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# 1<sup>ST</sup> QUARTERLY ACTIVITY REPORT 2015

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**Commissioner for Human Rights**

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and the Parliamentary Assembly

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## 1. Overview

During the period under review, I was invited to discuss the situation of fundamental rights in the European Union (EU) at hearings in the Danish parliament and the European Parliament, as well as at a conference organised in Brussels by the Centre for European Policy Studies (CEPS). I also participated in the Belgian chairmanship's High-Level Conference on the "Implementation of the European Convention on Human Rights: Our Shared Responsibility", which featured interventions on the EU's accession to the European Convention on Human Rights (ECHR). During country visits to EU member states, I often ponder how the EU could do more to address the human rights shortcomings I encounter.

The most serious shortcomings relate to violations of fundamental civil rights enshrined in the ECHR such as the right to life, the prohibition of torture and the lack of effective investigations, as well as the victims' right of effective access to justice. If one reads the reports of the Committee on the Prevention of Torture (CPT) and the pilot, or repetitive, judgments of the European Court on prison overcrowding and conditions of detention, it becomes clear that such violations continue to occur in a number of EU member states. Moreover, there has been almost no accountability among EU countries for their complicity in violations committed in the context of the CIA's programme of "extraordinary rendition" and torture carried out at "black sites" from 2003 to 2006. Any EU "Rule of Law Mechanism" or "Copenhagen Commission" should deal with these violations as a matter of priority.

The shortcomings I encounter most frequently in my work in EU countries relate to immigration and asylum policies, the situation of Roma, the situation of persons with disabilities, and the rights of the child. I often receive reports of pushbacks of irregular migrants, including asylum seekers, at the external borders of the EU, ill treatment of new arrivals, poor conditions of reception and inadequate integration support. In virtually every country I visit, Roma face systematic discrimination in access to education, housing, health care and employment. They remain frequent victims of virulent anti-Gypsyism and violent hate crimes. In the realm of disability rights, many countries have yet to bring their legal capacity legislation into line with the requirements of the United Nations Convention on the Rights of Persons with Disabilities (CRPD). I see frequent violations of the right to live in the community through placement of persons with intellectual and psycho-social disabilities in large institutions. Children are all too often victims of violence, subjected to treatment as adults in criminal justice matters, and have their best interests ignored in migration and asylum matters.

What could the EU do to address these problems? It should first be noted that the EU's legislative competence on matters relating to human rights is relatively limited. There is no EU *acquis*, for instance, on freedom of expression or the prohibition of torture. The areas where the EU has the strongest competence are the following: non-discrimination, gender equality, disability rights, data protection, and various aspects of immigration and asylum. Even in these areas a few caveats are in order. The level of protection afforded by EU legislation differs according to the ground of discrimination, with gender, race and ethnicity covered better than sexual orientation, gender identity, age or disability. Issues pertaining to national security are excluded from EU data protection rules. The EU's obligations in disability rights stem not from a well-developed legislative framework, but from the EU's ratification of the CRPD.

I have repeatedly urged the EU to excel where it has the strongest competence and to enforce its own rules more vigorously. Thus, I am pleased that the European Commission recently began infringement proceedings against a number of countries for longstanding violations of the Racial Equality Directive. During country visits over the last three years, I have frequently visited large psychiatric institutions that were refurbished or even built with the assistance of EU structural funds in violation of CRPD norms. Thus, I am gratified that new safeguards have been introduced by the European Commission to prevent such misuse of EU monies in the current financial period. In migration and asylum-related matters, however, I see few improvements. The focus on border security continues to predominate over human rights concerns, and solidarity among EU countries is woefully lacking.

I have also urged partners in the EU to make better use of the excellent work of the EU's Fundamental Rights Agency, which is a valued partner of my Office. Where the EU's competence is weak, I would like to see more intense co-operation with the Council of Europe and more systematic recourse to our mechanisms and standards. On issues relating to data protection and immigration/asylum, Council of Europe standards complement the EU *acquis* and point towards areas where improvements could be made. For instance, Council of Europe standards should inform EU counter-terrorism initiatives that may undermine the right to private life. The Council of Europe's recommendations to abolish, in law and in practice, migrant children's detention and to introduce, or effectively apply the existing alternative to migrant detention measures should inform a revision of EU norms, which currently reflect the lowest common denominator and permit lengthy detention.

I welcome the growing interest of different EU partners in addressing human rights within the EU. For too long, the EU's efforts in human rights were limited primarily to relations with candidate countries or recipients of the EU's generous development assistance. The Council of Europe's institutions and mechanisms, as well as its standards, can help the EU do better in protecting and promoting the human rights of all persons within the EU. Taxpayers in EU countries, who also contribute to sustaining the Council of Europe, deserve the benefits of a symbiotic EU-Council of Europe relationship.

## **2. Missions and Visits**

### ***Visit to Spain***

The Commissioner visited Melilla and Madrid from 13 to 16 January in order to discuss issues pertaining to the human rights of migrants, refugees and asylum seekers, in particular in Ceuta and Melilla, Spain's two exclaves in Northern Africa.

The Commissioner first went to Melilla, where he held meetings with the Government's Delegate, Mr Abdelmalik El Barkani and the President of the city, Mr Juan José Imbroda Ortiz. He also met with the Head of the Guardia Civil in Melilla, Colonel Ambrosio Martín Villaseñor; the Head of the National Police, Mr José Angel González Jiménez; and representatives of civil society organisations. He went to see the fence surrounding Melilla, which marks the border with Morocco, and visited the check-point of Beni Ansar, where an office to register asylum claims is in operation since November 2014. The

Commissioner also visited the Centre for Temporary Stay of Migrants (CETI), where he met with Centre's Director, Mr Carlos Montero Díaz, other staff members and with persons accommodated in it.

In Madrid, the Commissioner met with the Secretary of State for Security, Mr Francisco Martínez Vázquez. He also met with the Ombudsperson, Ms Soledad Becerril Bustamante, the Representative of UNHCR in Spain and civil society representatives. Furthermore, the Commissioner held an exchange of views on 27 January 2015 with members of the Spanish delegation to the Parliamentary Assembly of the Council of Europe on the issues raised during the visit.

