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COMMISSAIRE AUX DROITS DE L'HOMME



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of the Council of Europe**

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and the Parliamentary Assembly

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## Foreword by the Commissioner

Regular visits carried out in Council of Europe member states have demonstrated that although human rights are ingrained in our European experience there is still a gap between political rhetoric and reality when it comes to implementing human rights standards.

No country in Europe is free from discrimination and racism. Roma and many other ethnic or religious minorities, migrants as well as lesbian, gay, bisexual and transgender people still face serious obstacles in their daily lives. Persons with disabilities are often denied access to basic rights. Women are discriminated on the job market and under-represented in political assemblies. Domestic violence is a sad reality in too many homes and abuse of children is reported in every country.

All too often, the system of justice – including the police, the judiciary and the penitentiary – does not ensure full respect of individuals' rights and cases of corruption, incompetence and abuse of power are regularly reported. Certain reactions to terrorism have weakened human rights protection and questioned the absolute prohibition of torture and protection of privacy.

This implementation gap must be addressed with greater consistency, both at international and national level. Constant monitoring is essential for every country. The overall purpose of my work was to contribute concretely to this effort.

### ***Country monitoring***

After my visits, in 2008, to San Marino, "the former Yugoslav Republic of Macedonia", Montenegro, the Netherlands, Serbia, Monaco and Belgium, the full cycle of assessment visits has been completed. All 47 member states have now been visited for the purpose of comprehensive human rights appraisal since the establishment of the Commissioner's Office ten years ago.

During the year, I presented assessment reports on Bosnia and Herzegovina, Azerbaijan, Armenia, Ireland, Albania, San Marino, "the former Yugoslav Republic of Macedonia" and Montenegro. Reports on the Netherlands, Serbia and Monaco were published in March 2009 and the report on Belgium will be published in May 2009.

I strengthened the continuous dialogue with national authorities and civil society through a series of contact visits which were carried out to Bulgaria, the Slovak Republic, the Russian Federation, Poland, Denmark, Romania and Cyprus. At the same time, a new approach was developed, with more focused visits with the aim of defining key problems and issuing more precise recommendations. This approach included special visits to France, the United Kingdom, Italy, Cyprus and Greece.

New challenges also arose, calling for a more flexible approach to responding effectively to conflict and crisis situations. An important part of this work was dedicated to the humanitarian disaster created by the South Ossetia conflict. After my first visit in August, I formulated six principles for urgent human rights and humanitarian protection: right of return; care for internally displaced persons; de-mining; establishing law and order; exchange of detainees and clarifying the fate of missing persons; and international access and human rights presence. These principles received political support from the Committee of Ministers and the Parliamentary Assembly. In 2008, I carried out three visits to the conflict region and presented three reports on my findings.

I was also involved in human rights diplomacy to define outstanding problems and advise on necessary remedial action. In this sense, I made use of my good offices to facilitate the exchange of persons who had been detained and clarify the fate of missing persons. As a result, 179 living people and the bodies of 43 persons were handed over by the *de facto* authorities of South Ossetia to the Georgian authorities, who in turn rendered 41 people and 2 dead bodies.

Since March 2008, the aftermath of the post-election violence in Armenia has required increased attention and extensive consultations with the Armenian authorities, Council of Europe bodies and international organisations. I carried out three visits there focusing on the establishment of an independent, impartial and transparent investigation into the events and on the situation of prisoners deprived of their liberty in that context, including their judicial process.

### ***Thematic work and awareness raising***

Intense work on human rights themes was also carried out in 2008. Action against discrimination and racism, protection of migrants, refugees and asylum-seekers, juvenile justice and protection of human rights in counter-terrorism measures were among the main priorities. Thematic work resulted in the publication of four Issue Papers and one Opinion in 2008.

A workshop was held in May on how to investigate allegations of police misconduct. Good practice from some member states has been shared and an Opinion was prepared on the subject (published in March 2009). An expert seminar on the situation of transgender people and discrimination based on gender identity was organised in November. Work on “systematic implementation of human rights” was developed as an effective methodology for addressing human rights violations in a comprehensive manner (leading to the publication of a recommendation in February 2009).

One important development was the suggestion received in February by the Committee of Ministers for the Office to become the regional mechanism for the protection of human rights defenders in the Council of Europe region. The protection and support of human rights activists have now been mainstreamed into all activities of the Office.

The programme of co-operation with national human rights structures was also continued. It was developed in the light of the Wise Persons’ recommendations and focused on the need to contribute to the long-term effectiveness of the human rights protection system of the European Convention on Human Rights.

Viewpoint articles were published every two weeks addressing some of the main human rights concerns I have come across during my work. Both country and thematic work received much publicity in national and international media, including radio and TV, which resulted in a general increase in the visibility of the Office’s work. The publication of statements, video and audio messages also contributed to this effect.

### ***Seeking complementarity***

Co-operation with Council of Europe bodies and other international human rights structures was enhanced. More regular in-house contacts were established, in particular with the European Court of Human Rights, the Parliamentary Assembly, the Committee for the Prevention of Torture, the European Committee for Social Rights, the European Commission against Racism and Intolerance, the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

At the external level, stronger co-ordination was sought with relevant bodies of the European Union, OSCE and the United Nations.

### ***Perspectives and challenges***

After the completion of the full cycle of assessment visits, I intend to carry out more focused country visits as well as work on crisis situations and human rights in conflict areas. Reporting will be adapted to the new approach: it will be shorter, more focused and published not long after the visit. I would also like to

enhance my Office's ability to react rapidly to developments which may affect human rights in member states, thus functioning more and more as a rapid response mechanism.

Thematic work will continue with a focus on non-discrimination (in particular, Roma, LGBT people and persons with disabilities); migrants, refugees and asylum seekers; and juvenile justice. Developments on human rights and terrorism will also be followed with a particular emphasis on data protection. Moreover, work on national planning, human rights education and the use of indicators will be pursued.

Working contacts with national human rights structures will be developed. The establishment of an environment conducive for human rights activists remains a priority.

Awareness raising and media activities will be further developed and viewpoint articles and issue papers on crucial subjects will continue to be published.

Further co-ordination with other parts of the Council of Europe and with relevant agencies in the United Nations, the European Union and the OSCE will also be sought.

This ambitious plan will require input from the Office beyond the present level of resources. We must keep moving forward in order to harness the full potential of the institution. I am acutely aware of the fact that our achievements up until now have also created new expectations which we should strive to meet. A further increase in the budget and staff is therefore necessary. Ways to strengthen the administrative independence of the Office will also be considered.

In 2009 the Council of Europe will be celebrating its 60<sup>th</sup> anniversary and some of its mechanisms are also having their anniversary, including the 10<sup>th</sup> anniversary of my Office. We should seize this occasion not only to reflect on what the Council of Europe has achieved so far but also to consider how better to use our array of mechanisms to ensure the full respect of the agreed standards and how to address new challenges with a long-term, human-rights based approach.

As we continue promoting human rights, we should leave no room for complacency: new challenges arise every day and expectations are constantly changing. 2008 has, for instance, shown us the negative impact of the global economic crisis. We must now live up to people's expectations and urgently develop viable programmes which promote social cohesion and prevent any watering down of the already agreed human rights standards, including social and economic rights.

Any policy in this sense must be sustainable and long-ranging and should ensure that the burden of recovery is not placed on those who have the least resources to take on any further pain.

The times ahead will be harsh; I have no illusions about that. I know we will have to step up our efforts to attain the full respect for the equal rights and dignity of all human beings.

My Office is ready to address these challenges. I intend to ensure that my work continues to contribute actively to the construction of a Europe where no one is left without protection of their rights.

Strasbourg, 31 March 2009



# 1 Thematic priorities

In 2008, non-discrimination, the human rights of migrants and the protection of human rights in the fight against terrorism were the thematic priorities of the Commissioner's work. Roma, persons with disabilities, lesbian, gay, bisexual and transgender persons as well as migrants, including irregular migrants, received particular attention as victims of discrimination. Other important work was initiated on mechanisms to investigate complaints against the police, juvenile justice and systematic work for human rights. These activities have already resulted or will result in the publication of Recommendations, Opinions or Issue Papers in 2009.

## 1.1 *The human rights of Roma and Travellers*

Roma and Travellers in Europe continue to suffer systematic discrimination in all major social sectors in most of the Council of Europe member states. The Commissioner observed and expressed his particular concern about a strong trend of anti-Gypsyism that continued unabated or was even strengthened in certain member states in 2008 (see the Viewpoint, "The shameful history of anti-Gypsyism is forgotten - and repeated", 18 August 2008). Migration of Roma from the most recent EU member states to older ones has also given rise to special human rights concerns.

The Commissioner has taken note of the Committee of Ministers' Recommendation Rec(2008)5 on policies for Roma and/or Travellers in Europe, adopted on 20 February 2008, and has urged member states to implement promptly the policy-making guidelines contained in this Recommendation. Of special concern to the Commissioner continued to be the effective access to housing and education as well as the statelessness of Roma and Travellers, as noted in a number of country-based and thematic publications issued by the Commissioner in 2008.

In the Commissioner's Issue Paper on housing rights, published in April 2008, it was noted that persistent difficulties are faced by Roma and Travellers in securing adequate housing. Exclusion of Roma from housing estates and new developments of social housing widely occurs across Europe. In many cases, Roma continue to live in shanty towns in sub-standard housing, exacerbated by poor facilities, overcrowding and an impoverished local environment.

