

# COMMISSIONER FOR HUMAN RIGHTS OF THE COUNCIL OF EUROPE

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## FOREWORD

The activities I carried out during 2019 provide an overall picture of the main problems, challenges and opportunities that European countries are facing in the field of human rights. The image I get from that work is of a Europe circling a roundabout, uncertain about its direction and the human rights obligations which member states voluntarily agreed upon.

In 2019 as in previous years, there have been growing challenges to human rights standards and principles all over the continent. In some cases, the hostility to human rights as universal, indivisible and legally binding has increased, fuelling a corrosive narrative that endangers the principles and standards on which Europe has been built over the past seven decades.

Five of the topics covered in this report illustrate particularly well the ongoing backlash in Europe: the growing political and societal acceptance of racism; the disregard of the human rights of migrants and refugees; the threats to women's rights; the repression of dissent; and the erosion of judicial independence.

Antisemitism, Islamophobia and anti-Gypsyism have reached alarming levels.

Incidents of desecration of Jewish cemeteries have recurred in several European countries. Antisemitic offences and violent attacks on Jewish people and Holocaust memorials were on the rise, and Nazi symbols and slogans were regularly exhibited in public, especially in stadiums.

In many places, Muslim women have been the targets of assaults for wearing face veils or headscarves; in some countries, mosques have been attacked. Even in the absence of physical violence, discriminatory practices in certain contexts have made it difficult for Muslims to get a job, a house, or citizenship. Patterns revealing unspoken biases have persisted, with law enforcement officers still engaged in the illegal practice of profiling Muslims.

Hate speech and crimes against Roma also remained widespread. Hostile demonstrations and collective attacks against Roma, often followed by illegal evictions, have on several occasions forced them to move away for their own security. Anti-Roma hate speech by certain politicians legitimised the rejection and marginalisation of Roma and contributed to establishing a climate of simmering violence against Roma in several parts of Europe.

European countries' handling of migrants and asylum-seekers has continued to be worrying to say the least. Despite the decreasing numbers of migrants and asylum-seekers arriving on our continent, some politicians have surfed on a wave of xenophobia, feeding it with divisive and alarmist rhetoric, including in regions where very few or no migrants have settled.

The increasing normalisation of illegal pushbacks, sometimes accompanied by brutal violence, as well as acts aimed at dehumanising people attempting to cross borders, are particularly worrying and need to be confronted with urgency.

In some member states, severe humanitarian crises regarding reception conditions have been allowed to develop and worsen. The lives of thousands of migrants and asylum seekers have also been put at risk by the short-sighted decision to reduce state search and rescue operations in the Mediterranean. The outsourcing of border controls to third countries with poor human rights records and unsafe conditions, such as Libya, continues, whereas urgently needed improvements in transparency and accountability remain elusive. The judicial and administrative harassment of NGOs rescuing migrants is also still ongoing, even though they often fill the void left by European states' disengagement.

Another recurrent problem has been gender inequality. Progress is slow in bridging the gender pay gap and addressing other forms of discrimination at work. Women remain largely underrepresented in political decision-making. They are still confronted with various obstacles preventing their full access to sexual and reproductive health and rights. What has already been achieved in terms of gender equality is threatened by some ultra-conservative

groups' discourse and initiatives aimed at relegating women to traditional roles, in contradiction with human rights standards. Women have faced an endless stream of sexist hate speech, on the Internet and in public discourse. Even though violence against women remains a widespread human rights violation in all European countries, in some there has been opposition to ratifying the Istanbul Convention, the landmark Council of Europe treaty aiming at preventing and combating this form of violence.

Freedom to speak out and manifest dissent has also come under frequent attack. Several peaceful demonstrators have been seriously injured through the disproportionate use of force by the police. The authorities in several countries have taken measures that undermine the right to freedom of peaceful assembly, such as bans on and dispersals of assemblies, or increasing the possibilities of sanctions against persons organising or participating in peaceful assemblies.

Human rights defenders and journalists continued to work in hostile environments in a growing number of European countries. Legislation has been misused to detain and prosecute them, while public discourse by some political leaders has legitimised smear campaigns, threats and intimidation. Investigations into crimes against journalists and human rights defenders drag on for years without bringing any clarity to the cases. Even if some developments occurred last year in relation to the investigations into the murders of Ján Kuciak and his fiancée Martina Kušnírová in the Slovak Republic, and of Daphne Caruana Galizia in Malta, much more remains to be done to establish a safe environment for journalists and media actors in Europe.

2019 was also marked by continuing attempts by the executive and legislative to use their leverage to influence and instruct the judiciary. In several member states judges have been threatened for using their right to freedom of expression to state their opinion about an issue of public interest in the justice field.

These are not new phenomena. By continuing to leave them unaddressed or, worse, exacerbating them through laws and policies that disregard human rights, national authorities risk undermining the democratic fabric of our society and endangering our very freedoms and security.

This holds true for new challenges as well. I spent a great deal of my time last year raising awareness among state authorities about the risks that unregulated uses of digital technologies and artificial intelligence pose to human rights, in particular privacy, equality, freedom of expression and assembly. I think much remains to be done in order to find the right balance between technological development and human rights protection.

There is no easy fix to all these challenges. We will need patience, commitment, and courage. But I believe that whether national authorities will be able to effectively address the shortcomings is to a great extent a question of political will, not of resources.

The recommendations I made to national authorities during my work last year, and which are mentioned in this report, provide guidance on how to start solving these problems. This report is an additional tool at their disposal to exit the roundabout and move forward.

On my side, I will continue providing my impartial and independent advice to member states in order to help them identify shortcomings in law and practice and reinforce effective responses that uphold the values of democracy, human rights and the rule of law that should define our European home today.

Dunja Mijatović

## 1 COUNTRY WORK

### Introduction

Since the beginning of her mandate in April 2018, and throughout 2019, Commissioner Mijatović has relied on country visits as an important means of pursuing a continuous, constructive dialogue with member states.

In her country visits, the Commissioner addressed specific human rights issues that she had identified as requiring particular attention and also followed up on the work of her predecessor. Issues covered by the visits included: human rights of asylum seekers and refugees; gender equality and women's rights; the human rights of disadvantaged or vulnerable groups; accountability for past human rights violations; administration of justice and the protection of human rights in the justice system; and the situation of human rights defenders and civil society.

Reports and other documents published by the Commissioner after these visits contain both an analysis of the selected human rights issues and detailed recommendations to member states about possible means of improvement. In certain cases, as part of her dialogue with national authorities, the Commissioner addresses letters to the former to outline concerns and provide advice on specific issues. All these documents, along with the replies from the authorities, are published on the Commissioner's website and are widely circulated among policymakers, NGOs and the media.

The present chapter contains brief summaries of the visits carried out by the Commissioner and of their outcomes.

### 1.1 Visits

#### *Visit to France*

On 28 January, the Commissioner carried out a mission to Paris to discuss human rights issues relating to the “yellow vests” movement. During this mission, the Commissioner met with the State Secretary to the Minister of the Interior, Laurent Nunez. She also had meetings with the secretariat of the National Consultative Commission for Human Rights (CNCDH); the Defender of Rights and his deputy in charge of security ethics; representatives of human rights organisations; police and journalists' trade unions; and law and media professionals.

Following this mission, the Commissioner published on 26 February a [memorandum](#) on maintaining public order and freedom of assembly in the context of the “yellow vests” movement in France, in which she invited the French authorities to show more respect for human rights during operations aimed at maintaining public order and refrain from introducing excessive restrictions to freedom of peaceful assembly through the then bill on strengthening and guaranteeing public order at demonstrations.

The Commissioner stressed that the number and seriousness of the injuries inflicted on demonstrators raised questions about the compatibility of the methods used in operations aimed at maintaining public order with due regard for citizens' human rights. She therefore encouraged the authorities to review the doctrine on the use of intermediate weapons and urged them, pending this review, to suspend the use of rubber bullet launchers (LBDs) during operations aimed at maintaining public order.

The Commissioner noted that operations aimed at maintaining public order are particularly complex and that law enforcement forces work in a context of high tension and fatigue and strongly condemned the violence committed against law enforcement officers. She regretted the large number of wounded among their ranks and highlighted the importance of paying them a sufficient salary and granting them adequate periods of rest and recuperation, together with appropriate psychological support and sound human rights training throughout their career.

As for the arrangements for exercising freedom of peaceful assembly, the Commissioner invited France's lawmakers to ensure that the law on strengthening and guaranteeing public order at demonstrations fully respects the right to freedom of assembly. In particular, she warned against the introduction of an administrative ban on demonstrating;

plans to harden penalties for hiding one's face in or within the vicinity of a demonstration and in case of failure to notify a demonstration; and the possibility to empower prefects to order searches and frisking in the vicinity of demonstrations.

### ***Visit to Hungary***

The Commissioner carried out a visit to Hungary from 4 to 8 February, focusing on the human rights of asylum seekers and refugees; human rights defenders and civil society; independence of the judiciary; and gender equality and women's rights.

During her visit, the Commissioner met with the Deputy Prime Minister and Minister of Interior, Sándor Pintér; the Minister of Justice, László Trócsányi; the Minister of State for International Affairs in the Ministry of Human Capacities, Orsolya Pacsay-Tomassich; and the Minister of State for EU Relations in the Prime Minister's Office, Judit Varga. She also met the President of the Curia, Péter Darák; the President of the Constitutional Court, Tamás Sulyok; the Commissioner for Fundamental Rights, László Székely; the President of the Equal Treatment Authority, Ágnes Honecz; the Head of the Hungarian Council of Europe Parliamentary Assembly Delegation, Zsolt Németh; and representatives of civil society.

On 21 May, the Commissioner published a [report](#) following her visit. The Commissioner found that the government's stance against immigration and asylum seekers had resulted in a legislative framework which undermined the reception of asylum seekers and the integration of recognised refugees. She called on the government to repeal the decreed "crisis situation due to mass immigration" and urged the authorities to refrain from using anti-migrant rhetoric and campaigns which fan xenophobic attitudes.

The Commissioner urged the government to extend access to the international protection procedure and to ensure that the protection needs of all asylum seekers present on the territory can be assessed. She considered that the systematic detention of asylum seekers, including children, in the transit zones without adequate legal basis raised issues about the arbitrary nature of the detention and expressed concern that many asylum seekers detained in the transit zones under an alien policing procedure had been deprived of food.

The Commissioner pointed out that the legislative measures enacted in 2017-2018 imposing restrictions on civil society space had stigmatised and criminalised NGO activities which were fully legitimate in a democratic society. She found that the associated sanctions had the potential to incur devastating consequences for the work of human rights defenders and NGOs and urged the repeal of the legislation. The Commissioner also observed that civil society organisations had been subject to intimidation, stigmatisation and smear campaigns. She called on the government to reverse its alarming course in relation to human rights defenders and NGOs, and to create an enabling environment conducive to their work, in line with human rights standards.