The main issue raised by the Commissioner during his visit was the draft amendment to the Aliens' Act aimed at allowing immediate returns of migrants arriving in Ceuta and Melilla. As further detailed in a press release issued at the end of the visit and available on his website, the Commissioner urged the Spanish authorities to ensure that any future legislation fully abides by Spain's international obligations, which include ensuring full access to an effective asylum procedure, providing protection against refoulement and refraining from collective expulsions. He also recalled Spain's obligation to ensure that no push-backs of migrants occur in practice and to thoroughly investigate allegations regarding the excessive use of force against migrants at the border by law enforcement officials. While welcoming the opening of an asylum office at one of Melilla's border check-points and the good co-operation with UNHCR, the Commissioner highlighted the need to strengthen the asylum system in Melilla so as to allow all persons in need of protection to access the territory safely and submit claims. Additionally, he recommended the adoption of urgent measures to improve current arrangements for the reception of migrants in Melilla and their transfer to the mainland.

### ***Visit to Norway***

The Commissioner visited Norway from 19 to 23 January. The visit focused on the human rights of people with disabilities, the situation of Romani people/Taters (Norwegian Travellers), Roma and Roma immigrants, and the human rights protection system.

During his visit, the Commissioner engaged in a dialogue with representatives of the national authorities, including the President of the Storting (Parliament), Mr Olemic Thommessen; the Minister of Local Government and Modernisation, Mr Jan Tore Sanner; the Minister of EEA and EU Affairs, Mr Vidar Helgesen; the Minister of Children, Equality and Social Inclusion, Ms Solveig Horne; the Minister of Health and Care Services, Mr Bent Høie; State Secretary at the Ministry of Justice and Public Security, Mr Hans J. Røsjorde; and State Secretary at the Ministry of Foreign Affairs, Mr Bård Glad Pedersen. The Commissioner also held meetings with the Parliamentary Ombudsman, Mr Aage Thor Falkanger; the Equality and Anti-Discrimination Ombud, Ms Sunniva Ørstavik; the Director of the National Institution for Human Rights, Ms Kristin Høgdahl; the Deputy Ombudsman for Children, Mr Knut Haanes; the Parliamentary Intelligence Oversight Committee; members of the Norwegian delegation to the Parliamentary Assembly of the Council of Europe; and Chair of the Government Commission on Norwegian Travellers, Mr Knut Vollebæk. In addition, the Commissioner met with civil society representatives.

At the end of the visit, the Commissioner urged Norway to recognise the legal capacity of all people with disabilities, including persons with psychosocial and intellectual disabilities. As a first step, the authorities should collect data on the extent of deprivation of legal capacity under the new Guardianship Act in view of abolishing full incapacitation and plenary guardianship. The Commissioner pointed out that the right to enjoy legal capacity on an equal basis with others lay at the heart of the Convention on the Rights of Persons with Disabilities which Norway ratified in 2013. More effort is needed for the development of supported decision-making alternatives to replace substituted decision-making on behalf of people with disabilities.

The Commissioner called on the Norwegian authorities to improve legislation and practices regarding coercion in health care and the care of older persons. While welcoming the current strategy of the Norwegian authorities to act in this area, he highlighted the need to drastically reduce involuntary placements, involuntary treatment and the use of physical restraints in psychiatry. Particular attention should be given to ensuring that highly intrusive treatments such as electroconvulsive therapy (ECT) are only applied with the free and fully informed consent of the persons concerned. Norway should also improve data collection on the use of involuntary treatment and restraints, including on the length of the measures applied.

Past assimilation policies and treatment of Romani people/Tatars are now being examined by a government-appointed commission of independent experts. The Commissioner commends the inclusive approach of this work and urges the government to address current discrimination against Romani people/Tatars. It is also essential to improve the enjoyment of human rights by the distinct Roma community in Oslo. The Commissioner highlighted concerns about Roma children's access to education and the prevalence of child protection measures among them.

The Commissioner expressed concern at the manifestations of anti-Gypsyism which have accompanied the arrival of recent Roma immigrants, some of whom sleep rough and beg on the streets. The authorities should firmly condemn all instances of racist and xenophobic speech and ensure that Roma are treated with respect by the authorities, including the police. The Commissioner pointed out that a ban on begging and homelessness was discriminatory towards Roma on grounds of ethnicity and socio-economic status and hid problems from the public's view.

The Commissioner welcomed the on-going legislative process of reinforcing the National Institution for Human Rights and urged the authorities to provide the institution with resources which are commensurate with its mandate and independence. During his visit, the Commissioner also reviewed parliamentary oversight of the intelligence sector and discussed plans for reforming the equal treatment legislation.

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

### ***Visit to Bulgaria***

The Commissioner carried out a visit to Bulgaria from 9 to 11 February, focusing on media freedom, the human rights of persons in institutions (children and persons with disabilities) and the human rights of migrants, including asylum seekers and refugees.

During his visit, the Commissioner held discussions with the Bulgarian authorities, including the Deputy Prime Minister and Minister of Labour and Social Policy, Mr Ivaylo Kalfin; the Minister of Foreign Affairs, Mr Daniel Mitov; the Minister of Interior, Mr Veselin Vuchkov; the Minister of Justice, Mr Hristo Ivanov; the Minister of Education and Science, Mr Todor Tanev; the Prosecutor General, Mr Sotir Tsatsarov; the President of the State Agency for Child Protection, Ms Eva Jecheva; and the President of the State Agency for Refugees, Mr Nikola Kazakov. The Commissioner also met with the Chairperson of the Bulgarian Delegation to the Parliamentary Assembly of the Council of Europe, Ms Djema Grozdanova; the Chairperson of the Council for Electronic Media, Mr Georgi Lazanov; and the Ombudsman of Bulgaria, Mr Konstantin Penchev. Furthermore, the Commissioner held meetings with representatives of international and non-governmental organisations and visited a correctional boarding school for girls in Podem and the Reception Centre for Asylum Seekers in Voenna Rampa, Sofia, which he had last visited in December 2013.

As regards media freedom, the Commissioner focused on transparency of media ownership and financing and on action against media concentration. He expressed concern at the apparent lack of genuine media pluralism and at reports of self-censorship among media professionals. Against this background, the Commissioner was particularly alarmed at the recent imposition of high fines by the Bulgarian financial supervision authority on media reporting on companies' financial activities and the banking sector.

As concerns the human rights of children living in institutional care, while noting that efforts underway since 2001 to de-institutionalise these children have yielded positive results, the Commissioner urged the Bulgarian authorities to further strengthen their focus on measures to support families and prevent the separation of children from their parents. He also highlighted the need to avoid re-institutionalisation of children in smaller institutions that do not fully enable them to enjoy their right to live in the community.

