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CONTENTS

1. Overview.....	3
2. Missions and Visits	3
3. Reports	8
4. Themes.....	11
5. Human Rights Defenders.....	15
6. National Human Rights Structures.....	16
7. Communication and Information work.....	18
8. Observations and reflections	19
9. Next three months.....	21

1. Overview

During the period April-June, the Commissioner visited 11 member states, including Montenegro for an assessment mission. The most extensive mission was to the Russian Federation which covered travels to Chechnya, Ingushetia, Dagestan and high-level talks in Moscow.

There were extensive consultations with authorities in Armenia as a follow-up to the special report in March.

Reports were published on Ireland, Armenia, San Marino and Albania. The annual report for 2007 was presented to the Parliamentary Assembly and the Committee of Ministers. A quarterly report for the first quarter of the year was also issued.

The Commissioner continued closely to follow reactions and initiatives in Armenia after the end of the state of emergency. He attended the PACE debate, held on 25 June, on the implementation by Armenia of PACE Resolution 1609(2008).

Though country-related work dominated the activities, there was also work on themes. High priority was given to the need to protect human rights for Roma individuals.

The Commissioner published six Viewpoint articles and one Issue paper. He gave several lectures, speeches and presentations of which seven were published on the website. A workshop was held with invited experts on approaches to investigate allegations of police misconduct.

The Commissioner contributed to Council of Europe conferences on the effective implementation of the European Convention (colloquy in Stockholm), violence against women and violence against children. There was continued contact with the European Commission and Parliament and the Director of the Fundamental Rights Agency visited the Commissioner's office.

Preparation was made for a programme on Human Rights Defenders and three workshops for partners was organised within the context of the Peer-to-Peer programme for national Human Rights Structures. There was much publicity on these activities, not least in national media.

2. Missions and Visits

United Kingdom mission

The Commissioner paid a second visit to the United Kingdom from 31 March to 2 April. He met with government officials and authorities as well as non-governmental organisations. Discussions focused on a number of human rights issues relating to the protection of human rights of asylum seekers, refugees and immigrants, the rights of the child and juvenile justice. The Commissioner particularly addressed access to asylum and fast track processes, as well as looking at the conditions of detention of asylum-seekers. He paid special attention to the detention of children and families and visited

the Colnbrook and Yarl's Wood Immigration Removal Centres. The Commissioner also visited the Oakhill Secure Training Centre and the Young Offenders' Institution in Huntercombe, where he met with young offenders, senior management and staff members.

Based on this visit and the earlier one in February 2008, three thematic Memoranda on asylum and immigration, corporal punishment and juvenile justice are forthcoming. Drafts were sent to the government for comments.

Slovakia visit

The Commissioner carried out a contact visit to the Slovak Republic from 7 to 10 April 2008. The main purpose of the visit was to establish personal contact with the authorities and strengthen the ongoing dialogue concerning human rights questions and concerns with the authorities as well as with members of civil society.

At the time of the visit, Slovakia held the Chair of the Committee of Ministers of the Council of Europe. In this capacity, the Republic provided a constructive contribution to Roma educational issues by organising a conference entitled: "Education and training of Roma children and Youth: the way forward". The Commissioner participated in this event by delivering a speech focusing on the main difficulties faced by the Roma community in Europe.

During the visit the Commissioner focused on certain priority issues, namely the situation of Roma communities and of illegal migrants as well as the recently adopted law concerning freedom of the media, (still under discussion in Parliament at the time of the Commissioner's visit). To obtain information regarding these topics, not only did the Commissioner hold meetings with Slovak authorities in Bratislava, but he also visited a Roma settlement in Plavecky Stvrtok and travelled to Kosice (the Eastern border) to take stock of the conditions of detention of irregular migrants.

Russian Federation mission

Commissioner Hammarberg visited the Russian Federation from 18 to 26 April. One purpose was to review progress in the Chechen Republic, which has been a region of major interest and concern for this institution since its creation in 1999. The Commissioner went to Grozny and Shatoy, visited places of detention including ORB-2 and the Grozny pre-trial detention centre (SIZO), hospitals, rehabilitation centres, schools and the University. He also visited various sites of major reconstruction effort and held talks with President Ramzan Kadyrov, the President of the Supreme Court, the acting prosecutor of the Republic, the Ombudsman and a large group of NGOs.

The Commissioner received converging information of a radical reduction in disappearances and allegations of torture and he noted an increased sense of security as well as continued large-scale reconstruction of the city's infrastructure. These welcomed developments and ways of ensuring their irreversibility and how to make them contribute to longer term stability were discussed. The talks also addressed a number of outstanding issues, in particular a strong demand from the Chechen society and the government to clarify the fate of missing persons; the lagging prosecution for past extra-judicial, summary or arbitrary executions and disappearances; the fate of persons allegedly detained or sentenced on the basis of confessions given under torture; the

return of IDPs and support for the victims of the conflict. They further included a specific but widespread demand to allow natives from the Republic to serve their sentences in Chechnya. There were also complaints about xenophobia in other parts of the Russian Federation vis-à-vis North Caucasians. Aspects of some of these issues were later raised in Moscow.