With reference to the future system of administrative courts, the Commissioner remained concerned about the pivotal role of the Minister of Justice in establishing and running it. While welcoming the recent amendments made to the original legislation on administrative courts in response to the related Opinion of the Venice Commission, she pointed out that they were not sufficient in addressing the serious concerns identified by the Commission. The Commissioner recommended that the extensive powers of the Minister be counterbalanced by strengthening judicial self-governance.

The Commissioner found that Hungary was backsliding on gender equality and highlighted the low political representation of women. She noted that women's issues were closely associated with family affairs in government policy and that the focus of the newly adopted family protection action plan lay on women as child bearers. The Commissioner warned that this carried the risk of reinforcing gender stereotypes and instrumentalising women. She called on the authorities to address the unequal representation of women in public life through positive measures and to take determined action to eradicate gender stereotypes in educational materials. The Commissioner also urged the authorities to ratify the Istanbul Convention on preventing and combating violence against women and domestic violence and to strengthen training on violence against women among the judiciary, prosecutors and the police.

### ***Visit to Poland***

The Commissioner carried out a visit to Poland from 11 to 15 March, focusing on the independence of the judiciary and the prosecution service as well as women's rights, gender equality and domestic violence.

During her visit, the Commissioner met with the Minister of Foreign Affairs, Jacek Czaputowicz; the Minister of Health, Łukasz Szumowski; the Deputy Minister of Health, Zbigniew J. Król; the Government Plenipotentiary for Civil Society and Equal Treatment, Adam Lipiński; the Undersecretary of State in the Ministry of Family, Labour and Social Policy, Kazimierz Kuberski; the Undersecretary of State in the Ministry of Justice, Marcin Warchoń; the Head of the Chancellery of the President of the Republic, Halina Szymańska; the Undersecretary of State at the Chancellery of the President, Anna Surówka-Pasek; and the Police Commander-in-Chief, General Jarosław Szymczyk. She further met with the First President of the Supreme Court, Małgorzata Gersdorf, and several judges of the Supreme Court; the Ombudsman, Adam Bodnar, and his Deputy, Hanna Machińska; the Ombudsman for Children's Rights, Mikołaj Pawlak; and representatives of civil society and associations representing judges and prosecutors. The Commissioner also visited a shelter for women, operated by an NGO in Warsaw. Moreover, she travelled to Gdańsk, where she met with the Mayor and visited the local counselling service of an NGO helping victims of domestic violence.

Following her visit, the Commissioner published a [report](#) on 28 June. Regarding the independence of the judiciary and the prosecution service, the Commissioner found that Poland's judicial reform, accompanied by a polarising public campaign to discredit judges, had fundamentally affected the functioning and independence of all key building blocks of the country's justice system, leading to repeated protests by the legal professions and the general public. Welcoming the reinstatement of the forcibly retired judges of the Supreme Court and of the Supreme Administrative Court, the Commissioner called on the authorities to also urgently resolve the deadlock compromising the independence and credibility of the Constitutional Tribunal and to bring the composition of the National Council for the Judiciary back in line with Council of Europe standards and the Polish Constitution. The Commissioner was further struck by the dismissal and replacement of hundreds of court presidents, vice-presidents, and prosecutors, as well as by many disciplinary proceedings instituted against judges and prosecutors. She urged the authorities to ensure that such proceedings are not instrumentalised and to secure the right to a fair trial of any person subjected to them. The Commissioner further invited Poland to separate the functions of Minister of Justice and Prosecutor-General and to limit each office's powers vis-à-vis judges and prosecutors. Stressing that improving the accountability or efficiency of the justice system may not be pursued at the expense of judicial independence, the Commissioner called on the executive and the legislature to avoid undermining public confidence in the judiciary and to subject any legislation relating to judicial reform to thorough consultation with members of the judicial community and other relevant actors.

On women's rights, the Commissioner regretted that despite the passage of several years since the European Court of Human Rights issued key judgments against Poland in cases concerning access to abortion care, the Polish authorities had yet to adopt the necessary legislation to ensure the accessibility and availability of legal abortion in practice. She called on them to do so and to reject any legislative proposals that seek to further erode women's sexual and reproductive rights. She further invited the Polish authorities to consider making abortion legal on a woman's request in early pregnancy, and thereafter throughout pregnancy to protect women's health and lives and ensure freedom from ill-treatment. She also encouraged the authorities to eliminate barriers in access to contraception, including by reversing the decision to ban the over-the-counter sale of the emergency contraceptive pill.

Commending Poland for its solid legal framework for equality between men and women, the Commissioner recommended that the authorities promptly adopt a new national action plan on gender equality, as well as programmes and measures to further the advancement of women and their political participation and to prevent and combat sexism. She also welcomed the significant increase in public funding for and availability of public childcare, and encouraged the authorities at the central and local levels to pursue this approach.

The Commissioner welcomed the Polish authorities' stated commitment to combating domestic violence and encouraged them to give effective application to the Council of Europe Istanbul Convention, including by ensuring the implementation of existing laws across the country and providing enough quality shelters for women victims of

violence and their children. She also urged the authorities to ensure safe and favourable conditions for women's rights organisations, and expressed concern about the negative impact of the central government funding cuts for such organisations. The Commissioner invited the authorities to increase public awareness about domestic violence and encouraged politicians and opinion-makers to support the advancement of women's rights and gender equality.

### ***Visit to Turkey***

The Commissioner carried out a visit to Turkey from 1 to 5 July, focusing on the administration of justice and the protection of human rights in the justice system, as well as the situation of human rights defenders and civil society.

During her visit, the Commissioner met with the Minister of Foreign Affairs, Mevlüt Çavuşoğlu; the Minister of Justice, Abdülhamit Gül; the Vice-President of the Constitutional Court, Engin Yıldırım; the Deputy Minister of the Interior, Muhterem İnce; the Vice-President of the Council of Judges and Prosecutors, Mehmet Yılmaz; and the Chief Ombudsman, Şeref Malkoç. She also met with representatives of bar associations and lawyers, civil society representatives and human rights defenders, journalists and academics, as well as representatives of political parties. The Commissioner also visited the penitentiary campus in Silivri, where she met with Osman Kavala, Ahmet Altan and Selçuk Kozağaçlı.

In a press release published at the end of the visit, the Commissioner expressed concern about the erosion of the independence of the Turkish judiciary during and after the state of emergency, which was in force between July 2016 and July 2018, including as a result of critical constitutional changes regarding the Council of Judges and Prosecutors which went against Council of Europe standards. She noted that during the same period, ordinary safeguards and procedures were suspended for the dismissal, recruitment and appointment of judges and prosecutors. She stated that while an overly broad definition of terrorism-related offences and the judiciary's tendency to stretch these even further were long-standing problems in Turkey, they had reached unprecedented levels.

The Commissioner was particularly concerned about the use by prosecutors, and increasingly also the courts, of lawful and peaceful acts and statements protected under the European Convention on Human Rights as proof of criminal activity. This made it impossible to foresee in good faith the legal consequences of actions, discouraging legitimate dissent and criticism. The Commissioner also shared her view with the Turkish authorities that the new Judicial Reform Strategy, while acknowledging certain problems, did not address other crucial ones, such as the constitutional framework guaranteeing judicial independence, and the need for effective safeguards ensuring fair trial, equality of arms and legal certainty. She stated that in any event a complete and urgent overhaul of key legislation, including the Criminal Code, Anti-Terrorism Law and the Code of Criminal Procedure, was necessary.

The Commissioner found that the legitimate work of independent, rights-based civil society organisations was being subjected to undue pressure, including through the tightening of an already restrictive regulatory framework, the outright closure of NGOs without court decisions, toxic political discourse and smear campaigns, and numerous criminal proceedings against human rights defenders. As a result, all of Turkish society was subjected to a profound chilling effect. She paid particular attention to the situation of lawyers, who were affected not only as human rights defenders but also as actors in an increasingly hostile justice system. She pointed notably to measures restricting procedural defence rights, as well as judicial actions specifically targeting lawyers.

The Commissioner's report following her visit to Turkey was published in 2020.

### ***Visit to Azerbaijan***

The Commissioner carried out a visit to Azerbaijan from 8 to 12 July 2019, focusing on the right to freedom of expression; recent developments concerning the situation of lawyers; and the human rights of internally displaced persons.

During the visit, the Commissioner met with the Minister of Foreign Affairs, Elmar Mammadyarov; the Minister of Justice, Fikrat Mammadov; the Minister of Internal Affairs, Vilayat Eyvazov; the Head of the Department of Foreign



Policy Affairs in the Presidential Administration, Hikmat Hajiyev; the Prosecutor General, Zakir Garalov; the President of the Supreme Court, Ramiz Rzayev; and the Chairman of the State Committee for Affairs of Refugees and IDPs, Rovshan Rzayev. In addition, the Commissioner met with the Ombudsman, Elmira Suleymanova, representatives of civil society, lawyers, and with the Chair and members of the Bar Association. The Commissioner made field visits to two settlements of internally displaced persons in the Yasamal and Sabunchu districts of Baku. She also went to prisons where she met with the journalists Seymur Hazi and Afgan Mukhtarli.

Following the visit, the Commissioner published a [report](#) on 11 December in which she regretted that no progress has been made regarding the protection of freedom of expression. Journalists and social media activists who express dissent or criticism of the authorities are continuously deprived of their liberty on a variety of charges that defy credibility. She once again called on the authorities to release all those detained because of the views they expressed and to fully implement several judgments of the European Court of Human Rights relating to arbitrary restrictions of freedom of expression. In addition, the Commissioner expressed doubts as regards the lawfulness of the travel bans imposed on dozens of journalists, lawyers, political activists and human rights defenders, stressing that the authorities must refrain from imposing arbitrary or disproportionate travel bans and lift immediately those which are in contradiction with the right to leave the country. The Commissioner also recommended decriminalising defamation and bringing legislation and practice affecting Internet freedom in line with European standards.

With regard to the situation of lawyers, the Commissioner observed that there is an acute shortage of lawyers, in particular in the regions outside the capital, which prevents many people from having access to legal assistance and representation. Noting that several steps have been taken by the authorities and the Bar Association to increase the number of lawyers in the country, the Commissioner called on the government to step up its efforts in that direction. She also underlined that the qualification process for a lawyer's admission to the Bar must become fairer and more objective and the independence of the Bar Association, as well its role in the representation and defence of the interest of its members, must be strengthened.

The Commissioner called on the authorities to take immediate measures to ensure that the right of access to quality legal assistance is effectively guaranteed to all persons as from the very outset of their deprivation of liberty. She stressed that the authorities should adopt a law on legal aid in line with Council of Europe standards and ensure that all persons effectively enjoy the right to legal assistance. Considering the fact that most of the lawyers recently disbarred or who had their licenses suspended were working on cases considered as politically sensitive, the Commissioner remains seriously concerned by the use of disciplinary sanctions – like disbarment - on improper grounds and unclear criteria. She recommended that the Bar Association strengthen the procedural safeguards to ensure that proceedings against lawyers are transparent and fair and that lawyers' right to express their views on matters of public interest be upheld.