The Commissioner also called on the Bulgarian authorities to stop placing children in institutions for juvenile delinquency, which were created several decades ago to deal with children's "anti-social behaviour". More generally, he called for an overall reform of the juvenile justice system that would enable children who are victims of abuse or in conflict with the law to fully re-integrate into society. He also stressed the need to address the reported cases of violence perpetrated in several types of institutions for children, both among children and by adults.

The Commissioner also stressed that Bulgaria should be more ambitious concerning the de-institutionalisation of adults with disabilities, setting clear targets and time-frames for the implementation of the strategy it recently adopted in this field. The on-going reform of the legal capacity regime should bring the system in line with the UN Convention on the Rights of Persons with Disabilities and include concrete steps to ensure that persons with disabilities have access to the necessary support to make decisions about where and with whom to live or which community services to use.

Lastly, while the Commissioner was heartened to see improvements in the material and living conditions of asylum seekers since his last visit to Bulgaria in 2013, he urged the government to sustain progress through the adequate allocation of funds to ensure the proper running of all the reception centres throughout the country. He also called for additional steps to meet the special needs of vulnerable asylum seekers, including

unaccompanied minors, and urged the authorities to investigate allegations of push-backs at the border and take all necessary steps to prevent any such practices. In the context of the current review of the legislation on asylum and refugees, the Commissioner recalled that administrative detention of asylum seekers can only be used as a last resort and for the shortest possible period of time. Finally, he called for an ambitious integration strategy including measures aimed at tackling hate speech and countering the worrying number of hate crimes recently perpetrated against asylum seekers and refugees.

The Commissioner's report following his visit to Bulgaria is forthcoming

### ***Visit to Serbia***

The Commissioner visited Serbia from 16 to 20 March focusing on issues of transitional justice, action against discrimination, and freedom of the media. During his visit, the Commissioner held discussions with national authorities, including the Prime Minister, Mr Aleksandar Vučić; the Deputy Prime Minister and the Minister of Trade, Tourism and Telecommunications, Mr Rasim Ljajić; the Minister of Justice, Mr Nikola Selaković; the Minister of the Interior, Mr Nebojša Stefanović; the Minister for Labour, Employment, Veterans and Social Affairs, Mr Aleksandar Vulin; the Government Agent before the European Court of Human Rights, Ms Vanja Rodić; the State Secretary of the Ministry for Culture and Information, Mr Saša Mirković; the Prosecutor for War Crimes, Mr Vladimir Vukčević; the Committee for human and minority rights and gender equality of the Serbian Parliament; the Director of the Office for Human and Minority Rights, Ms Suzana Paunović and the Commissioner for Refugees and Migration, Mr Vladimir Cucić. In addition, Commissioner Muižnieks met with the Commissioner for the Protection of Equality, Ms Nevena Petrušić; the Commissioner for Information of Public Importance and Personal Data Protection, Mr Rodoljub Šabić and the Ombudsman, Mr Saša Janković. He also met with the Director of the Civilian Security Agency, Mr Aleksandar Đorđević, as well as with representatives of the associations of judges and prosecutors of Serbia.

Meetings were also held with civil society organisations active in the field of human rights, representatives of the media sector and the international community. In addition, the Commissioner visited the Veternik institution for persons with intellectual disabilities, near Novi Sad, and two irregular Roma settlements in the area of Belgrade, Antena and Čukarička Padina.

While welcoming the strengthening of the domestic legislative and institutional framework for the protection against discrimination, including the adoption by Serbia in 2013 of the antidiscrimination strategy, the Commissioner stressed that more needs to be done to translate legislation into practice so as to improve the rights of vulnerable social groups, in particular persons with disabilities, Roma, women and LGBTI persons. He underlined that Serbia has strong and well-functioning national human rights structures working in this area and called on the authorities to strengthen them, co-operate with them and comply with their recommendations.

As concerns persons with intellectual and psychosocial disabilities, the authorities were urged to review the existing legislation on legal capacity with a view to replacing the guardianship system with supported decision-making alternatives, abolishing full incapacitation and plenary guardianship as a first step. Commissioner Muižnieks



stressed that the de-institutionalisation of persons with disabilities and their inclusion in the community should be put high on the authorities' agenda and urged them to develop ambitious plans in this context.

Gender inequality and violence against women, particularly domestic violence, also remain issues of concern. The Commissioner noted as positive steps the ratification in 2013 of the Istanbul Convention and the adoption of relevant strategic documents and protocols. The reporting of domestic violence to the police has increased but the judicial response remains inadequate, resulting notably from the lenient sentences for these crimes provided for in the criminal code. The Commissioner welcomed the authorities' commitment to addressing this issue.

As regards homophobia and discrimination against LGBTI persons, in particular in the workplace, Commissioner Muižnieks stressed that improved co-operation between the police and the LGBTI community is a good step in ensuring the promotion of a culture of respect and tolerance.

Concerning issues of transitional justice, the Commissioner welcomed the recent arrests concerning the *Kravice* and *Štrpci* cases as results of regional co-operation which he strongly supports. He noted, however, that impunity for wartime crimes, missing persons, and the lack of effective and adequate reparation to all victims of the 1990s' wars in the former Yugoslavia are serious issues that have yet to be effectively addressed by the authorities. Of particular concern to the Commissioner is the lack of an effective system of protection of witnesses in domestic war crimes proceedings.

The Commissioner underlined that urgent steps are needed to ensure that forcibly displaced Roma from Kosovo\* have access to adequate housing, quality education and healthcare. Most of them live in a number of irregular settlements and remain among the most vulnerable members of the forcibly displaced persons in Serbia. In the two aforementioned settlements visited by the Commissioner, about 100 Roma families live in seriously substandard conditions with no running water and electricity. Few of the children go to school while the problems of lack of personal identity documentation and statelessness persist despite the legislative measures adopted by the authorities in recent years.

Lastly, as regards media freedoms, the Commissioner welcomed the adoption in August 2014 of three important media laws aiming to ensure media pluralism and transparency of ownership. However, the Commissioner noted with concern that the implementation of these laws and other media-related issues are being discussed in a highly polarised and politicised context. While urging the authorities to refrain from any actions and statements which may have a chilling effect on the media, the Commissioner invited media actors to reflect upon issues of ethical journalism and take the necessary steps to strengthen relevant standards and practice. Last but not least, the safety of journalists remains an issue of particular concern, as shown by the fact that four journalists are kept under 24-hour police protection and three cases of journalists' murders which occurred between 1994 and 2001 have yet to be fully resolved.