The Commissioner proceeded to make brief visits to the neighbouring Republics of Ingushetia and Dagestan, in order to establish contacts and get a sense of the main challenges, including of the lasting consequences of the conflicts in Chechnya, their polarizing effect and the management of their humanitarian consequences, notably IDPs. In Nazran, he visited an orphanage and had a long working session with President Murad Ziazikov, members of the Government, the Ombudsman and the public prosecutor. In Makhachkala, after a stopover in Botlikh, he paid respect to the memory of an assassinated journalist Gadzi Abashilov, then met with President Mukhu Aliyev, members of the Government, the Ombudsman, the public prosecutor. He had a night session with NGO leaders.

In Moscow, the Commissioner had meetings with President Vladimir Putin, President-elect Dimitry Medvedev, Foreign Minister Lavrov and Minister of Health and Social Development Mrs Golikova. The circle of interlocutors also included: Member of Parliament Kosachev; Mrs. Pamfilova, chair of the Presidential human rights council; Federal Ombudsman Lukin; Prosecutor General Chaika and Deputy Minister of Justice Savenkov and the State agent Mrs Milinchuk. The Commissioner also met with representatives of non-governmental human rights organisations for an update on their situation and major concerns.

Commissioner Hammarberg shared with his interlocutors various impressions and recommendations stemming from his mission in the North Caucasus, giving particular emphasis to missing persons and the right of family members to know about their fate as well as the need to address past abuses and crimes. In the course of an open and substantial dialogue, he took note of the efforts under way, the procedures contemplated and the concerns expressed for a careful handling of any initiative when tackling problems of the past.

The Commissioner also raised a number of more general topics of common interest: the abolition of the death penalty, the ratification of Protocol 14 to the ECHR, ways of strengthening the national institutional system for the prevention, promotion and protection of human rights, notably through the judiciary, the Ombudsman institutions and an ongoing and transparent dialogue with the civil society.

The Commissioner welcomed the handing over by the Minister of Foreign Affairs of a preliminary version of a detailed response to all his predecessor's recommendations, as further evidence of a meaningful and constructive continued dialogue.

A follow-up report is being drawn up.

France mission

The Commissioner for Human Rights carried out a high-level visit to France on 20-23 May to assess a broad range of human rights issues including prison conditions, precautionary detention (*rétenion de sûreté*), juvenile justice, migrants' rights as well as

Roma and Travellers protection. Additionally, he discussed the proposal to establish a Defender of Fundamental Rights (a new Ombudsman) and the consequences of such establishment *vis-à-vis* existing mechanisms. He raised the question of the overall system of human rights protection in France, the need to reinforce independent police control mechanisms and the protection of human rights defenders.

During the visit, the Commissioner met with Justice Minister Rachida Dati, Immigration Minister Brice Hortefeux, Housing Minister Christine Boutin and Human Rights Secretary of State Rama Yade. His agenda also included meetings with the National Human Rights Structures (National Consultative Commission for Human Rights, the *Médiateur*, the Ombudsman for children, HALDE and CNDS) and representatives of civil society.

The Commissioner visited two prisons (in Meyzieu and Fresnes), an educative centre for juveniles and several Roma and Travellers settlements around Strasbourg.

He also followed up on his January visit to the detention centre for migrants in Roissy to discuss measures undertaken to guarantee respect for the rights of asylum-seekers and irregular migrants.

Following this visit, the Commissioner will publish a memorandum focusing on the issue mentioned above.

Poland visit

The Commissioner visited Warsaw for a three-day contact visit from 29 May to discuss human rights priorities and the implementation of the recommendations from his 2007 memorandum. During the first afternoon of his visit, the Commissioner met with an Inter-Ministerial Committee, chaired by the Ministry of Foreign Affairs, who were charged with ensuring the proper implementation of the Commissioner's 2007 recommendations. The Commissioner was given a very detailed programme of the implementation, which listed each of his recommendations, together with the responsible Ministry, and the timetable for implementing the required reform. The first reports from the various Ministries are expected by the end of June 2008.

On the second day of his visit, the Commissioner met with the Head of the National Council of the Judiciary of Poland and a number of Polish judges. He also met with the Minister for Foreign Affairs, the Minister of Justice and the Under-Secretary of State in the Ministry of the Interior and Administration. In the afternoon, the Commissioner visited a detention centre in central Warsaw, followed by a meeting with the Central Board of the Prison Service. Discussions with the various Ministries touched upon the issues of prison overcrowding, pre-trial detention, lengthy court proceedings and discrimination.

The Commissioner also held a meeting with a small number of NGO representatives at the Polish Helsinki Foundation for Human Rights.

Montenegro mission

The Commissioner for Human Rights visited the Council of Europe's newest member state, the Republic of Montenegro on 2–6 June 2008 for a full assessment mission. During the visit, the delegation gave priority to freedom of expression of the media,

human rights defenders and non governmental organisations, an effective functioning judiciary, the fight against corruption, impunity and the unresolved situation of refugees and displaced persons in the country.

