the law should be precise and clear as to the nature of the activities of persons who may be subjected to surveillance and should set out strict limits on the duration of the operations, as well as rules on the use, storage and destruction of data obtained during those operations. Finally, the authorities were urged to strengthen the democratic oversight of the security services and to ensure that persons subjected to surveillance operations have an effective remedy in order to contest the validity of the measures applied to them, as well as the decisions on the use and storage of the data concerning them. The article is available on the Commissioner’s thematic webpage on counter terrorism and human rights protection.

On 5 June, the Commissioner published the Issue Paper “Democratic and effective oversight of national security services” which aims to provide guidance for strengthening human rights protection in the field of security service operations. It identifies the impact of security service activities on a variety of human rights, including the right to life, to personal liberty and security, and the prohibition of torture or inhuman, cruel and degrading treatment, the right to privacy and family life, as well as the rights to freedom of expression, association and assembly, and fair trial. The Issue Paper analyses the diverse approaches to oversight taken by Council of Europe member states, which include parliamentary committees, independent oversight bodies, institutions with broader jurisdictions such as ombudspersons, data commissioners and judicial bodies. Drawing upon international and European standards and national practices, the paper

sets out the most significant objectives and overriding principles that can enable more effective oversight of security services. It sets forth a number of measures necessary to make national oversight systems more effective and the security services accountable and fully compliant with human rights standards, including the involvement of parliaments in the oversight process, prior independent authorisation of the most intrusive measures and the establishment of a body able to issue legally binding decisions over complaints by individuals affected by security activities, and which has access to all intelligence-related information.

### ***Freedom of expression and media freedom***

On 2 April, the Commissioner reacted to the developments around Crimean Tatar ATR TV which had stopped broadcasting in Crimea. The Commissioner noted that the obstacles placed by the authorities to the work of ATR and other Crimean Tatar media outlets sent a chilling message to media professionals working on the peninsula and endangered the diversity of the media landscape in Crimea. He stated that appropriate measures must be taken to enable independent and unhindered broadcasting of ATR TV and to create favourable and secure conditions for media outlets and journalists working in Crimea.

On 22 April, the Commissioner published a statement in which he expressed his solidarity to Macedonian journalist Borjan Jovanovski and his family, who received a death threat. The Commissioner stressed that this very serious incident deserved the close attention of the authorities and called for an effective and independent investigation to bring to justice those responsible. He expressed his serious concern about the worsening of the media situation in the country in recent months. He underlined that it is high time that the Macedonian authorities restore a safe and serene climate for the media to work freely.

On the occasion of World Press Freedom Day on 3 May, the Commissioner published a statement and made a video message to the Brussels Platform for Journalism in which he underscored that journalists had increasingly become fair game in Europe. He urged European leaders to improve the conditions in which the press works, in particular by removing all legislative obstacles which impinge on the rights of the press, freeing journalists who are imprisoned for what they have reported and refraining from violent or intimidating reactions against journalists.

On 20 May, the Commissioner participated in the 1st Eastern Partnership Media Conference in Riga, organised by the Latvian Presidency of the Council of the European Union. In his opening speech the Commissioner took stock of the main issues, trends and challenges in the media environment in Eastern Partnership countries (i.e. Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova and Ukraine) and spoke about his work aimed at protecting journalists and human rights defenders. The Commissioner highlighted his concern about the physical safety of journalists, including those who work in Ukraine, and recalled the responsibility of states to effectively investigate and punish not only the perpetrators but also those who mastermind attacks against the press. The Commissioner stated that it was necessary to improve state responses to prevent and investigate violations of freedom of expression and referred to the recently launched Council of Europe Internet Platform aimed at protecting journalism and promoting the safety of journalists.