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

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

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

#### ***PACE debate on the humanitarian situation of Ukrainian refugees and displaced persons***

On 27 January, the Commissioner participated in the PACE debate on the humanitarian situation of Ukrainian refugees and displaced persons. The Commissioner focused on the situation of displaced persons in Ukraine and the humanitarian situation in the country's eastern regions. In particular, he emphasised the need to adopt without delay a detailed action plan on measures aimed at ensuring the long-term integration of displaced persons. He also highlighted the need to ensure a flexible approach towards the payment of pensions and other benefits to persons coming from the conflict-affected areas, and to work in close co-operation with international organisations and humanitarian groups to reach all persons in need of assistance.

#### ***Report on France***

On 17 February the Commissioner published a report following his visit to France from 22 to 26 September 2014. The report focused on issues pertaining to the fight against intolerance and racism, and to the protection of the human rights of migrants, Travellers, Roma and persons with disabilities.

While welcoming France's sound legal and institutional framework for combating intolerance and racism, the Commissioner stressed that discrimination and hate speech not only persist in France but are on the rise. He urged the authorities to continue to fight resolutely against these phenomena and encouraged them to give full effect to the criminal law provisions recognising "testing" as evidence of discriminatory conduct, and to include the fight against discrimination in a comprehensive, national plan to promote and protect human rights. He also called on the authorities to ratify Protocol No. 12 to the European Convention on Human Rights which enshrines the general prohibition of discrimination.

Regarding the human rights of asylum seekers the Commissioner deplored the serious and chronic inadequacies in France's reception capacity which forces many asylum seekers to live in degrading conditions, and stressed the need to find lasting solutions to ensure that everyone has effective access to reception centres and social protection. Addressing specifically the reception and care of unaccompanied migrant minors, many of whom are left without any social or educational support or medical care, the Commissioner invited the authorities to provide better reception conditions and to put an end to the questionable age determination procedures involving bone age tests as well as to deprivation of liberty for those arriving at the border unlawfully. The Commissioner also called on the French authorities to honour their commitment to take in 500 Syrian refugees, to improve the living conditions of migrants in Calais and to afford them effective protection against violent xenophobic attacks.

As regards the accessibility of procedures and effectiveness of remedies, the Commissioner urged France not to adopt or implement legislative or other measures to

accelerate asylum procedures still further, until the serious structural problems in the national asylum authorities have been resolved. He underlined the need to improve the effectiveness of remedies in the asylum and immigration field, by expediting the introduction of suspensive appeals against all decisions taken in these matters, including overseas. In addition, he recommended that the authorities improve the legal aid and procedural guarantees offered to immigrants and asylum seekers and cease the practice of holding hearings by the 'liberties and detention judges' in the annexes of regional courts located in the immediate vicinity of administrative detention centres or waiting zones.

The Commissioner noted that high levels of anti-Gypsyism have prevailed in France for a very long time, and called on the authorities to firmly tackle hate speech and acts directed at migrant Roma and Travellers, including on the Internet. He recommended that the authorities put an end to the discriminatory measures adversely affecting Travellers, provide appropriate camping areas and ensure effective access to education for their children by promoting solutions in keeping with their lifestyle. As regards the human rights of migrant Roma, who are also victims of violence perpetrated by individuals and at times even by members of law enforcement agencies, in particular during forced eviction operations, the Commissioner underlined the urgent need to fully safeguard their effective access to healthcare, education, housing and employment.

Lastly, with regard to the human rights of persons with disabilities, Commissioner Muižnieks noted that despite a well-developed legal framework and the priority given to independence and social inclusion, these are not always guaranteed in practice. He stressed the urgent need to eliminate the social exclusion and marginalisation of persons with disabilities and invited the authorities to address as a matter of priority the serious delays in ensuring the accessibility of public places and the shortcomings in the arrangements concerning guidance and support for these persons. The Commissioner also expressed concern about the thousands of persons with disabilities who are obliged to leave France to find more appropriate solutions to their situation abroad, particularly in Belgium. He condemned the existing difficulties in accessing employment and the discriminatory conditions applying to workers with disabilities within certain specialised facilities. Regarding children with disabilities, the Commissioner called on the authorities to step up their efforts to ensure that all children receive appropriate education, and to attach priority to setting up local services promoting the social inclusion of persons with disabilities. In addition France was urged to improve the support provided to children with autism, in particular by making greater use of educational, behavioural and developmental methods in the care they are provided with.

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

### ***Report on Armenia***

On 10 March the Commissioner published a report following his visit to Armenia from 5 to 9 October 2014. The report focuses on the administration of justice and the protection of human rights in the justice system, as well as the rights of women and gender equality.

While encouraging the authorities' on-going efforts to reform the justice sector, the Commissioner insisted on the need to enhance its independence, impartiality and

effectiveness. He recommended that the procedures for the selection, appointment, promotion and dismissal of judges be reviewed. In particular, the main decision-making power should belong to the judicial body in charge and the discretionary powers of the President should be circumscribed. Expressing concern about the reported improper influence by senior judicial instances on the work of lower-court judges, the Commissioner called for effective mechanisms to address such interference, and to ensure that disciplinary proceedings are not used as an instrument of influence or retaliation. The reported significant level of corruption and the lack of public trust in the judiciary remain matters of serious concern. The Commissioner also stressed the importance of allocating sufficient resources to the judiciary and favouring the use of non-judicial mechanisms for the resolution of disputes.

Noting that the prosecution retains a dominant position in the Armenian criminal justice system, the Commissioner strongly emphasised the role of the judge as an impartial arbiter and called upon the Armenian authorities to ensure the right to defence and access to legal aid from the outset of police custody. The legal aid system should be reinforced and the judicial, public and political actors should scrupulously respect the principle of presumption of innocence. As regards the frequent resort to pretrial detention, the Commissioner reiterated that it should be the exception rather than the norm and urged the Armenian authorities to conduct the necessary reforms in order to allow for the effective use of non-custodial preventive measures.

The persisting reports of torture and ill-treatment by the police and other law enforcement agencies are of major concern to the Commissioner. The Armenian authorities should redouble their efforts to combat impunity. To this end, the definition of torture in the Criminal Code should be amended to ensure proper qualification and punishment of acts of torture, and the independence and effectiveness of the Special Investigation Service should be enhanced. The Commissioner urged the authorities to strengthen in law and in practice the safeguards against torture and ill-treatment, which should be effective from the outset of custody. The reported use by courts of evidence allegedly obtained under duress is another matter of serious concern. As regards the investigation into the ten deaths that occurred during the March 2008 events, the Commissioner noted with concern that it has still not yielded results. While welcoming the fact that the Armenian authorities effectively addressed the long-standing issue of conscientious objection, the Commissioner called upon the authorities to intensify their efforts to tackle non-combat violence in the army.

