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## **3<sup>RD</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

The period in review includes the usually slow summer months of July and August. However, human rights in Europe did not fade from the public agenda in the summer sun, as the issue of migration topped the news in August and September, prompting animated debates. I sought to participate in these debates, reminding Council of Europe member states of their human rights obligations towards immigrants, asylum-seekers and refugees.

I not only published several opinion pieces in various newspapers urging human rights compliant responses to the surge in migration, but also recalled in a *Human Rights Comment* that even irregular migrants are entitled to certain social rights. The rights of internally displaced persons (IDPs) and freedom of movement were high on my agenda during an early July visit to Ukraine, while the human rights of migrants were one area of focus in a September visit to Belgium, which included site visits to a migrant detention facility near the airport, a family return home, and a tent village for new arrivals run by NGOs in a park in the middle of Brussels.

Some of the people on the move in Europe continue to be Roma, who have fled conflicts and violence, as well as deep-seated prejudice, poverty and social exclusion. In a visit to Serbia, I focused on the situation of the many Roma forcibly displaced from Kosovo\*, who continue to live in dire circumstances many years after the conflict that prompted their displacement. I also published a *Human Rights Comment* on Roma migrants and the myths and prejudices surrounding the issue. One of the topics of focus during a country visit to Belgium was the situation of Roma and Travellers. Finally, I published a *Human Rights Comment* on Roma history, the ignorance of which contributes to the persistence of anti-Gypsyism in Europe and the perpetuation of human rights violations against Roma today.

A topic I addressed in a report on Serbia and during the visit to Belgium was the human rights of persons with disabilities. In Serbia, the focus was on the need to align legislation on legal capacity with the requirements of the UN Convention on the Rights of Persons with Disabilities and to promote deinstitutionalisation. In Belgium, the focus was on the need to improve access of children with disabilities to mainstream, inclusive education, as Belgium has a very high rate of children with disabilities in special education.

In the report on Serbia, I analysed the human rights situation of women and the issue of gender equality, drawing special attention to the need to bring to life the Istanbul Convention and to combat violence against women effectively. In early July, my Office convened a round-table in Vilnius, Lithuania, with human rights defenders working on women's rights and gender equality. The participants focused on violence against women and access to justice for victims, gender-based discrimination and stereotypes in education, and the situation of human rights defenders working on these issues. Following the round-table, I published a *Human Rights Comment* highlighting the specific

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

obstacles women's rights defenders are confronted with and the need to support and cooperate with them.

During the period in review, I also published an update of our opinion on Russian NGO legislation and its implementation in light of Council of Europe standards. Two years after the original publication of our opinion, an analysis of the implementation of this problematic legislation by the Ministry of Justice and Prosecutor's Office, as well as the outcome of litigation by NGOs in Russian court, suggests that my initial concerns were well-founded. The vague wording of the law has led to arbitrariness in implementation, disproportionate sanctions for violations and an overall chilling effect on the work of many human rights NGOs in Russia.

## **2. Missions and Visits**

### ***Visit to Ukraine***

The Commissioner carried out a visit to Ukraine from 29 June to 3 July, focusing on the humanitarian situation in the east of the country. As part of this mission, he travelled to Kyiv, Dnipropetrovsk, Donetsk and Kramatorsk.

In Kyiv, the Commissioner met with the Speaker of the Parliament, Mr. Volodymyr Groysman; the Prime Minister, Mr Arseniy Yatsenyuk; and the Minister for Foreign Affairs, Mr Pavlo Klimkin. He also held meetings with the Deputy Minister of the Interior, Mr Tigran Avakyan; Deputy Minister of Justice, Ms Nataliia Sevostianova; Deputy Prosecutor General/Chief Military Prosecutor Mr Anatolii Matios; and representatives of several parliamentary factions. In addition, the Commissioner met with the Parliamentary Commissioner for Human Rights, non-governmental organisations and representatives of international organisations including the UN OHCHR and the OSCE.

In Donetsk, the Commissioner had meetings with representatives of the local decision-makers, the local ombudsman for children, the deputy to the local commissioner for human rights and representatives of international intergovernmental and humanitarian organisations operating on the ground. The Commissioner visited hospital no 21 in Kuybyshev district and a traumatology unit in the city centre, as well as residential areas in the vicinity of the contact line. In Kramatorsk, he met the head of the state civil and military administration of the Donetsk region.

Both in Kyiv and Donetsk, the Commissioner urged his interlocutors to facilitate the access of international humanitarian organisations and the delivery of humanitarian aid to the most vulnerable groups residing in non-government controlled territories, in the vicinity of the contact line and in the buffer zone, including by creating special humanitarian corridors. He encouraged the authorities to take steps to minimise the existing barriers severely affecting freedom of movement across the contact line. The Commissioner also discussed questions related to the issuing of birth certificates, passports, school certificates and other documents to children born and living in non-government controlled territories.

During his meetings in the Ministry of the Interior and the Prosecutor General's Office, the Commissioner raised issues about accountability for serious human rights violations

in the east of the country and pending investigations into the Maidan events and May 2014 events in Odessa. He stressed the importance of promptly addressing the shortcomings identified in the findings of the International Advisory Panel with regard to the investigations related to the Maidan events.

During his meeting with the Prime Minister, the Commissioner highlighted the need to develop an action plan for the integration of internally displaced persons aimed at providing them with housing options and employment opportunities. He urged his interlocutors in Kyiv to move forward with the adoption of the National Human Rights Strategy and Action Plan and to maintain the impetus on implementing the on-going reforms in the judiciary and the prosecutor's office.

The Commissioner's report on his visit to Ukraine was published on 3 November.

### ***Visit to Belgium***

The Commissioner carried out a visit to Belgium from 14 to 18 September, focusing on the human rights of asylum-seekers, refugees and immigrants, the human rights of persons with disabilities, and the human rights of Roma and Travellers.

