



COMMISSIONER FOR HUMAN RIGHTS

COUNCIL OF EUROPE



Strasbourg, 21 January 2009

CommDH(2009)1

4TH QUARTERLY ACTIVITY REPORT 2008

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1 October to 31 December 2008

Presented to the Committee of Ministers
and the Parliamentary Assembly

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1. Overview

Between October and December 2008, the Office undertook assessment missions to Serbia, Monaco and Belgium. Thereby the full cycle of such comprehensive missions was completed; all 47 member states have now been visited in this manner by either the previous or current Commissioner.

Continued high priority was given to human rights concerns in areas affected by the South Ossetian conflict. The Commissioner made a further visit to Tbilisi, Gori and villages in the former “buffer zone” as well as to Tskhinvali. A report was published and the Commissioner continued his work on the six principles of humanitarian protection from the office in Strasbourg, inter alia, in relation to further exchanges of persons detained or stranded and the clarification of the fate of missing persons.

A special mission was also undertaken to Armenia for discussions on the issue of an impartial investigation into the events of 1-2 March 2008 and on the question of prisoners and judicial procedures in connection with these developments. The Commissioner reported to the PACE rapporteurs. Former Secretary General Daniel Tarschys was commissioned to visit Yerevan to assist the fact-finding committee.

Special missions were also undertaken to Romania, Greece and Cyprus.

In addition, reports were published on Montenegro, the United Kingdom, France, and Cyprus. Viewpoints during the quarter addressed the following issues: human rights education; rights of persons with disabilities; national planning for human rights implementation; the economic crisis and social rights; human rights and terrorist black-listing; and handling of police data files. Issue papers on rights of people with disabilities and protecting the right of privacy in the fight against terrorism were published.

A substantial number of interviews were published in the mass media, in the context of a general increase in publicity for the work of the Office.

The Commissioner convened an expert seminar on the situation of transgender people and discrimination based on gender identity. He took an active part in Council of Europe conferences on human rights education, the rights of persons with disabilities, and systematic implementation of human rights. He also spoke at international conferences on the rights of the child and on discrimination against people on the grounds of their sexual orientation or gender identity. He also visited the office of the Fundamental Rights Agency (FRA) in Vienna, making a presentation at their staff meeting.

As part of its peer-to-peer programme, the Office organised two workshops for training of staff in the offices of national human rights structures. The themes covered were freedom of expression and the rights of persons with disabilities. An annual meeting of contact persons from these national structures was held in Strasbourg.

In December, Ms. Isil Gachet was appointed the new Director of the Office.

2. Missions and Visits

Special missions to areas affected by the South Ossetia conflict

On 21 October 2008, the Commissioner published a report after his second special mission to areas affected by the South Ossetia conflict¹. This was based on a visit carried out from 25 to 27 September 2008 to assess the implementation of the six principles for urgent human rights and humanitarian protection which the Commissioner had formulated in August. The full text is available on the Commissioner's website, reference CommDH(2008)33.

The Commissioner reported that by mid-October, more than 95,000 internally displaced persons (IDPs) had been able to return to their homes out of an estimated 131,000.

There had been progress in ensuring care and support to IDPs, including some 20,000 people who are not likely to be able to return to their homes in the near future. Work was underway to build 2,100 single-family housing units, which would provide a good provisional solution for a large number of IDPs. With winter approaching, it was crucial to address their needs with urgency.

Commissioner Hammarberg also stressed that similar efforts are needed for the more than 220,000 IDPs from previous displacements, underlining that the strides taken to improve the situation of IDPs cannot be a substitute for the right to a safe return.

De-mining still remained an acute need as large quantities of unexploded ordnance and bombs still posed a real danger to people, including sub-munition 'duds' from cluster bombs. Systematic de-mining was needed, both in the 'buffer zone' and in the areas under Georgian control. This requires full cooperation and information-sharing between both sides, the Commissioner reported.

Another serious problem was the safety of individuals, in particular in the northern part of the 'buffer zone'. "It is imperative to bring a complete end to looting and violence, but it is also important to address longer-term concerns, in particular as regards the level of professionalism and respect for human rights among the law enforcement officers. The authorities and the international community must monitor closely the situation on the ground to detect and defuse any resurgence of violence or ethnic targeting," the report stressed.

Resuming the exchanges of prisoners, Commissioner Hammarberg said that 179 people and the bodies of 43 persons had been handed over by the de facto authorities of South Ossetia to the Georgian authorities, who in turn had handed over 41 people and 2 dead persons.

Finally, the Commissioner called upon international actors to enhance their coordination and ensure that monitors are capable of handling the human rights crisis. As a matter of urgency he urged the relevant authorities to guarantee that all humanitarian organisations have access to all relevant areas, from all directions, all the time.

¹ For further details on the September 2008 mission, see also the 3rd Quarterly Activity Report 2008 (CommDH(2008)32 – available on the website).

From 12 to 14 November 2008, the Commissioner again visited the areas affected by the conflict in order to review the situation with regard to the implementation of the six principles and give new impetus to exchanges of detainees as well as efforts to clarify the fate of missing persons.