The Commissioner's visit revealed that much needs to be done to ensure the equal status of women in Armenian society and to combat discrimination and bias on the grounds of sex. Welcoming the adoption of gender-related policies and the 2013 Law on Equal Rights and Equal Opportunities for Women and Men as steps in the right direction, he urged the authorities to implement them in practice. A further important step would be to adopt a comprehensive anti-discrimination law in close consultation with the Ombudsman and non-governmental human rights organisations. The Commissioner called upon the Armenian authorities to take concrete measures towards empowering women and increasing their participation in public and political life, and to ensure that the education system is free from gender bias and stereotypes.

The Commissioner encouraged political and community leaders to send an unequivocal message that violence against women and domestic violence are human rights violations and can never be acceptable. He also underlined the importance of adopting

specific legislation against domestic violence and of ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence. Noting with concern that domestic violence cases in Armenia are not being effectively identified, investigated, prosecuted and punished, the Commissioner urged the authorities to remedy these shortcomings and effectively protect victims of violence, including through proper training of police officers, prosecutors and judges on how to handle such cases. He further encouraged the Armenian authorities to combat pre-natal sex-selection, which is another manifestation of gender bias. Finally, he stressed that human rights organisations and defenders working in the field of women's rights should be able to work in a favourable environment, free from intimidation and threats.

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

## **4. Themes**

### ***Gender Equality***

In a statement published on his website to mark International Women's Day (8 March) and the 20th anniversary of the Beijing Declaration and Platform for Action adopted at the Fourth Conference on Women, the Commissioner called on all Council of Europe member States to act and make gender equality and the fulfilment of women's rights a reality and not just a promise. In spite of progress, notably in establishing legislation and mechanisms prohibiting gender discrimination, gender stereotypes and sexism continue to threaten women's rights and must therefore be combated, particularly as reactionary trends targeting women are resurfacing. The Commissioner also called for greater efforts to tackle discrimination on grounds of sex and to combat hate speech against women, a phenomenon that is especially widespread on the Internet. In particular, any advocacy of gender hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law. Furthermore, with austerity measures impacting disproportionately on women and resulting in a feminisation of poverty and a heightened risk of exploitation for women, member states must ensure that their reaction to the economic crisis does not lead to a regression in women's rights. Finally, the Commissioner referred to the worrying number of women experiencing violence in Europe and the still inadequate response of national authorities, including the police, prosecutors and judges to this phenomenon: as a first step to counter these human rights violations, states who have not yet done so should ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence.

### ***Xenophobia, racism and hate crime***

On the occasion of the International Day of Commemoration in memory of the victims of the Holocaust, on 26 January, the Commissioner published a statement in which he urged European states to increase their efforts to inculcate, through systematic, continuous education and public awareness programmes, the lessons of the Holocaust in order to prevent the recurrence of genocide and serious human rights violations. He also underlined that denial of the Holocaust as a historical event should be rejected and condemned. All these efforts should be accompanied by effective measures sanctioning all manifestations of hate crime affecting persons or communities on the basis of their

ethnic origin, religion, sexual orientation or gender. The Commissioner called on European states to draw the right lessons from their tragic recent history and act upon them with determination in order to be able to preserve their commonly agreed values and human rights principles.

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

On 3 February the Commissioner published a Human Rights Comment entitled “Syrian refugees: ‘Reset’ needed in Europe’s approach”. The Commissioner recalled the findings of his thematic visit of December 2013 on the situation of Syrian refugees in Europe, including the practices aimed at deterring Syrians from entering European countries, and his conclusions that Europe had failed to rise to the challenge and was neglecting the Syrian refugee crisis. In 2014, Syria’s neighbouring countries continued to host the vast majority of Syrian refugees, whose number has grown exponentially. However, as these countries now struggle to satisfy the basic needs of Syrian refugees, many of them are forced by extreme poverty to resort to desperate coping strategies. Also, the very young generation of Syrians is confronted with the threat of statelessness. While in 2014 European countries have pledged more resettlements and other admissions for Syrian refugees, these represent only a fraction of all those who fled the conflict in their country. Moreover, violent “push backs” of Syrians have continued to be reported and in many European countries recognised Syrian refugees are left to fend for themselves, without adequate measures to facilitate their integration.

The Commissioner called on all European states to be more generous and to assume their responsibility for providing effective protection to those in need. Collective expulsions should cease and Syrian refugees should not be returned to countries whose asylum systems and economies are overstretched. Europe must respond generously to UNHCR’s appeals to support Syria’s neighbouring countries and European states, especially the biggest and wealthiest, should take in more Syrian refugees through relocation, humanitarian admission, and other specific programmes. In addition, European countries should step up the integration of Syrian refugees through overarching measures covering, *inter alia*, human rights awareness-raising, education, employment, housing, and healthcare. Finally, securing the future of Syrian children, including by ensuring that they are not left without a nationality, must remain a priority of Europe’s response to the plight of refugees from Syria.

## **5. Other Meetings**

### ***Centre for European Policy Studies Ideas Lab “More or less Europe?”***

On 26-27 February the Commissioner participated in the Ideas Lab “More or less Europe?” organised in Brussels by Centre for European Policy Studies (CEPS) in partnership with the Latvian Presidency of the Council of the European Union. Speaking on “The Future of Frontex: Challenges toward a European Border Service?”, the Commissioner highlighted that the challenge of future border management arrangements is to open the borders widely to those entitled to international protection, in line with the standards provided for by the 1951 Refugee Convention, the principle of *non-refoulement*, and the prohibition of collective expulsions. It is also necessary to

increase the EU's solidarity with the countries at its southern borders, which at present bear the responsibility for saving the lives of those in danger at sea.

During his participation in the session on “Data protection and privacy in times of large-scale surveillance”, the Commissioner underlined that secret, massive and indiscriminate surveillance programmes are not compatible with European human rights law. Moreover, suspicion-less, mass retention of communications data is contrary to the rule of law, incompatible with core data protection principles, and ineffective. In the context of the current reform of the EU data protection framework, existing provisions which might undermine the rule of law should be brought in line with international human rights obligations, including those flowing from Convention No. 108 on the Protection of individuals with regard to the automatic processing of personal data.