The Commissioner commended the steps taken by the authorities to help people displaced as a consequence of the unresolved conflict over the Nagorno-Karabakh region. She reiterated the importance of overcoming the decades-long impasse and finding a peaceful solution to that conflict, so that the people who wish to return may do so on a voluntary basis, in safety and dignity.

Welcoming that many internally displaced people (IDPs) have been relocated to settlements built for them and benefit from housing free of charge, the Commissioner nevertheless stressed that many others live in dormitories and collective centres in dire or substandard conditions, have no possibility to own the apartments in which they have been resettled and their needs are not always considered in the allocation of housing. Several obstacles also hamper income-generation and self-reliance opportunities for IDPs, especially for persons living in the rural regions and urban areas outside Baku. The Commissioner encouraged the authorities to further enhance IDPs' access to all economic and social rights, in particular the right to adequate housing and the right to employment, and provide livelihood opportunities to ensure that IDPs achieve self-sufficiency and do not entirely depend on government assistance. Noting that a majority of internally displaced children study in schools which were built or intended just for IDPs and are thus being educated separately from the rest of the population, the Commissioner recommended ensuring mixed schooling and mapping the specific needs of IDPs, in order to better respond to the various challenges they face. Lastly, the Commissioner recommended lifting the restrictions imposed on IDPs' right to vote

in municipal elections in the constituencies where they reside and ensuring the full participation of IDPs in decision-making processes.

### ***Visit to Greece***

The Commissioner carried out a mission to Greece (Lesbos, Samos, Corinth and Athens) from 26 to 31 October devoted to issues pertaining to the human rights of migrants, including asylum seekers, with a special focus on reception conditions.

The Commissioner met with the Minister for Citizen Protection, Michalis Chrysochoidis and the Alternate Minister for Migration Policy, Giorgos Koumoutsakos, as well as the Alternate Minister for Foreign Affairs, Miltiadis Varvitsiotis. She visited the Moria Reception and Identification Centre in Lesbos, the Vathy Reception and Identification Centre in Samos and a transit camp in Corinth. The Commissioner also met with the Mayors of Lesbos and Samos and representatives of civil society and international organisations in Greece.

The Commissioner observed a dramatic worsening of the situation of migrants, including asylum seekers, in the Greek Aegean islands since her June 2018 visit to Greece. Appalled by the desperate conditions prevailing in the islands' camps, which she found had turned into a struggle for survival, the Commissioner called on the Greek authorities to take urgent measures to meet the vital needs of all these people and safeguard their human rights. While welcoming the Greek government's decision to transfer 20,000 migrants from the islands to the mainland by the end of 2019, the Commissioner stressed that this plan was unlikely to significantly reduce overcrowding on the islands without lifting the geographical restriction. The Commissioner praised the strength of the asylum seekers and the solidarity of humanitarian staff and local communities.

Commenting on the law then discussed by Parliament which aimed to speed up asylum procedures and returns, the Commissioner underlined that this law and its implementation should not lead to more and longer detention and must ensure that all asylum seekers have their claims assessed in an individual way, with effective remedies available to challenge rejections.

Finally, the Commissioner commended the financial support provided by the European Union, but underscored that funds alone will not solve the problem and urged the European countries to take more responsibility in providing ways for relocating people from Greece to other member states. She further called on the Greek authorities to overcome all the bureaucratic obstacles that are hindering the effective use of these funds and promptly consider with the EU how services for local communities can be better supported.

The Commissioner followed up on some of these issues in a [letter](#) published in December (see below, "Continuous dialogue").

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

The Commissioner visited Bulgaria from 25 to 29 November 2019. The visit focused on racism, discrimination and intolerance; certain aspects concerning domestic violence and violence against women; and media freedom.

During the visit, the Commissioner met with the Vice President of Bulgaria, Iliana Yotova; the Deputy Prime Minister and Chairperson of the National Council for Cooperation on Ethnic and Integration Issues, Tomislav Donchev; the Minister of Justice, Danail Kirilov; the Minister of Interior, Mladen Marinov; the Minister of Regional Development and Public Works, Petya Avramova; the Deputy Minister of Foreign Affairs and National Coordinator on combating antisemitism, Georg Georgiev; the Prosecutor General, Sotir Tsatsarov; and with members of the Council for Electronic Media. In addition, the Commissioner met with the Ombudsman; the Chairperson and members of the Commission for Protection against Discrimination; members of the Commission on Religion and Human Rights and of the Committee on Legal Affairs of the Parliament; and the Chairperson of the Bulgarian Delegation to the Parliamentary Assembly of the Council of Europe. She also had exchanges with journalists, human rights defenders, and other representatives of civil society.

The Commissioner travelled to the Stolipinovo neighbourhood of Plovdiv, where she met with members of the Roma community. She also held discussions in Plovdiv with the Mayors of the Maritsa Municipality and of the village of Voyvodinovo, followed by a visit to the village. In Sofia, the Commissioner visited a crisis centre for women victims of domestic violence.

Following her visit, the Commissioner issued a [press release](#) in which she stressed that the government should increase its efforts to fight the hate speech prevailing in Bulgaria, in particular against Roma, LGBTI people and other minority groups. Furthermore, she called on the authorities to urgently address the situation of Roma who had to leave their homes in 2019 following rallies targeting their communities. The Commissioner underlined the need for a political and cultural shift as regards the treatment and image of minority groups and urged the government to recognise racist motivation as an aggravating circumstance for all offences and to implement the judgments of the European Court of Human Rights, including those on forced evictions and the registration of associations of persons identifying as belonging to a minority. She also expressed concern about the demonstrations organised by extremist groups in Bulgaria and called on the authorities to condemn such manifestations.

The Commissioner regretted that the public debates around the ratification of the Istanbul Convention have propagated disinformation and have reasserted stereotypes about gender roles. The withdrawal by the government of the Child Protection Strategy and the debates on the possible delay of the entry into force of the new Law on Social Services followed the same line, and hostility against women's and LGBTI rights activists were also on the rise. The Commissioner called on the government to confront these dangerous trends and raise public awareness about the need to improve the protection of victims of domestic violence and children. Moreover, she strongly urged the authorities to reopen the debate on the ratification of the Istanbul Convention, adopt the Child Protection Strategy and ensure the timely and effective implementation of the Law on Social Services. The Commissioner also stressed the urgent need to increase the number of shelters and other social services available to victims of domestic violence.

The Commissioner was alarmed by the continuous deterioration of media freedom in Bulgaria. She noted that non-transparent media ownership, threats and harassment of journalists and the use of defamation suits were chronic problems and that political influence over media outlets undermined the credibility of the press. Lastly, she underlined the importance of a free, investigative and independent press and stressed that journalists should be free to play their crucial role without interference.

The Commissioner's report following her visit to Bulgaria was published in 2020.

### ***Visit to Bosnia and Herzegovina***

The Commissioner carried out a visit to Bosnia and Herzegovina from 2 to 6 December, focusing on the human rights of refugees and migrants, including asylum seekers.

During her visit, the Commissioner met with the Minister of Security of Bosnia and Herzegovina, Dragan Mektić; the Minister for Human Rights and Refugees of Bosnia and Herzegovina, Semiha Borovac; the Minister for Labour, Social Policy, Displaced Persons and Refugees of the Sarajevo Canton, Malik Garibija; the Prime Minister of the Una-Sana Canton, Mustafa Ružnić; and the Mayor of Bihać, Šuhret Fazlić. She also met with the Head of the European Union Delegation in Bosnia and Herzegovina, Ambassador Johann Sattler, as well as with representatives of the International Organization for Migration (IOM), UNHCR and civil society. The Commissioner's visit started in the northwest of Bosnia and Herzegovina in the Una-Sana Canton where she visited the improvised migrant camp "Vučjak" and the temporary reception centres "Bira" and "Sedra" in Bihać and Cazin respectively. She also visited the reception centre "Ušivak" in the Sarajevo Canton. Expressing grave concern over the inhuman living conditions in "Vučjak", the Commissioner reiterated in a [statement](#) published at the end of the visit her call on the authorities to close the camp immediately. Whereas the conditions in the reception centre "Bira", accommodating some 1,800 people - including 300 unaccompanied minors - in a disused refrigerator factory were clearly better compared to those in "Vučjak", they were still of a substandard level. The Commissioner stressed the importance for the state authorities to ensure adequate reception capacities across the country, and also underlined the need for more

humanitarian assistance and access to registration in the Una-Sana Canton, where more migrants and asylum seekers had been arriving. She called on the authorities to adopt long-term measures in order solve the structural shortcomings hampering access by migrants to asylum procedures and protection. She underlined that both the Federation of Bosnia and Herzegovina and Republika Srpska should engage to help improve the situation and share more equally the responsibility for hosting migrants and asylum seekers. Finding it regrettable that Republika Srpska and several cantons in the Federation had refused thus far to take responsibility, the Commissioner called on them to do their part too.

Expressing grave concern about information indicative of violent push-backs by Croatian law enforcement officials that she had consistently received from a variety of interlocutors, the Commissioner particularly highlighted the alarming reports of migrants being beaten and stripped of their belongings, including their shoes, and forced to walk across rough terrain to return to Bosnia and Herzegovina. She stressed that push-backs constitute a violation of the European Convention on Human Rights and prevent migrants from benefitting from other legal guarantees firmly established in international law, in particular the right to seek and enjoy asylum, the protection of life, and the prohibition of torture and of collective expulsion.

The Commissioner noted that following her visit the authorities relocated the migrants from Vučjak and closed the camp. She welcomed this development in a [statement](#) published on 11 December.

## 1.2 Missions

### ***Contact mission to the Russian Federation***

From 1 to 5 April the Commissioner carried out a contact mission to the Russian Federation to engage in a substantive dialogue with the Russian authorities with a view to preparing the ground for a subsequent country visit. During the mission the Commissioner focused on various human rights issues, including violence against women, the situation of human rights defenders, and freedom of expression. The Commissioner's interlocutors included the Minister of Justice, Alexander Konovalov; the First Deputy Minister of Interior, Igor Zubov; the First Deputy Minister of Labour and Social Protection, Alexey Vovchenko; and the Deputy Minister of Foreign Affairs, Sergey Vershinin. She also held meetings with the High Commissioner for Human Rights, Tatiana Moskalkova; and the Chairman of the Council on the Development of Civil Society and Human Rights under the President of the Russian Federation (the Human Rights Council), Mikhail Fedotov. Meetings were also held with representatives of civil society and human rights defenders. While in Moscow, the Commissioner was shown some of the cells in the Federal-Purpose Pre-trial establishment (SIZO) No. 2 (Lefortovo). She met certain inmates, including three of the Ukrainian sailors seized during the November 2018 Kerch Strait incident, as well as Viktor Kudryavtsev, a 75-year old Russian physicist held on charges of alleged treason since July 2018, who had various health problems and was in a weakened state.