Besides Podgorica and its surrounding areas, the Commissioner's delegation visited a series of institutions of human rights relevance in Bijelo Polje, Berane, Dobrota and Budva. The mission included visits to mental health institutions, a shelter for women victims of domestic violence, police stations, pre-trial detention centres and the country's main prison as well as refugee communities in Berane. During his special visit to Konik, the Commissioner got first hand information of the concerns of both the displaced and refugee Roma population residing there, especially of the lingering problem of undetermined status and the lack of personal identification documents for many of them.

He had meetings with the President, the head and key ministers of the Cabinet regarding human rights issues, the Speaker of Parliament, members of the Parliament's Human Rights Committee as well as the national delegation to the Parliamentary Assembly of the Council of Europe. In addition, he met with the Ombudsman, the President of the Supreme Court, the Prosecutor General and the National Anti-Trafficking Coordinator. Other core issues addressed included the situation of national minorities, especially the Roma, lengthy pre-trial detention and imprisonment conditions, police abuse and complaints mechanisms as well as the rights of persons with disabilities.

Before concluding the visit, the Commissioner shared his preliminary impressions with the Prime Minister, and discussed ways to increase the level of involvement and dialog between the government and civil society in the development of strategies and policies in the sphere of human rights. Recognizing the considerable efforts which have been made in upgrading the legislative and institutional framework in Montenegro, the Commissioner emphasized finally the necessity to ensure effective implementation of standards and turn them into practice.

The assessment report will be presented in the autumn.

Denmark visit

The Commissioner visited Denmark on 11 June 2008 to discuss the implementation of the recommendations set out in his Memorandum to the Danish Government of 11 July 2007 as well as other recent human rights developments in the country. The discussions with the Danish authorities focused on counter-terrorism measures, the prison system, police complaints mechanisms, and treatment of asylum-seekers and migrants. The Commissioner met with the Minister for Foreign Affairs, the Minister for Refugees, Immigration and Integration Affairs, the State Secretary at the Ministry of Justice, as well as the Deputy Director of the Danish Institute for Human Rights and representatives of non-governmental organisations.

During the visit, the Commissioner was informed of the following positive developments in the implementation of his recommendations:

- decreased recourse to solitary confinement in prisons;
- plans for setting up a new correctional facility in Greenland;
- expected reform of the police complaints mechanism;

- new criminal law provisions which have rendered torture an aggravating circumstance for certain offences;
- new non-discrimination Act, entering into force in January 2009, with a wider scope and more effective sanctions in comparison with the current one;
- Government's new agreement on asylum-seekers which seeks to offer families with special needs the possibility to live outside reception centres.

However, the respective positions of the Commissioner and the Danish Government on the treatment of migrants and asylum-seekers remain, in the main, unchanged from the Commissioner's Memorandum of 11 July 2007 and the comments by the Danish Government thereof. The Commissioner highlighted the importance of benefiting from the expertise and advice of the UN High Commissioner for Refugees and the relevance of Europe-wide initiatives in this field.

The Commissioner's discussions also related to investigations into alleged rendition flights through Denmark and Greenland as well as possible future use of diplomatic assurances in returning terrorist suspects. The Danish authorities have set up an inter-ministerial working group to investigate alleged renditions. As regards diplomatic assurances, the Commissioner's position is that they should not be used to return suspected terrorists to countries known for their practice of torture.

Italy mission

On 19-20 June the Commissioner carried out a visit to Italy where he discussed major human rights concerns stemming from the "security package", adopted by the new government in May, with state authorities, including the Minister of Interior, non-governmental and international organisations. The Commissioner's agenda mainly focused on the new government's policies on migration and the situation of Roma and Sinti. During the visit, the Commissioner also met Roma and Sinti representatives and went to Casilino 900, a Roma settlement in Rome.

A Memorandum, addressed to the Italian government, on the two issues on which the Commissioner focused during this visit is forthcoming. A draft was sent to the government for comments.

3. Reports

Ireland assessment report

Based on a week-long visit from 26 to 30 November 2007, the human rights assessment report on Ireland was published on 30 April. In the report - which focuses on children's rights, treatment of asylum seekers, juvenile justice, anti-terrorism measures, discrimination and women's rights - the Commissioner welcomed the proposal to incorporate the best interests of the child in the Irish Constitution. He also underlined the importance of adopting a total ban on corporal punishment and expresses concerns about the high number of children missing from accommodation centres for separated children.

The report outlined certain shortcomings in the proposed Immigration, Residence and Protection Bill which may lead to unfair treatment of asylum-seekers and undocumented migrants. On juvenile justice, the Commissioner expressed his satisfaction regarding the planned closure of St. Patrick's Institution and encouraged further efforts to develop alternatives to the imprisonment of juveniles.

San Marino assessment report

Based on an official visit from 23 to 25 January 2008¹, the human rights assessment report on San Marino was made public on 30 April. It reflects what the Commissioner deems to be priorities for the further protection and promotion of human rights in San Marino. These include the ratification of certain international documents, the establishment of an Ombudsman institution, the adoption of general legislation against discrimination, the introduction of a higher age of criminal responsibility (14 instead of 12).

Armenia assessment report

The Commissioner published his assessment report on Armenia on 30 April². It was based on an official visit from 7 to 11 October 2007 on the invitation of the Minister of Foreign Affairs³.