Finally, during the session on the “Rule of law in the EU”, the Commissioner stressed that the EU must enforce its own standards more stringently and consistently in human rights areas where it has a strong competence, including anti-discrimination, gender equality, human rights of persons with disabilities and data protection, as well as asylum and immigration. In addition, the EU should more systematically appeal to external mechanisms in the areas where it lacks competence. The Commissioner also highlighted the strong co-operation between the Council of Europe and the EU in the field of human rights, including in a large number of assistance programmes in non-EU member states.

#### ***Meeting with European Federation of Journalists***

On 25 February the Commissioner met the European Federation of Journalists (EFJ) at their headquarters in Brussels. The meeting focused on possible synergies with the EFJ and on journalists’ concerns on media freedom in Europe.

The Commissioner expressed his readiness to further co-operate with the EFJ and to continue engaging on media freedom issues, including by co-operating with Council of Europe bodies and the OSCE Media Representative.

#### ***Danish Parliament European Affairs Committee debate***

On 12 March the Commissioner addressed the *Folketinget* (Danish Parliament) European Affairs Committee on “Safeguarding the fundamental values of the European Union”. The debate was held in Copenhagen and the Commissioner was invited to intervene in the debate on “Are the fundamental values of the EU under pressure?” The Commissioner highlighted the most common and the most acute problems human rights problems he encountered in his work concerning EU member states. He also stressed the way in which the work of the Council of Europe and its independent institutions could be of benefit to the EU and its member states in facing up to these problems.

#### ***European Parliament Committee on Civil Liberties, Justice and Home Affairs public hearing***

On 30 March, the Commissioner participated in the Hearing organised in Brussels by the European Parliament’s Committee on Civil Liberties, Justice and Home Affairs on “The situation of fundamental rights in the European Union.” The Commissioner spoke about human rights questions related to migration and asylum, Roma rights, human rights of

persons with disabilities and children's rights. He referred to his work for the protection and promotion of human rights concerning the member states of the EU and underlined the most longstanding human rights concerns. The Commissioner also highlighted the main points contained in his Issue Paper on "The rule of law on the internet and in the wider digital world" and in particular the threats posed by increasing surveillance of both state and private companies.

## **6. Co-operation with national human rights structures**

### ***2<sup>nd</sup> meeting of Independent Police Complaints Authorities' Network***

On 23 March, a representative of the Commissioner's Office participated in the 2<sup>nd</sup> meeting of the Independent Police Complaints Authorities' Network (IPCAN). In the framework of the discussions, the participants representing police authorities presented national approaches to maintaining public order during public assemblies and gatherings in France, Belgium, the United Kingdom and Germany. Representatives of various independent police complaints mechanisms and ombudsman offices from Denmark, the United Kingdom, Belgium and France presented their respective experience in oversight over police activities. The debates focused on the different approaches in the above-mentioned countries, certain shortcomings which need to be addressed and positive practices which should be further shared and promoted.

### ***CoE – FRA – Equinet – ENNHRI Platform on hate crime***

On 30-31 March, a representative of the Office attended the first meeting of the co-operation platform between the Council of Europe, the EU Fundamental Rights Agency (FRA), the European Network of Equality Bodies (Equinet) and the European Network of National Human Rights Institutions (ENNHRI) in the field of hate crime. The aim of the meeting, organised in Riga, was to begin the implementation of the working plan of the platform, which focuses on the topics of hate crime prevention, reporting of hate crimes, hate speech, and victim support. The event also included a joint meeting with the FRA Working Party on hate crime, which brings together 27 EU member states, the European Commission, the Council of Europe's Commission against Racism and Intolerance (ECRI), the OSCE Office for Democratic Institutions and Human Rights (ODIHR), and FRA.

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

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

In accordance with Article 36, paragraph 3 of the European Convention on Human Rights, on 19 February the Commissioner submitted written comments to the Court on the case of *Mammadov v. Azerbaijan* (Application No. 81553/12). The comments underline systematic deficiencies in the area of freedom of expression in Azerbaijan, including judicial harassment of critical voices, and a pattern of retaliatory measures against those who co-operate with international organisations to expose human rights violations in the country. In his submission, the Commissioner emphasised that the case of Hilal Mammadov, whom he met in 2012 and 2013 in a pre-trial detention centre, is



emblematic of the reprisals that journalists, bloggers and human rights defenders face in Azerbaijan because of their work. They are often harassed with unjustified or selective criminal prosecution on charges that defy credibility, a structural problem which both affects the human rights of the persons concerned and obstructs the functioning of international human rights mechanisms.

On 16 March, the Commissioner submitted written comments to the Court on another case, *Intigam Aliyev v. Azerbaijan* (Application No. 68762/14), which concerns the institution of criminal proceedings against one of Azerbaijan's most renowned human rights lawyers and a long-standing partner of the Council of Europe. In his submission, the Commissioner underscores that this case is an illustration of the same serious and systemic human rights problem in Azerbaijan as highlighted above, whereby critical voices are often subject to reprisals and judicially harassed. With regard to freedom of association specifically, the Commissioner stressed that a number of the recent arrests and detentions of Azerbaijani human rights defenders are related to shortcomings in the NGO legislation and the way it is implemented. This restrictive legal framework constitutes in his view an integral part of the pattern of judicial harassment and reprisals against human rights defenders currently prevailing in the country.

These interventions are the first two of five that the Commissioner has announced he will submit regarding the situation of human rights defenders and other critical voices in Azerbaijan. The next ones will concern the cases of Rasul Jafarov, Anar Mammadli and Leyla and Arif Yunus.

The written comments submitted by the Commissioner to the Court are available on the Commissioner's website.

### ***High-level Conference on the implementation of the European Convention on Human Rights***

On 26 March, the Commissioner attended the High-level Conference on the "Implementation of the European Convention on Human Rights, our shared responsibility" in Brussels, organised by the Belgian Chairmanship of the Council of Europe's Committee of Ministers. In his speech, the Commissioner emphasised that his role complements the purely legal nature of the Court's mechanism, notably by looking at the broader context in member states that enables changes in line with the Convention. In this connection, he outlined three aspects of his work: firstly, the prevention of human rights violations through dialogue with the authorities, which includes for instance warning the authorities against adopting legislation which is likely to generate a number of applications; secondly, his third party interventions in the Court's proceedings; and thirdly, his work aimed at encouraging the rapid and effective execution of the Court's judgments. The Commissioner also insisted on the role that non-governmental organisations and national institutions for the promotion and protection of human rights play in the context of the execution of judgments. He concluded by stressing the importance of a good dialogue between applicants and the Court as well as between national courts and authorities and the European Court.