### ***Mission to Ireland***

On 29-30 May, the Commissioner went to Dublin to address the High-Level Forum "Ireland and the Council of Europe: 70 Years of Human Rights – the challenges and the future". In her opening statement, the Commissioner highlighted Ireland's role as a founding member of the Council of Europe in placing from the outset human rights at the heart of the Organisation's activities. She also outlined the current human rights challenges in Europe. During her mission, the Commissioner held talks on topical human rights issues with the President of Ireland, Michael D. Higgins; the Deputy Prime Minister and Minister for Foreign Affairs and Trade, Simon Coveney; the Minister for Justice and Equality, Charles Flanagan; the Minister for Health, Simon Harris; and the Minister of State for Equality, Immigration and Integration, David Stanton. In addition, she met with representatives of civil society and human rights defenders.

### ***Mission to The Netherlands***

On 19 and 20 September, the Commissioner carried out a mission to the Netherlands with the main aim of delivering the Peter Baehr lecture 2019, organised by the National Institute for Human Rights (SIM) of Utrecht University, under

the title 'From hostility to reconnection: how to make human rights relevant for all'. Ahead of the lecture, the Commissioner had meetings with the Vice Prime Minister and Minister of Interior and Kingdom Relations, Kajsja Ollongren; the State Secretary of Interior and Kingdom Relations, Raymond Knops; the Minister Plenipotentiary of Curaçao, Anthony Begina; the Minister Plenipotentiary of Aruba, Guillfred Besaril; and the Minister Plenipotentiary of Sint Maarten, Jorien Wuite. She also held discussions with representatives of the National Ombudsman, the Children's Ombudsman, the Netherlands Institute for Human Rights, the Law Enforcement Council, the Advisory Council on International Affairs, and the Advisory Committee on Migration Affairs.

### 1.3 Continuous dialogue

#### 1.3.1 Reports from the 2018 visits

During 2019 the Commissioner also published reports from country visits carried out in the second half of 2018. An overview of the main analyses and recommendations are presented below.

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

On 29 January, the Commissioner published a [report](#) following her visit to Armenia from 16 to 20 September 2018, which focused on women's rights, gender equality and domestic violence; the human rights of disadvantaged or vulnerable groups; and accountability for past human rights violations.

Finding that women in Armenia continued to be significantly underrepresented in public decision-making, the Commissioner stressed the need to ensure their full and effective participation and equal opportunities for leadership at all levels of public life, as well as equal pay and equal access to the labour market. The need to combat persisting discriminatory gender stereotypes and to promote gender equality, including through education, was also highlighted.

While welcoming the major improvements made to Armenia's legislation and stressing the need for their effective practical application, the Commissioner paid special attention to the availability of shelters for victims and to ensuring access to education for children staying in such shelters. Furthermore, she recommended the ratification the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

When it comes to the de-institutionalisation of persons with disabilities and their full inclusion in the decision-making processes that concern them, the Commissioner recommended that Armenia abolish plenary guardianship for persons with psycho-social disabilities and move from a substituted to a supported decision-making model. Noting Armenia's commendable goal of making all education fully inclusive by 2025, the Commissioner recommended that this policy be pursued also at the pre-school level.

While expressing deep concern about the effects of poverty on children and the placement of children from families with socio-economic difficulties in state care, the Commissioner urged the authorities to strengthen their efforts to guarantee an adequate standard of living to all children, including by allocating sufficient resources for parents resuming care, and through the promotion of foster care. The authorities were also encouraged to ratify the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention), which the country signed in 2010.

Finding the level of social protection afforded to older persons in Armenia inadequate, the Commissioner recommended raising the overall level of old age pensions, increasing the availability of primary and specialised health care, and tackling the shortage of geriatric services.

The Commissioner urged the authorities to adopt comprehensive anti-discrimination legislation with a clear reference to sexual orientation and gender identity, as well as to unequivocally reject initiatives infringing on the rights of LGBTI persons and to take prompt and resolute action against all instances of violence, hate speech and hate crime targeting LGBTI persons.

Regarding accountability for the deaths that occurred during the violent events of March 2008, the Commissioner stressed that the process of establishing truth and prosecuting those responsible for serious human rights violations should be carried out in strict adherence to the principles of the rule of law, judicial independence, transparency, and guarantees of a fair trial. She further encouraged politicians and opinion-makers to avoid using polarising, stigmatising or inflammatory language in their public discourse.

### ***Report on Romania***

On 28 February, the Commissioner published a [report](#) following her visit to Romania from 12 to 16 November 2018. The report focused on the human rights of persons with disabilities; violence against women; and the ongoing reform of the judiciary and of criminal legislation.

While noting certain advancements, the Commissioner stressed that there were systemic obstacles which hindered the effective protection of the rights of persons with disabilities in Romania. She regretted the poor financing of the social care system for these persons and urged the authorities to clarify the mandates of responsible institutions, strengthen monitoring, and reinforce their collaboration with NGOs. The Commissioner called for the repeal of the legislation allowing the involuntary placement of persons with disabilities in closed institutions and for urgent measures to mitigate the most severe violations caused by such placements. She recommended that the authorities develop community-based support services, increase the accessibility of public spaces and services and promote a more inclusive labour market. The Commissioner also stressed the need to provide children with care in families, to prevent their discrimination, and to protect them from any form of violence or abuse. Moreover, she urged the authorities to safeguard the right of persons with disabilities to enjoy legal capacity on an equal basis with others in all aspects of life.

The Commissioner called on the authorities to demonstrate stronger commitment to protecting women from violence. She underlined the need for improved data collection, proper allocation of resources to the competent agencies and authorities, and increased co-operation between institutions and with civil society. The Commissioner urged the authorities to develop the network of shelters for victims of domestic violence, to ensure the systematic enforcement of protection orders and to improve access to justice for women victims of domestic violence, including through enhanced capacity-building.

Furthermore, the Commissioner stressed the need to implement the judgments of the European Court of Human rights related to the protection of the human rights of persons with disabilities and victims of domestic violence.

Lastly, the Commissioner highlighted the importance of maintaining the independence of the judiciary and urged the authorities to give effect to the recommendations of the Venice Commission and GRECO and to carry out the justice and criminal law reforms in full compliance with Council of Europe and international human rights standards.

### **1.3.2 Letters**

#### ***Letter to the Prime Minister and the Minister of Education, Youth and Sports of the Czech Republic on inclusive education***

On 15 January, the Commissioner published her [letter](#) to the Czech Prime Minister and Minister of Education, Youth and Sports regarding the proposed changes to Decree 27/2016 Coll. on the education of pupils with special education needs. The Commissioner expressed concern that some of the changes foreseen could have a negative impact on the right of all children, including Roma children and children with disabilities, to inclusive education. She called on the Government to ensure that changes made to the Decree would not jeopardise this right and highlighted that schools should not be left in any doubt that inclusion in mainstream education should be prioritised.



***Letter to the Convener of the Equalities and Human Rights Committee of the Scottish Parliament on the age of criminal responsibility***

On 16 January, the Commissioner published her [letter](#) to the Convener of the Scottish Parliament's Equalities and Human Rights Committee regarding the Age of Criminal Responsibility (Scotland) Bill. In her letter, the Commissioner provided clarification of her earlier call to increase the age of criminal responsibility to 14 at least, but preferably higher, rather than to 12 as proposed by the Government. She noted that, despite the specific features of the Scottish system of dealing with children who come into conflict with the law, international human rights standards on the age of criminal responsibility are developed to provide minimum safeguards regardless of member states' diversity of laws, policies and practices. The Commissioner reiterated that setting the age of criminal responsibility at 14 as an absolute minimum, but with a higher age being preferable, would exclude a larger group of children from being dealt with as offenders in the Scottish system, which would help further strengthen the system's focus on protecting vulnerable children who engage in harmful behaviour.

***Letter to the Prime Minister of Italy on human rights of refugees, asylum seekers and migrants***

On 7 February, the Commissioner published a [letter](#) addressed to the Prime Minister of Italy, in which she raised concerns about the negative consequences that the Decree-Law on International Protection, Immigration and Public Security may have on the human rights of asylum seekers and beneficiaries of protection, including persons who have been granted humanitarian protection. She sought clarifications on measures to ensure the continuity of access to reception and essential services. In particular, the Commissioner regretted the apparent hastiness with which people were transferred from the asylum seekers reception centre in Castelnuovo di Porto (Rome) in view of its closure and expressed concerns at the disruption of the commendable efforts put in place at the local level for the integration and rehabilitation of the centre's residents. Furthermore, while acknowledging Italy's role in the past in saving lives at sea and receiving asylum seekers and migrants arriving at its shores, the Commissioner was deeply concerned about recent measures hampering and criminalising the work of NGOs and relinquishing responsibility for search and rescue operations to authorities which appear unwilling or unable to protect rescued migrants from torture or inhuman or degrading treatment. In this respect, she urged the Italian government to ensure that the human rights of persons rescued at sea are never put at risk because of current disagreements between member states about disembarkation, and that humanitarian considerations always take priority.

***Letter to the Minister of Justice of Serbia concerning life imprisonment***

On 17 May, the Commissioner published a [letter](#) addressed to the Minister of Justice of Serbia, in which she called on the authorities to reconsider draft legislation introducing the sentence of life imprisonment without the possibility of a review for persons convicted of some of the gravest crimes. She recalled that for a life sentence to be compatible with Article 3 of the European Convention on Human Rights, which is binding on Serbia, it must be reducible; in other words, there has to be a prospect of the prisoner's release and the possibility of a review of the sentence. The Commissioner also raised concerns about the authorities' decision not to hold a public debate regarding the draft legislation and encouraged them to do so. Despite the Commissioner's letter, the Serbian parliament adopted the aforementioned legislation on 21 May.

***Letter to the Chairwoman of the Committee on Internal Affairs and Community of the Parliament of Germany on the bill "Geordnete-Rückkehr-Gesetz"***

On 23 May, the Commissioner published a [letter](#) addressed to the Chairwoman of the Committee on Internal Affairs and Community of the Parliament of Germany (*Bundestag*), Andrea Lindholz, in which she raised concerns about some aspects of the bill that aims at facilitating removals of people obliged to leave the country ("*Geordnete-Rückkehr-Gesetz*"). In the letter, the Commissioner expressed concerns about the measure that classifies information relating to the practical steps leading to a removal as state secrets, because this may result in members of civil society and NGOs being prosecuted for aiding or abetting the disclosure of confidential information. The Commissioner notably underscored that this provision could have an impact on freedom of expression, had the potential to criminalise NGOs' activities, and could create a chilling effect on freedom of information for the concerned organisations. Therefore, she called on the Parliament to refrain from taking any measures criminalising,

stigmatising or putting at any disadvantage individuals and NGOs providing humanitarian assistance to, and defending the rights of, refugees, asylum seekers and migrants, and to restore an enabling environment conducive to their work. In this context, the Commissioner underlined that information regarding the timing of a removal is an essential element for ensuring that the rights of persons concerned are adequately protected. In addition, the Commissioner expressed concerns about the fact that the bill expands the grounds for detention of migrants pending expulsion, instead of developing alternative measures to detention.