As regards access to education, in his Viewpoint entitled "The key to the promotion of Roma rights: early and inclusive education" (March 2008) the Commissioner stressed the importance of early and inclusive education. He wrote that many Roma children remain outside national education systems altogether, that there is a high drop-out rate among those who enrol and that the achievements in general among Roma pupils are low. The Commissioner underlined that this problem requires more analysis based on relevant data, a clearer policy and stronger remedial measures.

This issue was again raised by the Commissioner during the European Conference on Roma Education in Bratislava in April 2008. Drawing the attention of Council of Europe member states to the need to develop comprehensive action plans for human rights, he also stressed the importance of acting promptly to fill the serious gaps in protecting the access of Roma to education. The Commissioner pointed out that "segregation practices lead to the increase of the Roma's marginalization and, above all, deny both the Roma and non-Roma children the chance to know each other and to learn to live as equal citizens".

Statelessness and lack of identity papers is another major issue encountered by a significant number of Roma in Europe, especially those coming from the former Yugoslavia, whether they have remained in their country of origin or migrated to other member states. Those who have moved from the former Yugoslavia to other parts of Europe often lack personal documents and therefore live in uncertainty. They are *de facto* stateless. Newborn Roma children are frequently not registered and risk losing their right to apply for citizenship as they cannot prove legal residence in the country. The lack of effective access to justice by means of legal aid exacerbates these persons' precarious situation.

Moreover, the Commissioner has highlighted the need to involve Roma further in political decision-making. In a Viewpoint published in September ("Roma representatives must be welcomed into political decision-making") he pointed out that Roma are grossly under-represented in local and national assemblies and government administrations all over Europe. He called for measures to be taken to improve civic education, voter registration, civil service recruitment and awareness-raising among administrations for the empowerment of Roma women and men at the political level.

The situation of Roma was part of the Commissioner's regular country monitoring throughout 2008. Among other issues, the Commissioner has been following closely the elaboration and adoption of a number of legislative and administrative measures in Italy, such as the "security package", that have directly affected Roma EU citizens. In his Memorandum, published in July 2008, following his visit to Italy in June, the Commissioner urged the authorities to adopt measures for the amelioration of living conditions of Roma and Sinti and to apply a coherent, comprehensive and adequately resourced action plan for the effective protection of these groups' human rights. Special emphasis was given to the situation of Roma children, especially those who remain stateless.

The Commissioner is pleased to note the close co-operation that his Office developed with the OSCE High Commissioner on National Minorities. In 2008 they initiated a joint project on recent migration and the protection of the human rights of Roma migrants in Europe. The research and drafting of the relevant study by two experts was concluded in December 2008 and the publication is forthcoming. In the context of this project, the Commissioner's Office organised an expert meeting to exchange views on the research in Budapest in September. The Commissioner's Office has also maintained close contact with the EU Fundamental Rights Agency, with which further co-operation is envisaged in 2009 in promoting the human rights of Roma in Europe.

The Commissioner convened three internal Council of Europe consultation meetings on issues related to Roma and Travellers. The aim of these meetings was to take stock of the Council's activities related to Roma and Travellers' human rights and to explore the possibilities for further in-house coordination of action. Representatives from all competent Council of Europe departments have participated in these meetings which will continue in 2009. An intranet "collaborative space" was also created in order to facilitate the organisation of these meetings and the exchange of information among the departments involved.

The human rights of Roma in Europe are linked to the effective general protection of minorities by member states. Roma are a pan-European minority with a particularly long history of continued discrimination and intolerance, occasionally amounting to persecution – a minority that comprises approximately ten million people. The Commissioner pointed out in his speeches and other publications the essential role national action plans may play in the effective implementation of human rights standards. He also invited member states to ratify or further promote the implementation of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages.

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

The entry into force of the UN Convention on the Rights of Persons with Disabilities in May 2008 has given new impetus to protecting and promoting the human rights of people with disabilities. Despite some legislative progress over the past decade, the situation of persons with disabilities remains precarious in many Council of Europe member states.

In order to address such concerns, the Commissioner published in October an Issue Paper "Human Rights and Disability: Equal rights for all". Apart from describing the problems in the area of education, the labour market and discrimination more generally, the Commissioner also paid attention to the European human rights standards and the implementation of these standards in his country assessment reports.

Children with disabilities face problems within the education system. Some children are still considered “unteachable” and denied education. Lack of support and/or appropriate communication facilities in ordinary schools makes it difficult for pupils with disabilities to follow lectures and prevents them from active participation. Inaccessible school buildings can make it impossible for pupils with disabilities to go to ordinary classes and to participate in school activities.

Job opportunities are often still limited due to discriminatory practices and physical barriers at the workplace. The unemployment rates among persons with disabilities are often two to three times higher compared to persons without disabilities. Where persons with disabilities are employed, they are often engaged in low-paid jobs with little social and legal security, segregated from the open labour market. Not only discriminatory attitudes and lack of accessible workplaces at the labour market cause this exclusion; physical barriers in public transportation and the lack of adequate educational opportunities also play a significant role. Existing human rights instruments clearly require states to adopt non-discrimination legislation in the employment field. Such legislation should apply to both public and private employers and contain an obligation to provide for “reasonable accommodation” in the working environment.

Whereas many European countries are promoting a model of community living for persons with disabilities, other countries still cling to an approach that favours institutionalisation of persons with disabilities. In institutional settings, people with disabilities have a higher risk of being cut off from the family and community and in many cases live under poor conditions.

In relation to the complicated issue of ‘legal capacity’, most countries have legal mechanisms to meet the need for assistance in decision-making that some persons with intellectual or mental disabilities may need. The procedure for depriving someone of their legal capacity, guardian’s powers and the review system vary significantly between European countries. Supported decision-making should be the favoured option while any deprivation of legal capacity should be proportional to the person’s needs and situation. Where to live, consenting or refusing treatment, the right to vote and the right to marry and found a family are examples of areas where deprivation of legal capacity may exist but is questionable.

On 29 October, the Commissioner delivered a key note address to the conference “Protecting and promoting the rights of people with disabilities in Europe: towards full participation, inclusion and empowerment” which was held in Strasbourg. The Commissioner stressed the importance of a shift in discourse and policies from perceiving persons with disabilities as victims and objects to subjects able and entitled to be active citizens. The Commissioner highlighted the current challenges for states in implementing the UN Convention on the Rights of Persons with Disabilities and the Council of Europe Disability Action Plan 2006-2015. He called upon all member states to ratify and sign the Convention and its Optional Protocol. He asked for special attention to be given to children with disabilities, women and girls, elderly and persons with mental disabilities. He also stressed the need for further planning and elaboration of national disability action plans and strategies, in order to make the human rights commitments concrete. In that regard it is also crucial that independent Ombudsmen or other equality bodies are set up to monitor, *inter alia*, that persons with disabilities can fully exercise their rights.

### **1.3 Discrimination based on sexual orientation and gender identity**

The human rights situation of lesbian, gay, bisexual and transgender (LGBT) persons remains one of the priority areas for the Commissioner. During his country missions, the Commissioner observed that LGBT persons continue to be confronted with discrimination, violence and prejudice in many member states because of their real or perceived sexual orientation or gender identity, as well as with homophobia and transphobia more generally.

Furthermore, the Commissioner is deeply concerned by unjustified restrictions to the freedom of assembly and association of LGBT people and their organisations, in particular regarding problems with registering their organisations and arranging Gay Pride events. In many member states, LGBT persons



are not protected under anti-discrimination or hate crime legislation, whereas discrimination, hate-motivated incidents and crimes against LGBT people are a serious problem for this community. Appropriate responses from responsible law enforcement officials to these incidents and crimes are often lacking. On some occasions, LGBT persons have even been subjected to arbitrary arrests and other malpractice by the same law enforcement agencies that are supposed to protect them. Those targeted by hate-motivated incidents also include human rights defenders who defend the rights of LGBT persons.

Another issue of serious concern for the Commissioner is the human rights protection of transgender persons. He invited 12 experts to an expert meeting in November 2008 to discuss the particular problems of transgender persons. The topics discussed included the legal standards regarding gender identity discrimination, the recognition of gender before the law, access to health, employment and hate crimes. The Commissioner stressed the need for all member states, general human rights organisations and national human rights structures to pay more consistent attention to the human rights of transgender people. There is an urgent need to collect more data on the human rights situation of transgender persons, including the particular circumstances of children, the elderly and asylum seekers.

The Commissioner raised his concerns regarding the discrimination of LGBT persons consistently in his dialogue with the member states. Consequently, sections on discrimination based on sexual orientation and gender identity were published in his country assessment reports on Albania, Armenia, Bosnia and Herzegovina, Ireland, Montenegro, and “the former Yugoslav Republic of Macedonia”. Concrete recommendations were formulated as part of the reports. The Commissioner believes that, apart from legislative reform and implementation of human rights standards, there is a need for educational and training programmes to promote tolerance, respect and awareness of LGBT issues, especially in schools and among civil servants and law enforcement agencies.

In October, Commissioner Hammarberg delivered the key note address at the Conference “Thinking Globally, Acting Locally” of the International Lesbian and Gay Association (ILGA) in Vienna. The Commissioner expressed concerns about the lack of implementation of human rights standards on a national and local level. He also highlighted the need for more data on discrimination against LGBT persons in the 47 member states of the Council of Europe. Finally, he stressed the importance of applying in a non-discriminatory way the existing human rights treaties and conventions in the absence of a specific instrument which recognises that sexual orientation and gender identity cannot be grounds for discrimination. This aspect was also the topic of his Viewpoint “Time to recognise that human rights principles apply also to sexual orientation and gender identity” published on 14 May.