## 8. Communication and Information work

Almost 400 news pieces were published concerning the Commissioner's work during this quarter, during which the Commissioner gave 46 interviews and issued 11 statements, 8 press releases, a Human Rights Comment and 106 tweets.

The main media coverage was on the report on France, the commentary on laws and practice relating to migration and on counter-terrorism measures adopted or under discussion in various European countries.

The report on France was the subject of substantive news articles and editorial coverage both in France and internationally. Most of the coverage focused on the Commissioner's concerns about the rise of discriminatory incidents, but also on the rights of persons with disabilities, Roma and migrants. Articles and interviews were published by *20 Minutes*, *24 Matins*, *AFP*, *AFP TV*, *Anadolu Agency*, *ANSA*, *Atlantico*, *Challenges*, *Corse Matin*, *Deutschlandfunk*, *Die Welt*, *El Nuevo Herald*, *Euronews*, *Faire Face (Handicap)*, *Fox News*, *France 1 TV Outre-mer*, *France Info*, *France Inter*, *France24*, *France TV Info*, *ITAR-TASS*, *Kirchen Zeitung / KNA*, *La Gazette*, *La voix du Nord*, *Le Figaro*, *Le généraliste*, *Le Journal de Mayotte*, *Le Monde*, *Le Point*, *L'Express*, *Liberation*, *L'Obs*, *Mediapart*, *Muslim Village*, *Newsweek*, *Nice Matin*, *Nord Littoral*, *Numerama*, *Ouest France*, *Planète Campus*, *Polskie Radio*, *Prensa Latina*, *Presse Océan*, *Radio Belarus*, *Radio Bulgaria*, *Respect Mag*, *RIA*, *RT*, *SaphirNews*, *Sputnik International*, *Sputnik News*, *Terra*, *Têtu*, *The Local*, *The Telegraph*, *The Times of Israël*, *The Washington Times*, *Var Matin*, *Vice News*, *Vous Nous Ils*, *World Bulletin*, *Yagg*, and *Zeit Online*.

The Commissioner's reaction to the recurring migration tragedies in the Mediterranean and his call on the EU to improve its search and rescue capacities were largely covered by interviews and news articles published by *ABC*, *ADN Kronos*, *Agencia EFE*, *Agerpres*, *ANSA*, *Articolo 21*, *Avvenire*, *BBC*, *Bulgarian News Agency*, *Conquista del lavoro*, *Corriere della Sera*, *De Wereld Morgen*, *Deutschlandfunk*, *DPA*, *Eco di Bergamo*, *El Diario*, *El País*, *EU Observer*, *Euronews*, *France 3*, *Gazetta del Sud*, *Hurriyet Daily News*, *Il Giornale*, *Il Journal*, *Il Secolo XIX*, *Il sole 24ore*, *Joop*, *La Razón*, *La Repubblica*, *La Stampa*, *Le Monde*, *Le Temps*, *Lettera 43*, *Mladina*, *New Europe*, *New York Times*, *Radio Bulgaria*, *Radio Popolare*, *Rai News*, *Record Journal*, *Redattore Sociale*, *Regnum*, *Reuters*, *Sigmalive*, *Sky TG 24*, *Sputnik News*, *Telecinco*, *Terra Mexico*, *USA Today*, and *Vice News*.

The Commissioner's visit to Melilla and Madrid, and subsequent comments on the provisions amending the Aliens Act in Spain were covered by *20 minutos*, *365 News*, *AFP*, *ANSA*, *ARA*, *CanalSur*, *Colpisa*, *EFE*, *EITB*, *El Confidencial*, *El Diario*, *El Faro*, *El Mundo*, *El País*, *Europa Press*, *Huffington Post*, *La Gaceta*, *La Informacion*, *La Rioja*, *La Vanguardia*, *La Voz de Cadiz*, *Melilla Hoy*, *Prensa Latina*, *Press Tv*, *Radio Intereconomia*, *Reuters*, *RTVE*, *Tele Cinco*, *The Local*, and *De Wereld Morgen*.

The Commissioner's concerns about new anti-terrorism legislation discussed or adopted in Europe were another key focus of the coverage during the quarter. Articles and interviews were published by *Agence Europe*, *ANSA*, *Boursorama*, *CiberSur*, *Corriere della Sera*, *DW*, *El Economista*, *El Periodico*, *Euractiv*, *Euronews*, *Fait Religieux*, *Gatestone institute*, *Global Post*, *Index*, *La Croix*, *La Libre Belgique*, *La Repubblica*, *Le*

*Figaro, Le Monde, Libération, Luxemburger Wort, Middle East Eye, Newsweek, Notre temps, Politiken, Reuters, RT, Sin embargo, Slate, STA, and The Guardian.*

The situation in Azerbaijan and the Commissioner's third party interventions on cases before the European Court of Human Rights were covered in interviews and articles by *AFP, Armen Press, RFE, BBC, Contact, PanArman Net, Radio Romania, Zeit Online, Wall Street Journal, Haqqin, Kavkaz-uzel, Panorama, and Turan.*

The Commissioner's concerns about a security bill in Turkey which would grant additional powers to the police were mentioned by *ANSA, BGN News, Deutsche Welle, Hurriyet Daily News, Today's Zaman, Zeit online, The New York Times, El País, and the Financial Times.*

The visit to Norway was also widely covered, in particular the Commissioner's concerns about proposed legislation to criminalise begging (*Adressa, Aftenbladet, Agencia EFE, Agencia Lusa, Dagbladet, Expressen, Håmeen Sanomat, La Vanguardia, La Voz de Cadiz, NRK, NTB, Oslo Universitetssykehus, Sveriges Radio Tronder-Avisa, VG, YLE, Sandefjords Blad, The Scotsman, and Haugesunds Avis*).