During the visit, the Commissioner met with Mr Koen Geens, Minister of Justice; Mr Didier Reynders, Minister of Foreign Affairs; Mr Theo Francken, State Secretary for Asylum and Immigration; and Ms Elke Sleurs, State Secretary for the Fight against Poverty, Equal Opportunities and Persons with Disabilities. He also held meetings with representatives of the government of the French Community (Mr Demotte, Minister-President of the Community; Ms Simonis, Minister of Equal Opportunities and Vocational Training; and Mr Madrane, Minister responsible for child protection), representatives of the Flemish Government (Ms Homans, Minister of Internal Administration, Civic Education, Housing, Equal Opportunities and the Fight against Poverty; Ms Crevits, Minister of Education; and Mr Vandeurzen, Minister of Welfare, Public Health and Family) and representatives of the government of the German-speaking Community (Mr Paasch, Minister-President; and Mr Antoniadis, Minister for Family, Health and Social Issues). He also met with representatives of the Brussels regional government and its Flemish and French Community Councils (Minister Vanhengel, Minister Debaets and Minister Laanan).

The Commissioner also met with Mr Herman and Ms De Bruecker, the Federal Ombudspersons; Mr De Vos, the *Délégué Général aux droits de l'enfant* of the French community; Mr Vannobergen, the Flemish Parliamentary Child Ombudsman; Ms D'Hondt, the Head of the National Commission for Children's Rights; and with representatives of the Inter-Federal Centre for Equal Opportunities and the Federal Migration Centre (Myria). He also had exchanges of views with representatives of UNHCR and of various civil society organisations.

The Commissioner visited a detention centre for migrants situated next to Brussels airport (Caricole centre) and family units in which migrant families with children are accommodated, as an alternative to detention in a closed centre (Beauvechain). He also visited the psychiatric ward of the prison of Forest in Brussels, as well as living units for persons with disabilities in Brussels. Additionally, he visited the Maximilien Park in Brussels, where at the time of his visit several hundred asylum-seekers were camping while awaiting registration of their claims with the Aliens' Office.

At the end of the visit, the Commissioner commended the Belgian authorities for their decision to increase the quota of Syrian refugees they accept for resettlement. He also praised the overwhelmingly positive response of Belgian society to the arrivals of refugees. However, given the drastic increase in such arrivals over the previous weeks, he urged the authorities to speed up registration procedures and increase their reception capacity. The Commissioner also underlined the need to address long-standing concerns in the field of asylum and migration, in particular the systematic detention of asylum-seekers at Belgian airports. He called on the authorities to maintain and expand the alternatives that are currently used for accommodating families of asylum-seekers and other categories of migrants outside closed centres. More could also be done to identify and safeguard the best interests of children in all asylum and migration proceedings, as required by the UN Convention on the Rights of the Child.

Regarding the rights of persons with disabilities, the Commissioner acknowledged progress, such as the adoption in 2014 of a new law on legal capacity, which must now be implemented in line with the spirit of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). However, more efforts are required in other areas, in particular in the field of inclusive education. Despite marked differences in the laws and practices of the three communities, the number of children with disabilities in separate special education is still exceptionally high in Belgium. The Commissioner called for a nationwide commitment to inclusive education, in order for Belgium to fulfil its commitments under the UNCRPD. He also stressed the urgency of measures to prevent violations of the rights of detainees with psycho-social and intellectual disabilities, in line with the relevant judgments of the European Court of Human Rights against Belgium.

The Commissioner also expressed concerns about serious problems of social exclusion of Roma migrants from other European countries. While praising existing good practices, such as the Roma mediators and the work of associations, he insisted on the need to expand and institutionalise social intervention directed at the most vulnerable Roma families. He also raised concerns about the reported over-representation of Roma children originating from other EU member states in specialised education. Referring to the situation of Belgian Roma and Travellers who travel part of the year, the Commissioner deplored the fact that they were increasingly subjected to forced evictions and highlighted that their way of life should be better respected, notably by substantially increasing the provision of halting sites throughout the country.

The report on the visit to Belgium is forthcoming.

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

#### ***Report on Serbia***

On 8 July the Commissioner published a report following his visit to Serbia from 16 to 20 March. The report focused on major issues concerning transitional justice and reconciliation, action against discrimination and freedom of the media.

While he welcomed the strengthening of regional co-operation in the prosecution of wartime crimes committed during the 1990s' wars, the Commissioner remained

concerned at the lack of accountability for certain serious violations of international human rights and humanitarian law in Serbia, which adversely affects the on-going efforts aimed at achieving justice and durable peace in the region. He urged Serbia to take all necessary measures to end impunity, and effectively prosecute, try, and sanction wartime crimes in line with international and European standards. To this end, the authorities were called on to strengthen and provide the War Crimes Prosecutor's Office ('WCPO') with all necessary resources and public support, as well as to reinforce the witness protection system. The Commissioner underlined that all reported cases of threats and intimidation of witnesses were to be effectively investigated and prosecuted. He also noted that additional efforts at the national and regional levels were necessary to resolve the pending cases of missing persons in Serbia and in the region, in line with the obligations stemming notably from the Court's case-law.

The Commissioner urged Serbia to execute promptly, fully and effectively the judgments of the Court, in particular the pilot judgments concerning serious structural human rights questions. Noting the need to strengthen the capacity of legal professionals in this context, the Commissioner encouraged Serbia to pursue and implement the plan to systematically second legal professionals to the Court's Registry and to the Department for the Execution of the Court's judgments.

Expressing serious concern at the plight of about 88 000 forcibly displaced persons in Serbia, many of them Roma from Kosovo, who are still in need of durable solutions, Commissioner Muižnieks called on the authorities to address this issue with determination and in close co-operation with UNHCR. While commending the authorities' efforts to address the lack of birth registration and personal documentation of Roma, the Commissioner noted with concern that approximately 3 800 Roma remain stateless or at risk of statelessness and without access to basic social and economic rights. Serbia was urged to accede to the Council of Europe treaties concerning nationality and statelessness and to redouble its efforts to resolve these serious, longstanding issues.