The Commissioner secured the release by the Georgian authorities of one adolescent Ossetian and his father, who had been arrested on 8 October 2008 in the previous “buffer zone”, and brought them to Tskhinvali on 12 November 2008. He also ensured the return of ten corpses from Tskhinvali to Tbilisi. Commissioner Hammarberg also met with His Holiness Ilia II, the Patriarch of the Georgian Orthodox Church, to discuss the need for further humanitarian and human rights work to ensure that persons who are deprived of their liberty are released, and if appropriate, exchanged.

In Tskhinvali, the Commissioner met *de facto* President Kokoity and *de facto* Ombudsman, David Sanakoev. He also travelled to Gori and the previous “buffer zone”, where he met with returnees and listened to their grievances and concerns. In Tbilisi, he visited a collective centre and talked to displaced persons about their situation.

In addition, the Commissioner had meetings with the Minister for Reintegration Temuri Yakobashvili, first Deputy Foreign Minister Giorgi Bokeria, representatives of international organisations and international observer missions as well as non-governmental organisations and the diplomatic community. He also met with the Georgian Public Defender, Sozar Subari, and the Chairman of the Defence and Security Committee of the Parliament, Givi Targamadze, in relation to securing exchanges.

The report on this visit was issued on 16 December 2008, and is available on the Commissioner’s website, reference CommDH(2008)37.

Serbia mission

The Commissioner visited Serbia from 13 to 17 October 2008 for an assessment of the overall human rights situation. During this mission, the Commissioner was accompanied by the Council of Europe’s camera man. Besides the capital Belgrade, the Commissioner’s visit covered the north, south-west and south of the country with visits to the autonomous province of Vojvodina, the Sandzak-Raska region as well as to Bujanovac and Presevo in the south. Following established practice, the Commissioner conducted site visits to institutions with human rights relevance, including closed institutions such as prisons, remand centres and police stations, but also psychiatric hospitals, camps for refugees and IDPs as well as Roma settlements. Concluding his visit, the Commissioner shared his impressions with the Prime Minister and key ministers and explored opportunities to address pertinent issues in the field of human rights protection.

Key issues covered during the visit were the widespread public perception of corruption, the failure to deal effectively with the past, and the functioning of parliament, as well as the independence of the judiciary. Inflammatory and negative media reporting of the work of human rights defenders was also an issue discussed. In addition, the social exclusion of the Roma population was of great concern. The assessment report will be published in early 2009.

Monaco mission

From 20 to 21 October 2008 the Commissioner conducted an assessment mission to Monaco covering a number of human rights issues. During this first official visit, the Commissioner focused on prison conditions, measures against discrimination, the functioning of the judicial system and independent national human rights structure. The Commissioner met with Mr. Jean-Paul Proust, Minister of State, Mr. Philippe Narmino, Director of the judicial services, as well as most of the members of the Government. The Commissioner was also received by His Serene Highness Prince Albert II. He met with parliamentarians and representatives of civil society and visited the prison and the police station. The findings of the Commissioner will be presented in an assessment report with relevant recommendations to be published in early 2009.

Romania visit

From 26 to 28 October 2008 the Commissioner carried out a short visit to Romania. The purpose of the visit was in line with his continuing dialogue with the authorities. Focusing in particular on Roma rights in Romania, the Commissioner spoke with, among others, the head of the National Agency for the Roma, the chair of the Roma Education Fund, the President of the National Council for Combating Discrimination, the deputy Secretary of State from the National Agency for Child Protection, the state counsellor of the Romanian Government and the Roma representative in the parliament. He also consulted experts and non-governmental organisations protecting the human rights of Roma. The meetings with the various interlocutors highlighted the progress made so far and the challenges the authorities still face.

Armenia mission

The Commissioner visited Armenia from 20 to 22 November 2008. This special mission, the third visit of the Commissioner to Armenia during the year, was a continuation of his work to address the human rights concerns arising in relation to the tragic events of 1-2 March 2008, which resulted in the deaths of ten persons and injuries to some 200 others. It may be recalled that, following the adoption of Resolution No. 1620 (2008) of the Parliamentary Assembly of the Council of Europe (PACE) on 25 June 2008, the Commissioner was invited to:

- contribute to the participation of international experts in the work of the body tasked with the inquiry into the events of 1 and 2 March 2008, provided the conditions regarding independence, transparency and credibility are met; and
- inform the PACE Monitoring Committee on the progress regarding the inquiry as well as the release of persons deprived of their liberty in relation to the events of 1 and 2 March 2008.

During his mission, the Commissioner met with President Serzh Sargsyan, the Speaker of Parliament, the Minister for Foreign Affairs, the Head of the National Police, and the Prosecutor-General. He held discussions with several members of Parliament, including the chairperson of the Armenian delegation to the PACE, the chairperson of the ad hoc inquiry committee into the March events, and the parliamentary opposition. The Commissioner also met with opposition leader Levon Ter-Petrosyan. In addition, he held

meetings with the Ombudsman, the fact-finding group of experts tasked with the inquiry into the March events, non-governmental organisations, as well as foreign diplomats and representatives of international organisations in Yerevan. He met the defence lawyers of the persons deprived of their liberty in relation to the March events as well as certain family members. The Commissioner visited two prisons, where he met six of the seven persons who were formally indicted on 1 December 2008 in a high profile case related to the March events, for which the trial was scheduled to start on 19 December 2008.

The Commissioner presented a summary of his findings to the co-rapporteurs of the PACE Monitoring Committee at a meeting held in Paris on 1 December 2008. The summary of findings will be made public in early 2009.