The Commissioner's Office dedicated one working session during the annual meeting of Contact Persons of National Human Rights Structures in November to the role of national human rights structures (NHRs) in combating homophobia and discrimination based on gender identity and sexual orientation. The working session aimed at strengthening the knowledge of NHRs regarding human rights standards relating to sexual orientation and gender identity. The goal was to enable NHRs to monitor in a continuous way the authorities' compliance with European and international human rights standards in this field. The Commissioner's Office stressed its interest to work closely with Ombudspersons and National Human Rights Institutions in identifying concrete ways to include the human rights concerns of LGBT persons in their work.

As part of its co-operation activities, the Commissioner's Office participated in a hearing in March 2008 of the Parliamentary Assembly's Committee on Legal Affairs and Human Rights for the preparation of a report on “Discrimination on the basis of sexual orientation and gender identity”. The Office also attended several expert meetings and roundtables on Homophobia organised by the EU Fundamental Rights Agency for the elaboration of the FRA report “Homophobia and Discrimination on Grounds of Sexual Orientation in the EU Member States”.

#### **1.4 Human rights of migrants**

The protection of migrants, refugees and asylum seekers has been high on the Commissioner's agenda since the early years of the institution. Human rights of migrants remained a priority theme in 2008 since migrants continue to be particularly vulnerable to discrimination and social exclusion in Europe. The Commissioner continued his work with member states to underline the point that all migrants, including irregular migrants, have human rights.

Human rights of migrants are habitually raised in most of the Commissioner's country visits and reports. The Commissioner issued three thematic memoranda which focused notably on migrants' rights in the United Kingdom (September), France (November) and Cyprus (December). In addition, country visits carried out in the course of 2008 to Belgium, Denmark, Greece, the Netherlands and Serbia focused, *inter alia*, on the human rights of migrants.

The Commissioner paid particular attention to protecting the human rights of displaced persons in the areas affected by the South Ossetia conflict that started in August 2008. The Commissioner visited this region three times during the year. The Commissioner's six principles for urgent protection of human rights and humanitarian security focused, among other issues, on the displaced persons' right to return and the provision of adequate aid and living conditions.

The Commissioner published a series of Viewpoints focusing on the human rights of migrants, the detention of asylum seekers and irregular migrants, refugees' family reunification and the regrettable trend of criminalisation of irregular migration and statelessness. He continued his constructive cooperation with other parts of the Council of Europe which are active in the field of migration such as the Parliamentary Assembly (Committee on Migration, Refugees and Population) and the Directorate General of Social Cohesion.

The past year witnessed a more active synergy with intergovernmental organisations competent in migration and human rights, including the UN High Commissioner for Refugees (UNHCR), the OSCE High Commissioner on National Minorities (HCNM), the EU Fundamental Rights Agency (FRA) and the Civil Liberties, Justice and Home Affairs Committee (LIBE) of the European Parliament. Joint events with FRA and the HCNM were planned in 2008 to take place in 2009 on the human rights of Roma migrants and their freedom of movement in Europe.

The attention of member states was drawn to several issues requiring special reflection and action. One of these concerns was the non-accession by member states to major Council of Europe treaties relating to migration, such as the European Convention on the Legal Status of Migrant Workers (1977) and the European Convention on Nationality (1997). The Commissioner invited member states to sign and ratify these instruments which play a central role in the protection of human rights of migrants. The standards contained in specialised Council of Europe treaties concerning migrants should be further promoted and effectively implemented by member states. The same holds true with regard to the rich "soft law" created by the recommendations issued by the Council of Europe Committee of Ministers and the Parliamentary Assembly.

In terms of irregular and mixed migration in which asylum seekers are often included, the Commissioner drew the attention of member states, especially in the Mediterranean region such as Cyprus, Greece and Italy, to the serious human rights challenges that mixed migration flows present. The Commissioner deems that member states should undertake further efforts to view and tackle migration as a complex transborder issue with wide social ramifications. Migration requires comprehensive and sustainable, national and inter-state action plans where the host, transit and states of origin should also form partnerships for the aim of effective protection of human rights. A priority should be given to the creation by host states of clear immigration procedures which can respond to labour demands through regular migration channels.

Of special concern to the Commissioner has been the increased use of detention of asylum seekers and irregular immigrants upon arrival and prior to deportation. This practice is closely related to an

international trend of viewing irregular migration as a criminal and not an administrative offence, in contravention of internationally established standards. Regrettably, parts of EU migration-related legislation, such as the recent 'Returns Directive', appear to support this trend. In his Viewpoint of 29 September ("It is wrong to criminalize migration"), the Commissioner reiterated that criminalisation is a disproportionate measure which exceeds a state's legitimate interest in controlling its borders and corrodes established international law standards. The Commissioner firmly opposes measures criminalising irregular migration, since they may also result in a further rise increase in anti-migration and xenophobic sentiments in member states.

With regard to the reception and protection of refugees, the Commissioner has noted that, despite the measures aimed at harmonising practice within the EU in this field, the unequal level of reception conditions that persists raises serious human rights concerns. The Commissioner has taken due note of the Position of the UNHCR of April 2008 which stressed the persistence in Greece of serious structural shortcomings in the asylum procedure and advised EU states to refrain from returning asylum-seekers to Greece under the 'Dublin Regulation'. Following his visit to Greece in December 2008, a report on asylum questions, along with recommendations, was prepared (published in February 2009).

Finally, the Commissioner has followed closely the issue of forced returns of foreign nationals, especially in the context of anti-terrorist law and policy. The Commissioner underlined (see, for example, the Commissioner's memoranda concerning Italy (July) and the UK (September)) that despite the difficulties encountered by member states in their efforts to protect their societies from terrorist violence, European human rights standards prohibit in absolute terms torture, inhuman or degrading treatment or punishment of any person, irrespective of their undesirable or dangerous conduct. This prohibition includes facilitating torture, inhuman or degrading treatment or punishment by deporting someone to a country where he faces a real risk of such treatment, especially through the use of "diplomatic assurances" or readmission agreements. In this context, the Commissioner has invited member states to abide fully by the Council of Europe Committee of Ministers' "Twenty Guidelines on Forced Return" (2005) as well as the Committee of Ministers' "Guidelines on Human Rights and the Fight against Terrorism" (2002).

### **1.5 *Safeguarding human rights in the fight against terrorism***

Sometimes the struggle to combat terrorism comes at the expense of safeguarding human rights. One particular area where rights are being eroded is in the field of privacy. High profile losses of personal data by public and private bodies alike have shown the importance of data protection laws (and put paid to the argument that people with "nothing to hide" have nothing to fear). Data protection is not just about protecting personal information from loss; it is also about guarding against the improper collection, storing, sharing and use of that information. While it is imperative for states to protect their populations against possible terrorist acts, governments have an obligation to protect people's privacy and to ensure that private information concerning their populace is not going into the wrong hands or otherwise misused.

In his Viewpoint published on 26 May 2008 ("Strong data protection rules are needed to prevent the emergence of a surveillance society"), the Commissioner outlined developments in surveillance technology and discussed the potential threat which such instruments pose when used in the struggle against terrorism and organised crime. The Viewpoint calls for a deeper reflection on the balance between methods of preventing terrorism and the protection of private life.

With the aim of increasing co-ordination with other international organisations, the Commissioner's Office participated in the third meeting of the International Expert Panel to support the mandate of the UN Special Rapporteur on Promotion and Protection of Human Rights and Fundamental Freedoms while countering terrorism. This meeting took place in Florence in September 2008, and discussions covered, amongst other topics, the role of intelligence agencies in counter-terrorism and the lack of oversight mechanisms to scrutinise their work.

To facilitate internal cooperation within the Council of Europe, the Commissioner's Office participated in the 15<sup>th</sup> meeting of the Committee of Experts on Terrorism (CODEXTER) in Strasbourg in November. At a working level, this Office has regular contact with other departments within the Council whose responsibilities also touch upon counter-terrorism and human rights.

In the Commissioner's Viewpoint from 1 December 2008 entitled "Arbitrary procedures for terrorist black-listing must now be changed", he discussed the need for significant changes to the United Nations listing procedures of terrorist suspects. The Viewpoint looks at the important judgment of the European Court of Justice in the case of *Kadi and Al Barakaat* and discusses the arguments in favour of a change in the Security Council procedures so that any individual is aware of the full case against him or her, has the right to be heard within a reasonable time, the right to an independent review mechanism, the right to counsel as well as an effective remedy.

The Commissioner's work on privacy and counter-terrorism measures was further developed through the publication of an Issue Paper on "Protecting the right to privacy in the fight against terrorism" on 4 December. The paper looks at the fight against terrorism since 9/11 and the reactions of governments in the field of the right to privacy. It begins with a discussion of new technologies for surveillance, such as high definition CCTV combined with face recognition software, motorway cameras which read car licence plates and track selected cars, and computers which monitor, screen and analyse billions of telephone and email communications simultaneously. The paper discusses the increased data sharing between the police and other state bodies, with the inherent risks of data mining and trawling through the information gathered. It outlines the legal and European framework of data protection principles, with a focus on European Union policy in this field. The paper concludes with a series of key principles and the recommendation that the response to increased surveillance trends should be a re-assertion of the basic principles of the rule of law as enshrined in international conventions and case-law.