Noting that Serbia has enhanced its legal and institutional framework for the fight against discrimination, the Commissioner called for more efficient implementation of this legislation. He also stressed the need to impose adequate, dissuasive sanctions for all hate crimes in order to prevent recurrence. The Commissioner underlined that Serbia has efficient and well-respected national human rights structures which play a significant role in this context. The authorities were urged to provide them with all necessary resources and support, while fully respecting their independence.

The Commissioner was deeply concerned by the fact that many persons with intellectual and psycho-social disabilities, including children, remain in large institutions for social care despite the commitment of the authorities to moving towards deinstitutionalisation. He called on the authorities to draw up and implement, with the active involvement of persons with disabilities, a comprehensive and ambitious plan that should be based on a policy of zero admission to institutions and their replacement with community-based services. The Commissioner was also seriously concerned that persons with disabilities in Serbia may be fully deprived of legal capacity and consequently of their civil and political rights. He called on the authorities to fully and effectively align domestic law and practice with the standards of the UN Convention on the Rights of Persons with Disabilities and the relevant case-law of the Court in order to ensure that all these persons enjoy legal capacity on an equal basis with others in all aspects of life.

Welcoming the 2013 ratification by Serbia of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence ('the Istanbul Convention'), Commissioner Muižnieks called on the authorities to give full effect to the domestic laws and policies aimed at advancing women's rights. He also called on the authorities to ensure that all acts of violence against women, including domestic violence, are effectively investigated and prosecuted, and that dissuasive penalties are imposed on all perpetrators. While he acknowledged the progress made in advancing the rights of LGBTI persons, the Commissioner noted that homophobia and discrimination against LGBTI persons persist, in particular in the workplace. He urged the authorities to continue taking strong public positions against discrimination in this field and to promote public awareness of the value of diversity and respect for all persons' sexual orientation and gender identity.

The Commissioner welcomed the strengthening of the legislative framework concerning media freedoms, in particular the adoption in 2014 of a set of media laws aiming to promote transparency and pluralism, underlining that they should be implemented effectively. However, he was seriously concerned that issues pertaining to media freedoms were discussed in a highly polarised and politicised environment, which seriously undermined the prospects for advancing in this field. The Commissioner urged politicians to put an end to inflammatory remarks against journalists and to other forms of pressure on the media that have led to self-censorship. He was worried at the fact that four journalists remain under 24-hour police protection, while acts of violence against journalists continue to affect their freedom of expression. The Serbian authorities were called on to live up to their positive obligation to initiate effective investigations in all cases of physical violence or verbal threats against journalists, and to bring all perpetrators to justice. The authorities were also urged to carry out effective investigations and conclude by bringing to justice all those responsible for the three assassinations of journalists that occurred between 1994 and 2001. Lastly, the Commissioner underlined the importance of ethical journalism, whose principles must be promoted and nurtured by all media professionals and associations, notably through systematic training and enhanced media self-regulation.

### ***Opinion on Russian Legislation and Practice in relation to NGOs – an Update***

On 9 July, the Commissioner published an Update to his Opinion on the Legislation and Practice in the Russian Federation on Non-Commercial Organisations in Light of Council of Europe Standards. The first Opinion was published on 15 July 2013 and focused on the compatibility of the so-called 2012 Foreign Agents Law with European human rights standards. The update to the Opinion covers further legislative amendments to Russian legislation on NGOs, including the new law on Undesirable International NGOs which was adopted in May 2015. The 2015 Opinion also analyses the implementation of the legislation and its practical consequences for NGOs.

The Commissioner observes that the legislative amendments introduced since the first Opinion of 2013 have amplified the already serious problems related to the lack of legal certainty, arbitrariness and disproportionate sanctions illustrated by the wide discretionary powers granted to the Prosecutor's Office and the executive authorities in implementing the legislation. He highlights cases of inconsistent and simultaneous application of the Foreign Agents Law by several state authorities on the same NGO without giving the NGOs concerned effective opportunities to challenge their treatment in the courts. The analysis of the enforcement of the law also reveals violations of the



procedural rights of NGOs by the domestic courts in their failure to duly assess evidence or arguments presented by the NGOs and to deliver adequately reasoned decisions. In particular, the courts have usually not given sufficient consideration to the NGOs' submissions on the applicability of European human rights standards.

The Commissioner stresses that a growing number of NGOs in the Russian Federation have faced serious negative consequences as a result of the enforcement of the Foreign Agents Law. Many NGOs have initiated self-liquidation proceedings or have already been liquidated. Others have been subjected to heavy fines for not registering as foreign agents voluntarily. Stringent sanctions and frequent inspections, including the possibility for NGO managers to face criminal charges, can have a chilling effect on the work of civil society. The Commissioner concludes that the overall application of the law has confirmed his initial concerns as to the incompatibility of the Law on Foreign Agents with the European standards. The Commissioner calls on the authorities of the Russian Federation to revise the current legislation on non-commercial organisations and to suspend any further application of the Foreign Agents Law pending the adoption of the amendments.

***Meeting with Dominic Raab, Parliamentary Under Secretary of State, Minister for Human Rights, Ministry of Justice, UK***

On 22 September, the Commissioner met with Mr Raab in Strasbourg. The Commissioner was informed by Mr Raab about the UK government's plan to proceed to the drafting and adoption of a British Bill of Rights which would be based on the fundamental standards contained in the European Convention on Human Rights. The Commissioner noted with interest the information provided by Mr Raab and stressed the importance for the European human rights protection system of all states' full and effective abidance by the Court's judgments. The Commissioner noted that he follows the developments in the UK closely and informed Mr Raab that he plans to carry out an official visit to the country in January 2016.