Media independence and media diversity were also among the topics discussed at the conference. In this regard, the Commissioner stressed the problem of propaganda affecting virtually all Eastern Partnership countries and the instrumentalisation of media to serve political interests. Condemning restrictions placed on re-broadcasting foreign TV channels, the banning of journalists from entering countries, as well as biased reporting and the neglect of journalistic ethics, the Commissioner highlighted the need for independent and diverse media, ethical journalism and truth-telling as primary ways to counter propaganda and disinformation. Finally, the Commissioner emphasised the obligation of governments and political decision-makers to create favourable conditions for media pluralism and independence.

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

On 28 April, the Commissioner issued a statement, posted on Facebook, in which he underlined the need for the European Union and its member states to take a principled, human-rights based approach to migration. The Commissioner expressed concern that the search and rescue capabilities of the European Union's border control operations do not meet the challenges faced in saving migrants' lives in the Mediterranean. The EU member states' approach to migration, which remains anchored in security concerns and focuses on fighting trafficking and smuggling, does not provide an adequate response to the tragedies unfolding at sea and the protection needs of asylum-seekers. Commissioner Muižnieks stressed the need for the European Union to increase legal avenues to seek asylum, including by facilitating the issuance of humanitarian visas and easing legislation to allow family reunification.

On 29 April, the Commissioner stated on his Facebook page that he was extremely concerned by the populist trend in political discourse in Hungary, referring in particular to a "national consultation on immigration and terrorism", which fed intolerance against migrants by portraying them as a danger to Hungarian society and which was therefore unacceptable. He urged the Hungarian government and political leaders to implement the recommendations he made in his December 2014 report on Hungary and to adopt a more human rights-oriented approach to migration issues. The Commissioner's Facebook post also referred to statements made by Hungary's Prime Minister on the reintroduction of the death penalty, an idea which the Commissioner said was incompatible with Hungary's obligations under the ECHR and contrary to the values that Europe stood for.

On 11 May, the Commissioner spoke on "How to improve intra-European mobility and circular migration" during the *Mobility, Migration, Diaspora* Conference hosted by the Latvian Presidency of the Council of the European Union in Riga. The Commissioner gave an overview of the problems faced by ethnic Roma EU citizens when moving within the EU, citing examples from numerous country reports. He also highlighted the xenophobia that exists in relation to EU citizens from Eastern Europe.

On 6 June, the Commissioner spoke at the *35th German Protestant Kirchentag* Panel Series on Migration and Human Rights, organised in Stuttgart. In his intervention the Commissioner urged European states to start integrating Syrian refugees, who are in a situation of protracted displacement. Referring to the deaths of migrants in the Mediterranean, the Commissioner urged the European Union to work towards establishing a European search and rescue mission and take the lead in rescuing migrants at sea. The European Union should also open its borders widely to those in

need of international protection and diversify the lawful avenues of entry for those who are in search of job opportunities. The Commissioner called for the replacement of the “Dublin” mechanism with a system based on fair distribution of responsibility for providing protection to those in need, and the wider use of existing solidarity mechanisms, including relocation and resettlement schemes. Finally, Commissioner Muižnieks drew the participants’ attention to the situation of European migrants and asylum-seekers from the Western Balkans, Romania and Bulgaria, many of whom are ethnic Roma. He stressed the need for European countries to ensure that European asylum-seekers’ applications are given due consideration, and that intra-EU mobility is respected without discrimination on the basis of the migrants’ nationality or ethnicity.

The Commissioner's concerns about the current failure of European countries and of the EU to uphold the human rights of migrants were expressed in two opinion editorials published on 22 April in *Open Democracy* and on 29 June in the *International New York Times*. In the first article the Commissioner pointed out that it was high time for Europe to change its approach to migration and assume responsibility for preventing further migration tragedies, including by establishing European-run search and rescue operations. In the *International New York Times* article he highlighted the worrying trend towards increasingly repressive policies and legislation to prevent migrants from reaching Europe and overtly anti-immigrant rhetoric in mainstream political discourse. He called on European countries and the EU to develop a more human rights compliant response to the challenges posed by migratory flows, in particular by increasing the legal avenues available to migrants to seek asylum and apply for family reunification, as well as by addressing public anxiety on migration and asylum from a principled standpoint.