On 15 December the Commissioner published his third Viewpoint touching on counter-terrorism issues, on the theme of police databases. Fighting crime, including international terrorism, requires the use of modern and effective methods of investigation, but caution is needed when deciding whose data is stored in police data bases and for how long. This viewpoint was related to the judgment of the European Court of Human Rights in *S. and Marper v the United Kingdom*. It looks at the differing state practices when it comes to storing personal information, such as DNA profiles. While it might be tempting for national authorities to keep databases of intimate samples for future cross-checking, such practices do raise human rights concerns. The Commissioner calls for clear national rules governing the storage of personal data, such as DNA, and effective complaints mechanisms before data protection monitoring bodies or courts which provide an important safeguard against potential misuse or abuse.

## 2 Summary of activities

### 2.1 Introduction

The main objectives of the Commissioner's work are, in line with his mandate, to:

- foster the effective observance and enjoyment of human rights;
- assist member states in the implementation of Council of Europe human rights standards;
- identify possible shortcomings in the law and practice concerning human rights;
- promote education in and awareness of human rights in member states;
- facilitate the activities of national ombudspersons and other human rights structures;
- provide advice and information regarding the protection of human rights; and
- protect and support human rights defenders.

The Commissioner's activities aimed at fulfilling these objectives can be divided into four major categories: field visits and reports, thematic work and awareness-raising, cooperation with national human rights structures and protection of human rights defenders.

The present report of activities covers the calendar year 2008. During the year, the Commissioner also issued four quarterly activity reports on his activities which covered the same subjects as well as more general observations.<sup>1</sup> The quarterly reports are available on the Commissioner's website.

### 2.2 Field visits and reports

Field visits and their follow-up remained the major activity of the Commissioner in 2008. Co-operation was intensified with Council of Europe Field and Information Offices in the preparation and carrying out of the Commissioner's visits.

#### *Country assessment missions*

The Commissioner seeks to engage member states in a permanent dialogue and conducts official country missions for a comprehensive assessment of the human rights situation. The missions typically include meetings with the highest representatives of government, parliament, the judiciary, as well as leading members of human rights protection institutions and the civil society. The Commissioner also visits institutions and sites with particular human rights relevance such as prisons, police stations, shelters for victims of violence, facilities for accommodating asylum-seekers, psychiatric institutions and schools. The Commissioner's reports of the visits contain both an analysis of the human rights situation and detailed recommendations about possible ways of improvement. The reports are presented to the Council of Europe's Committee of Ministers and the Parliamentary Assembly. They are published and widely circulated in the policy-making and NGO community as well as the media. In 2008, the Commissioner completed the full cycle of such comprehensive assessment missions: all 47 member states have now been visited in this manner by either the current or the first Commissioner.

Commissioner Hammarberg carried out the following missions during 2008 for the purpose of preparing regular country assessment reports:

23-25 January	San Marino
25-29 February	"the former Yugoslav Republic of Macedonia"
2-6 June	Montenegro
22-26 September	The Netherlands
13-17 October	Serbia

<sup>1</sup> CommDH(2008)14, CommDH(2008)17, CommDH(2008)31 and CommDH(2009)1.

20-21 October  
15-19 December

Monaco  
Belgium

The following assessment reports were presented to the Committee of Ministers in 2008 and are available online for consultation:

- Assessment report on Bosnia and Herzegovina, following the Commissioner's visit in June 2007, published on 20 February;<sup>2</sup>
- Assessment report on Azerbaijan, following the Commissioner's visit in September 2007, published on 20 February;<sup>3</sup>
- Assessment report on Armenia, following the Commissioner's visit in October 2007, published on 30 April;<sup>4</sup>
- Assessment report on Ireland, following the Commissioner's visit in November 2007, published on 30 April;<sup>5</sup>
- Assessment report on Albania, following the Commissioner's visit in October and November 2007, published on 18 June;<sup>6</sup>
- Assessment report on San Marino, following the Commissioner's visit in January 2008, published on 30 April;<sup>7</sup>
- Assessment report on "the former Yugoslav Republic of Macedonia", following the Commissioner's visit in February 2008, published on 11 September;<sup>8</sup>
- Assessment report on Montenegro, following the Commissioner's visit in June 2008, published on 8 October.<sup>9</sup>

#### *Contact and special visits*

The Commissioner also carries out contact visits aimed at strengthening the continuous dialogue with national authorities and civil society, and special visits to address more focused human rights concerns as well as conflict and crisis situations.

In 2008, the following contact and special visits were carried out:

##### *Contact visits*

14-15 February	Bulgaria
7-10 April	Slovak Republic
18-26 April	Russian Federation (North Caucasus including the Chechen Republic)
29-31 May	Poland
11 June	Denmark
30 June-2 July	Russian Federation (Kaliningrad and St. Petersburg)
26-28 October	Romania
11-12 December	Cyprus

##### *Special visits*

17 January	France
5-7 February	United Kingdom
12-15 March	Armenia
31 March-2 April	United Kingdom

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<sup>2</sup> CommDH(2008)1

<sup>3</sup> CommDH(2008)2

<sup>4</sup> CommDH(2008)4

<sup>5</sup> CommDH(2008)9

<sup>6</sup> CommDH(2008)8

<sup>7</sup> CommDH(2008)12

<sup>8</sup> CommDH(2008)21

<sup>9</sup> CommDH(2008)25

20-23 May	France
19-20 June	Italy
7-10 July	Cyprus
13-15 July	Armenia
22-29 August	Areas affected by the South Ossetia conflict
25-27 September	Areas affected by the South Ossetia conflict
12-14 November	Areas affected by the South Ossetia conflict
20-22 November	Armenia
8-11 December	Greece

Subsequently, the following reports on special visits were published or presented:

*Areas affected by the South Ossetia conflict*

- Report on human rights in areas affected by the South Ossetia conflict, following special mission to Georgia and Russia, namely Vladikavkaz, Tskhinvali, Gori, Tbilisi and Moscow, in August 2008 (published on 8 September);<sup>10</sup>
- Summary of findings following the mission in September 2008 to areas affected by the South-Ossetia conflict (published on 30 September);<sup>11</sup>
- Report on special follow-up mission to the areas affected by the South-Ossetia conflict, namely Tbilisi, Gori, Tskhinvali and Akhalkgori, in September 2008. Issue reviewed: implementation of the Commissioner's six principles for urgent human rights and humanitarian protection (published on 17 November);<sup>12</sup>
- Report on special follow-up mission to the areas affected by the South Ossetia conflict, namely Tbilisi, Tskhinvali and Gori, in November 2008. Issue reviewed: implementation of the Commissioner's six principles for urgent human rights and humanitarian protection (published on 16 December).<sup>13</sup>

*Armenia*

- Oral report to PACE during debate on the implementation by Armenia of PACE Resolution 1609(2008) on 25 June;
- Report on the special mission to Armenia in March 2008 to investigate the aftermath of the post-election violence (published on 20 March and revised on 30 April);<sup>14</sup>
- Oral report to PACE Monitoring Committee (Paris, 11 September);
- Summary of findings following the special mission to Armenia in July 2008 to investigate the aftermath of post-election violence (published on 29 September);<sup>15</sup>
- Oral report to PACE Monitoring Committee (Paris, 1 December).

*Cyprus*

- Report on visit to the Republic of Cyprus in July 2008. Issues reviewed: Asylum, Detention of Migrants and Trafficking in Human Beings in the Republic of Cyprus (published on 12 December).<sup>16</sup>

*France*

- Memorandum following visit to France in January 2008 (published on 20 November). Issue reviewed: detention of arriving migrants within Roissy airport;<sup>17</sup>

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<sup>10</sup> CommDH(2008)22

<sup>11</sup> CommDH(2008)30

<sup>12</sup> CommDH(2008)33

<sup>13</sup> CommDH(2008)37

<sup>14</sup> CommDH(2008)11rev

<sup>15</sup> CommDH(2008)29

<sup>16</sup> CommDH(2008)36

<sup>17</sup> CommDH(2008)5

- Memorandum following visit to France in May 2008. Issues reviewed: human rights protection arrangements, prisons, juvenile justice, immigration and asylum, and Travellers and Roma (published on 20 November).<sup>18</sup>

#### *Italy*

- Report on visit to Italy in June 2008 focusing on issues of Roma and Sinti and immigration (published on 28 July).<sup>19</sup>

#### *United Kingdom*

- Memorandum following visits to the United Kingdom in February, March and April 2008. Issue reviewed: asylum and immigration (published on 18 September);<sup>20</sup>
- Memorandum following visits to the United Kingdom in February, March and April 2008. Issue reviewed: Corporal punishment (published on 9 October);<sup>21</sup>
- Memorandum following visits to the United Kingdom in February, March and April 2008. Issue reviewed: Juvenile Justice (published on 17 October).<sup>22</sup>

## **2.3 Thematic work and awareness raising**

### *Thematic priorities*

The thematic priorities of the Commissioner are mainstreamed in all activities of his Office. They are given particular consideration during country missions and in the organisation of events, preparation of thematic documents and the Commissioner's participation in conferences.

Non-discrimination, the human rights of migrants and the protection of human rights in the fight against terrorism were the thematic priorities in the Commissioner's work. Roma, persons with disabilities, lesbian, gay, bisexual and transgender persons as well as migrants, including irregular migrants, received particular attention as victims of discrimination.

### *Thematic documents*

The Commissioner publishes Viewpoints, statements, issue papers, reports, opinions and recommendations on human rights themes to raise awareness and give advice to member states on the protection of human rights.