***Meeting with Laura Boldrini, the President of the Chamber of Deputies of Italy***

On 29 September, the Commissioner met with Ms Boldrini, the President of the Chamber of Deputies of Italy. They discussed the challenges brought about by the recent intensification of refugee movements across Europe. The discussions focused on the need for all European countries to acknowledge that such challenges can only be met adequately through a fully coordinated response at European level and not by individual national responses. Such a response should include an acknowledgment of the need for a thorough overhaul of the Dublin regulation with a view to establishing a system that is both more just for asylum seekers and fairer to participating member states. The discussions also covered the importance of resettlement and of legal avenues allowing persons in need of international protection to reach Europe in safety as part of this coordinated response.

## 4. Themes

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

On 20 August, the Commissioner published a Human Rights Comment entitled “Without papers but not without rights: the basic social rights of irregular migrants”, in which he recalls that everyone, including irregular migrants, is entitled to social rights, because their enjoyment constitutes a prerequisite for human dignity, to which everyone is also entitled. However, European states restrict the access of irregular migrants to basic social rights in various ways, including by creating a general climate of rejection against irregular migrants among those who are supposed to provide social services, or establishing an “offence of solidarity” against those who try to assist migrants. In some countries, restrictions on access to social rights aim, more or less explicitly, at deterring other would-be migrants from coming. However, everyone has the right to an adequate standard of living, including adequate food, clothing and shelter. Under the European Social Charter, foreign nationals, whether residing lawfully or not in the country, are entitled to urgent medical assistance and such basic social assistance as is necessary to cope with an immediate state of need (accommodation, food, emergency care and clothing). In addition, states should protect irregular immigrants against labour exploitation and human trafficking in full compliance with their international human rights obligations. The Commissioner also recalled the obligation for states to ensure access to education for all children regardless of their immigration status. In addition to refraining from criminalising migration, states should consider regularisation programmes and increased possibilities for legal channels to immigrate for work. They should inform irregular migrants but also police officers, labour and immigration officials and basic service providers, about the human rights of irregular migrants and victims of human trafficking and exploitative work. Access of irregular migrants to victim support and assistance mechanisms should be ensured, including by enabling NGOs and trade unions to defend rights of the irregular migrants.

On 2 September, the Commissioner published an opinion editorial (*Europe can do more to protect refugees*) on the refugee situation in Europe in which he stressed the need for the EU and European countries to rethink their migration and asylum policy in order to ensure a more human rights compliant response to the arrivals of refugees and asylum-seekers. In particular, he recommended a fundamental review of the Dublin Regulation and building a system where countries fairly share asylum-seekers based on the principles of solidarity and human rights protection. He also called for improved co-operation with states in the Western Balkans and additional legal avenues for refugees to reach the continent. The opinion editorial was published in 11 countries (Belgium, Denmark, France, Germany, Greece, Hungary, Poland, Slovenia, Spain, Sweden, and the United Kingdom).

On 3 September, the Commissioner published a statement in which he expressed his concerns about the UK Prime Minister's position that the UK should not provide protection to more refugees from the Middle East. The Commissioner stressed that while it was true that long-term peace should be brought to Syria and other war-torn countries, it was also true that the UK had a legal and moral obligation to offer shelter to those who flee war and persecution. The Commissioner encouraged the UK to do more to give refuge to Syrians.

On 4 September, the Commissioner published a statement concerning the Hungarian government's stance on refugees, which he described as being deeply regrettable. The Commissioner underscored that Hungary, together with all European countries, had an obligation to provide protection to those who need it, regardless of their religion or any other personal trait. Moreover, he pointed out that the recent set of legislative amendments aimed at restricting immigration, including the creation of a transit zone at the border and the criminalisation of irregular border crossing, represented a bad move which would have further deleterious effects on asylum-seekers. He called on the Hungarian Parliament, which was meeting at the time, to reject these proposals. He also called on both the Government and Parliament to ensure that Hungary's approach to the needs of immigrants, asylum-seekers and refugees was more humane and without discrimination.

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

On 11 September, the Commissioner expressed in a statement his deep concerns about the distressing information he had received on developments in Cizre, a city of around 100,000 inhabitants in the Şırnak Province in South-Eastern Turkey, where a curfew had been declared the previous week. While not calling into question the right of the Turkish authorities to conduct anti-terror operations in a particularly difficult and violent context, the Commissioner stressed that the proportionality and legality of such operations must always be very carefully scrutinised by the authorities and by courts, including in the light of relevant international human rights standards. He urged the authorities to ensure immediate access to Cizre by independent observers, including by Turkey's national human rights structures, in order to dispel the rumours of human rights violations perpetrated by security forces.

### ***Transitional justice***

On 7 July, the Commissioner published an opinion article (*Addressing the needs of the victims of the Srebrenica genocide must be the priority*) in which he stressed that the Srebrenica genocide was one of the vilest episodes of Europe's contemporary history, and that twenty years on the victims of that genocide were still haunted by the political failures which have left them without redress. The Commissioner underlined that while the important process of establishing accountability and bringing war criminals to trial must continue, the other needs of the victims must not be forgotten. He was particularly concerned by the longstanding issue of the survivors' and the victims' relatives lack of access to social and economic rights which he had witnessed during his visit to Srebrenica two years ago. Commissioner Muižnieks regretted that little has improved since then, and a stalemate has prolonged and deepened the suffering of the victims.