In order to assist the work of the fact-finding group of experts, the Commissioner organised a visit to Yerevan in December of the previous Council of Europe Secretary General, Daniel Tarschys.

Greece mission

From 8 to 10 December 2008, the Commissioner carried out a visit to Alexandroupolis and Athens, Greece, to discuss a number of major issues relating to asylum seekers and minorities. During this visit the Commissioner visited the Evros department (north-eastern Greece) and Athens and held consultations with state authorities, including the Minister of Interior, Professor Pavlopoulos, national and international institutions and NGOs. Discussions focused upon major issues concerning the protection of the human rights of asylum seekers and minorities in Greece. The Commissioner also visited the Feres border guard station and the Kyprinos (Fylakio) holding facility, where irregular migrants are detained, as well as the mined area in Kastanies. The publication of two reports following this visit is forthcoming. A series of compelling photographs from the visit were published on the Commissioner's website.

Cyprus visit

On 11 and 12 December 2008, the Commissioner visited Cyprus. He met with the Minister of Justice and Public Order, Dr. Kypros Chrysostomides, to present and discuss his report based on the findings of his visit to the Republic of Cyprus in July 2008. The report mainly addresses developments in regard to refugees and asylum seekers, their conditions of detention and the situation of trafficking in human beings. The Commissioner acknowledged the authorities' efforts to enhance the asylum service but stressed that these measures alone would not suffice to treat asylum-seekers' and refugees' demands in an effective and speedy manner. He suggested exploring possibilities for practical cooperation to handle the influx via the Green Line.

Moreover, the Commissioner underlined that it is vital that asylum-seekers are properly informed about their rights, including employment rights, welfare assistance, health care and education. The authorities should also adopt new legislation to grant free legal aid to asylum-seekers. The Commissioner reiterated that the length of detention of rejected asylum-seekers as well as their number should be kept to a strict minimum.

On the issue of trafficking in human beings, the Commissioner noted with appreciation the legislative and administrative measures taken to combat the phenomenon and to support the victims. He was pleased to learn that the so-called cabaret "artiste" work

permit will be abolished and he called upon the authorities to ensure that traffickers cannot use other schemes for the same unlawful purpose. A full version of the report, published together with the Government's comments, is available on the Commissioner's website, reference CommDH(2008)36.

At the invitation of the Commissioner for Administration (Ombudsman), Ms. Eliana Nicolaou, and the Law Department of the University of Cyprus, the Commissioner attended a conference dedicated to the 60th anniversary of the adoption of the Universal Declaration of Human Rights. The Commissioner presented his views on the need to implement European human rights standards and engaged in a dialogue with members of civil society and a number of academics invited.

The Commissioner also met with representatives of the European Union and the United Nations and crossed the Green Line to discuss recent developments on the Cyprus issue with the leader of the Turkish Cypriot Community, Mr. Mehmet Ali Talat. The Commissioner learned about the progress of the high level talks between the two leaders and expressed his sincere hope that they will lead to a reunification of the island which would protect human rights.

Belgium mission

The Commissioner conducted a visit to Belgium from 15 to 19 December 2008, the last member state to be visited by the Commissioner in the framework of his cycle of assessment visits. He held high-level talks with members of the Federal Government including Mr. Jo Vandeuren, Minister of Justice, Mr. Karel De Gucht, Minister for Foreign Affairs, and Mrs. Annemie Turtelboom, Minister for Migration Policy and Asylum. He also met with members of the community and regional governments of Flanders, the French Community, Wallonia, Brussels and the German-speaking Community. He held discussions with parliamentarians, the Federal Ombudsmen and Children's Ombudsmen, the Standing Police Monitoring Committee (Comité P), the Centre for equal opportunities and opposition to racism, Institute for equality between men and women, as well as representatives of civil society and the bar associations.

The Commissioner and his team visited prisons in Antwerp and Forest, three detention centres for migrants, the Everberg correctional facility for minors, two shelters for women victims of violence as well as a house for irregular migrant families. The Commissioner's findings and recommendations will be published in an assessment report in spring 2009.

Visit to European Union Agency for Fundamental Rights (FRA)

On his first visit to the FRA in Vienna on 31 October 2008, the Commissioner met with senior staff and discussed common issues of concern and interest, including the situation of Roma, Sinti and Travellers, homophobia and discrimination of LGBT persons, the United Nations anti-racism review conference and children's rights. The Commissioner also made a presentation for FRA staff members on the human rights challenges in Europe.

3. Reports

Montenegro report

On 8 October 2008, the Commissioner published the report on his assessment visit to Montenegro carried out from 2 to 6 June 2008. Montenegro has achieved much progress in law reform and in upgrading its institutional human rights protection framework, but implementation of new standards remains weak. The continued public perception of a corrupt infrastructure and impunity for certain types of crimes, including war crimes, constitute impediments to further progress. Corruption affects all spheres of public life representing the main obstacle for any effective implementation of human rights standards.

The functioning of the judiciary remains a key challenge. Legislative and practical measures have been introduced to fight the serious backlog of court cases and the excessive length of judicial proceedings. The still unresolved status of many refugees and displaced persons needs to be addressed urgently, especially Roma, Egyptian and Ashkali refugees from Kosovo² who lack both status and documentation. They are the country's most marginalised and discriminated minority. The Government hopes to improve the situation of its Roma population through the implementation of its "2007 Strategy for the Improvement of the Position of the Roma Population".