The purpose of the visit was to take stock of the current human rights situation, identify major shortcomings and their root causes as well as opportunities for improving the protection and promotion of human rights in Armenia. In his report, the Commissioner underlined that while the legal framework in the country has been considerably improved and the reform of the Constitution is a step in the right direction, the problem lies in the implementation of these reforms and of human rights standards.

The report focused mainly on the functioning of the judiciary, conditions of detention, cases of torture and ill-treatment, freedom of expression, as well as social and economic rights. The Commissioner stressed that the system of justice still does not work appropriately and that judges must demonstrate more independence in the exercise of their duties.

With regard to the police, the Commissioner acknowledged positive steps forward, but he expressed concerns about the behaviour of the police and investigators during pre-trial examinations. The Commissioner also underlined the importance of finding ways to secure media diversity and decriminalise defamation.

Finally, the report addressed the conditions of vulnerable groups, in particular refugees and the victims of the 1988 earthquake, calling for a redoubling of efforts to ensure decent living conditions.

¹ For further details on the San Marino assessment mission, please see the 1st Quarterly Activity Report 2008 (CommDH(2008)14 – available on the website).

² The special report on Armenia was made public on 20 March and presented to the Ministers' Deputies on 30 April. For further details on the Armenia special report, please see 1st Quarterly Activity Report 2008 (CommDH(2008)14 – available on the website).

³ For further details on the Armenia assessment mission, please see 4th Quarterly Activity report 2007 (CommDH(2008)3 – available on the web site).

Following on from the open dialogue with all stakeholders during the Commissioner's visit, this report should serve as a tool for progression, future cooperation and follow-up.

Albania assessment report

On Wednesday 18 June 2008 the Commissioner presented to the Committee of Ministers his assessment report following his visit to the Republic of Albania which took place between 27 October and 2 November 2007. The Commissioner, thanking the Government for its cooperative and constructive approach, also underlined the positive steps undertaken by the Albanian authorities to improve the protection of human rights on the basis of his recommendations particularly since the visit took place. As a result of discussions held with the authorities, international partners and civil society, and following visits to institutions of human rights relevance in the country, he however reiterated some concerns including the functioning of the judiciary, police behaviour, conditions of detention, minority rights, protection against discrimination, rights of disabled persons, children's and women's rights, trafficking in human beings and freedom of expression.

The Commissioner observed shortcomings in legislation and implementation, as well as widespread perceptions of corruption which continue to jeopardise the effective functioning of the judicial system. He expressed concern about cases of police misbehaviour and the subsequent lack of effective investigations. The Commissioner also highlighted the poor condition of detention facilities, and offered recommendations regarding the situation of minors deprived of their liberty.

While noting that Albania has made some impressive efforts in the protection of the rights of minorities, the Commissioner noted that the situation of Roma minority especially deserves more attention. Furthermore, he stated that the existing prevention, protection and prosecution mechanisms concerning various forms of discrimination remain weak and recommended adopting, as a matter of priority, a comprehensive anti-discrimination law.

Discrimination and violence against women were highlighted as an underreported problem in the country and the Commissioner stressed the need to increase women's representation in Parliament and in decision-making bodies.

On children's rights, the Commissioner stated that persistent physical and economic obstacles exist, hindering access to education for vulnerable groups, particularly Roma and persons with disabilities. He also noted that further improvements are needed in relation to children involved in forced labour and violence against children at home and in institutions. Finally, the Commissioner recommended more serious efforts to protect lesbian, gay, bisexual and transgender persons from episodes of intolerance, and called on the national authorities to decriminalise defamation to ensure real media freedom so as to effectively fulfil their duty as a public watchdog.

4. Themes

Workshop on police complaints mechanisms

The Commissioner's Office organised an expert workshop on police complaints mechanisms in Strasbourg on 26 and 27 May. The participants included representatives of complaints mechanisms, the police, the prosecutor, government authorities, inter-governmental and non-governmental organisations as well as academic experts.

In a democratic society the police must be accountable and open to public scrutiny. Complaints about ill-treatment and misconduct by the police must be investigated effectively and in a transparent manner to ensure that the police enjoy the confidence of the public. Currently, there is a variety of different mechanisms for investigating police complaints in the member states of the Council of Europe. A few countries have set up bodies operating separately from the police. Many countries entrust public prosecutors to lead and supervise investigations carried out by the police. Another model is to have teams with specialised prosecutors and police officers. Several European states are also in the process of reforming their current procedures.

The workshop shared experiences from current mechanisms and procedures in member states to assess their independence, effectiveness and transparency and to discuss the challenges encountered by police oversight bodies. The report of the workshop is available on the Commissioner's web site. As a follow-up, the Commissioner is preparing a recommendation on the theme.

Violence against women

At the closing session of the Stop Domestic violence against women campaign, the Commissioner advocated for a legally binding instrument to prevent all forms of domestic violence against women in the framework of the Council of Europe. The aim of such a convention would be to establish which forms of gender based violence, in particular domestic violence would constitute human rights violations. The Commissioner argued for as comprehensive an instrument as possible in this regard.