He underlined three areas in which improvement is needed in order to meet the victims' needs. The first one concerns the need to establish accountability for serious human rights violations. In this context, the Commissioner noted a good example of the co-operation between Bosnian and Serbian prosecutors which resulted in the arrest by Serbian police of eight men suspected of involvement in the killing of more than 1 000 Muslims on the outskirts of Srebrenica. Secondly, there is a need to provide the victims with the necessary support and legal assistance, and to speed up the identification of all genocide victims and the clarification of the fate of those who remain missing. Lastly, education must be more inclusive. The Commissioner stressed that mono-ethnic schools and the "two-schools-under-one-roof" system which characterise Bosnian education

constitute an anachronistic approach which only perpetrates ethnic divisions which lie at the root of current and past tensions. He recommended that school books notably in Serbia and Bosnia and Herzegovina include an objective testimony of the Srebrenica genocide, portraying it without political or ethnic connotations. The Commissioner concluded that Bosnia and Herzegovina and Serbia must overcome the politicisation of the Srebrenica genocide, take a step back and refocus their energies on the victims' needs for justice, decent living conditions, and recognition.

On 28 August, the Commissioner published a statement in which he stressed the need to remember the victims of enforced disappearance and reflect on the harsh reality that thousands of families of victims are faced with, waiting and hoping to find out the truth about their loved ones. He underlined that on-going conflicts in Europe increased the numbers of victims and recalled that enforced disappearance is a crime under international law and a violation of multiple human rights that all states are obliged to redress. Commissioner Muižnieks called on all European states to become parties to the 2006 International Convention for the Protection of All Persons from Enforced Disappearance and effectively act upon all cases of missing persons and victims of enforced disappearance. He stressed that the passage of time makes finding and identifying remains harder and increases the agony and suffering of the families. It is therefore high time for all states in Europe to establish the truth and provide prompt and adequate redress to all persons concerned.

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

On 8 September, the Commissioner addressed an event on the human rights of intersex people organised by the LGBTI Intergroup of the European Parliament in Strasbourg. He stressed the need to raise awareness of the human rights challenges faced by intersex persons. Intersex children are often subjected to “normalising” treatments which do not respect their rights to self-determination and physical integrity. The Commissioner pointed out that when operations are not necessary on health grounds, they should only take place at an age when intersex persons can give their fully informed consent. Intersex individuals' right not to undergo sex assignment treatment must be respected as well. He urged governments to identify and remedy gaps in the protection of intersex people. After the event, the Commissioner held a meeting with intersex activists.

On 14 September, the Commissioner expressed his support to the participants of the Belgrade Pride Week and Pride March in Serbia in a statement published on Facebook. He commended the courageous work of the organisers and pointed out that the return of Serbia's Pride March a year before had sent a positive signal of respect and inclusion. The Commissioner called on the authorities to work with the organisers to hold a successful event and to continue working together to achieve a truly inclusive society that guarantees equal rights for all.

On 16 and 17 September, the Office participated in an expert meeting on the human rights of intersex people organised by the OHCHR in Geneva. The meeting was opened by the UN High Commissioner for Human Rights and attended by representatives of UN treaty bodies, special rapporteurs, regional human rights mechanisms and intersex activists. The Issue Paper on human rights and intersex people, published by the Commissioner in May 2015, was one of the reference documents for this UN meeting.

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

In July 2015, the Commissioner published two Human Rights Comments on Roma. In the first one (*Time to debunk myths and prejudices about Roma migrants in Europe*), published on 16 July, the Commissioner addresses the uninformed and sometimes inflammatory media reporting surrounding the issue of Roma migrating into the European Union, often perceived as an “invasion”. He underlined that media reporting on numbers of Roma migrants and on their alleged dependency on social welfare is often misleading, as studies show that intra-European migrants, including Roma, make a net contribution to their host countries by paying more in taxes than they receive in benefits. He also highlighted that in a number of places in Europe, the arrival of Roma did not necessarily turn into a major political and media debate and that existing good practices demonstrate that durable social inclusion of Roma is possible. The Commissioner also referred to the Issue Paper he published in 2013 on the right to leave a country, in which he listed a number of human rights non-compliant practices adopted by countries in the Western Balkans to prevent Roma from migrating into the European Union, following the liberalisation of the visa regime between EU member states and these countries. He stressed that it is crucial for politicians and media to stop playing on fears of massive inflows of migrants and stigmatising Roma in this context and to firmly condemn all racist rhetoric.

In another Human Rights Comment (*Time to cure amnesia about the history of Roma in Europe*) published on 30 July, a few days before the commemoration of the liquidation of the Auschwitz “Gypsy camp” on 2 August 1944, the Commissioner focused on the legacy of Roma history. He deplored the continuing lack of awareness of tragic episodes of Roma history in Europe among the general public, which prevents full understanding of their present situation. He recalled the policies of exclusion, elimination and forced assimilation, which culminated with the “Pharrajimos”, the Roma Holocaust during the Second World War. He expressed deep concern about the rhetoric used by some mainstream politicians, which not only trivialises some of the most horrendous violations of the past but also legitimises present-day anti-Roma racism. In this connection, the Commissioner stresses that ignorance of the past allows the perpetuation of serious human rights violations, such as forced sterilisation of women, removal of Roma children from their families, widespread ethnic profiling by the police, forced evictions and lack of measures to tackle statelessness affecting Roma. He advocates for public recognition and apologies by policy-makers for past human rights violations, as has been done in several member states. He also supports the establishment of truth and reconciliation commissions and recommends the dissemination of information on Roma history, notably through schools, so as to combat growing anti-Gypsyism more effectively.

### ***Human rights of children***

On 21 September, the Commissioner took part in a conference for the launch of a report on child statelessness in Europe (“No child should be stateless”) published by the European Network on Statelessness (ENS) with UNHCR’s support. He reiterated his full support for UNHCR’s campaign “I belong” to end statelessness worldwide and to the StatelessKids Campaign launched last year by the ENS. He also recalled his key recommendations to safeguard the right of every child to obtain a nationality, including: the importance of granting children who would otherwise be stateless the nationality of their country of birth; the need to improve birth registration, notably by reaching out to the most marginalised groups of society; and the urgent need to pay specific attention to

statelessness among children born to refugees arriving in Europe, in particular Syrian refugees. Lastly, he called on member states which have not yet done so to accede to the relevant UN and Council of Europe conventions on nationality and the avoidance of statelessness.