The report on Armenia focusing on the administration of justice and gender equality was also widely covered, in particular by *1tv, ArmInfo News, Azatutyun, Day, DW, ePress, Haqqin, hetq, IWPR, KathWeb, Kavkaz-uzel, Media Max, News, Osservatorio Balcani e Caucaso, Panorama, Real Armenia, and Tert.*

The tweet concerning directives in Russia capable of restricting people from driving because of their gender identity was mentioned in articles in the *New York Times, Buzzfeed, RIA, Europe Online magazine, AIF, Malta Today, Gay Star News, Pink News, Bloknot, and Latvian News Agency.*

The Commissioner's concerns about the situation in Ukraine and his address to PACE were covered by *Interfax, RIA, KP, Reitingi, Sputnik news, Vesti, Vesti Kavkaza, Deutsche Welle, Latvijas sabiedriskie mediji and TV Rain.*

The visit to Serbia was received wide coverage, including in *ANSA, Akter, BETA, Blic, B92, Danas, Euractiv, FoNet, InSerbia News, Kurir, Naslovi, Osservatorio Balcani e Caucaso, RTS, RTV, Studio B, Tanjug, Time, and TV Most.*

*BGN News, CIHAN, CNN, the EFJ, Hurriyet, Hurriyet Daily News, Imerisia, The Daily Beast, The Oslo Times, Today's Zaman, and Turkish Review* quoted the Commissioner concerns in relation to draft legislation in Turkey and the sentencing of two cartoonists.

The Human Rights Comment on Syrian refugees was covered by *ABC, Agerspres, Bulgarian News Agency, Deutschlandfunk, EU Observer, Euronews, Hurriyet Daily News, New Europe, Reuters, Sigmalive, Sputnik News, and Terra Mexico.*

Further coverage concerned freedom of expression and media freedom in "the former Yugoslav Republic of Macedonia" (*Vijesti, Nova TV*), discrimination in Hungary (*ANSA, La Repubblica, The Budapest Times*), the rights of Russian-speaking people in Latvia (*Radio Latvia, Delfi, Gazeta, Pnp, Postimees, Ruskiymir*), the visit to Bulgaria (*Bulgaria National Radio, Bulgaria National Television, BT*), the meeting with the European Federation of Journalists (*EFJ*), Sharia law in Greece (*Le Monde*), asylum-seekers in the

Netherlands (*Joop*), the CIA rendition programme in Poland and Romania (*Strategic Culture Foundation, Mediafax*), the 20th anniversary of Latvian membership of the Council of Europe (*Radio Latvia*), human rights on the Internet (*SW Zone*), children's rights (*Rivista Europae*), disability in Romania (*Osservatorio Balcani e Caucaso*), the meeting with the Mayor of Lampedusa (*Agrigento Web, ANSA, La Gazzetta Agrigentina*), and migration in Greece (*Kathimerini*).

An op-ed on media freedom was published by *New Europe*.

799 new followers connected with the Commissioner on Twitter, with an average increase of over 266 new followers per month (for a total of 9037 at the end of March 2015, which means a 9% increase since the last quarter). The Facebook page continued to be an increasingly visited platform, with an increase of 10% in the number of likes since the last quarter (totalling 2543 at the end of the March).

Almost 23 000 unique Internet users visited the Commissioner's website, which represents an increase of 25% compared to the same quarter of 2014. The number of pages viewed also increased significantly.

## 9. Next three months

### April

20-23/04 PACE session

### May

04-08/05 Visit to Germany

11-12/05 High-level meeting “Towards human rights and social model of disability” hosted by the Latvian Presidency of the EU Council (Riga, Latvia)

19/05 125th Session of the Committee of Ministers (Brussels, Belgium)

20/05 Eastern Partnership Media Freedom Conference, hosted by the Latvian Presidency of the EU Council (Riga, Latvia)

28-29/05 Congress conference on human rights at local and regional level (Graz, Austria)

### June

06/06 German Kirchentag event on migration and human rights (Stuttgart, Germany)

08-10/06 Visit to San Marino

15-19/06 Visit to Slovakia

22-26/06 PACE Session

## 10. Observations and reflections

In the previous quarterly report, I shared some preliminary thoughts on the aftermath of the terrorist attacks on *Charlie Hebdo* and some of the counter-terrorism measures being proposed in Europe. During the period under review in this report, we have witnessed problematic legislation being proposed or adopted in a number of Council of Europe countries, as well as intense work at the intergovernmental level towards the preparation of a new Draft Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism. I have sought to inject a human rights perspective into these national and inter-governmental discussions.

My first message has been that deliberations on new legal instruments at the national or international level should take place without unnecessary haste and in full transparency, so that concerns raised by national human rights structures, independent experts and NGOs can be taken into account. Clearly, politicians and governments feel public pressure to act quickly to stem the terrorist threat. This is understandable, but haste should be resisted.

A second message has been about the need to ensure the highest quality of legal texts. This means that imprecision in definitions and formulations should be avoided, as it could lead to overbroad application of laws or treaties and arbitrariness in implementation. It also means that such texts should include adequate safeguards guaranteeing basic human rights, such as the presumption of innocence and the principle of legality. The temptation to weaken human rights safeguards, such as prior effective review of surveillance measures or Internet blocking orders by fully independent bodies, should be firmly rejected. Legislators and governments should also consider explicit provisions for effective remedies for those who have been subjected to human rights violations in the context of counter-terrorism measures.

Another right at risk in the context of counter-terrorism is that of equality and non-discrimination. Because several of the recent attacks have been carried out by European citizens of self-professed Muslim belief, attention has again focused on Islamist extremists with the risk of stigmatising all Muslims as terrorists. How quickly many have forgotten that two of the most brutal terrorist episodes of recent years – the slaughter carried out by Anders Breivik in Norway and the series of killings by the *Nationalsozialistischer Untergrund* (NSU) in Germany - were perpetrated by the native extreme right. Counter-terrorist measures should not target persons or groups because of their ethnic origins or religious beliefs, but on the basis of concrete evidence based on their behaviour. We should avoid feeding the already widespread and deep-seated Islamophobia in Europe.

Finally, concern about the risks posed by the return to Europe of those who fought in conflicts abroad or received military-type training abroad has led to some problematic proposals and measures affecting the equality of all citizens before the law. Provisions restricting freedom of movement through travel bans or confiscation of travel documents should be subject to a strict standard of proof, proportionate, limited in time and open to effective judicial review. Proposals to deprive persons of nationality (citizenship) altogether risk generating statelessness, which should be avoided at all costs. Proposals to deprive dual citizens of their acquired European nationality send a chilling

signal to all naturalised citizens that their status is provisional and can be revoked. This places naturalised citizens, especially those with a non-European second nationality that they often cannot easily renounce, in a second class status, which is discriminatory. This perception of being stigmatised, in turn, can only feed into processes of radicalisation and undermine the counter-terrorist effort.