He emphasized the need to apply a victim-oriented approach, in particular when providing protection for the most vulnerable persons, and who might also be in a very dependent position vis-à-vis the perpetrator. He further underlined the need to allow active and close involvement of non-governmental organizations in the negotiation process. Among the crimes enumerated in the debate which needed to be reflected in such an instrument were: honour killings, rape within relationships, forced marriages, sexual exploitation and female genital mutilation. There was a convergence of views on a monitoring body and around close cooperation between the different global and regional rapporteurs on this issue.

Child rights

On 4 April 2008, the Commissioner participated in a Youth Justice Conference in Cork. Intervening on "Youth Justice based on Child Rights Norms", he insisted on the necessity to implement international standards on juvenile justice at a national level. He

raised his concerns about the growing tendency to treat young offenders as adult criminals and underlined that children who breach the law were often also victims.

Unable to attend in person, the Commissioner recorded a video message which was broadcast at the launching of the CoE initiative against corporal punishment on 15 June in Zagreb. In his message, the Commissioner welcomed this essential initiative and indicated that the moment has come to protect children adequately from any form of violence including at home. Convinced that the tools developed for this initiative could be used broadly, the Commissioner called on Europe to “raise your hands against smacking”.

Data protection and counter-terrorism

The Commissioner stressed in a Viewpoint article that there is a need for a deeper discussion on the balance between methods of preventing terrorism and other crimes and the protection of everyone's private life. In recent years, the human rights requirements have not been given sufficient emphasis. Intrusive methods have turned out to be ineffective, but thorough debate on such cases has been prevented by secrecy rules.

There is an imperative duty on States to protect their populations against possible terrorist acts, the Commissioner stated. At the same time, governments have an obligation to protect people's privacy and to ensure that private information on them is not coming into the wrong hands or is otherwise misused.

It is urgent that the principles of Rule of Law be re-asserted in this area. The European Convention on Human Rights with its case-law, and the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data and its additional Protocol specify the standards. Important guidance is also given by the Council of Europe recommendation on data protection in the police sector.

Roma rights

The Commissioner spoke at the European Conference on Roma Education in Bratislava and stated that discrimination against the Roma in the field of education continues unabated on our continent, preventing them from participating effectively in the social and political life of their home country.

Drawing the attention of the Council of Europe member states to the need to develop comprehensive action plans for human rights, he also stressed the importance to act promptly to fill the existing, serious gaps in protecting Roma rights.

"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" he said. "I stand ready to support the genuine efforts made by Council of Europe member States to enhance Roma's access to education, remaining also determined to keep this issue as one of my priorities".

Two internal Council of Europe consultation meetings on Roma and migration were convened by the Commissioner on 15/05/08 and on 23/06/2008. The aim of these meetings was to take stock of the major, latest and foreseen activities of the Council of

Europe related to Roma and migrants' human rights and to explore the possibilities of further, enhanced in-house coordination of action. Representatives from the Migration and Roma Department, ECRI, FCPNM Secretariat, European Social Charter Secretariat, DGDAP, PACE and UNHCR participated in the meetings.

Migrants and refugees

The Commissioner took part in a series of activities relating to the rights of migrants and asylum seekers:

- 3-4/04: Participation in the 25th meeting of the Committee of Experts on Roma and Travellers (MG-S-ROM)
- 8-9/04: During his visit to Slovakia the Commissioner discussed with authorities, inter alia, issues relating to immigration and asylum and visited aliens' detention centres
- 14/04: The Commissioner's Office attended a meeting in the Hague at the Office of the OSCE High Commissioner on National Minorities during which they discussed the possibility of a joint study and report on recent migratory movements of Roma in Europe
- 5-7/05: Participation in the 55th meeting of the European Committee on Migration (CDMG)
- 19/05: The Commissioner was invited and held discussions with Members of the European Parliament at a hearing organised by LIBE (EP Committee on Civil Liberties, Justice and Home Affairs)
- 18-20/06: The Commissioner's Office participated in the 4th meeting of the CDDH Working Group on human rights protection in the context of accelerated asylum procedures (GT-DH-AS)
- 19-20/06: Commissioner's visit to Italy during which he discussed with the authorities and NGOs issues relating to, inter alia, immigration, asylum and the protection of Roma's human rights
- 24/06: The Commissioner participated in Session II ("Measures to improve the democratic participation of migrants") of the PACE conference on specific challenges facing European democracies - the case of diversity and migration and measures to improve the democratic participation of migrants.

LGBT Rights

The Commissioner expressed concern regarding the effective respect of LGBT persons' rights, in particular to be protected from hate crimes and discrimination based on sexual orientation and gender identity. He also stressed freedom of assembly when peaceful Gay Pride Marches are organised: they should not be obstructed by national and local authorities.

In a video message to an ALDE meeting in the European Parliament in Brussels, he referred to widespread discrimination against LGBT persons and the need for comprehensive inclusive anti-discrimination legislation. "Regulations and laws should list all grounds for discrimination including sexual orientation which is not always the case". He also stressed the importance of the Yogyakarta Principles, a worldwide lawyers' initiative which analyses international human rights law through a LGBT persons' prism, and their relevance for future respect for human rights for all.