### ***Hate crimes***

In September, the Commissioner contributed an introductory video to a course on hate crime produced by the European Programme for Human Rights Education for Legal Professionals of the Council of Europe (HELP) and OSCE/ODIHR. The Commissioner stated that his work in the field indicates that while hate speech and hate crime are growing problems in European societies, the latter -- and legal professionals in particular -- are not always well equipped to tackle them. Through their litigation work, legal professionals can play a key role in raising awareness in society of the fact that freedom of expression does not include hate speech and that hate crimes are not crimes like any other because of their particularly devastating impact on victims and on social cohesion as a whole.

## **5. Human Rights Defenders**

### ***Round-table on women's rights and gender equality in Europe***

On 6 and 7 July, the Commissioner's Office organised a round-table with human rights defenders on women's rights and gender equality in Europe in Vilnius, Lithuania. Over 20 human rights defenders from European countries participated in the event. The goal of the round-table was to address and explore a number of specific issues related to gender equality and the enjoyment of human rights by women, and to assess the situation of women's rights defenders working in the Council of Europe area. The discussions aimed to identify ways to improve the protection of women's rights and gender equality in Council of Europe member states and the working environment of women's rights defenders. The information obtained during the round-table should help the Commissioner to develop his country and thematic work on women's rights and gender equality and better enable his Office to support the work of women's rights defenders.

The participants discussed issues related to violence against women and access to justice for victims. The round-table shed light on the diverse forms of violence against women and the effectiveness of policy, legal and institutional frameworks in place at the national level in this area. Discussions also tackled issues related to the ratification and implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) and its impact in the countries which have already ratified this instrument. Another key aspect of the discussions was the effective access to justice by women victims of violence, and specifically the work of the police, prosecutors, judges and lawyers to this end.

The second major topic of the round-table concerned gender-based discrimination and stereotypes in the education system. Discussions focused on the link between gender stereotypes, gender inequality and violence against women. Participants discussed effective ways of combating harmful and wrongful gender stereotyping. A central issue

remains the elimination of persisting gender stereotyping in the education system (school programmes, textbooks and teaching methods) as this is a major source of discrimination. Discussions also touched upon the issue of sexual education as a way of enhancing the protection of women's sexual and reproductive rights.

Thirdly, the round-table concentrated on the situation of human rights defenders promoting women's rights and gender equality. The participants assessed the main hindrances that women's rights defenders face in their work and in particular the forms of abuse and intimidation that they experience on the part of state and non-state actors. Discussions also focused on ways of responding to abuses and overcoming obstacles to the work of human rights defenders in general and women's rights defenders in particular.

The Commissioner will publish a report on the round-table.

***Human Rights Comment "Remove obstacles to the work of women's rights defenders"***

On 22 September, the Commissioner published a Human Rights Comment entitled "Remove obstacles to the work of women's rights defenders". Recalling the essential role that women's rights defenders play in Europe, the Commissioner underlined the serious obstacles that they face in their work. Restrictive legislation and repressive practices against civil society have also had an impact on those who work to protect the human rights of women and promote gender equality. The latter face specific obstacles when they challenge patriarchal values, sexist stereotypes and the traditional perception of gender roles. Women's rights defenders experience intimidation, pressure, threats, attacks, defamation, cyber-attacks and disruption of victims' hotlines. Women's rights defenders are sometimes portrayed as destroyers of family values and national traditions or as agents of what has pejoratively been labelled "gender ideology". Those working on sexual and reproductive rights or advocating the rights of women victims of domestic violence have often been targeted.

Women human rights defenders are at high risk of experiencing gender-based violence, rape and other forms of sexual violence, harassment and verbal abuse as well as attacks on their reputation both online and offline. A worrying phenomenon is the increasing use of hate speech targeting women human rights defenders. National authorities often fail to consult or listen to women's rights defenders on relevant policies and laws. Another disturbing element is that women's rights defenders are not considered as equals by some fellow human rights defenders.

The Commissioner also explored ways to improve the working environment of women's rights defenders. He urged Council of Europe member states to implement their national and international obligations to end discrimination and human rights violations based on sex and gender. He called on all member states to ratify and implement the Istanbul Convention. States must also meet their obligations to protect human rights defenders and ensure an enabling environment for their work free from intimidation and pressure. States should notably refrain from putting in place policies, legislation and practices which run contrary to freedoms of association, assembly and expression.

The Commissioner urged member states to adopt and implement national laws prohibiting discrimination on the basis of sex and gender as well as legal provisions

specifically aiming to combat gender-based hate crimes and hate speech. Expressions of support from the government and state institutions for the work of women's rights defenders and their effective inclusion in official consultations on relevant issues are of great importance. It is also essential for the wider community of human rights defenders and national human rights structures to support women's rights defenders and fully cooperate with them.

## 6. Communication and Information work

More than 205 news pieces were published concerning the Commissioner's work during this quarter.

The main media coverage concerned migration issues, the visit to Eastern Ukraine and freedom of expression.