***Letter to the Marshal of the Senate of Poland concerning amendments to the Criminal Code***

On 27 May, the Commissioner published her [letter](#) addressed to Stanisław Karczewski, the Marshal (Speaker) of the Senate of Poland, raising concerns on a proposed set of amendments to Poland’s Criminal Code which deprive certain categories of life prisoners of eligibility for conditional release. While recognising member states’ duty to protect members of the public from violent crime, the Commissioner pointed out that the proposed amendments ran afoul of the case-law of the European Court of Human Rights, which requires that life prisoners be afforded a prospect - even if it is tenuous or distant - of an eventual release, as well as the possibility of a review of their sentence. The Commissioner moreover criticised the hurried enactment of the legislation in question, and called for a broader public debate to carefully assess its impact and compatibility with Council of Europe standards. In a statement which accompanied the publication of the letter, the Commissioner regretted that, despite her concerns, the Polish Parliament had adopted the amendments. However, she noted that the President of the Republic had referred them for review by the Constitutional Tribunal.

***Letter to the Minister of Interior of the Russian Federation concerning the policing of demonstrations in Moscow***

On 2 August, the Commissioner addressed a [letter](#) to Vladimir Kolokoltsev, Minister of Interior of the Russian Federation, in relation to the policing of protests in Moscow on 27 July. In her letter, the Commissioner expressed concern about the use of force by law enforcement agencies during the dispersal of the largely peaceful protests, as a result of which dozens of protesters had sustained injuries. Referring to accounts by members of the Human Rights Council who had personally witnessed “unfounded apprehensions” of peaceful protesters, she noted with concern that law enforcement officers had apprehended well over a thousand persons, including journalists and minors. The Commissioner further stressed that some of persons detained in police stations after the rally had not been provided with basic necessities, including water, hygiene items or a place to sleep, and that lawyers had been prevented from accessing and extending legal assistance to them. In her letter, the Commissioner recommended that the Russian authorities review the methods and criteria allowing law enforcement agents to identify and apprehend individuals in the context of peaceful assemblies and align them with applicable human rights standards. The Commissioner further requested information about any proceedings initiated against law enforcement officials related to ill-treatment and the excessive use of force, and urged the Russian authorities to render possible the clear identification of law enforcement officials policing public gatherings.

***Letter to the Prime Minister of Malta, regarding the pending posthumous defamation lawsuits against the family of Daphne Caruana Galizia***

On 19 September, the Commissioner published a [letter](#) addressed to Joseph Muscat, the Prime Minister of Malta, in which she called on the Maltese authorities to withdraw the pending posthumous defamation lawsuits against the family of Daphne Caruana Galizia. She stressed that the continuation of the lawsuits put unjustified pressure on the family, was perceived as an intimidation against them and raised questions about the authorities’ commitment to bringing to justice those responsible for the journalist’s death. The Commissioner recommended that Maltese legislation should allow the reversal of the burden of proof in defamation cases, which currently lies with the respondents. This not only places an excessive burden on the respondents but may also amount to undue interference with the right to protection of journalistic sources. Moreover, she recommended the repeal of the provisions which allow the passing of civil defamation cases to heirs.



***Letter to the National Council of the Slovak Republic regarding a legislative proposal which would restrict access to safe and legal abortion care***

On 26 November, the Commissioner published a [letter](#) to the National Council of the Slovak Republic, expressing concern with a legislative proposal which would restrict access to safe and legal abortion care. She noted that the proposal would introduce a number of requirements running counter to the principle of non-retrogression, including subjecting women seeking an abortion to mandatory ultrasounds and requiring them to view and receive images obtained through such an ultrasound. She noted that abortion counselling should never be mandatory, biased or directive. The Commissioner further stressed that a proposed prohibition on ‘advertising’ of abortion services could prevent health care professionals from providing necessary public information on safe abortion care, and impede women’s access to freely available, evidence-based and unbiased information on their sexual and reproductive health and rights.

On 5 December, the Commissioner welcomed the rejection of the above-mentioned legislative proposal by the National Council of the Slovak Republic.

***Letter to the Prime Minister of Malta, regarding the investigation into the murder of investigative journalist Daphne Caruana Galizia***

On 29 November, the Commissioner published an exchange of [letters](#) with the Maltese government concerning the investigation into the murder of journalist Daphne Caruana Galizia. In the letter to Joseph Muscat, the Prime Minister, sent on 26 November, the Commissioner expressed concern regarding alleged political interference in the investigation and called on the Maltese government to refrain from any action which would prevent the investigation from being or from being seen as fully independent. She recalled the Council of Europe standards regarding effective investigations and stressed the need to ensure the independence of the investigation in order to bring justice to the journalist’s family and to Maltese society as a whole.

***Letter to the Chairman of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina***

On 29 November, the Commissioner published a [letter](#) addressed to Mirsad Zaimović, the Chairman of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina, in advance of a thematic parliamentary debate on 4 December concerning the situation in several institutions for social care. The Commissioner’s letter and the debate were prompted by the revelation of physical and psychological abuse of children in the Pazarić Institution for the Care of Children and Youth with Mental Disabilities, in relation to which the Commissioner had published a statement urging the authorities to investigate the matter. In her letter, the Commissioner called on the Parliament to develop concrete proposals for the deinstitutionalisation of children with disabilities. In this respect, the Commissioner stressed the need to use resources to provide families of children with disabilities with the necessary services and support to ensure that they can be brought up in a family setting, rather than allocating funds to renovate or extend existing institutions. The Commissioner also expressed concern about the climate of hostility towards the member of Parliament who had published the information and video material about the treatment of children in the “Pazarić” institution and the whistle-blowers who had provided those materials. Recalling applicable international standards, the Commissioner urged the House of Representatives to send a strong message that retaliation against whistle-blowers would not be tolerated.

***Letter to the Minister of Citizen Protection and the Alternate Minister for Migration Policy of Greece***

On 3 December, the Commissioner published a [letter](#) she addressed to the Minister of Citizen Protection of Greece, Michalis Chrysochoidis, and the Alternate Minister for Migration Policy of Greece, Giorgos Koumoutsakos, concerning the Greek government’s plans to transfer migrants from the Aegean islands to the mainland and set up closed reception centres on those islands. The Commissioner requested information, *inter alia*, about the deprivation of liberty regime that would be applicable to the new facilities, the safeguards that the Greek government intended to put in place in order to ensure that detention would be used as a measure of last resort

and details about the government's plans as regards alternatives to detention on the islands, notably for vulnerable people, including children.

## 2 THEMATIC ACTIVITIES

### Introduction

In 2019, the Commissioner covered a wide range of human rights themes. Particular attention was paid to the human rights of immigrants, asylum seekers and refugees; media freedom and the safety of journalists; and women's rights and gender equality. The Commissioner continued to highlight children's rights; the human rights of people with disabilities, LGBTI persons and Roma; and transitional justice, notably in the Western Balkans. Artificial intelligence and human rights, counter-terrorism and human rights protection and racism and intolerance were also among the major concerns.

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

In 2019, the Commissioner made numerous country-specific interventions on the rights of refugees, asylum seekers and migrants, including a country visit and subsequent publication of a report on Hungary; visits to Greece and Bosnia and Herzegovina specifically dedicated to the migration situation in those countries; letters to Germany, Greece and Italy; a statement on Bosnia and Herzegovina; and three third-party interventions before the European Court of Human Rights, details of which are provided elsewhere in the report.

Thematically, a key area of work was the protection of the rights of refugees and migrants in the Mediterranean. On 27 March, the Commissioner made a statement calling on member states to increase rescue capacity in the Mediterranean, to refrain from hindering and criminalising NGOs working on search and rescue, to enhance transparency and accountability for third-country co-operation, and to suspend support to the Libyan Coast Guard if they could not show that such support was not contributing to human rights violations. On 18 June, the Commissioner published her Recommendation 'Lives saved. Rights protected. Bridging the protection gap for refugees and migrants in the Mediterranean'. She presented 35 specific recommendations in relation to key areas of rights protection: effective search and rescue; safe and timely disembarkation; co-operation with NGOs; co-operation with third countries; and safe and legal routes. On 7 October, the Commissioner again made a statement, welcoming efforts to enhance responsibility sharing for rescued migrants and encouraging member states to participate in this. She also warned that any disembarkation and relocation mechanism should not result in the expansion of member states' actions leading to the return of people rescued at sea to places where they would face serious human rights violations.

Aside from the situation in the Mediterranean, the Commissioner engaged on other areas related to the theme of asylum and migration. On 6 March, during her mission to Geneva, the Commissioner delivered a speech to the Global Network of National Human Rights Institutions (GANNHRI), in which she addressed the role NHRIs could have in the area of migration. She noted the need for NHRIs to tackle head-on blatant violations of rights, such as push-backs, ill-treatment or long-term detention in bad conditions. She also called for NHRIs to make contributions to political and public debates on migration, to use their role as a bridge between civil society and governments to enable migrants' voices to be heard in decisions that affect them, and to advocate for better transparency and accountability in migration policy.

On 12 September, the Commissioner published a Human Rights Comment on the protection of people on the move from human trafficking and exploitation. In this Comment, she noted the need to take action against human trafficking, but also to consider closely the impact that current migration policies are having on the prevention of trafficking, the identification of victims, and assistance to such victims, including at Europe's external borders.

## 2.2 Media freedom and safety of journalists

In 2019, the Commissioner looked into freedom of expression issues during her visits to Azerbaijan and Bulgaria. The situation of journalists and media freedom was a specific focus of the Commissioner's work, in particular concerning Malta after the murder there of Daphne Caruana Galizia, a prominent investigative journalist, two years ago. On 19 September, the Commissioner published a letter addressed to the Prime Minister of Malta, Joseph Muscat, in which she called on the Maltese authorities to withdraw the pending posthumous defamation lawsuits against the family of Daphne Caruana Galizia. On 16 October, the Commissioner published a joint statement together with Harlem Désir, OSCE Representative on Freedom of the Media, David Kaye, UN Special Rapporteur on the Right to Freedom of Opinion and Expression, and Agnes Callamard, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, urging the Government of Malta to ensure that investigations into the murder of Daphne Caruana Galizia are conducted in a prompt, effective, independent and impartial manner. Finally, in a letter to the Prime Minister sent on 26 November, the Commissioner expressed concern regarding alleged political interference in these investigations and called on the Maltese government to refrain from any action which would prevent the investigations from being or from being seen as fully independent. The Commissioner also made a statement on 21 February regarding the murder of journalist Ján Kuciak and his fiancée Martina Kušnírová, which had taken place one year previously, and expressed her shock at the killing of journalist Lyra McKee in Northern Ireland on 18 April, emphasising that a swift and effective investigation to identify the perpetrators was crucial.