### ***Social cohesion – inclusive education***

On 5 May, the Commissioner published a Human Rights Comment entitled “Inclusive education vital for social cohesion in diverse society”. The Commissioner noted that poverty, persistent discrimination and social marginalisation are the main underlying reasons for the inclusive education deficit which exists in many European countries, notably affecting children coming from migrant families or minority groups, such as Roma, and children with disabilities. Moreover, exclusion from or divisions in education along ethnic and language lines in some countries, including Bosnia and Herzegovina, Croatia and “the former Yugoslav Republic of Macedonia” have had a devastating impact on social cohesion and reconciliation in these multi-ethnic societies struggling to come to terms with a violent past. It has been estimated that non-inclusion of persons with disabilities in Europe and central Asia has cost a loss of 35.8% of these regions’ GDP.

The Commissioner underlined that inclusive education requires a mentality shift at state level, from seeing children or adults as a problem to identifying the existing inadequacies and improving the education systems themselves. In order to make progress in this field, inclusive education needs to be clarified in national contexts and its principles promoted and reflected in national legislation and education policies and practices all over Europe. Data indicate that each additional year of schooling raises the average annual GDP growth by 0.37% thus helping to alleviate poverty and to eradicate social exclusion and marginalisation. European states can no longer afford to ignore their societies’ need for inclusive education. Equitable and efficient budgetary allocations to promote inclusive education are needed. It is a necessary investment for the long-term development and social cohesion of all European states.

### ***Implementation of human rights at local and regional level***

On 28 May, the Commissioner made a keynote address at the International Implementation Forum for Local and Regional Authorities “Focusing on Human Rights”, organised by the Congress of Local and Regional Authorities in Graz, Austria. He pointed out that all levels of governance were responsible for the implementation of human rights. Shared human rights duties between the authorities at national, regional and local level necessitate close co-operation and coordination which can be achieved through the development of national action plans for human rights. Such action plans have become commonplace in Europe but they cannot be effective without the active participation of local and regional authorities.

The Commissioner noted that many municipalities and regions in Europe have expressed their determination to become exemplary in the realisation of human rights. He said that human rights cities and regions can become focal points for encouraging good and innovative practices. Their European networks play an important part in pooling expertise on human rights. The Commissioner stressed that local and regional authorities had a unique opportunity to coordinate the broad range of services provided to their residents in a rights-based and person-centred way. In this way, municipalities and regions bring human rights into people’s everyday lives and ensure that the residents’ rights are not only respected but also fulfilled.

## **5. European Court of Human Rights**

### ***Third party interventions before the European Court of Human Rights***

On 1 April, the Commissioner published the written comments he submitted to the Court on 30 March on two cases against Azerbaijan, concerning respectively Rasul Jafarov (Application No. 69981/14) and Anar Mammadli (Application No. 47145/14). On 20 April, the Commissioner published the written comments he submitted to the Court on 16 April in another case against Azerbaijan, concerning Leyla and Arif Yunus (Application No. 68817/14). These comments, submitted in accordance with Article 36, paragraph 3 of the European Convention on Human Rights, underline systematic deficiencies in the area of freedom of expression and association in Azerbaijan, including judicial harassment of critical voices and a pattern of retaliatory measures against those who co-operate with international organisations to expose human rights violations in the country. The Commissioner emphasises that the cases of Rasul Jafarov, Anar Mammadli and Leyla Yunus, whom he met in a pre-trial detention centre in October 2014, and of Arif Yunus are emblematic of the reprisals that human rights defenders and journalists face in Azerbaijan because of their work. They are often targeted with unjustified or selective criminal prosecutions on charges that defy credibility; a problem which not only affects the human rights of the persons concerned but also obstructs the functioning of international human rights mechanisms. With regard to freedom of association in particular, the Commissioner stresses that a number of the arrests and detentions of Azerbaijani human rights defenders are related to shortcomings in the NGO legislation and the way it is implemented. This restrictive legal framework constitutes in his view an integral part of the pattern of judicial harassment and reprisals against human rights defenders currently prevailing in the country.