The report further discusses media freedom, police behaviour, the rights of national and other minorities, the situation of persons with disabilities, women and child rights, and evaluates progress in combating trafficking in human beings. The report was published on 8 October 2008, and is available on the Commissioner's website, reference CommDH(2008)25.

Memorandum on corporal punishment in the United Kingdom

On 9 October 2008 the Commissioner published a Memorandum following visits to the United Kingdom on 5-8 February and 31 March – 2 April 2008, during which he held discussions with state authorities, including Mr. Ed Balls, Secretary of State (Department for Children, Schools and Families). In the Memorandum, the Commissioner noted that there is acceptance among Government ministers that legislation to remove completely the "reasonable punishment" defence in England, Wales and Northern Ireland, has become inevitable. In this regard the Commissioner welcomed the change in language when talking about corporal punishment and notes that the government now "does not condone smacking". However, he stated that without a change in the law, this position lacks credibility.

The Commissioner noted that since his visits to the UK, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child have both recommended that the UK should prohibit all forms of corporal punishment. Therefore, the Commissioner urged that the "reasonable punishment" defence should be removed completely.

² "All references to Kosovo, whether to the territory, institutions or population, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo "

The Memorandum, together with the Government's response, is available on the Commissioner's website, reference CommDH(2008)28.

Memorandum on juvenile justice in the United Kingdom

On 17 October the Commissioner published a further Memorandum following discussions with state authorities and non-governmental organisations (during the above-mentioned visits) on juvenile justice and specifically the situation of children in custody and visited a number of institutions including the Oakhill Secure Training Centre and the Young Offender Institution, Huntercombe.

Generally, the Commissioner welcomed the increased cooperation between different Ministries concerned with children's well-being and the publication of the 'Children's Plan. Building brighter futures'. He subsequently welcomed the publication of the Youth Crime Action Plan in July 2008. The Commissioner noted the consultation process on the possible removal of the UK reservation on immigration and nationality to the Convention on the Rights of the Child and was happy to be able to welcome the recent decision of the UK government to withdraw its immigration reservation and its reservation relating to article 37c (children in custody with adults).

In his memorandum, the Commissioner focused specifically on the age of criminal responsibility and the child custody system in the UK, conditions in child custody, including the use of restraints, and resettlement and re-offending.

The Memorandum, together with the Government's response, is available on the Commissioner's website, reference CommDH(2008)27.

Memorandum on human rights protection arrangements, prisons, juvenile justice, immigration and asylum, and Travellers and Roma issues in France

A memorandum on a number of human rights issues following a visit of the Commissioner to Paris in May 2008 was published on 20 November 2008. During that visit, the Commissioner had met the Minister of Justice, the Minister of Immigration, the Minister of Housing and Urban Affairs, most of the national human rights protection agencies and representatives of civil society. Among the issues discussed were prisoners' rights, asylum and immigration and the protection of Roma and Travellers. The Commissioner visited a number of establishments, including Fresnes prison and Meyzieu prison for minors, as well as Roma sites and stopping places for Travellers on the outskirts of Strasbourg.

The priority areas for focus during the visit and covered in the memorandum were respect for prisoners' human rights, juvenile justice, human rights in the context of immigration and asylum, the rights of Travellers and Roma and human rights protection arrangements.

The Memorandum, together with the Government's response, is available on the Commissioner's website, reference CommDH(2008)34, with an accompanying report specifically on the detention of arriving migrants within Roissy airport.

Follow-up to the visit to the Slovak Republic

Following his visit to the Slovak Republic from 7 to 10 April 2008, the Commissioner had written on 18 June to the Minister of Foreign Affairs raising certain issues relating to the human rights of Roma and of asylum seekers and irregular migrants in the Slovak Republic. While commending the authorities' efforts to ensure equal access of the Roma to vital social sectors, such as education, the Commissioner expressed his serious concern notably about the disproportionate number of Roma children in special classes and the lack of a relevant complaints mechanism. He also recommended that the draft Law on upbringing and education contain a clear prohibition of discrimination including segregation. As regards asylum seekers, the Commissioner expressed satisfaction about the reception centre he visited in Humenne. However, concerns remained about the length of appellate asylum procedures and the lack of a sufficient number of asylum law judges. Finally, the Commissioner expressed his concern about detention of irregular migrants which is on an equal footing with traffickers of human beings, and of the fast-track procedures applied in the context of the readmission agreement with Ukraine, to the possible detriment of potential asylum seekers.

By letter of 19 September 2008, the Minister of Foreign Affairs provided the Commissioner with detailed information on the issues raised. The Minister assured the Commissioner that the Slovak Republic is paying ever increasing attention to the training and education of children from minorities and socially disadvantaged environments. As regards irregular migrants and asylum seekers, the Foreign Minister assured the Commissioner that international and EU standards are applied in this field.

4. Themes

Human rights of migrants and minorities

On 9 October 2008 the Commissioner delivered a statement at the 'Impact Assessment Conference – Ten Years of the Framework Convention for the Protection of National Minorities', underlining the importance of this Convention and of the work of its Advisory Committee in the effective protection of minorities' human rights and the preservation of democratic values, security and peace in Europe.

On 16 and 17 October 2008 the Commissioner's Office participated in a high level conference 'Ten Years of [the UN] Guiding Principles on Internal Displacement – Achievements and Future Challenges' which was held in Oslo. The conference was 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.