On 2 May, ahead of World Press Freedom Day, the Commissioner called for greater political commitment to protecting press freedom. She highlighted the alarming state of journalists' freedom and safety in Europe and underscored that protecting the press is essential to safeguarding everyone's freedoms and rights.

In addition, the Commissioner published a joint statement together with the OSCE Representative on Freedom of the Media, Harlem Désir, on the safety of female journalists online and a third-party intervention before the European Court of Human Rights on internet blocking in Turkey (*case of Wikimedia Foundation, INC. v. Turkey*). She commented on media freedom issues in statements regarding the case of Mehman Huseynov in Azerbaijan, the new bill on foreign agents in Russia and two draft laws on online media, known as the 'Anti-Defamation Package' in Albania, as well as in letters addressed to Tatiana Moskalkova, High Commissioner for Human Rights in the Russian Federation (Federal Ombudsman), concerning the situation of Svetlana Prokopyeva, a freelance journalist who is a suspect in a criminal investigation for alleged "justification of terrorism".

The Commissioner also raised the issue of excessive use of force by law enforcement officers against journalists covering demonstrations in a Memorandum on maintaining public order and freedom of assembly in the context of the "yellow vests" movement in France as well as in statements following demonstrations in Russia, Azerbaijan and Spain.

## 2.3 Freedom of peaceful assembly

Responding to the intensification of protests across Europe over the last years, in 2019 the Commissioner devoted particular attention to freedom of peaceful assembly. She carefully followed developments in several member states (including Azerbaijan, Bosnia and Herzegovina, Croatia, France, Georgia, the Russian Federation, Spain and Turkey) and expressed concerns about infringements to this right in reports, thematic documents and statements.

In particular, on 9 December, ahead of International Human Rights Day, the Commissioner published a Human Rights Comment on the right to peaceful assembly, in which she noted that faced with the multiplication of protests, the authorities in several countries had taken legal and other measures that tended to erode this right. She recalled that restrictions to this right cannot in principle be based on the substance of the message of the protests, citing as examples bans or obstacles to Pride marches and other demonstrations in favour of the rights of LGBTI persons in several countries. She also expressed concerns at the harsh criminal sanctions imposed on organisers and participants of demonstrations, which have a chilling effect on the exercise of the right to peaceful assembly. The misuse of the requirement to notify assemblies, which often leads to their banning or dispersion and the sanctioning of organisers and participants was also of concern, as was the adoption in several countries of laws that could lead to disproportionate restrictions of this right. Lastly, while acknowledging that policing of assemblies was in many

places increasingly challenging, she insisted on the need to apply human rights compliant approaches in this area, to carefully assess the use of certain less-lethal weapons, and to apply a policy of zero tolerance in cases of excessive use of force by police officers in this context. Stressing the fundamental importance of the right to peaceful assembly for the good health of democratic societies, she concluded that repressing them meant limiting democratic space and the resilience of societies to deal with problems.

## 2.4 Women's rights and gender equality

In 2019, women's rights and gender equality featured prominently in the Commissioner's country work, with these issues having been selected as topics during her visits to Bulgaria, Hungary and Poland and her contact mission to the Russian Federation, and examined in her visit reports on Armenia and Romania. This work mainly focused on combating violence against women and promoting the ratification and/or full implementation of the Istanbul Convention. Other issues addressed in the context of the Commissioner's country work included the participation of women in decision-making in all sectors, equal pay and equal access to employment, the need to tackle gender stereotypes and sexism, and women's access to their reproductive rights. In particular, on 26 November, the Commissioner published a letter to the Slovak parliament, expressing concern about a legislative proposal which would restrict access to safe and legal abortion care (see "continuous dialogue").

On 12 February, the Commissioner opened the Safety of Female Journalists Online (#SOFJO) conference: *Increasing Opportunities for Freedom of Expression and Media Plurality* in Vienna. At the end of the Conference, she published a joint statement together with the OSCE Representative on Freedom of the Media emphasising the importance of adopting a gender sensitive approach to policy developments and challenges in order to ensure the full participation of women online.

In her message to mark International Women's Day on 8 March, the Commissioner stressed the need to stand up for women's sexual and reproductive health and rights, urging all governments to uphold women's right to self-determination about their sexual and reproductive health, and to ensure women's effective access to health care facilities, goods, services and information.

On 23 May, the Commissioner held an exchange of views with the Council of Europe Gender Equality Commission in Strasbourg where she highlighted the issue of artificial intelligence and its implications for gender equality. The following day, she addressed the conference "Women's rights at the crossroads: strengthening international co-operation to close the gap between legal frameworks and their implementation" in Strasbourg, organised by the Council of Europe in co-operation with the office of the UN Special Rapporteur on Violence against Women and with the French Presidency of the Committee of Ministers.

On 22 October, the Commissioner welcomed the decriminalisation of abortion and the introduction of same-sex marriage in Northern Ireland.

On 22 November, ahead of the International Day for the Elimination of Violence against Women, the Commissioner issued a statement ("Speak up against sexist hate speech") urging states to tackle sexist hate speech in order to prevent and combat gender-based violence against women effectively.

## 2.5 Children's rights

In 2019, the Commissioner dealt with several aspects of children's rights, both in her country work and thematically. One theme that featured prominently was the situation of children of foreign fighters who are nationals of Council of Europe member states and are stranded in the camps of Northern Syria. In May, the Commissioner issued a call urging member states to take measures to urgently repatriate these children and ensure that they receive protection and care by treating them first and foremost as victims. She added that member states should consider repatriating the children's mothers as well, in order to safeguard these children's best interests. This topic was discussed in detail during the September consultation meeting on the human rights aspects of the return of foreign fighters and their families to Council of Europe member states (Paris, September 2019, see section on protecting human rights while countering terrorism).

In the context of her country work, the Commissioner addressed several important questions, including the problem of school segregation, affecting mostly Roma children and children with disabilities (letter to the Czech authorities and report on Armenia), the minimum age of criminal responsibilities, including a call for it to be raised to 14 years in line with the recommendations of the UN Committee on the Rights of the Child (letter to the Scottish Parliament) and the need to pursue deinstitutionalisation policies, notably for children with disabilities, and to provide them with family-type accommodation (reports on Armenia and Romania). The Commissioner also raised the alarm about the situation of migrant and refugee children, in particular those who are unaccompanied, during her mission to Greece in October 2019.

At meetings with key players in the field of children's rights, including the President and Bureau of the European Network of Ombudspersons for Children (ENOC) and the newly appointed UN Special Representative on Violence against Children, Maalla M'jid, the Commissioner discussed, in addition to many of the aforementioned topics, children's rights in the digital environment, access to mental health care for children and, more generally, the human rights of children with disabilities and child poverty.

On 3 October, the Commissioner welcomed the adoption by the Scottish Parliament of a law giving children equal protection from assault, calling it a good step towards the full realisation of children's rights in the country.

On 13 November, Commissioner Mijatović took part in the opening session of the international conference on children's rights, held in Strasbourg in the framework of the French Presidency of the Committee of Ministers. She highlighted the lack of protection provided to migrant and refugee children, the need to repatriate children born to foreign fighters stranded in the North of Syria, attempts to backtrack on children's rights, and opportunities and threats facing children in the digital world. Lastly, in a statement issued on the occasion of World Children's Day (20 November), the Commissioner recalled that safeguarding children's rights was not an option, but a legal and moral obligation. While stressing the substantial progress achieved in protecting children's rights since the adoption, in 1989, of the International Convention on the Rights of the Child, she underlined that progress was still needed in many areas, in particular regarding the need for more effective remedies against violations of children's rights, for better taking account of children's own views, and for the full incorporation of the convention into domestic legislation.

## 2.6 Human rights of persons with disabilities

The human rights of persons with disabilities continued to feature prominently in the Commissioner's work in 2019. Taking as a core reference point the UN Convention on the Rights of Persons with Disabilities (CRPD), currently ratified by 46 member states, the Commissioner addressed issues concerning the rights of persons with disabilities in her reports on Armenia and Romania, particularly the right to live in the community, including the need to close institutions, the right to legal capacity for persons with intellectual and psychosocial disabilities, and issues concerning accessibility and inclusion in the labour market. She focused especially on the situation of children with disabilities, addressing their right to inclusive education (in the aforementioned reports and in the letter to the Czech authorities) and the need to ensure that all children are brought up in a family setting and not in social care institutions (letter to the Parliament of Bosnia and Herzegovina).

The Commissioner also raised a number of concerns relating to the human rights of persons with psychosocial disabilities, emphasising the need to put an end to coercive practices in psychiatry. On this subject, she addressed the Parliamentary Assembly on the occasion of a plenary debate entitled "Ending coercion in mental health: the need for a human rights-based approach" on 26 June. The Commissioner welcomed the report at the origin of the debate and the corresponding draft Resolution and draft Recommendation, which were subsequently adopted unanimously. She stressed that her experience as Commissioner for Human Rights confirmed many of the findings in the Report, especially regarding the negative effects of the use of coercion in the mental health system on the enjoyment of human rights and reiterated her call for urgent reforms to the mental health systems in Council of Europe member states to reduce and end coercion.

On this occasion, the Commissioner also reaffirmed her concerns regarding the on-going preparation by the Council of Europe Committee on Bioethics (DH-BIO) of a draft Additional Protocol to the Convention on Human Rights and

Biomedicine “concerning the Protection of Human Rights and Dignity of Persons with Mental Disorder with regard to Involuntary Placement and Involuntary Treatment”. Highlighting the contribution of the CRPD to this debate, she stated that the Council of Europe should redirect its efforts from developing standards that might be in contradiction with this treaty towards developing guidelines on ending coercion in mental health. In this connection, the Commissioner welcomed a new project launched by the DH-BIO to embark on a study on good practices in mental health care and how to promote voluntary measures. She ensured that her Office was represented on the occasion of a round table organised by the Secretariat of the DH-BIO in Brussels on 26 November to refine the scope and methodology of this study, in order to convey her hope that this study will contribute to providing guidance to Council of Europe member states on how they should transform their mental health systems in the light of the principles set out in the CRPD.