Housing rights

On 20 May, the Commissioner published an issue paper – “Housing rights: the duty to ensure housing for all”. The issue paper 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 concludes with a set of recommendations for the promotion of housing rights, understood as a key element for the enjoyment of other human rights. The issue paper is available on the Commissioner’s web site.

Development and human rights

Commissioner Hammarberg gave a lecture on 3 April at the Trinity College in Dublin on the inter-relationship between development and human rights in implementing the United Nations Millennium Development Goals.

In his speech, he stressed the need to further develop the understanding of how human rights and development interrelate and highlighted the importance of mainstreaming human rights principles and standards into all efforts to promote security and social and economic development.

"Development plans should prioritise anti-discrimination measures, treat individuals as participants rather than recipients of charity, clearly define the responsibility for implementation of the rights and establish human rights in effective legislation" he said. "I believe that the very purpose of development should be to contribute to the full realisation of human rights for all".

Implementation of the European Convention on Human Rights

On 3 June the Commissioner had 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 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 under Article 46 para. 2 of the ECHR, 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. The adoption of general measures is most of all a means to prevent similar cases before the Court. Prevention is a key element in the Commissioner’s mandate.
- He can broach the execution of the judgments in the context of his enhanced 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. Discussions between them allow to draw on each other's experiences.

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 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, Commissioner Hammarberg 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. He also underlined the usefulness that his support and training of National Human Rights Structures can have in better implementing the Council of Europe norms.

5. Human Rights Defenders

The mandate of the Commissioner for Human Rights was reinforced with the adoption of the Committee of Ministers of a Declaration on action to improve the protection of defenders and promote their activities in February 2008. The Declaration invites the Commissioner to strengthen his role and his office capacity to provide strong and effective protection of human rights defenders. The Commissioner is requested to report publicly on their situation and to intervene, as he deems appropriate, in serious, concrete situations.

This has been followed up through the mainstreaming of protection and support to human rights defenders into all activities of the Office, and to the development of a programme based on five pillars:

- **Monitoring** of the situation of human rights defenders at national and regional level with a view to identify gaps and shortcomings in national legislations, regulations and practices, which may affect their working environment and safety;
- **Reporting** publicly on the situation of human rights defenders: annual reports on the situation of defenders will be published, starting in 2009.
- **Intervening in urgent cases of defenders at risk**, notably calling upon the governments to implement their human rights obligations and to assist them in looking for solutions to problems which defenders may face.
- **Public awareness raising and creating networks**: Dissemination and awareness of the reinforced mandate of the Commissioner will be sought through various events and publications during the fall of 2008. The website of the Commissioner has now a particular page dedicated to human rights defenders.

- **Co-operation, co-ordination and complementarity** with key partners and actors such as the UN Special Rapporteur on Human Rights Defenders, the OSCE-ODIHR, non-governmental organisations and National Human Rights Structures.

Successful implementation of the Commissioner's human rights defenders programme requires additional resources. The Office has held a number of consultations since April with key partners in order to avoid duplication, ensure coordination and complementarity of his activities. Notably a meeting took place in June on the first working day of the newly appointed UN Special Rapporteur on Human Rights Defenders Ms. Margaret Sekaggia.

6. National Human Rights Structures

Training programme for national human rights structures

The Joint European Union – Council of Europe Programme “Setting up an active network of independent non judicial human rights structures”, or “Peer-to-Peer Project”, aims to empower national human rights structures (i.e. ombudsmen and national institutions) to help prevent and find solutions to human rights violations more effectively at a domestic level. Through a series of workshops, where international legal norms are explained and participants discuss their respective experiences to implement these norms, specialised staff members of the national structures can strengthen their own human rights competences and increase their awareness of the possibilities for action at domestic level and for co-operation with international mechanisms.

The Peer-to-Peer Project consists of a work programme to be implemented by the Office in 2008 and 2009 in partnership with the Centre on Human Rights and the Rights of Peoples of the University of Padua, and the Humanitarian and Political Science “Strategy” Centre in St Petersburg. So far, three workshops have been organised in 2008.

First workshop - Padua, Italy (9-10 April)

The first workshop of the Peer-to-Peer project was entitled “Rights of persons deprived of their liberty: The role of national human rights structures which are OPCAT mechanisms and of those which are not”. It gathered around 40 staff members from NHRS as well as Russian regional ombudsmen and experts from the European Committee for the Prevention of Torture (CPT), the World Organisation Against Torture (OMCT), the Association for the Prevention of Torture (APT), the International Observatory of Prisons (OIP).

The relevant international instruments and mechanisms were presented (Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), European Convention on the Prevention of Torture, European Convention on Human Rights, UN Special Rapporteur on Torture), and the questions of the coordination between all these complementary systems was raised. The institutional and functional requirements regarding the national preventive mechanism (NPM) to be set up under OPCAT were defined, insisting on the necessary

independence and an adequate mandate. Through expert presentations and peer exchanges the discussions focused on the pros and cons of the various institutional options between using an existing body or setting up a new one. What is the added value of creating a new mechanism? What are the risks when a new institution is created? The question of coordination between NHRs and NPMs (when the NHRs does not become OPCAT mechanism) was also raised. Participants all agreed on the need to ensure a good cooperation between the different existing mechanisms both at the national and international levels, in order to preserve their efficiency.