The Commissioner's Office participated in a Seminar on the human rights of internally displaced persons, organised at the Palais de Nations, Geneva by the PACE Committee on Migration, Refugees and Population on 26 November 2008. A presentation was made of the Commissioner's work in particular following the South Ossetia conflict this year and of the relevant reports issued by the Commissioner. The Commissioner's Office highlighted the issue of the root causes of internal displacement in Europe linked to the need for strengthening protection of national minorities in accordance with Council of Europe standards.

Roma rights

The joint project with the OSCE High Commissioner on National Minorities (HCNM)) on recent Roma migration in Europe was concluded at the end of 2008. A report, with recommendations, focusing on Roma migration, human rights and major issues of discrimination in Europe, has been prepared by two experts and is scheduled to be published in 2009.

On 8 October 2008 the Commissioner convened the third internal consultation meeting on Roma in which all competent departments of the CoE participated and exchanged information on recent and upcoming Roma-related developments and events.

On 24 November 2008 the Commissioner's Office, in collaboration with the Council of Europe Roma and Travellers Division, launched an internal, on-line 'collaborative space', created by the Council of Europe Department of Information Technology, in order to further enhance the Commissioner's exchange of information on Roma with the competent Council of Europe departments and divisions.

On 4 November 2008 a meeting was organised by the Commissioner's Office and discussions were held with representatives from the OSCE HCNM and the FRA on collaboration in the field of Roma migration/freedom of movement and human rights protection in Europe in 2009. Further consultations are under way.

The Commissioner participated in the Fourth Plenary Assembly of the European Roma and Travellers Forum which was organised at the Council of Europe on 24 and 25 November 2008, encouraging the Forum to continue working for the enhanced protection of the human rights of Roma in Europe.

Children's rights

On 28 October 2008 the Commissioner was a key-note speaker at the Fifth Regional Meeting of NGO Children's Rights Coalitions in Europe, organised by Save the Children in Bucharest, Romania. The Commissioner appealed to all governments in Europe to address seriously the problem of many Roma children who are stateless or lack birth certificates and identity documents, calling it shameful that this problem is still largely unresolved.

Rights of Persons with Disabilities

On 29 October 2008, the Commissioner addressed the conference 'Protecting and promoting the rights of persons with disabilities in Europe: towards full participation, inclusion and empowerment' organised by the Swedish chairmanship. He stressed that for too long policies concerning persons with disabilities had focused on institutional care, medical rehabilitation and welfare benefits, on the premise that persons with disabilities are victims, rather than 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 asked for special attention to be given for children with disabilities, women and girls, elderly and persons with mental disabilities and the situation in certain psychiatric institutions which he described as shockingly bad.

LGBT Rights

On 18 November 2008, the Commissioner invited 12 experts to Strasbourg to discuss the human rights situation of transgender persons and discrimination based on gender identity. Topics discussed included the legal standards protecting against gender identity discrimination, the recognition of gender before the law, access to health and employment, and transphobic hate crimes. Specific discussions focused on the situation of transgender children and youth and the elderly. The Commissioner stressed the need for all CoE member States, general human rights organisations and human rights protection bodies to pay more consistent attention to the human rights abuses of transgender people. There is also an urgent need to collect more reliable data on the human rights situation of transgender persons, including the particular circumstances of children, elderly and transgender asylum seekers. Staff members of the CoE Secretariat, the Court, and the Parliamentary Assembly attended this meeting as observers. The Commissioner published a Viewpoint on transgender human rights in January 2009.

The Commissioner was the key note speaker during ILGA Europe's annual conference which took place on 31 October 2008 in Vienna, and gathered 230 participants from 40 countries. The Commissioner 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 a reason for persecution and discrimination. He expressed concern about the lack of implementation of human rights standards on a national and local level. He presented a strategic vision on possible ways to develop the LGBT human rights agenda and highlighted the need for more comparable data on discrimination against LGBT persons in the 47 member states of the Council of Europe.

Women's rights

From 10 to 11 December 2008, the Commissioner's Office participated in an NGO forum organised in Paris by the French EU presidency, which focused on legislative frameworks to combat gender discrimination, violence against women and girls and the situation of women human rights defenders. Discussion evolved around implementation of the recently adopted EU guidelines on violence against women and girls and combating all forms of discrimination against them.

Human rights education

On 9 and 10 October 2008, the Commissioner participated in a Forum on "Civic Partnerships for Citizenship and Human Rights Education" organised by the Council of Europe in the framework of the Swedish Presidency of the Committee of Ministers. The objective of the Forum was to explore different understandings and experiences of civic partnerships and to establish a network of civil society organisations. The Commissioner emphasised the substantial discrepancies between international standards and their actual implementation at the local level. He spoke of the importance of human rights education in the school system, which remains at the core of making young generations aware of their rights and how to use them. The Commissioner offered his assistance in the translation of international recommendations into concrete action at the national level.

Human rights action plans

On 6 October 2008, the Commissioner took part in a 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. The Commissioner stressed that local and regional authorities have an important role to play in this context and that enabling all people to enjoy equal access to rights must be a priority for national, regional and local governments. He underlined the need to continue joining forces to implement and monitor human rights at all levels and find viable measures to transform new challenges into opportunities for development.