## 2.7 Human rights of LGBTI people

In 2019, the Commissioner continued her work to advance equal human rights for Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) people. The focus this year on some of the most basic rights, such as the right not to be subjected to violence and hate speech, the right of human rights defenders to pursue their activities safely, and the rights to freedom of expression and association, was a reflection of a worrying backlash against LGBTI people and their rights in Europe.

The Commissioner examined the situation of LGBTI people in several country situations. She published a report following her 2018 visit to Armenia, in which she recommended the prompt adoption of comprehensive anti-discrimination legislation with a clear reference to sexual orientation and gender identity and called on the authorities to take resolute action against all instances of violence, hate speech and hate crime targeting LGBTI people. She examined the situation of LGBTI human rights defenders in Hungary and Turkey, and hate speech and intolerance against LGBTI people during her visit to Bulgaria. At the end of her visit to Poland in March, she expressed concern about negative and inflammatory statements by high-ranking officials against LGBTI people. The human rights of LGBTI people were also discussed in the course of the June roundtable held by the Commissioner with human rights defenders who work in conflict-affected settings.

The Commissioner welcomed the adoption by the World Health Organisation of a new International Classification of Diseases in which variations of gender identity are no longer listed as a mental illness, noting that the pathologisation of trans people has long served to justify violations of their human rights. She nevertheless regretted that no progress had been made concerning the pathologisation of intersex people.

The Commissioner defended the fundamental right of LGBTI people to freedom of expression, notably through the organisation of Pride marches. She issued statements in support of the first trans and intersex Balkan March in Zagreb and of the Europride in Vienna. The Commissioner expressed concerns about hostility, threats and attempts to hinder Pride Marches in Sarajevo, Bosnia and Herzegovina, and Tbilisi, Georgia. She welcomed the fact that first-ever Pride Marches took place safely in Sarajevo and in Skopje, North Macedonia. The Commissioner noted with regret that some Pride Marches continued to be banned, for example in Turkey, and that others were marked by violent attacks from far-right militants, for example in Poland.

Supporting the work of LGBTI human rights defenders was an important priority for the Commissioner this year. She met with LGBTI activists in the course of several country visits, as mentioned above, but also in Strasbourg. In February, the Commissioner issued a statement calling on the Russian authorities to ensure the safety of Igor Kochetkov of the Russian LGBT Network and investigate threats against him, which occurred after his organisation spoke out about the continuing persecution of LGBTI people in Chechnya. This year’s statement by the Commissioner on the International Day against Homophobia, Biphobia and Transphobia (IDAHOBIT) was dedicated to the important contribution of LGBTI human rights defenders, calling on Council of Europe member states to facilitate their courageous work and ensure their protection. The Commissioner gave the keynote speech at the ILGA-Europe annual conference in Prague, assuring the approximately 600 activists in attendance of her resolve to continue promoting equal rights for all. On this occasion, she held several bilateral meetings with LGBTI defenders.



## 2.8 Human rights of Roma and Travellers

In 2019, the Commissioner's action regarding the rights of Roma and Travellers focused on the need to substantially step up efforts to combat racism and discrimination against them.

In March, the Commissioner gave an introductory speech at a conference ("Creating trust through uncovering and recognising the truth: advancing recognition and remedy for antigypsyism") jointly organised by the then MEP Soraya Post (Sweden), the UN Office of the High Commissioner for Human Rights and several NGOs as part of the annual European Parliament Roma Week with the aim of taking stock of efforts to advance the fight against antigypsyism at EU and member state level by means of truth and reconciliation processes. The Commissioner highlighted the continuity between past and present human rights violations against Roma and the need to break this vicious circle. She stressed the important role that truth and reconciliation processes can play in providing remedy for past injustices and in promoting reconciliation, including as regards Roma history.

The Commissioner reiterated her call for more action to combat anti-Gypsyism in a Human Rights Comment published in April ("European states must demonstrate resolve for lasting and concrete change for Roma people"), on the occasion of the International Roma Day. She highlighted that the lack of substantial and lasting change in the daily lives of Roma across Europe was largely due to insufficient commitment to combating racism and discrimination against them, and that anti-Gypsyism formed the bedrock for the persisting human rights abuses they faced. She called on member states to significantly step up action and provided a list of concrete measures that should be implemented, from reinforcing the capacity of equality bodies to deal with discrimination against Roma, to more effective desegregation policies in areas such as education, housing and health care.

On 1 August, the Commissioner published an opinion article in *OpenDemocracy* entitled "Drawing the right lessons from the Roma Holocaust", on the eve of the 75th commemoration of the Roma genocide perpetrated during the Second World War. She stressed the relevance of this commemoration in view of the prevailing climate of rejection and simmering violence against Roma, which often takes the form of hostile demonstrations and collective attacks against Roma. She called for a more responsible political debate and stressed that Roma should not be used as scapegoats to attract votes or divert people's attention from other issues. She also urged the authorities to step up action in the field of education and access to housing and, again, recommended the setting-up of truth and reconciliation commissions.

In November, the human rights of Roma were among the priority issues for the Commissioner's visit to Bulgaria. She expressed particular concern about hate speech against Roma and forced evictions following hostile demonstrations.

## 2.9 Rights of persons belonging to national minorities

During 2019, the Commissioner addressed concerns regarding the rights of persons belonging to national minorities on several occasions. At an exchange of views with the Advisory Committee on the Framework Convention for the Protection of National Minorities in June, she highlighted her work concerning the use of languages and the linguistic rights of persons belonging to minorities, the human rights of Roma, transitional justice and school segregation. Challenges to which persons belonging to national minorities, including Roma, are confronted were also debated at the June round-table discussion with defenders working to protect human rights in conflict-affected settings.

On 29 October, the Commissioner published a Human Rights Comment on language laws and policies, which stressed the need for these to be carefully balanced with a view to accommodating diversity, protecting minority rights and defusing tensions in society. Referring in particular to laws and policies aimed at strengthening the state or official language, she underlined that while these constituted legitimate objectives of state policy, they should not be pursued at the expense of the rights of speakers of other languages, especially those belonging to national minorities, nor should they exacerbate existing cleavages. She called on member states to devise policies on languages based on inclusive and pragmatic approaches and effective interaction with civil society organisations. She also called for more action to combat discrimination based on ethnic or national origin and on language, and for using incentives rather than sanctions when implementing laws and policies aimed at strengthening the state

language. Lastly, the Commissioner urged states to promote plurilingual education as a tool to strengthen social cohesion and prevent future conflicts.

## 2.10 Combating racism and intolerance

The topic of racism and intolerance featured prominently in the Commissioner's work in 2019. Throughout the year, the Commissioner addressed issues concerning antisemitism, Islamophobia and xenophobia and drew attention to the dangers of hate speech, revisionism, and exacerbated nationalism.

In reference to the International Day of Commemoration in memory of the victims of the Holocaust, on 28 January, the Commissioner issued a statement in which she urged states, international actors, academics and the media to do their utmost to counter antisemitism and xenophobia and to recommit to the values and principles born after the Holocaust. She called on state authorities to firmly condemn and prosecute antisemitic and racist acts and hate speech, urged politicians and opinion leaders to refrain from dehumanising language and actions, and stressed the role of the media in countering hate speech and promoting dialogue and remembrance. Furthermore, the Commissioner underlined the importance of education systems that teach about the past and justice and equality for all.

The Commissioner also dealt with issues concerning antisemitism, racism, xenophobia and discrimination in the framework of her country monitoring. In a Memorandum on maintaining public order and freedom of assembly in the context of the "yellow vests" movement in France, published on 26 February, she condemned the racist, antisemitic and homophobic manifestations which have been reported during or in connection with the demonstrations. In the report on her visit to Hungary in February, published on 21 May, the Commissioner expressed concern that the anti-immigrant stance adopted by the Hungarian government was fuelling xenophobic attitudes, fear and hatred among the population. While these attitudes primarily affect Muslims, the Commissioner noted that the government's rhetoric was also perceived as having the potential to ignite antisemitism. During her visit to Bulgaria from 25 to 29 November the Commissioner addressed, *inter alia*, the hate speech prevailing against Roma, LGBTI people and other minority groups and the extremist manifestations taking place in the country.

On 19 February, the Commissioner published a statement expressing her solidarity with the Jewish community and her sympathy towards the families affected by the desecration of 96 graves of the Jewish cemetery of Quatzenheim (France). While welcoming the strong reaction of the French authorities and civil society to this incident, she strongly condemned this profanation and stressed that such acts represent an attack on the principle of tolerance, which is essential in a democratic society.

On 12 April, in the context of the commemoration of the liberation of the Jasenovac concentration camp in Croatia, the Commissioner noted that denial of the Holocaust remains a serious problem and that historical revisionism should have no place in Europe today. The Commissioner warned about the disastrous consequences of unbridled nationalism and underlined that genuine social cohesion can only be achieved by actively rejecting hatred and violence (see below the section concerning transitional justice).

Furthermore, following the commemoration of the Srebrenica genocide on 11 July, the Commissioner published an op-ed in which she expressed concern about the resurgence of nationalistic movements which fuel anti-Muslim feelings and practices in Europe and about the hate incidents occurring against Roma and Jews. She noted with concern that hate speech is increasingly embraced not only by extremist groups, but also by mainstream politicians and stressed the importance of defending the values and principles of equality, respect, diversity and inclusiveness on which Europe is based.

The Commissioner also focused on some specific forms of discrimination against members of ethnic minorities and foreigners. On 9 May, the Commissioner published a Human Rights Comment entitled "Ethnic profiling: a persistent practice in Europe", in which she noted that ethnic profiling persists in a number of areas, including border checks and in the criminal justice system. Furthermore, she observed that racial and ethnic profiling is also being perpetuated by machine-learning algorithms which are increasingly used in "predictive policing". To overcome these challenges, the Commissioner recommended that member states should: collect reliable data on ethnic profiling;



clearly define and prohibit ethnic profiling in the law; circumscribe the discretionary powers of the police; avoid perpetuating prejudices in the media; regulate the use of machine-learning algorithms in police work; promote and strengthen access to remedies; and invest in public awareness and AI literacy.

On 26-27 September, the Commissioner and representatives of her Office participated in the high-level conference “On the Road to Effective Equality - New responses to racism and intolerance needed?” organised by the European Commission against Racism and Intolerance (ECRI) on the occasion of its 25th anniversary. In her speech, the Commissioner stressed that despite important advances promoted by ECRI and other human rights bodies, the struggle for a society free of racism, xenophobia, intolerance and inequality is not over, the most affected being Jews, Muslims, Roma, foreigners and LGBTI people. She underlined that the present challenge is to ensure that standards are implemented and that institutions function effectively and expressed her hope for a renewed commitment to confront prejudices and to establish societies which respect the equal dignity of all. In addition, a representative of the Commissioner’s Office addressed the issue of the human rights compliant use of artificial intelligence, as outlined in the Commissioner’s Recommendation ‘Unboxing Artificial Intelligence: 10 steps to protect Human Rights’.