These interventions were the last of five that the Commissioner announced in February 2015 that he would submit regarding the situation of human rights defenders and other critical voices in Azerbaijan. They are available on the Commissioner's website.

## **6. Human Rights Defenders**

### ***Inter-mechanisms meeting***

On 15 June, a representative of the Office participated in the inter-mechanisms meeting on the protection of human rights defenders in Paris. The meeting was hosted by the International Organisation of la Francophonie (OIF) and organised by the Observatory for the protection of human rights defenders, a joint initiative of the International Federation for Human Rights (FIDH) and the World Organisation against Torture (OMCT). Participants included the UN Special Rapporteur on the situation of human rights defenders, Mr Michel Forst, the Special Rapporteur on human rights defenders of the African Commission on Human and Peoples' Rights, Ms Reine Alapini-Gansou, the Rapporteur on the rights of human rights defenders of the Inter-American Commission on Human Rights, Mr José de Jesus Orozco, as well as representatives of the OSCE/ODIHR Human Rights Department, the European Union and international NGOs. The participants discussed the conclusions of the previous inter-mechanisms meeting which took place in Paris in November 2014 with reference to the arbitrary detention of human rights defenders, NGO access to funding and avenues for effective coordination between the UN and regional mechanisms. The meeting had a specific focus on ways to address persisting impunity for violations against human rights defenders and the reprisals they face for performing legitimate human rights work. The participants also assessed challenges faced by inter-governmental mechanisms in protecting human rights defenders in difficult country contexts and brainstormed about possible joint activities.

### ***Side event at UN Human Rights Council***

On 16 June, during the 29th UN Human Rights Council session in Geneva, a representative of the Office participated in a public side event on "Attacks and reprisals against human rights defenders: enhancing accountability for violations". At the event UN and regional inter-governmental mechanisms assessed the situation of human rights defenders and explained how they addressed obstacles to the defenders' work, also through joint initiatives. The representative of the Office introduced the Commissioner's work in relation to human rights defenders and in particular his on-going dialogue with the authorities, the organisation of regular events with human rights defenders and the submission of third party interventions to the European Court of Human Rights. UN and regional mechanisms noted with concern the shrinking space for the work of human rights activists and the persisting impunity for violations targeting human rights defenders. This also creates a favourable ground for reprisals against human rights defenders who are targeted because of their human rights work and co-operation with inter-governmental organisations.

## 7. Communication and Information work

More than 350 news items concerning the Commissioner's work were published during this quarter as a result of over 50 interviews, 6 opinion articles, 8 statements, 11 press releases, 2 Human Rights Comments and 118 tweets which took place during the reference period.

The main media coverage related to migration, counter-terrorism measures and the situation of human rights defenders in Azerbaijan.

On migration, the Commissioner published two opinion editorials, with the New York Times and Open Democracy, while other articles referred to the Commissioner's comments and interviews on migration tragedies and the lack of human rights compliant policies in Europe (*ARTE, Agence Europe, Blic, De Telegraph, Deutschlandfunk, Die Welt, DPA, Dradio Wissen, DW, Al Jazeera, ANSA, Avisen, Berliner Morgenpost, Blitz quotidiano, Corriere del Ticino, Dom raio, DR - Dansk Radio, El Diario, Europe1, Frankfurter Rundschau, Il sole 24 ore, Information, International New York Times, La Razon, La Tribune / La Gazette, Le Monde, Nos, Politiken, Pravda, Radio Popolare, San Francisco Chronicle, SIR, To Vima, TV2, Tyden, Zeit Online, Die Welt, DW, El Economista, LETA, LSM, Regnum, RIA, The Guardian*). The tweet expressing concerns about Hungary's plan to build an anti-migrant fence on the border with Serbia was mentioned by *168ora, B92, BBC News, Die Presse, Euro Denik, Euronews, HIR24, Hungary Today, HVG, Kurier, Mainfatti, News, Nezavisne, Novosti, RTRS.TV, Salzburg24, Tanjug and The Local*.