Four Issue Papers were published in 2008:

- "Children and corporal punishment: the right not to be hit, also a children's right",<sup>23</sup> was published on 21 January. This is a revised version of the Issue Paper already published in 2006 and calls on member states to put an end to all forms of corporal punishment of children.
- "Housing rights: the duty to ensure housing for all",<sup>24</sup> was published on 20 May and examines the housing crisis facing several groups of people in Europe. It outlines the housing rights which have been accepted by countries within the Council of Europe and draws attention to significant initiatives and projects where people define and assert their housing rights. The Issue Paper

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<sup>18</sup> CommDH(2008)34

<sup>19</sup> CommDH(2008)18

<sup>20</sup> CommDH(2008)23

<sup>21</sup> CommDH(2008)28

<sup>22</sup> CommDH(2008)27

<sup>23</sup> CommDH/IssuePaper(2006)1 Rev

<sup>24</sup> CommDH/IssuePaper(2008)1



concludes with a set of recommendations for the promotion of housing rights, understood as a key element for the enjoyment of other human rights.

- “Human Rights and Disability: Equal rights for all”,<sup>25</sup> was published on 20 October and outlines the international human rights framework for the protection of persons with disabilities. It gives a brief description of the situation focusing on key issues for persons with disabilities: the fight against discrimination, the move from institutional care to community living and the right to take decisions about one’s personal affairs. The Commissioner presents an overview of measures to create open and accessible societies and concludes with a set of recommendations to member states.
- “Protecting the right to privacy in the fight against terrorism”,<sup>26</sup> was published on 4 December. The Commissioner examines the way in which freedom has been compromised in the fight against terrorism after 11 September. Not only terrorism, but also certain reactions to it pose a long-term, engrained threat to human rights. Steps taken to collect, store, analyse, share and use personal data must be reviewed, as data protection is crucial to the upholding of fundamental democratic values. A surveillance society risks infringing this basic right. The Commissioner recommends that the response to these trends be a re-assertion of the basic principles of the rule of law as enshrined in international conventions and case-law.

On 16 June, the Commissioner issued an Opinion regarding family visits to persons deprived of their liberty on the request of the International Criminal Court.<sup>27</sup> On 4 December, he published a joint statement with the EU Fundamental Rights Agency on the UN Review Conference against Racism “Do not miss the opportunity to step up the global fight against racism and discrimination!”. On 9 December, the Commissioner issued a joint statement on human rights defenders “Ten years on, human rights defenders continue to pay a high price” together with UN and regional human rights mechanisms and representatives.

Commissioner Hammarberg continued with the fortnightly publication of Viewpoints, published on his website, in English, French and Russian. In 2008, the following topical human rights concerns were addressed in the Viewpoints:

- “An international or European treaty is needed for the protection of women against violence” (7 January)
- “Europe is moving towards a total ban of domestic violence against children” (21 January)
- “Serious human rights violations during anti-terror campaign must be corrected – and never repeated” (4 February)
- “The protection against torture must be strengthened” (18 February)
- “Mind the gap - women are underpaid all over Europe” (3 March)
- “States should not impose penalties on arriving asylum-seekers” (17 March)
- “The key to the promotion of Roma rights: early and inclusive education” (31 March)
- “International human rights bodies worldwide need more support and more self-criticism” (14 April)
- “Aged people are too often ignored and denied their full human rights” (28 April)
- “Time to recognise that human rights principles apply also to sexual orientation and gender identity” (14 May)
- “Strong data protection rules are needed to prevent the emergence of a surveillance society” (26 May)
- “No one should have to be stateless in today’s Europe” (9 June)
- “Corruption distorts the system of justice and damages poor people in particular” (24 June)
- “Fighting terrorism – learn the lessons from Northern Ireland” (11 July)

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<sup>25</sup> CommDH/IssuePaper(2008)2

<sup>26</sup> CommDH/IssuePaper(2008)3

<sup>27</sup> CommDH(2008)15

- "Hate crimes – the ugly face of racism, anti-Semitism, anti-Gypsyism, Islamophobia and homophobia" (21 July)
- "Refugees must be able to reunite with their family members" (4 August)
- "The shameful history of anti-Gypsyism in Europe is forgotten – and repeated" (18 August)
- "Roma representatives must be welcomed into political decision-making" (1 September)
- "Persons displaced during conflicts have the right to return" (15 September)
- "It is wrong to criminalize migration" (29 September)
- "Human Rights education is a priority – more concrete action is needed" (6 October)
- "Respect and rights-based action instead of charity for people with disabilities" (20 October)
- "Concrete and comprehensive action plans are needed to ensure implementation of human rights" (3 November)
- "In times of economic crisis it is particularly essential to ensure the protection of social rights" (17 November)
- "Arbitrary procedures for terrorist black-listing must now be changed" (1 December)
- "More control is needed of police databases" (15 December)

In April, Commissioner Hammarberg released his collection of Viewpoints written during the second year in office, entitled *Human Rights in Europe: no ground for complacency*. The book is available for free in English, French and Russian.

### Events

With the aim to promote awareness of human rights and to explore specific concerns, the Commissioner organises workshops and conferences on topical questions. The Commissioner and his Office also contribute to debates on human rights through their participation in major conferences.

In 2008, the Commissioner organised or co-organised the following events:

- Colloquy on the prevention of torture, co-organised with the Ombudsman of the French Republic, Jean-Paul Delevoye (Paris, 18 January)
- CommHR pilot project on "Enhancing the role of National Human Rights Structures in the execution of the European Court of Human Rights' judgments" (Strasbourg, 31 January - 1 February)
- CommHR Expert Workshop on police complaints mechanisms (Strasbourg, 26-27 May)
- 1<sup>st</sup> meeting of CommHR Taskforce on Human Rights Defenders (Strasbourg, 27 June)
- 2<sup>nd</sup> Janusz Korczak lecture held as part of a major conference on "Building a Europe for and with children – Towards a Strategy for 2009-2011" organised by the Council of Europe and the Swedish Government (Stockholm, 8-10 September)
- Expert meeting in the context of the joint OSCE, HCNM and CommHR project on recent migration of Roma in Europe (Budapest, 9 September)
- 2<sup>nd</sup> meeting of CommHR Taskforce on Human Rights Defenders (Strasbourg, 22 September)
- 5<sup>th</sup> Round Table of European National Human Rights Institutions (Dublin, 16-17 September)
- 3<sup>rd</sup> meeting of CommHR Taskforce on Human Rights Defenders (Strasbourg, 2 November)
- CommHR round-table on Human Rights Defenders (Strasbourg, 3-4 November)

- CommHR Expert meeting on “Human Rights situation of Transgender People and Discrimination based on Gender Identity” (Strasbourg, 18 November)
- 2<sup>nd</sup> Annual meeting of contact persons, from national human rights structures (NHRSs) as part of the Joint Council of Europe–European Union Programme “Setting up an active network of independent non-judicial human rights structures” (Strasbourg, 19-20 November).

In 2008, the Joint European Union-Council of Europe Programme (“Peer-to-Peer”), sought to establish an active network of independent non-judicial bodies in Council of Europe member states, with a special focus on non-EU countries (see below chapter 2.4). A series of Peer-to-Peer workshops was organised by the Commissioner’s Office under the framework of the training programme for national human rights structures (NHRS):

- “Rights of persons deprived of their liberty: The role of NHRS which are OPCAT mechanisms and of those which are not” (Padua, 9-10 April)
- “The handling by NHRS of complaints against the police forces and their efforts to prevent violations” (St. Petersburg, 20-21 May);
- “The protection of irregular migrants by NHRS” (Padua, 18-19 June);
- Two workshops were held during the round-table of Russian Ombudsmen, namely “The protection and promotion by NHRS of the right to good administration” and “Judging the performance of NHRS and deciding on the means made available to them: How to preserve the respect of their independence?” (St. Petersburg, 2-3 July);
- “The promotion and protection by NHRS of the exercise of freedom of expression” (Padua, 22-23 October);
- “Council of Europe Websites: a Tool for NHRSs’ Work” (Strasbourg, 4-5 November);
- Two workshops held during the annual meeting of Contact Persons, namely “The protection and promotion by NHRS of the rights of lesbian, gay, bisexual and transgender persons” and “The role of NHRS in the defence of human rights defenders” (Strasbourg, 19-20 November);
- “The protection and promotion by NHRS of the rights of physically and mentally disabled persons” (Budapest, 2-3 December).

The Commissioner or his Office participated in the following major events during 2008:

- Exchange of views with the European Committee of Social Rights (Strasbourg, 4 February)
- Conference on ‘Human rights in the international arena: means of protection and prevention’ organised by the British Institute of International Comparative Law and Raoul Wallenberg Institute of Human rights and International Humanitarian Law (London, 8 February)
- European conference organised by Save the Children Sweden on models of ombudswork for children (Stockholm, 18 February)
- 10<sup>th</sup> Anniversary of the OSCE Representative on Freedom of the Media (Vienna, 29 February)
- Celebration of 10<sup>th</sup> Anniversary of the entry into force of the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages (Strasbourg, 11 March)