On 6-7 November 2008, the Commissioner addressed the “Rights Work! – International Conference on Systematic Work for Human Rights Implementation” in Stockholm. The Conference, organised by the Swedish Chairmanship of the Council of Europe, explored means of implementing human rights in a systematic way through the use of comprehensive and specialised action plans. The Commissioner underlined that work for human rights should be a continuous and inclusive process which brings national, regional and local authorities, political decision-makers, national human rights structures and civil society representatives together for the implementation of agreed human rights standards. The Commissioner will issue recommendations on the theme in February 2009 as a follow-up to the Conference.

Right to privacy

On 4 December 2008 the Commissioner published an issue paper on “Protecting the right to privacy in the fight against terrorism”. This theme had first been explored by the Commissioner in an expert workshop organised by the Office, with participation from other departments of the Council of Europe and outside experts, in June 2007. The paper looks at the fight against terrorism since 9/11 and the reactions of governments in the field of the right to privacy. The paper outlines the legal and European framework to data protection principles and warns against the movement towards a surveillance society. The Commissioner recommends 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. “In the fight against terrorism and organised crime, human rights standards and principles should not be abandoned but, rather, re-affirmed” stressed the Commissioner. “Terrorism must be fought, but not at the expense of human rights protection.”

Police complaints mechanisms

On 19–21 November 2008, the Commissioner’s Office was represented at the 8th Annual Conference of the European Partners Against Corruption Network (EPAC) which was held in Manchester, UK. The 8th Conference focused in particular on the human rights compliance of police oversight bodies. The Commissioner’s Office facilitated two workshops which discussed current developments among police complaints bodies and the effects of the jurisprudence of the European Court of Human Rights on investigations into alleged police misconduct at the national level. The Commissioner will publish an Opinion concerning independent and effective determination of complaints against the police in early 2009.

European Convention on Human Rights

The Office continued to follow closely the work of the European Court of Human Rights, and participated in specific events organised by the Court. At the closing conference of the European Programme for the Human Rights Education for Legal Professionals (the “HELP” programme) held at the Council of Europe on 29 October 2008 a member of staff made a presentation on the Commissioner’s activities.

5. Human Rights Defenders

The Commissioner continues to meet with human rights defenders during all his country visits, as well as in Strasbourg. His Office has followed closely situations of alleged threats and violations to the rights of human rights defenders and has established contact with the relevant country authorities in a number of urgent situations.

On 3-4 November 2008, the Office organised a round table in Strasbourg to discuss the main obstacles faced by human rights defenders in their work in Europe and the type of support and action called for from the Commissioner. The event provided a platform for networking of defenders and raised awareness of the strengthened mandate of the Commissioner as well as of the Committee of Ministers Declaration on Council of Europe Action. Participants discussed ways of implementing the CM Declaration and obstacles to their work, as well as security and protection concerns. The approximately 60 participants adopted a declaration calling for a more active involvement of the Commissioner and the allocation of more resources to his Office. The Commissioner undertook to organise yearly meetings with human rights defenders. A report of the round table discussions will be published in early 2009.

Co-operation with National Human Rights Institutions and Structures

On 19 November 2008, the Office of the Commissioner briefed National Human Rights Structures contact points on developments within the Council of Europe on the protection and promotion of the work of human rights defenders. The contact points expressed their interest in exploring possible collaboration with human rights defenders in line with the CM declaration. The Office plans to organise a joint meeting between the national human rights structures and human rights defenders in 2009.

Co-operation with other intergovernmental organisations, institutions and mechanisms

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.

The Commissioner’s taskforce on Human Rights Defenders, consisting of the UN Special Rapporteur on human rights defenders, the OSCE/ODIHR Focal Point on Human Rights Defenders, the European Union/European Commission, international and local NGOs, met on the eve of the Strasbourg Round Table on Human Rights

Defenders, on 2 November 2008. The taskforce members agreed on the added value of this body and will continue to meet in order to coordinate activities and address issues relevant to human rights defenders in a complementary way.

The Office of the Commissioner 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. This preceded a conference "60 years of the Universal Declaration of Human Rights: the defenders take the floor".

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 (NHRS, i.e. ombudsmen and national institutions) to help prevent and find solutions to human rights violations more effectively at the domestic level. The Project consists of a work programme to be implemented by the Office in 2008 and 2009. In the first year, five workshops and one round table were organised, in Italy, Russia and Hungary (see previous quarterly reports). A second Annual Meeting of Contact Persons was organised in Strasbourg in November 2008.

Fourth workshop - Padua, Italy (21-23 October)

This workshop on "The promotion and protection by national human rights structures of freedom of expression and information" co-organised with the Centre on Human Rights and the Rights of Peoples of the University of Padua (Italy) gathered 34 persons, including staff from NHRS and experts.

The workshop was organised in four working sessions, corresponding to four aspects of freedom of expression and freedom of information: balancing freedom of expression with other individual rights; the specific cases of hate speech and insults to religious beliefs; the protection of journalists; access to information. Particular attention was given to the Council of Europe work on these four themes.

Through exchanges of experiences, participants explored other avenues and possibilities for NHRS to reinforce the protection and promotion of freedom of expression and information. Discussions demonstrated the NHRSS' potential to address obstacles to access to information.

Fifth workshop - Budapest, Hungary (2-3 December)

This workshop on "The promotion and protection by national human rights structures of the rights of persons with disabilities", organised at the European Youth Centre in Budapest, gathered 47 persons, including staff from NHRSS and experts.