The Commissioner's concerns about counter-terrorism measures were covered broadly, in particular in relation to the publication of the Issue Paper on democratic oversight of security structures and the comments on the French surveillance bill. An opinion editorial was published in *Le Monde* on the French surveillance bill. Further articles and interviews on surveillance were published and broadcast by *ARTE, Reuters, The Local, Le Point, Rue89, Nouvel Obs, The Register, Mediapart, TV5 Monde, Dradio Wissen, DW, La Croix, La Vanguardia, Le Devoir, Libération, Ouest France, Turkish Weekly, Video News, AFP, Blitz quotidiano, Europe24, Giornale di Puglia, Heise online, Irish Examiner, La Vanguardia, La Voce d'Italia, Le Figaro, L'espresso, NWZ, Open Security, Reporter, SDA and TGCom24*.

Third party interventions on cases concerning human rights defenders in Azerbaijan were covered by *Arminfo, Azadliq Radiosu, BBC, Contact, Haqqin, Human Rights Watch, Kavkaz Uzel, Radio Free Europe, Tiroler Tageszeitung, TURAN and Zeit Online*. The opinion editorial on the situation of human rights defenders in Azerbaijan was published in several media (*Le Monde, Lo Sportivo, Open Democracy, Osservatorio Balcani caucaso, Svt, RFE*) while other media also reported about the Commissioner's concerns (*Azertag, The Huffington Post, The Guardian, Turan, Washington Post, Wired*).

The annual activity report received good coverage with articles published by *Elsevier, Elvisti, Fresh-News, Gazeta Wyborcza, Gigamir, Golos-ameriki, Haqqin, Hordaland, Kasparov, Kommersant, La Vanguardia, New, News, News Giorgia, Norsk Telegrambyrå, NZZ, Panorama, Politis News, RIA, RP Online, RTV, Rzeczpospolita, Sobytiya, Svodka, TASS, Vybor, Zakon and Zeit Online*.

The Human Rights Comment on the Armenian-Turkish reconnections was mainly covered by *Armenia Today*, *HayastanNews*, *Iratvakan*, *LraTVAKAN*, *PanArmenian Net* and *Panorama*.

The reaction to the comment on the Prime Minister of Hungary to restore the death penalty was covered by *BBC News*, *Daily Mail*, *DPA*, *EurActiv*, *Fyens*, *Hir 24*, *Hungary Today*, *Independent*, *Index*, *Inforadio*, *Lindro*, *MTI*, *New Europe*, *New York Times* and *Romandie*.

The comment on death threats against a Macedonian journalist was covered by *ABC News*, *Daily*, *Neue Zürcher Zeitung*, *NovaTV*, *NY Times*, *Panorama*, *Radio Mof* and *U-T San Diego*.

An opinion editorial on Roma rights in Italy was published by *La Repubblica* and mentioned by *Ansa* and *Vice News*.

The report on Norway attracted wide national and international attention, with articles and interviews published by *20 Minutes*, *abc nyheter*, *AFP*, *Aftonbladet*, *Channel News Asia*, *Dagbladet*, *Dagens Nyheter*, *Expressen*, *HBL*, *New Europe*, *NRK*, *Rbnett*, *Svenska Dagbladet*, *Sveriges Radio*, *The Foreigner*, *The Local*, *VG* and *VLT*

The Commissioner's work in Ukraine was covered by *DS News*, *Glavcom*, *Glavpost*, *Interfax*, *Pravda*, *RBC*, *Replyua*, *RIA*, *RiaSv*, *RRNews*, *RuNews24*, *svopi*, *Swiss Info*, *The Baltic Course*, *Versii*, *Vesti Ukraine* and *ZN*, while the visit to Germany yielded news items on *AFP*, *ANSA*, *DPA*, *DW*, *EPD Basisdienst*, *Haberler*, *Neues Deutschland*, *Stern*, *Wochenblatt* and *Wall Street Journal*.