Second workshop - Pushkin, near St. Petersburg, Russian Federation (20-21 May)

The second workshop was on “Complaints against the police - their handling by the national human rights structures”. The term police being meant to comprise all forces tasked with peace time policing, excluding intelligence services. 35 staff members from NHRs attended as well as Russian regional ombudsmen and experts: the UN Special Rapporteur on torture or other cruel, inhuman or degrading treatment or punishment, one Irish Human Rights Commissioner, representatives of the CPT, the French National Commission for a Security Code of Conduct, the Hungarian Independent Police Complaint Commission, the OMCT and the Academy of the Ministry of the Interior of the Russian Federation.

The discussions focussed on the need to find the best way to handle efficiently complaints against the police, using the existing structures and exploring the need for creating or not new specialised structures. The participants took note of the fact that the existing bodies have different mandates and that the legal and institutional organisation is different in each country, which led to the conclusion that only a functional approach can be used whatever the structure, the body in charge of handling the complaints against the police should be fully independent (legal basis, composition, appointment of its members etc.). It should also have adequate financial and staff resources and appropriate competences to be able to handle complaints against the police.

Third workshop - Padua, Italy (17-19 June)

The third workshop dealt with “Protecting the human rights of irregular migrants : the role of national human rights structures”. 23 staff from NHRs and experts, among whom the Dean of the Law Faculty of the University of Caen-Basse Normandie, the President of the *Association nationale d’assistance aux frontières pour les étrangers* (Anafé) and representatives of the Italian Committee for the Protection and Promotion of Human Rights, of the Advice on Individual Rights in Europe Centre (AIRE Centre) in London and of the Police Headquarters in Padua.

After examining the scope of irregular immigration in Europe, participants went through the international legal standards applicable to irregular migrants by way of a flow chart of applicable rights. The antagonism between the States’ sovereignty and the “illegal status” of irregular migrants on the one hand and the obligation of the States to respect the fundamental rights of individuals was the starting point. The question of the EU policies related to the regulation of migration flows was referred to, in particular concerning the adoption of the Directive on return of the European Parliament and of the Council. When dealing with the mixed flows of migrants, States must uphold the principle of an individual examination of each case to provide adequate status and/or protection for each situation.

7. Communication and Information work

The communication and information work continued to focus mainly on interviews, press releases, public relations activities, publication and dissemination of the fortnightly Viewpoints.

Interviews and opinions have been published by major international and national newspapers, news agencies, radios and televisions, amongst which the BBC Radios and TV, the International Herald Tribune, the Guardian, the Independent, Le Monde, Liberation, Radio France Internationale, France 2, Swedish Educational Broadcasting Corporation, La Repubblica, Il Corriere della Sera, El Pais, Ansa, New Europe and Euronews.

A stronger focus has been developed on national media, in particular as concerns country visits and reports (ie France, Montenegro, Denmark, Ireland and Russia) and specific topics, such as the “public order package” proposed in Italy and the length of pre-trial detention of suspected terrorists in the UK. Other issues which raised media attention were minority and migrants’ rights, EU law on immigration, rights of lesbian, gay, bisexual and transsexual people, women’s and children’s rights.

A number of Viewpoint articles have been published on the Commissioner’s website (see below) and disseminated to the media and the public. Several daily and weekly newspapers republished these Viewpoints in their paper and online editions. The second publication of the Viewpoint collection was released in April.

The website has been redesigned to facilitate an easier access both to the media and the public at large. New pages have been also created, such as those concerning 1) the Joint programme with the European Union on cooperation with national human rights structures⁴, and 2) the activities in the field of human rights defenders⁵. Further improvements of the web site have been planned.

The Commissioner's newsletter was redesigned and is now sent on a monthly basis to almost 1200 subscribers, in particular national human rights structures, international organisations, non-governmental organisations and journalists.

Viewpoint articles

- “International human rights bodies worldwide need more support and more self-criticism” - 14/04/08
- "Aged people are too often ignored and denied their full human rights" - 28/04/08
- “Time to recognise that human rights principles apply also to sexual orientation and gender identity” - 14/05/08
- “Strong data protection rules are needed to prevent the emergence of a surveillance society” - 26/05/08
- “No one should have to be stateless in today’s Europe” - 09/06/08
- “Corruption distorts the system of justice and damages poor people in particular” - 24/06/08

⁴ http://www.coe.int/t/commissioner/Activities/themes/nhrspeertopeer_en.asp

⁵ http://www.coe.int/t/commissioner/activities/themes/hrd_en.asp

Speeches and presentations

08/04/2008 Lecture on the inter-relationship between development and human rights when implementing the UN Millennium Development Goals (Dublin, Trinity College)

CommDH/Speech(2008)3 – English version only.

09/04/2008 Written presentation at the European Conference on Roma Education: "Education and training of Roma children and youth: the way forward" (Bratislava, Slovakia)

CommDH/Speech(2008)5 – English version only.