- Trinity College Dublin Lecture on the inter-relationship between development and human rights in implementing the United Nations Millennium Development Goals (Dublin, 3 April)
- Youth Justice Conference, intervening on “Youth Justice based on Child Rights Norms” (Cork, 4 April)
- European Conference on Roma Education “Education and training of Roma children and youth: the way forward” (Bratislava, 8 April)
- Conference dedicated to the 60th Anniversary of the Universal Declaration of Human Rights and the 10th Anniversary of the Ombudsman of Ukraine, (14 April, Kyiv)
- Presentation of the Commissioner's 2007 Annual Activity Report to the Parliamentary Assembly (Strasbourg, 17 April)
- Video message for Alliance of Liberals and Democrats for Europe (ALDE) conference on the rights of lesbian, gay, bisexual and transgender persons, held in the European Parliament (Brussels, 17 April)
- Ministerial Spring meeting of the Committee of Ministers of the Council of Europe, speaking on “Making the human rights system more effective” (Strasbourg, 7 May)
- 55<sup>th</sup> meeting of the European Committee on Migration (Strasbourg, 5-7 May)
- Hearing organised by the European Parliament's Committee on Civil Liberties, Justice and Home Affairs (Strasbourg, 19 May)
- Lecture on “The principle of the best interests of the child – what it means and what it demands from adults”, at the Maria Grzegorzewska Academy for Special Education (Warsaw, 31 May)
- Exchange of views with the Ministers' Deputies in the context of the 1028th Human Rights Meeting on the supervision of the judgments of the European Court of Human Rights (Strasbourg, 3 June)
- Council of Europe Colloquy “Towards stronger implementation of the European Convention on Human Rights at national level” (Stockholm, 10 June)
- Closing Conference of Stop Domestic Violence Against Women campaign (Strasbourg, 10 June)
- Video message for launch of the Council of Europe Initiative Against Corporal Punishment (Zagreb, 15 June)
- PACE conference on specific challenges facing European democracies - the case of diversity and migration and measures to improve the democratic participation of migrants (Strasbourg, 24 June)
- Council of Europe Conference of Prosecutors General (St. Petersburg, 2 July)
- Round-table of Russian Ombudsman (St. Petersburg, 2-3 July)
- Seminar on "Detention matters: family visits" organised by the Registry of the International Criminal Court (The Hague, 8-9 July)
- Consultative meeting on Roma organised by the Fundamental Rights Agency (Vienna, 9 July)

- Seminar "The rights of LGBT families in Europe - challenges ahead" hosted by the Swedish Ombudsman against discrimination on the ground of sexual orientation, on the occasion of the Stockholm Gay Pride 2008 (Stockholm, 1 August)
- Seminar "Who defends the Human Rights in the European Union?" on the occasion of the Stockholm Gay Pride 2008 (Stockholm, 1 August)
- Budapest Human Rights Forum, organised by the Hungarian Foreign Ministry (Budapest, 28-29 August)
- Annual meeting of European Network of Ombudsmen for Children (Dublin, 3-5 September)
- Conference on "Building a Europe for and with children – Towards a Strategy for 2009-2011" organised by the Council of Europe and the Swedish Government (Stockholm, 8-10 September)
- 5<sup>th</sup> Round-table of European National Human Rights Institutions (Dublin, 16-17 September)
- EU Equality Summit, organised by the French EU Presidency and the EU Commission (Paris, 29-30 September)
- Seminar on "Systematic Work for Human Rights - a challenge to local/regional politics" organised by the Swedish Association of Local Authorities and Regions in co-operation with the Congress of the Council of Europe and the Commissioner. (Stockholm, 6 October)
- Brainstorming meeting on "Strengthening of the interaction and the complementarity of mechanisms for the protection of human rights defenders", organised by the International Observatory for the Protection of Human Rights Defenders (Brussels, 6 October)
- Conference "60 years of the Universal Declaration of Human Rights: the defenders take the floor", (Brussels, 6 October)
- Council of Europe Conference on enhancing the impact of the framework Convention for the Protection of National Minorities: Past experience, present achievements and future challenges (Strasbourg, 9 October)
- Council of Europe Forum on "Civic Partnerships for Citizenship and Human Rights Education" (Strasbourg, 9-10 October)
- Conference "Ten Years of [the UN] Guiding Principles on Internal Displacement – Achievements and Future Challenges", hosted by the Norwegian Ministry of Foreign Affairs and the Norwegian Refugee Council/IDMC and the UN Secretary General's Representative on the Human Rights of Internally Displaced Persons (Oslo, 16 -17 October)
- 5<sup>th</sup> Regional Meeting of NGO Children's Rights Coalitions in Europe, organised by Save the Children (Bucharest, 28 October)
- Council of Europe Conference "Protecting and promoting the rights of persons with disabilities in Europe: towards full participation, inclusion and empowerment" organised by the Swedish Chairmanship of the Committee of Ministers (Strasbourg, 29 October)
- Closing conference of the Council of Europe European Programme for the Human Rights Education for Legal Professionals (Strasbourg, 29 October)

- Annual Conference of the European region of the International Lesbian and Gay Association - ILGA Europe, (Vienna, 30 October)
- “Rights Work! – International Conference on Systematic Work for Human Rights Implementation”, organised by the Swedish Chairmanship of the Council of Europe Committee of Ministers (Stockholm, 6-7 November)
- 8<sup>th</sup> Annual Conference of the European Partners Against Corruption Network (Manchester, 19–21 November)
- 4<sup>th</sup> Plenary Assembly of the European Roma and Travellers Forum organised at the Council of Europe (Strasbourg, 24-25 November)
- Seminar on the human rights of internally displaced persons organised by the PACE Committee on Migration, Refugees and Population (Geneva, 26 November)
- 1<sup>st</sup> Fundamental Rights Conference “Freedom of expression: a cornerstone of democracy” organised by the EU Fundamental Rights Agency and the French EU Presidency (Paris, 8-9 December)
- NGO forum organised by the French EU presidency, on legislative frameworks to combat gender discrimination, violence against women and girls and the situation of women human rights defenders (Paris, 10-11 December)
- Conference dedicated to the 60<sup>th</sup> anniversary of the adoption of the Universal Declaration of Human Rights, organised by the Cyprus Commissioner for Administration and the Law Department of the University of Cyprus (Nicosia, 12 December).

#### *Co-operation regarding the long term effectiveness of the ECHR*

On 3 June, the Commissioner held an exchange of views with the Ministers’ Deputies in the context of the 1028 Human Rights Meeting (DH) of the Deputies on the supervision of the execution of the judgments of the European Court of Human Rights. The Commissioner noted that while the execution of the Court’s judgments falls within the sole competence of the Committee of Ministers, the process leaves also space for synergy with and contributions of other Council of Europe instances, including the Commissioner. The Commissioner highlighted that the principle of subsidiarity, the prevention of violations and the belief in the added value of sharing good practices constitute key elements for the effective implementation of the Court’s judgments. In this respect the Commissioner’s role is twofold. He can address the need for general measures in his contacts with national authorities, putting forward the measures highlighted by the Committee of Ministers. He can broach the execution of the judgments in the context of his cooperation with National Human Rights Structures. Given their experience of constructive dialogue with their authorities at all levels, NHRs can assist in finding adequate measures for transposing the Court’s and the Committee of Ministers’ prescriptions into domestic law and practice.

The Office of the Commissioner followed closely the work of the Committee of Experts for the Improvement of the Procedures for the Protection of Human Rights (DH-PR) regarding the “sustained action to ensure the effectiveness of the implementation of the ECHR at national and European levels”. In this respect, the Office of the Commissioner submitted to the working group of DH-PR in charge of the review of the implementation of the “reform” recommendations “*The compilation of contributions by National Human Rights Structures to the review of the implementation in their countries of the Committee of Ministers’ Recommendations 2004(5) on the verification of compatibility of draft laws, existing laws and administrative practice with the standards of the Convention and 2004(6) on the improvement of domestic remedies*” (CommDH/NHRs (2008)6 rev, 29 January 2008).

On 9 and 10 June, the Commissioner took part in the colloquy organised under the Swedish Chairmanship of the Committee of Ministers entitled “Towards stronger implementation of the European Convention of Human Rights at national level”. The colloquy brought together around 150 representatives of governments, the Court and other bodies of the Council of Europe, as well as representatives of international governmental and non-governmental organisations. The Commissioner stressed the importance of a constructive dialogue between international and national actors for the protection of human rights also in the light of the five “reform” recommendations of 2004. The Commissioner’s speech focused on the concrete steps he has already taken to help member states develop a more effective protection of human rights at domestic level. In particular, the Commissioner emphasised the importance of the principle of subsidiarity and highlighted his role as a facilitator in promoting activities of specific assistance to member states to prevent violations and correcting situations of non-compliance with the European Convention.

#### *Communication and information work*

Communication and information work was increased in 2008, both qualitatively and quantitatively. Closer and more focused contact with the media was developed and co-operation with the Council of Europe field and information offices was strengthened.

Interviews, articles, opinion editorials, press releases and statements were published and broadcasted by major national and international media, in particular on the occasion of reports, visits and thematic publications. Media and public attention was also generated by the audiovisual and written material published on the occasion of the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights.

On some occasions, journalists have taken part in country visits, as did a photographer and a cameraman from the Council of Europe. This resulted in an increased knowledge of the Commissioner’s work and human rights visibility in the media.

The website has been re-designed to favour an easier access both to the media and the public. New sections and tools (such as the RSS and the multimedia section) have also been created and developed.

## **2.4 Co-operation with national human rights structures**

In 2008, the Commissioner’s work with national human rights structures (NHRs, ie. ombudsmen and national human rights commissions/institutions) was intensified in line with the agreements reached with the heads of NHRs in April 2007 at a round-table in Athens. The enhanced co-operation was mainly funded by a Council of Europe - European Union Joint Project called the “Peer-to-Peer Project” as well as by voluntary contributions from Greece, Germany and Liechtenstein. At the end of the year a genuine “active network” of the NHRs was in place and functioning on an on-going basis, as had been recommended by the Group of Wise Persons in 2007.