In five working sessions, participants identified obstacles preventing persons with disabilities from the full enjoyment of their rights, and discussed how to ensure that persons with disabilities have access to NHRs; two substantive rights - namely the right not to be discriminated against, particularly in the field of education, and the right to legal capacity – were discussed more in detail; and the role of independent national mechanisms, as laid down in article 33 of the UN Convention on the Rights of Persons with Disabilities, was examined as well as how to conduct visits to places where persons with disabilities are deprived of their liberty.

A vivid discussion took place after each presentation in a “peer to peer” spirit and showed how much this theme, which is under development, is of particular interest to NHRs.

Workshop “Council of Europe Websites: a Tool for NHRs' Work”, Strasbourg (4-5 November)

Within the framework of an agreement concluded with Germany, a workshop on accessing relevant information on the Council of Europe human rights protection system was organised by the Office of the Commissioner. The workshop aimed at familiarising NHRs staff with the CoE Internet resources, in order to facilitate rapid access to relevant information of the Council of Europe bodies and mechanisms.

Representatives of various Departments of the CoE presented their websites, including the Committee of Ministers, Parliamentary Assembly, ECtHR, DGHL and monitoring mechanisms (ECRI, FCNM, CPT, ESC). This workshop allowed for improvement of the use of CoE web resources by the NHRs, but also allowed for exchanges and discussions between the CoE webmasters and the “users”.

Annual Meeting of Contact Persons, Strasbourg (19-20 November)

The 2nd Annual meeting of Contact Persons, organised within the framework of the Peer-to-Peer Project, gathered 46 persons. Nominated after the 2007 Athens Round Table, contact persons are senior members of staff of NHRs who are appointed by the heads of these institutions for the purpose of cooperation between these structures and the Commissioner's Office.

A first annual meeting of Contact Persons was organised in November 2007 in Strasbourg. This second annual meeting was an opportunity to take stock of the co-operation between the contact persons and their institutions and the Commissioner's Office, to assess the cooperation activities carried out in 2008 as well as the workshops organised as part of the first year of the Peer-to-Peer project. Participants also discussed prospects for future co-operation and possible action to protect and promote the human rights of lesbian, gay, bisexual and transgender persons and the role of NHRs in protecting human rights defenders.

7. Communication and Information work

The Office's work with the media covered the memoranda on France and the United Kingdom and the reports on Montenegro and Cyprus, the visits to Serbia, Greece, Cyprus, Belgium and areas affected by the South Ossetia conflict, the publication of the issue paper on data protection and statements on the occasion of the 60th anniversary of the Universal Declaration of Human Rights.

The memorandum on French detention, justice and immigration policies generated substantial coverage in major European and international media (in particular AP, AFP, Reuters, International Herald Tribune, The Guardian, Deutsche Welle, Der Spiegel, Europa Press, ANSA, APA, Itar-Tass, Le Monde, Le Figaro, La Croix, Libération, Il Manifesto, Der Standard, Le Parisien, La Charente Libre, L'Express, France Info, Le Nouvel Observateur).

The memoranda on the United Kingdom also received wide coverage in major European and international media (Reuters, AFP, PA, AP, International Herald Tribune, The Times, Le Monde, Le Nouvel Observateur, Morning Star Online, La Presse Canadienne).

The reports on Montenegro and Cyprus also attracted the attention of national and international media, in particular CAN Newsroom, AFP, ANSA, RFI, Le Monde.

The visits to Serbia and Belgium and areas affected by the South Ossetia conflict attracted the attention of major local media. In particular, the visit to Serbia was widely covered in the country. In Greece, the Commissioner was accompanied by national and international journalists plus a cameraman and a photographer of the Council of Europe.

The Commissioner's views on counter-terrorism measures received great attention in several media, in particular the BBC, Independent, the Guardian online, El Mundo, EFE, AFP, ICN news, Irish Independent, Radio Free Europe.

On the occasion of the 60th anniversary of the Universal Declaration of Human Rights, the Commissioner published two audio files (podcasts) and a video message. These statements were published on the Commissioner's website and disseminated to the public at large and the media. They were also translated by some of the Council of Europe Information Offices, which contributed to increasing the media coverage in non-official Council of Europe languages. In particular in Albania, the Commissioner's messages were covered by the Newspaper Shqip, the Albanian Public Television, Vizion + Television (national channel), Koha Television, BBC radio. Other European media also covered the messages, in particular ARD, Avvenimenti and Adevarul. An interview was also organised with the Turkish TV, NTV.

Further coverage in national media was given to the Commissioner's opinions on the situation in the areas affected by the South Ossetia conflict, disability, the labour market, rights of LGBT people, Roma, human rights action plans, human rights defenders, minorities, social rights, and the priorities of the Spanish chairmanship of the Committee of Ministers.

Viewpoint articles

- "Human Rights education is a priority – more concrete action is needed"- 06/10/08
- "Respect and rights-based action instead of charity for people with disabilities" - 20/10/08
- "Concrete and comprehensive action plans are needed to ensure implementation of human rights"- 03/11/08
- "In times of economic crisis it is particularly essential to ensure the protection of social rights" - 17/11/08
- "Arbitrary procedures for terrorist black-listing must now be changed" - 01/12/08
- "More control is needed of police databases" – 15/12/08

Speeches and presentations

06/10/2008 - 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 for Human Rights (Stockholm, Sweden). Keynote speech.