On migration, the Commissioner published an opinion editorial in several national media (*Berlingske, Le Monde, OpenDemocracy, Tagesschau, To Vima, Index, Gazeta Wyborcza, Delo, HuffPost, Svenska Dagbladet*). He stressed the need for the EU and European countries to rethink their migration and asylum policy in order to ensure a more human rights compliant response to the arrivals of refugees and asylum-seekers. Additional interviews and comments were mentioned in articles published by *AFP, Al Jazeera, Anadolu Agency, ANSA, BaltNews, BBC, Berlingske, Bild, Bildt, Blic, Bloomberg, BRTK, Bulgarian News Agency, CNN, CRI, Cyprus News, Daily Times, Delfi, Der Standard, DPA, El Huffington Post, EU-Info Deutschland, EurActiv, Euronews, Europa Press, Europe online magazine, Financial Times, Gazzetta del sud, Huffington Post, Index, Klix, La Libre Belgique, La Tribune de Genève, La Vanguardia, Latvia TV, Le Monde, LETA, L'Unita, Middle East Mirror, Mno, Multi-News, NordBayerischer Kurier, NovaTv, Novinite, Nzz, Open Democracy, Palo, Politiken, Vatican Radio, Real, Reitingi, RFE/RL, RSI, SDA – ATS, Shanghai Daily, Smy, The Guardian, The Independent, the Telegraph, The Wall Street Journal, TopKy, Turkish Weekly, and Zeit Online.*

The Commissioner's visit to Eastern Ukraine was covered by *624, Delo, Hromadske TV, Il Velino, Interfax, ITAR-TASS, Kommersant, KyivPost, Last News, Mid-DNR, Nter.net, Pravda, Pronedra, RIA Novosti, Russian Planet, Sputnik, Svodka, Ukraine Today, UralPress, Vchaspik, and Zarruskiy.*

The comments on threats and attacks against journalists in various European countries were quoted by several media, including *ANSA, B92, Baltic Daily, BGN, Contact, Deutsche Welle, DPA, Echo Moscow, Europe Online, Haqqin, Helsingborgs Dagblad, Hetq, Hurriet Daily News, Interfax, Kavkaz uzal, Kommersant, Libertas, Novaya Gazeta, Ossigeno, Radio Freand e Europe, RIA Novosti, Sputnik, Svoboda, Today's Zaman, Trukish Weekly, Vedomosti, and Zaman.*

The Commissioner's concerns over the situation of LGBTI people in Europe were covered by *ANSA med, Armen News, b92, inSerbia, T24, and Tanjug.* Serbian media also focused on the Commissioner's concerns about the ban on Cyrillic script adopted by the City Council of Vukovar (*InSerbia, Blic, Tanjug, RTS, Slobodna Evropa, Akter.*



The concerns expressed about the curfew in the city of Cizre in Turkey and the Commissioner's recommendation to give access to independent observers were widely mentioned, including by *Abc News*, *BBC News*, *BGN News*, *Bugün*, *Daily News Egypt*, *Hurriyet Daily News*, *Mashable*, *New Europe*, *n-TV*, *Radikal*, *Reuters*, *Ria Novosti*, *RTT News*, *Rudaw*, *The Guardian*, *The New York Times*, *Today's Zaman*, *Tribune de Genève*, *Voice of America*, and *Yahoo News*.

The visit to Belgium was largely covered with two interviews with *La Libre Belgique* and *De Morgen*. In addition, other media covered it, including *7 sur 7*, *Knack*, *Metro* and *RTBF*.

An opinion editorial on the 20th anniversary of the Srebrenica genocide was published by the Bosnian paper *Oslobodjenje* and the online news portals *OpenDemocracy* and *Osservatorio Balcani Caucaso*. It was also mentioned by *Blic*, *Frankfurter Allgemeine* and *KathWeb*.

Further coverage concerned the genocide of Roma (*i24News*, *La Presse*) and the visit to Slovakia (*Buongiorno Slovacchia*).

The Commissioner's presence on social media, mainly Twitter and Facebook, continue to grow. At the end of September, 785 new followers connected with the Commissioner on Twitter, while 336 additional likes were registered on Facebook.

Over 24 000 unique Internet users visited the Commissioner's website, an increase of around 10% compared to the previous quarters of 2015.

## **7. Next three months**

### October

- |          |   |
|----------|---|
| 01-02/10 | Publication of report on Germany and follow-up meetings in Berlin   |
| 07/10    | CM thematic debate on freedom of association and assembly   |
| 13/10    | CoE conference “Freedom of expression is still an issue (and nothing less than a human right)” (Strasbourg)                 |
| 13/10    | Dialogues de Strasbourg “Migrants: l’Europe peut mieux faire”   |
| 19-23/10 | Meetings with State Department and lecture in Washington, meetings with UN partners, civil society and lectures in New York |

### November

- |          |  |
|----------|--|
| 03/11    | Meetings in Brussels   |
| 04/11    | Speak-up! 3 - Freedom of Expression and Media in the Western Balkans and Turkey (Brussels) |
| 09-13/11 | Visit to Georgia   |
| 18/11    | Exchange of views with GRETA (Strasbourg)  |
| 19/11    | World Forum for Democracy (Strasbourg)   |
| 23-27/11 | Visit to Hungary   |

### December

- |             |   |
|-------------|---|
| 30/11-01/12 | Meeting with ENNHRI – European Network of National Human Rights Institutions on migration (Utrecht) |
| 02-03/12    | Visit to Frontex (Warsaw)   |
| 07-11/12    | Visit to Cyprus   |

## 8. Observations and reflections

The focus throughout Europe in the last several months has been on the arrival of migrants, including asylum-seekers, their reception and the immediate task of coping with processing many asylum applications and dealing with urgent housing, food and health care needs. I have noted with regret the lack of any significant debate in Europe about the longer-term challenge of promoting the successful integration of these migrants into their new host societies. This is a policy challenge which has an impact on many human rights, including the right to equality and non-discrimination, and access to social and economic rights, particularly employment, education, health care, and housing. We should begin the conversation about migrant integration now, lest we lose valuable time and repeat the mistakes of the past which will lead to heavy costs.

### *We need to “get integration right”*

What are the risks if we do not “get integration right”, if we either do not pursue the systematic integration of migrants or pursue it in a misguided manner? The risks are grave, not only for the human rights of the new arrivals, but also for social cohesion more broadly. One risk is the rise of extremism, both among the host society and among the new arrivals. We have already seen a spike in racist arson and other attacks in Germany and poll numbers suggesting that far-right populist political parties are gaining in popularity in several countries. But the risk is also that young migrants who are not helped to find their way, who remain without education or employment, alienated by experiences of discrimination, will be easy recruits for various extremist groups as well.