### *“Peer-to-Peer Project”*

Officially entitled “Setting up an active network of independent non judicial human rights structures” and covering 2008 and 2009, the project aims at helping NHRs prevent or find solutions to human rights violations more effectively at the domestic level by making full use of their mandates. Five workshops and one round-table were organised in Italy, Russia and Hungary on topics agreed between the Commissioner’s Office and Contact Persons designated by the national structures. In these workshops specialised staff members were made aware of the full range of international norms and protection mechanisms that can be used in addition to national norms and mechanisms. Detailed debriefing papers for the 2008 workshops will be issued in 2009.

The topics addressed in the workshops were “Rights of persons deprived of their liberty: The role of national human rights structures which are OPCAT mechanisms and of those which are not”, “Complaints

against the police - their handling by the national human rights structures”, “Protecting the human rights of irregular migrants: the role of national human rights structures”, “The promotion and protection by national human rights structures of freedom of expression and information”, and “The promotion and protection by national human rights structures of the rights of persons with disabilities”.

The Peer-to-Peer project also allowed for the funding of the second annual meeting of the NHRS Contact Persons in Strasbourg. The meeting was an opportunity to assess jointly the co-operation activities carried out in 2008 with a view to improving them where possible.

*Regional ombudsmen in Russia (St. Petersburg, July)*

At a round table with the Russian national and regional ombudsmen held in St Petersburg in July, discussions focused on the role of ombudsmen in safeguarding human rights against the arbitrariness of the executive branch, the role of ombudsmen in monitoring the conformity of legislation with human rights, an evaluation of ombudsmen's work and development of effectiveness criteria and the possibilities for creating new regional ombudsmen in other regions of the Russian Federation in the future.

*International colloquy on the prevention of torture in Europe (Paris, 18 January)*

At a colloquy convened by the Commissioner and the *Médiateur de la République* (French Ombudsman) of France the heads of national human rights structures as well as NGO and IGO representatives examined the European and UN requirements concerning the setting-up and functioning of national prevention mechanisms (NPMs) as envisaged by the Optional Protocol to the Convention Against Torture (OPCAT) and their interaction with other existing national institutions. The need of additional work on that question was clear and, as a consequence, the first of the Peer-to-Peer workshops was dedicated to that issue (see above).

*Pilot Project on possible role of NHRs as regards the execution of decisions of the European Court of Human Rights (Strasbourg, 31 January – 1 February)*

NHRS staff from ten different countries were provided detailed information on non-executed cases against some of their countries and discussed possible ways to make constructive use of Rule 9 of the Committee of Ministers' procedure with respect to execution of judgments. At the end of the year the pilot project was still under way with submissions made by two NHRs.

*5th Round Table of European National Human Rights Institutions (Dublin, 16 - 17 September)*

The Commissioner and the Irish Human Rights Commission hosted the 5th Round Table of European National Human Rights Institutions with discussion on possible ways to strengthen national structures in order to enhance the domestic protection of human rights across Europe. In particular, participants exchanged concrete examples and good practice on how national structures can have an impact on legislation, achieve effective redress and promote human rights awareness and education.

*Workshop “Council of Europe Websites: A Tool for NHRs” (Strasbourg, 4-5 November)*

Funded by a voluntary contribution from Germany, a workshop was organised on accessing relevant information on the Council of Europe human rights protection system aimed at familiarising NHRS staff with the large variety of Council of Europe Internet resources.

*The Eunomia Project*

The Eunomia Project for the promotion of ombudsman institutions in South-Eastern Europe continued to be run by the Greek Ombudsman under the auspices of the Commissioner's Office, with scientific input from the European Ombudsman.



### *Regular Selective Information Flow (RSIF) from the Commissioner's Office to the Contact Persons*

In September, the Office of the Commissioner established the "Regular Selective Information Flow" (RSIF) in line with a promise made by Commissioner Hammarberg to the heads of NHRs at the round-table in Athens in April 2007 (see above). The purpose of the RSIF is to keep the national structures permanently updated of Council of Europe norms and activities by way of regular transfer of information, which the Commissioner's Office selects and presents in a user-friendly manner. The information is sent every two weeks to the Contact Persons in the NHRs. At the annual meeting, the Contact Persons acknowledged the usefulness of the RSIF referring to it as a major achievement of the enhanced co-operation in helping NHRs apply Council of Europe norms and mechanisms.

## **2.5 Protection of human rights defenders**

In February 2008, the Committee of Ministers of the Council of Europe formally endorsed the promotion and protection of human rights defenders and their work by adopting the Declaration on the Protection of Human Rights Defenders and Promotion of their Activities, in line with the commitment made by Heads of State and Government at the Third Council of Europe Summit in 2005. The Declaration condemned all attacks on and violations of the rights of human rights defenders, whether carried out by states or non-state actors. It called on member states to take effective measures to protect, promote and respect human rights defenders and ensure respect for their activities. Member states were asked to co-operate with the European Court of Human Rights and the Commissioner for Human Rights, as well as to provide measures for swift assistance and protection to human rights defenders in danger in third countries, including observation of trials and the issuing of emergency visas. Moreover, the Declaration requested Council of Europe bodies and institutions to mainstream the protection of human rights defenders into their work.

The Declaration rendered the Commissioner's institution the regional mechanism for the protection of human rights defenders in the Council of Europe region. It invites "the Commissioner for Human Rights to strengthen the role and capacity of his Office in order to provide strong and effective protection for human rights defenders by:

- i) continuing to act upon information received from human rights defenders and other relevant sources, including ombudsmen or national human rights institutions;
- ii) continuing to meet with a broad range of defenders during his country visits and to report publicly on the situation of human rights defenders;
- iii) intervening, in the manner the Commissioner deems appropriate, with the competent authorities, in order to assist them in looking for solutions, in accordance with their obligations, to the problems which human rights defenders may face, especially in serious situations where there is a need for urgent action;
- iv) working in close co-operation with other intergovernmental organisations and institutions, in particular the OSCE/ODHIR focal point for human rights defenders, the European Union, the UN Secretary-General's Special Representative on Human Rights Defenders and other existing mechanisms."

### *Implementation*

Consequently, the protection and support to human rights activism have been mainstreamed into all activities of the Commissioner's Office through a human rights defenders' programme launched at the Commissioner's round-table on the situation of human rights defenders in Europe, held in Strasbourg on 3-4 November 2008. Approximately sixty participants from around twenty countries participated, among them representatives of human rights NGOs, journalists, lawyers, as well as international organisations

mandated to work on the situation of human rights defenders. In addition to providing a platform for networking of human rights NGOs and activists, the round-table allowed for a discussion on the challenges ahead for the implementation of the Committee of Ministers Declaration by member states, the Council of Europe, and the Commissioner. Special focus was given to the obstacles to the work of human rights activists, their protection in urgent cases, threats to their lives and security and the possible support given by the Commissioner. The participants adopted a declaration calling for more active involvement of the Commissioner and the allocation of further resources to his Office. The Commissioner undertook to organise annual meetings on human rights activism and to publish a report of the round-table discussions in 2009.

The Commissioner's Programme for human rights defenders is based on five pillars consisting of (1) monitoring and (2) reporting on the situation of human rights NGOs and activists at national and regional level, (3) intervening in urgent cases of human rights activists at risk, (4) raising public awareness and establishing networks and (5) ensuring cooperation, co-ordination and complementarity with other intergovernmental organisations, institutions and mechanisms.

In monitoring the situation of human rights NGOs and activists at national and regional level, the Commissioner's Office identifies and assesses gaps and shortcomings in national legislations, regulations and practices, which may affect the working environment and safety of human rights NGOs and activists. The Commissioner meets regularly with human rights NGOs and activists during country visits, as well as in Strasbourg.

The Commissioner reports publicly on the situation of human rights activists and human rights NGOs. In addition to the reports following the Commissioner's country visits, the Commissioner plans to issue an annual report dedicated to human rights activism.

The Commissioner intervenes in urgent cases of human rights activists at risk. The Commissioner's Office has closely followed situations of alleged threats and violations of the rights of human rights activists and NGOs and has contacted the relevant country authorities in a number of urgent situations. In the dialogue with governments, the Commissioner has called for the implementation of states' human rights obligations by ensuring an enabling environment for human rights activism, notably by guaranteeing freedom of expression, association, assembly, and freedom of movement. Human rights activists should be able to carry out their work in the defence of human rights free of restrictions and reprisals. The Commissioner calls on the authorities to carry out immediate, thorough and impartial investigation into allegations of threats and violations of the rights of human rights activists, with a view to ensuring the accountability of those responsible in accordance with international standards. Furthermore, the authorities should take the necessary measures, including physical protection, to guarantee the security and the physical and psychological integrity of individuals at risk. Attacks against activists because of their human rights work, whether carried out by state or non-state actors, should be publicly condemned by public authorities.

The round-table on human rights defenders in November served as the platform for the Commissioner's activities for raising public awareness on the situation of human rights activists and establishing networks among them. A new section dedicated to this area of work has also been opened on the Commissioner's website.

Finally, the Commissioner co-operates and co-ordinates his activities with other inter-governmental organisations, institutions and mechanisms active in the promotion and protection of human rights activism. In June 2008, the Commissioner set up a Taskforce on human rights defenders, consisting of the United Nations Special Representative on Human Rights Defenders, ODIHR/OSCE Focal Point for Human Rights Defenders, representatives of the EU Council and Commission as well as international non-governmental organisations and national human rights NGOs working in this field. The Taskforce met in Geneva on 27 June and twice in Strasbourg on 22 September and 2 November. One of the objectives of the Taskforce was to prepare the Commissioner's round-table on Human Rights Defenders in November.