CommDH/Speech(2008)14 - English version only.

09/10/2008 - Conference on enhancing the impact of the Framework Convention for the Protection of National Minorities: Past experience, present achievements and future challenges (Strasbourg, France).

CommDH/Speech(2008)13 - English version only.

31/10/2008 - Annual Conference of the European region of the International Lesbian and Gay Association (ILGA Europe) (Vienna, Austria) - "Thinking Globally, Acting Locally"

CommDH/Speech(2008)16 - English version only.

29/10/2008 - Council of Europe Conference "Protecting and promoting the rights of people with disabilities in Europe: towards full participation, inclusion and empowerment" (Strasbourg, France)

CommDH/Speech(2008)15 - English version only.

6/11/2008 - Rights Work! International Conference on Systematic Work for Human Rights Implementation (Stockholm, Sweden) - "Bridge the gap through inclusive and transparent work for human rights"

CommDH/Speech(2008)17 - English version only.

05/12/2008 Joint Statement: "Do not miss the opportunity to step up the global fight against racism and discrimination!", by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, and Morten Kjaerum, Director of the European Union Agency for Fundamental Rights.

CommDH/Speech(2008)18 - English version only.

8. Observations and reflections

On the basis of the lessons learned during the past year, the Office of the Commissioner will be guided by the following aims and key priorities which are also set out in the Plan of Activities for 2009:

1. Country visits leading to recommendations will continue to be the major activity of the Office. A *new approach* has been elaborated now that the assessment missions are concluded.
2. Missions will be *focused* on one or a few particular issues – mainly connected to the priority themes for the period.
3. The selection of the *country (or territory) visits* will be made according to criteria based on updated country information, length of time since a previous visit and our staff capacity. The principle of broad coverage all over the Council of Europe area will be maintained.
4. The Office will spend more time on *crisis situations and human rights in conflict areas*.
5. Thematic *priorities* will be anti-discrimination (Roma, LGBT, people with disabilities); migrants and refugees; and juvenile justice. We will watch developments on human rights and terrorism for possible action, not least on the data protection aspect. We will cooperate more than hitherto with experts outside the office, for instance on the production of issue papers.
6. There will be a follow-up to the work on ‘*systematic human rights implementation*’ (after the two conferences in Stockholm in Autumn 2008). We will develop more competence to be able to advise on concrete implementation measures, including on national planning, human rights education and the development and use of social indicators.
7. The working contacts with *National Human Rights Structures* will continue. We will evaluate what has been done and consolidate the future approach.
8. *Human rights defenders* are a priority. The Office will publish a report on the November 2008 Round Table and an activities report for the CM. In November 2009 there will be another roundtable with human rights groups and the Task Force, in revised form, will continue to meet.
9. The *media* activities will be further developed. We will more consistently utilise the possibilities to make our points in the media, including in national media. Production of videos will also be developed. The release of reports will be planned carefully for maximum impact, including via the media.

10. All assessment reports, follow-up reports or memoranda and similar reports or key documents will be available on our *website*. We will produce a *CD-ROM* with these reports to be appended to the Annual Report.
11. For the *Tenth Anniversary* of the Office there will be a special report published, as well as a video film produced to describe the activities of the Office – to be shown at meetings where relevant, and also made available on the web site.
12. We will arrange the third *Janusz Korczak lecture* and consider a publication on the rights of the child based on our various speeches and other texts. We will explore the possibility of giving special attention to the work of *Andrei Sakharov*.
13. The Commissioner will continue to publish a *Viewpoint* article every second week and issue papers on crucial issues when possible.
14. We will continue efforts to develop *constructive relations* with other parts of the CoE and with other agencies, including OHCHR, FRA, ODIHR, HCNM as well as with the United Nations bodies such as the OHCHR, UNHCR and UNICEF.
15. *Staffing policy and personnel support* is being further elaborated. A request for the 2010 budget is being devised. A more detailed policy on secondments and trainees is being drafted.
16. The Office will be restructured upon the arrival of the *new Director* in mid-January 2009. Working procedures will be reviewed.
17. A discussion on the maintaining of the *administrative independence* of the Office will be prepared and presented to the CM in June or July 2009.

9. Next three months

January

- 5 Publication of Viewpoint
- 14-16 Special mission to Italy
- 19 Publication of Viewpoint
- 18-20 Visit to Moscow, Russian Federation
- 19 Publication of Viewpoint
- 21 CM meeting
- 23 Meetings in Brussels, Belgium
- 26-30 PACE

February

- 2 Publication of Viewpoint
- 10-14 Special mission to Georgia/Abkhazia (tbd)
- 16 Visit to OHCHR - Geneva, Switzerland
- 16 Publication of Viewpoint
- 18 CM meeting
- 23-28 N. Ossetia, Ingushetia and Moscow (tbd)
- 26 CoE Ministerial Meeting on Social Cohesion, Moscow

March

- 2 Publication of Viewpoint
- 4-7 Special mission Kosovo
- 9-10 Visit to Belgrade, Serbia (tbc)
- 11 CM meeting
- 16 Publication of Viewpoint
- 17-19 CM-DH
- 25 CM meeting
- 30 Publication of Viewpoint
- 31 Meeting with agencies in Vienna (tbc)