We should not exaggerate these risks, but we should take them seriously and commit to mitigating them through integration policies. A greater risk is that for political reasons or financial constraints, integration is not pursued vigorously enough or is pursued in an ineffective manner, by making exorbitant demands on new arrivals without providing them with sufficient support. The risk then is of lost potential, of broken lives, of missed opportunities to enrich our societies socially, culturally, economically, and of the emergence of new migrant ghettos. Current moves in several Council of Europe countries to cut refugee and immigrant benefits, ostensibly to diminish alleged “pull factors” or avoid “being unjust to our own pensioners”, risk leaving migrants destitute and socially excluded.

### *Premises of migrant integration policy*

What would a well-functioning migrant integration policy look like? First of all, such a policy should focus not only on new arrivals, but on the broader host society as well. Indeed, integration policies and measures should crosscut all social sectors that have a bearing on the life of nationals, and old as well as new migrant arrivals. In fact many of the social hurdles encountered by migrants are also faced by socially disadvantaged citizens of European countries.

In this context, there is a need to acknowledge that most of the new arrivals will probably stay for good, even if the situation in countries such as Syria, Afghanistan, Iraq or Somalia stabilises. One critical failure of many previous integration efforts were misguided assumptions about the temporary nature of people’s stay. Thus, the working

assumption should be long-term or permanent stay, meaning that granting permanent residency and, eventually, citizenship, should be envisaged from the very beginning.

NGOs, particularly those representing migrants or refugees, can play a critical role in devising, implementing and evaluating integration policies. Persons from the communities in question are best-placed to say what works, what doesn't and what the mood is in the community. National and local governments should support such associations and involve them every step of the way.

There is also an urgent need to raise public awareness about who the new arrivals are, what the circumstances are in the lands from which they are fleeing, and their cultural and religious traditions. There is also an urgent need to strengthen institutions and policies dealing with hate speech and hate crimes. There is nothing more deleterious to the goal of integration than fear – fear of being threatened, mobbed, or attacked by individuals or groups because of one's skin colour, religion, language, nationality or other distinguishing characteristics. It is only if newcomers feel safe that the hard work of integration can begin.

#### *Responding adequately to migrants' real needs*

Many countries require new arrivals to undergo obligatory integration courses about the history, culture, traditions and political and social system of the country. These courses can provide essential information to newcomers about their new host societies. They can also be useful in exposing persons to the reality of diversity in the host countries, including traditions of peaceful co-existence between members of different cultural and religious groups, as well as the particular history of the host country and Europe, including its dark sides, such as colonialism, the Holocaust and totalitarian communism.

There is a need to acknowledge that the new arrivals are diverse and this will require differentiated integration measures. Some arrive with financial resources, while others have only the clothes on their backs. Some are healthy and merely need the chance to go to school or work, but others may have physical disabilities or psychological trauma from torture, war or deprivation. It is clear that a successful integration policy will require tailor-made solutions for each individual to address specific deficits and take maximum advantage of each person's skills, experience, education and motivation to help him or her create a new life project.

One common need for most new arrivals will be *language training*. This is critical not only for access to education, employment, and participation in society, but also to facilitate inter-cultural contact. Language training should thus begin as soon as possible, even before a final decision on granting refugee status, subsidiary protection or another status is made.

*Family reunification* also plays a vital stabilising role. How can one integrate fully into one's new host country without knowing that one's spouse or children are safe? The first member of a family to have settled in the host country will assist and guide subsequent arriving members of the family in the integration process, thereby facilitating the government's work.

Another early imperative is *access to the labour market* and apprenticeships in industry. Preventing asylum-seekers from gaining access to gainful employment or training slows

their integration in many ways: it reinforces prejudices about asylum-seekers wanting to live off social welfare, it forces them into the grey economy where there is a high probability of their being exploited, and can lead to the loss of skills and motivation. Some newcomers are entrepreneurs or potential entrepreneurs who may only need advice, assistance or micro-credit to quickly become tax-payers and employers in their own right.

Many young asylum-seekers from war-torn countries have had their *education* interrupted and will need remedial classes to catch up with their host country peers. It is essential that such remedial education not lead to long-term education in separate classes or even schools. The challenge of making Europe's schools more inclusive just became a bit more difficult, which means that additional investment will be required in infrastructure, teacher-training, and awareness-raising among parents.

Newcomers will invariably need assistance in accessing affordable *housing and health care*. One big mistake in the European response to previous waves of migration was to allow the emergence of segregated housing estates in ghettos surrounding major cities. This should be avoided at all costs. Providing easy access to primary health care, including mental health care, can also be a good investment, as health deficits can grow more serious if left unaddressed in a timely fashion and can even be transferred across generations, leading to huge integration barriers and expenses later on.

Migrants' effective *participation in their host countries' public life* is also of paramount importance for their integration which de facto starts at local level. Local authorities in Europe need to realise and take all necessary measures in order to fulfil their crucial role in this domain. Non-nationals who are regular residents should be allowed to participate fully in public life at local level. To this end, states that have not as yet done so are encouraged to accede to the 1992 Convention of the Council of Europe on the participation of foreigners in public life at local level. However, Full *citizenship* should remain one of the goals of integration policy. This provides access to the full set of rights and provides a sense of stability, a sense of belonging and a stake in the new host country.

*Inter-state solidarity is also necessary for integration*

Many countries in Europe are facing the challenge of integrating significant numbers of migrants for the first time. They lack the structures, mechanisms, experience, and often – the resources - for coping with the new arrivals. More experienced countries, especially those that fare well on various comparative indices, such as the Migrant Integration Policy Index, should share their practices with others. Moreover, the European Commission should ensure that all EU member states and candidate countries have sufficient resources to “do integration right”.