The Issue Paper on Intersex people was well covered by *DNA*, *DPA*, *El Economista*, *Europa Press*, *France TV - Allo Docteur*, *Globo*, *GMA*, *KaleidoScot*, *L'Express*, *Observador*, *Pink News*, *STA*, *SVT*, *Tages Anzeiger*, *TAZ*, *Teletica*, *The Straits Times* and *TVi 24*.

The comment on the legislation on "undesirable NGOs" in Russia was covered by *66*, *AFN*, *DPA*, *DW*, *EU News* and *Lenta*.

The report on Bulgaria was covered by the national media (*BTA*, *Bulgarian National Radio and TV*, *Capital*, *Cross*, *Klassa*, *LEX*, *Mediapool*, *News.bg*, *SEGA*).

The visit to San Marino was largely followed by the national media and some Italian media (*ANSA*, *Il Resto del Carlino*, *Libertas*, *Rtv*, *San Marino Notizie*), while the visit to the Slovak Republic was reported by *SME*, *Teraz*, *The Slovak Spectator*, *Topky* and *Transition Online*.

Further coverage concerned Azerbaijan (*Le Monde*, *BBC*, *Contact*, *Day*, *Haqqin*, *PanArmenian*, *Panorama*); the situation in Crimea (*Interfax*, *Unian*); hate speech in Greece (*Left*); Roma in Norway (*Morgonbladet*); media freedom (*ATR TV*, *East Online*, *LB*, *TV Rain*, *Articolo 21*); post-conflict justice in Ireland (*Deery Now*); the situation in Armenia (*1news*, *A1 plus*, *ArmlInfo*, *Azattyun*, *Hetq*, *Panorama*, *Tert*); violence at the Istanbul Pride (*Zaman*, *AFP*, *Washington Post*, *Huffington Post Deutschland*, *ANSA*, *Hurriyet Daily New*, *APA*, *Der Standard*); Belarus (*Belarussian news*); human rights in Europe (*Charter 97*, *LETA*, *Novonite*, *RIA*, *The Baltic Course*); racism (*Kommersant* and

*The New York Times*); violence against women in Serbia (B92); and the letters sent to the Prime Minister of Serbia and to the Ukrainian Parliament concerning the independence of the respective national Ombudsmen (BETA-B92, Pan-European Networks, Balkans News, Interfax, PressOrg24, E-News, Tanjug).

By the end of June, 824 new followers connected with the Commissioner on Twitter, with an average increase of over 274 new followers per month (13% higher than the average monthly increase of followers). The Facebook page continued to be an increasingly visited platform, totalling 2721 likes.

Over 22 000 unique Internet users visited the Commissioner's website, a similar trend to that of the previous quarter.

## **8. Next three months**

### July

29/06-3/07	Visit to Ukraine
06-07/07	CommHR Round-Table with human rights defenders "Women's rights and gender equality in Europe" (Vilnius)

### September

08-09/09	European Parliament LGBTI Intergroup event on Intersex (Strasbourg)
14-18/09	Visit to Belgium
21/09	Keynote speech at launch event for event "None of Europe's Children Should be Stateless" – New European Network on Statelessness Research on Realising Children's Right to a Nationality (Strasbourg)
28/09-02/10	PACE Session

## 9. Observations and reflections

I believe we are witnessing the slow collapse of the current European migration and asylum system. The signs of this impending collapse abound far beyond Calais or Lampedusa. The most dramatic is the inability of European governments to agree on an adequate European-level response to the on-going tragedy of migrants dying in the Mediterranean Sea. Thus far, Italy and Greece have borne the brunt of the burden in search-and-rescue efforts, while other countries and the European Union's Frontex have been bit-players in this drama. The crux of the matter is that other countries do not want to assume responsibility for the migrants once they have been saved. So they end up in Italy (or Greece or Malta), from where they seek to move north. Europe desperately needs to move from national responses to a European-level policy in which responsibility for search-and-rescue, as well as reception and asylum processing tasks would be shared by all European countries. The Mediterranean is not an Italian or Greek or Maltese Sea, but a European Sea.