### *Consultations and participation in events*

During 2008, the Commissioner's Office held a number of consultations with key partners and participated in several events concerning human rights defenders:

- A meeting took place in June with the newly appointed UN Special Rapporteur on Human Rights Defenders, Ms. Margaret Sekaggia.
- The Office participated in the *Budapest Human Rights Forum*, organised by the Hungarian Foreign Ministry on 28-29 August 2008. The forum's discussions focused on the situation of human rights defenders in Europe and in Central Asia. The Office of the Commissioner outlined its activities for the promotion of enabling working environment and actions to enhance the protection of human rights defenders.
- The Office participated in a brainstorming meeting on "Strengthening of the interaction and the complementarity of mechanisms for the protection of human rights defenders", in Brussels on 6 October 2008, organised by the International Observatory for the Protection of Human Rights Defenders (OMCT/FIDH). This preceded the conference "60 years of the Universal Declaration of Human Rights: the defenders take the floor" organised by the European Commission, the European Parliament and the Office of the UN High Commissioner for Human Rights, in Brussels on 7-8 October 2008.
- On 19 November 2008, the Office of the Commissioner briefed National Human Rights Structures' contact points on developments within the Council of Europe regarding the protection and promotion of human rights work by human rights NGOs and activists. The contact points expressed their interest in exploring possible collaboration with human rights defenders in line with the CM declaration.
- On 9 December 2008, at the initiative of the UN Special Rapporteur on the situation of human rights defenders, the Commissioner and other regional mechanisms for the protection of human rights defenders issued a joint statement marking the tenth anniversary of the UN Declaration on Human Rights Defenders, adopted by consensus by the UN General Assembly in 1998.

## **3 External Relations**

In the implementation of his broad mandate the Commissioner for Human Rights continued throughout 2008 to consult and co-operate with the main relevant international partners. As will appear from the separate sections devoted to these partners, this co-operation generally took the form of bilateral meetings, informal contacts, exchanges of information, joint statements or initiatives and activities.

### *European Union*

During 2008, the Commissioner endeavoured to hold high level meetings or talks with relevant EU-Commissioners, in particular with External Relations, Freedom, Security and Justice, as well as Enlargement. On 20 February 2008, he met with the Commissioner for EU Enlargement. The Commissioner held several exchanges of information with the Commissioner for External Relations and with the Commissioner for Freedom, Security and Justice in relation to crisis situations.

The Commissioner consulted different representatives of the EU under the EU's High Representative for the Common Security and Foreign Policy, such as the special representative for human rights and the special representative for counter-terrorism.

His Office held regular exchanges at the technical level on human rights issues in third countries. The Office also participated in the EU Equality Summit and a number of events, seminars and expert

meetings relating to issues being discussed within the European Union on children rights, Roma/Travellers, migration, right to privacy and human rights defenders.

On 28 April 2008, the Commissioner gave a lecture on the human rights challenges in Europe for the staff from the EU Commission, the Council secretariat and the European Parliament, organised by the EU High Representative's special representative for human rights. On this occasion, the Commissioner met with the new Director of EC/Relex.

The Commissioner systematically consulted the EU Commission's representatives during his country visits. He also held regular discussions with the EU representative to the Council of Europe in Strasbourg. Meetings with the EU-presidency, the EU-troika or with all EU member states were organised during his field visits. In addition, he liaised with the EU's special representatives/envoys for a specific country or region, where applicable, notably for the South Caucasus. In addition, meetings were held with ESPD-missions, as appropriate, during his visits.

On 19 May, the Commissioner made a presentation to the European Parliament's Civil Liberties Committee, where several human rights concerns regarding draft EU legislation and urgent situations were discussed. During the course of the year, he met with members of the European Parliament, notably the President of the Parliament and the Chairperson of the Sub-Committee for Human Rights.

On 17 April, the Commissioner addressed the participants of a high level conference on Lesbian, Gay, Bisexual and Transgender rights organised by the Alliance of Liberals and Democrats (ALDE) in the European Parliament through a video message. His Office participated in a joint event arranged by the European Parliament, European Commission and the UN on human rights defenders entitled "Human rights defenders take the floor" on 7-8 October 2008 in Brussels.

The Commissioner liaised early on with the newly appointed Director for the EU Fundamental Rights Agency. Formal meetings between the Commissioner and the Director took place on 19 June and 31 October. His Office participated in formal consultations on the agency's work programme for 2009-2010 on 15 September in Vienna. Joint activities on Roma and migration as well as LGBT questions were launched during the year. The Office also took part in expert meetings organised by the FRA on Homophobia in EU member states. A joint statement by the two actors in support of the European countries engaging and contributing to the UN Review Conference against Racism was issued on 5 December.

### *United Nations*

The Commissioner has a very close working relationship with the UN network, in particular with the Office of the High Commissioner for Human Rights (OHCHR), UNHCR and UNICEF. These working relationships are based on mutual interest as well as the wish to reinforce each others respective activities to promote respect for human rights and avoid overlap or duplication.

During 2008, the Commissioner regularly met with the UN resident co-ordinator during his country visits. In addition, he also held meetings with the UN Secretary General's special representatives, where they exist, and heads of UN peacekeeping missions as well as the UN humanitarian coordinator or OCHA representative in countries affected by conflict or in crisis situations.

On 27 March, the Commissioner met with the High Commissioner for Human Rights, Mrs Louise Arbour, the High Commissioner for Refugees, Mr António Guterres, and the Regional Director for UNICEF Europe, Mrs Maria Calvis in Geneva. These meetings generated frequent informal contacts. The following themes were developed: human rights in crisis or conflict situations, human rights defenders, rights of internally displaced persons, rights of the child, rights of LGBT persons, women's rights and combating violence against women, freedom of expression and freedom of religion, rights of persons with disabilities, rights of minorities, rights of migrants and migrant workers as well as general anti-discrimination issues such as the follow-up process to the Durban Declaration and the Programme of Action against racism, racial discrimination, xenophobia and related intolerance.

The 10<sup>th</sup> anniversary of the UN Declaration of Human Rights Defenders was marked by a joint statement by the Commissioner, the UN Special Rapporteur on Human Rights Defenders, the Inter-American Commission, the Office for Democratic Institutions and Human Rights (ODIHR) and the African Union Commission Special Rapporteur on this topic.

With regard to the UN Human Rights Council's universal periodic review, the Commissioner's reports, whether on specific country assessments, themes or special missions are regularly submitted as input. In addition, the Office liaises with the different special rapporteurs and UN treaty bodies, as appropriate.

The Commissioner consulted the OHCHR's field representatives or offices during his country visits. His Office participated in a number of expert meetings in 2008 to co-ordinate activities and consult on national human rights institutions, international standards for commissions of inquiry, regional arrangements for the promotion and protection of human rights as well as other issues of mutual interest. On 4-5 September, the Office participated in the regular Co-ordination meeting between the OHCHR and the Council of Europe.

With the UNHCR, the Commissioner's Office entertained close working relations, which are facilitated by the presence of a UNHCR liaison office in Strasbourg. The Commissioner regularly meets with UNHCR's representatives during his country missions.

Joint activities were elaborated during 2008 on the situation of refugees and asylum seekers, the situation of internally displaced persons, where appropriate, as well as on human rights of migrants or protection of minorities. Of common concern was the EU's policy and draft legislation regarding migration.

With UNICEF, the Commissioner's Office has been collaborating on the realisation of the rights of the child throughout the European continent. In particular, joint activities are being developed on reform of juvenile justice systems, human rights indicators and the setting up of special ombudsmen for children's rights or the adoption of national action plans targeting children and juveniles.

## OSCE

The Commissioner kept close contacts with the Office of the OSCE High Commissioner on National Minorities, Mr Knut Vollebaek. The Office co-financed a study on recent migration of Roma and human rights protection in Europe, which was carried out in 2008 to be published in 2009. A joint project between the Commissioner, HCNM and FRA covering the situation of Roma and Travellers in Europe, based on these organisation's mandates, was launched in 2008.

Throughout 2008, consultations took place with the OSCE/Office for Democratic Institutions and Human Rights (ODIHR) on a variety of topics of common interest. Close co-operation with the focal point for human rights defenders within the ODIHR was developed through the meetings of the Commissioner's taskforce set up to implement the Committee of Minister's Declaration on human rights defenders. During the annual Human Dimension meeting in September 2008, a joint side-event was organised by the Commissioner, FRA and OSCE on combating homophobia and discrimination based on gender identity and sexual orientation.

Moreover, the Commissioner and his Office co-operated closely with the ODIHR Contact Point for Roma and Sinti on Roma-related questions. The Office was represented in an observer capacity in a field visit to Roma and Sinti settlements in Italy organised by OSCE/ODIHR from 21-25 July.

The Commissioner also liaised with the OSCE field missions during his country visits.

## **4 Staff and budget**

In 2008, the total number of permanent posts in the Commissioner's office was 18 (ten A-grade posts and eight B-grade posts) with 17 of them filled with permanent staff. Throughout the year, there was an average of eight temporary staff (two of them working part-time and two working at 70%) employed as well. Three temporary advisors worked on specific projects funded by voluntary contributions. Staff were also seconded by the governments of Sweden (as from February), Switzerland, Ireland, Turkey (until August), France (until October) and by the Council of Europe Development Bank.

The ordinary overall budget appropriations were of €2 075 300. The Commissioner's budget represents about 1% of the total ordinary budget of the Council of Europe.

In 2008, the Commissioner benefited from a total amount of €855 054 in voluntary contributions from the governments of Finland, Germany, Greece, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, the Netherlands, Slovak Republic, Spain and the United Kingdom. The Commissioner expresses his sincere gratitude for the voluntary contributions given by these member states.