14/04/2008 "More must be done to promote and protect Human Rights": presentation at the Conference dedicated to the 60th Anniversary of the Universal Declaration of Human Rights and the 10th Anniversary of the Ombudsman of Ukraine, (Kyiv, Ukraine)

CommDH/Speech(2008)6 – English version only.

17/04/2008 Presentation of the Annual Report to the Parliamentary Assembly

CommDH/Speech(2008)7 – English and French versions available.

07/05/2008 "Making the human rights system more effective": Intervention during the Ministerial Spring meeting of the Council of Europe

CommDH/Speech(2008)8 – English and French versions available.

30/05/2008 "The principle of the best interests of the child – what it means and what it demands from adults": lecture in Warsaw

CommDH/Speech(2008)10 – English and French versions available.

10/06/2008 "The Commissioner's role": presentation at the Colloquy Towards stronger implementation of the European Convention on Human Rights (ECHR) at national level - Theme 3 Assisting member States in implementing the Convention, Stockholm

CommDH/Speech(2008)9 – English and French versions available.

8. Observations and reflections

The cycle of assessment missions (with reports) is coming closer to its conclusion. When a further four missions are completed the Office will have assessed all 47 member states in the Council of Europe in that manner. The remaining countries to be visited are Monaco, Serbia, Netherlands and Belgium. The intention is that these missions will be undertaken during the forthcoming Autumn and that the reports will be submitted during the first quarter of 2009.

These assessments have been – and are – useful. The Office has developed an approach which seeks to define key problems and at the same time give meaningful recommendations. The Commissioner has got positive feedback from both governments and other interested parties in member countries, including from parliamentarians and non-governmental actors.

The Irish Prime Minister Bertie Ahern wrote:

“Your comprehensive report on Ireland was extremely thought-provoking and useful document. It is the final result of a productive and active dialogue. Your recommendations are very valuable and will be considered carefully and sympathetically by the Irish authorities who are committed to continuing to identify and implement improvements in protection of the human rights of all citizens of and residents in Ireland.”

Progress is being made on a systematic response from governments. The Polish authorities, for example, have set up a special inter-ministerial committee to analyse and find solutions to the problems presented in the Commissioner’s report. The Albanian government already started to take action on recommendations after they were orally presented at the end of the mission. The Russian government handed over a 260-page document as a response to the recommendations in the earlier assessment reports.

The next stage of the programme of the Commissioner will be to assist these follow-up and implementation efforts by governments. The Office itself will be organised so that it will be better equipped to monitor the implementation in the member states and also to develop capacity to give meaningful advice. The conference in the Autumn on comprehensive planning of human rights realisation will be important in this context.

Missions during the forthcoming years will be more targeted than the assessment missions. This will require a capacity to select priorities on the basis of follow-up monitoring from outside. This approach will also make it possible to prepare material on a thematic basis, relevant to a number of countries. This new approach is already started and memoranda on certain topics in the United Kingdom and France are being processed. Country-related work will also in future be the main aspect of the Commissioner’s activities.

One aspect which it would be desirable to pursue and further develop is to contribute to the respect for human rights in areas of “frozen conflict”, but also where political tension or strife appears to have had a negative impact on the human rights situation.

These ambitious plans plus the continued work on national human rights structures and human rights defenders will require input from the office beyond the present level of resources. The programme so far has been possible largely thanks to the voluntary contributions. A further increase in budget and staffing is important. However, the Commissioner is not aiming to build a large office but rather wants to develop further closer cooperation with other parts of the Council of Europe structures. The spirit of cooperation is very positive today but coordination could be further developed.

The cooperation with other international human rights structures has also improved considerably. This goes for the OSCE (Office for Democratic Institutions and Human Rights and High Commissioner on National Minorities in particular), the European Union (Commission, Council, Parliament and Fundamental Rights Agency) and the United Nations (UN High Commissioner for Refugees, Unicef and UN High Commissioner for Human Rights in particular). This is very positive.

The thematic priorities of the Office have turned out to be very relevant. The intention is to emphasise the same issues as mentioned in this report for the coming periods as well. Continuity is important in order to achieve results.

9. Next three months

July

- 1 Contact visit to Kaliningrad – Russian Federation
- 2 CoE Conference of Prosecutors General, St. Petersburg – Russian Federation
- 2-3 Rountable of Russian Ombudsman, St. Petersburg – Russian Federation
- 7-10 Cyprus contact mission
- 13-16 Armenia follow-up mission

August

- 1 Seminar "The rights of LGBT families in Europe - challenges ahead" hosted by the Swedish Ombudsman against Discrimination on grounds of Sexual Orientation, on the occasion of the Stockholm Pride

LGBT Seminar "Who defends the Human Rights in the European Union?"
- 28-29 Conference on HR Defenders, Budapest

September

- 4-5 CoE Ministerial Conference on Migration, Kiyv
- 8-10 CoE conference on children, Stockholm
- 9 Janusz Korczak Lecture, Stockholm
- 11 CM
- 16 Opening of NHRI round-table – Dublin, Ireland
- 17-19 Contact visit to Italy (tbc)
- 22-26 Assessment mission to the Netherlands
- 26-27 Mission to Tbilisi, Ombudsman Office conference
- 29-30 PACE