A second sign of the collapse can be seen in the weak response to the Syrian refugee crisis. Europe has been unwilling to implement a "duty to protect" civilians in Syria, who have been displaced by the millions. Worse, most European countries have been loath to participate in resettlement programmes in any significant way, which means that Syrian refugees have been forced to take dangerous journeys by land or sea to try to reach protection in Europe. In the Council of Europe space, it has been primarily Turkey which has opened up its arms and provided protection to huge numbers of Syrian refugees. Germany and Sweden, numerically the next most significant countries of reception within the Council of Europe, have been very generous, but have received more than 10 times fewer Syrians than Turkey. Attempts to develop obligatory burden-sharing mechanisms have thus far failed, often evoking emotional responses from some governments and publics. A voluntary relocation scheme was finally agreed in June by EU leaders in order to arrange for 40,000 resettlements of Syrians and others in need of protection from front-line states Italy and Greece – a pitifully small number if one considers that over 4 million Syrians have been displaced. Future generations will look back and wonder how Europe could stand by as Syrians suffered and died next door.

A third sign of the collapse can be seen in the dysfunction of the Dublin returns system, whereby EU member states can return asylum-seekers to the first EU country of entry. Following a judgment of the European Court of Human Rights several years ago, returns have been halted to Greece, where the asylum system has been overwhelmed. People have successfully used national courts to challenge returns to Italy, Bulgaria, Hungary and other countries, claiming that they risked inhuman or degrading conditions. Often returns cannot be carried out for political reasons. The true state of the Dublin system became clear to me during a recent visit to Germany, which has been its most ardent defender. In 2014 Germany made 35,115 requests to another EU country to take charge of an asylum seeker, but due to legal challenges and political constraints returned only 4,772 people – fewer than 1/7th of the total! At the same time, Germany received 2275 persons from other EU member states. Germany, it seems, derives little benefit from the Dublin system, but its court system has been deluged with challenges to returns. Clearly, there is a need to reform the Dublin system and Germany could take the lead in this process.

A further sign of collapse is the fact that a number of migrants are forced to make use of the asylum system for purposes of labour migration. Very few opportunities exist for people from outside of the EU to come on a short or long-term basis to work, even though Europe is in need of migrant labour. This leaves the asylum system as the only possible venue for entry and stay. As a result, many EU countries have large numbers of ill-founded claims. For example, in recent months more than half of all asylum claims in Germany have been from the Western Balkans – Bosnia and Herzegovina, “the former Yugoslav Republic of Macedonia”, and Kosovo\*. Almost none of these claims are granted. The upshot is that people with real protection needs are faced with long delays and the public often comes to see all asylum-seekers as being “bogus”. The way forward is not longer lists of “safe countries of origin” with accelerated procedures before returns, but short or long-term labour mobility schemes.

A final sign of collapse is the re-emergence of border controls where none had existed for years, and other moves to restrict mobility. Recently, the French authorities are reported to have begun checking trains and buses coming from Italy and returning irregular migrants. In Denmark, the recent elections saw several parties vowing to re-establish border checks with Germany. This intra-EU phenomenon has an extra-EU manifestation as well – threats to suspend visa facilitation agreements. Easing visa requirements was seen as an integral part of the European integration process for EU candidate countries in the Western Balkans and elsewhere. As the number of asylum claims from these countries has grown, so have calls to restrict movement by re-imposing visa requirements. The further expansion of border controls within the Schengen zone and the suspension of visa facilitation agreements would signal the end of an era of increasingly free movement. Free movement of people within the EU and eased travel from neighbouring countries were among the crowning achievements of European integration, and they are now threatened – not by asylum seekers, but by fear, rejection of the other and a lack of solidarity. That is a shame. We should resist this backsliding and rebuild the European migration and asylum system on the basis of human rights.

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