### 2.11 Transitional justice and missing persons

In 2019, the Commissioner continued to stress the importance of dealing with past injustices. Remembrance of past grave human rights violations and honouring the victims’ suffering are human rights imperatives. Reckoning honestly with the past with empathy, mutual understanding and courage is essential for reconciliation between different communities, and a means to ensure that respect for human rights and the rule of law is built into the fabric of our societies.

On 12 April, the Commissioner participated in the ceremony commemorating the liberation of Jasenovac, the concentration camp run between 1941 and 1945 by the fascist Ustasha regime in Croatia. On that occasion, the Commissioner honoured the victims of the atrocities committed in Jasenovac, expressing her solidarity with all those who fight tirelessly to keep alive the memory of more than 80,000 people who were brutally killed in that terrible place and preserve their respect and dignity. In August, she published an opinion article in *OpenDemocracy* entitled “Drawing the right lessons from the Roma Holocaust” on the occasion of the 75<sup>th</sup> commemoration of the Roma genocide perpetrated during the Second World War. In it, she stressed the significance of this commemoration given the climate of rejection and violence in which many Roma live in Europe today.

In June, the Commissioner organised a photography exhibition “Srebrenica – Mothers’ long fight for justice” and opened it together with the president and the deputy president of the Association of the Mothers of Srebrenica and Žepa, Munira Subašić and Kada Hotić, during the summer session of the Parliamentary Assembly of the Council of Europe. On this occasion, the Commissioner expressed her concern about a culture of genocide denial taking root in the region, and stressed the importance of educating young generations about the past in a truthful way. The Commissioner also joined the Mothers of Srebrenica in calling on the Council of Europe to mark 11 July as an official Remembrance Day of the Srebrenica Genocide.

As an illustration of the above-mentioned phenomenon of denial of past grave human rights violations, including genocide, the Commissioner published a statement in November reacting to the organisation by the Serbian Ministry of Defence of an event promoting a book falsifying the facts of a war crime that claimed the lives of 71 people at the Tuzla Gate in Bosnia and Herzegovina in May 1995. In her statement, the Commissioner called on the Serbian authorities to step up efforts to prosecute war crimes and crimes against humanity, provide reparations to victims and promote reconciliation between communities.

### 2.12 Statelessness

On 3 October, ahead of UNHCR’s High-Level Segment on Statelessness of 7 October 2019, the Commissioner issued a statement urging all Council of Europe member states to accede without reservations to the 1954 UN Convention relating to the Status of Stateless Persons, the 1961 UN Convention on the Reduction of Statelessness, the 1997 European Convention on Nationality, and the 2006 Convention on the Avoidance of Statelessness in Relation to State

Succession. Recalling that more than 600 000 persons in Europe still lack a nationality or identity documents, she called for a renewed commitment to the goal of the UNHCR #Ibelong campaign (ending statelessness worldwide by 2024) and for concrete measures to address existing situations of statelessness and prevent its perpetuation.

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

On 19 July, the Commissioner reacted to the decision of the Government of the United Kingdom not to hold a judge-led inquiry into abuses related to counter-terrorism operations in the wake of the terrorist attacks in New York on 11 September 2001. She had called for such an inquiry to be instituted in a letter to the Prime Minister in August 2018. Calling the decision regrettable, the Commissioner emphasised that an inquiry would remain crucial to better prevent torture and other abuses.

In the course of 2019, the Commissioner paid particular attention to the return to Europe of Council of Europe nationals suspected of having joined ISIS and other terrorist groups in Syria and Iraq. On 28 May, she published a statement urging Council of Europe member states to ensure the repatriation of their under-age nationals from the camp of Al-Hol in Northern Syria, and to consider repatriating their mothers as well, in order to safeguard the best interests of the children. On 25 September, the Commissioner's Office organised a consultation meeting in Paris on the same topic in order to gather existing expertise and explore possibilities for further work of the Commissioner in this area. A small number of academics, legal professionals and representatives of international organisations, civil society organisations, national human rights structures and national authorities discussed the human rights issues pertaining to the return of children; the jurisdiction and responsibilities of Council of Europe member states towards their nationals; the right to a fair trial and connected rights; and the rehabilitation and reintegration of returned foreign fighters and their relatives.

The Commissioner also reacted to several national counterterrorism-related developments, including as regards the impact of the use of anti-terrorism legislation on freedom of expression (letter to the High Commissioner for Human Rights of the Russian Federation) and in respect of the decision of the Government of the United Kingdom not to hold a judge-led inquiry into abuses related to counter-terrorism operations in the wake of the terrorist attacks in New York on 11 September 2001, contrary to the Commissioner's call to do so issued in a letter addressed to the Prime Minister in August 2018.

The Commissioner's Office was also represented at several events, where the Commissioner's activities related to the protection of human rights in the context of the fight against terrorism could thus be presented. These included a debate held in November at the University of Grenoble with the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnès Callamard, and a representative of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and a conference organised by the University of Strasbourg in November on the role of monitoring bodies in France, Germany and the United Kingdom in the context of the fight against terrorism.

### **2.14 Treatment of persons deprived of their liberty**

The treatment of persons deprived of liberty continued to receive attention in 2019, both in the Commissioner's country and thematic work.

During her visits to Greece and Bosnia and Herzegovina in October and December, the Commissioner spotlighted the poor living conditions in the reception facilities for migrants and asylum seekers, calling on the relevant authorities to urgently relocate those living there to facilities with adequate living standards. The Commissioner also continued her efforts to promote the use of alternative measures to the detention of migrants, as reflected in her report on Hungary and her letter to the Parliament of Germany, published on 21 and 23 May respectively.

In May, the Commissioner raised the situation of life-sentenced prisoners in Poland and Serbia, warning against legislative amendments that deprive certain categories of life prisoners of eligibility for conditional release. In her letters to the respective authorities of each country, the Commissioner noted that if enacted and implemented, such amendments would constitute inhuman treatment and punishment, as the case-law of the European Court of

Human Rights provides that a life sentence must be reducible and the prisoners concerned must have a prospect of release.

On 2 August, the Commissioner addressed a letter to the Minister of Interior of the Russian Federation concerning the policing of protests in Moscow and the detention of protesters in police stations. The Commissioner expressed concern about reports of excessive use of force against protesters, and information that persons detained after the demonstrations had not been provided with basic necessities, including water, hygiene items and sleeping places. She requested the Russian authorities to provide information about any proceedings against police officers related to ill-treatment.

In June, the Commissioner organised a round-table with human rights defenders working in conflict-affected settings. The discussion focused, among other themes, on serious human rights violations, including torture and ill-treatment, as well as the problem of impunity.

On 4 November, the Commissioner participated in a ceremony marking the 30<sup>th</sup> anniversary of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) where she paid tribute to the excellent work of this monitoring mechanism, and highlighted the key role of National Preventive Mechanisms, human rights defenders and civil society actors in preventing torture and ill-treatment and in combating impunity against human rights violations committed by state actors.

### **2.15 Human rights and business**

The Commissioner's Office was represented at the 2019 UN Forum on Business and Human Rights, held in Geneva on 25-27 November. The Forum discussed the latest developments in the field of business and human rights taking place globally as well as in the Council of Europe area, such as the progressive adoption of national action plans (NAPs) or the adoption by some states of binding legislation regulating selected aspects of business conduct. Several sessions dealt with themes directly relevant to the Commissioner's mandate, including the business and human rights connection in the context of tackling environmental pollution and climate change; the role of national human rights institutions in promoting ethical business conduct; and strategies to prevent attacks on human rights defenders active in the field of business and human rights.

### **2.16 Artificial Intelligence**

The human rights implications of artificial intelligence (AI) systems emerged as one of the priorities for the Commissioner's work in 2019.

On 26 and 27 February, the Commissioner participated in a High-Level Conference co-organised by the Finnish Presidency of the Committee of Ministers and the Council of Europe in Helsinki "Governing the game changer - Impacts of artificial intelligence development on human rights, democracy and the rule of law". She delivered a keynote speech highlighting the need to put human rights at the centre of artificial intelligence (AI) designs. The Commissioner stressed in particular that, since states bear the responsibility to respect, protect and fulfil every person's human rights, it is their duty to ensure that private companies which design, develop or use AI systems do not violate human rights standards. On 16 April, the Commissioner also participated in the Stanford Global Digital Policy Incubator event, hosted at Stanford University and focusing on "The Future of Human-Centered AI: Governance Innovations and Protection of Human Rights". Speaking on the closing panel looking at the issue of government regulation, national strategies and geopolitics of AI, the Commissioner called for greater knowledge and dissemination of and adherence to existing international standards when dealing with human rights challenges posed by AI.

In the Human Rights Comment entitled "Ethnic profiling: a persistent practice in Europe", published on 9 May, the Commissioner noted that racial and ethnic profiling was in some cases being perpetuated by machine-learning algorithms which were increasingly used in the field of "predictive policing". She therefore called on Council of Europe member states to regulate the use of machine-learning algorithms in police work and invest in public awareness and AI literacy (see also the section on racism and intolerance).

The most important element of the Commissioner’s work in this area was the publication, on 14 May, of the Recommendation – entitled “Unboxing artificial intelligence: 10 steps to protect human rights” – providing a number of steps which national authorities can take to maximise the potential of AI systems and prevent or mitigate the negative impact they may have on people’s lives and rights. It focuses on 10 key areas of action and contains a checklist to help implement the measures recommended in each key area. It is based on existing standards and builds on work done in this area by the Council of Europe and other international organisations. The Recommendation is addressed to member states, but the principles concern anyone who significantly influences – directly or indirectly – the development, implementation or effects of an AI system.

Since May, the focus has been on the promotion of this Recommendation, which was presented at a number of international events. On 11 and 12 June, the Commissioner participated in RightsCon, the world’s leading summit on human rights in the digital age, which took place in Tunis. Speaking at the opening ceremony, the Commissioner stressed that technology should maximise our freedoms and rights and keep those in power accountable. RightsCon was also an opportunity for a member of the Commissioner’s Office to speak about the Recommendation during a panel discussion on “AI explainability explained”. Moreover, on 27 September, in a session of ECRI’s 25<sup>th</sup> anniversary conference dealing with new technologies and the Internet, a representative of the Commissioner’s Office addressed the issue of the human rights compliant use of artificial intelligence, as delineated in the Commissioner’s Recommendation. On 15 October, the Commissioner delivered a speech at the Conference of Council of Europe Justice Ministers “Justice in Europe facing the challenges of digital technology”. In her speech, the Commissioner underlined some of the human rights challenges posed by governments’ use of digital technology, particularly as regards equality and respect for privacy, and recalled the main principles set out in her Recommendation on AI. Finally, on 8 November, the Commissioner participated in the OSCE Security Days in Vienna, delivering a speech which stressed the need to govern the digital world to protect democracy and security. Referring to her Recommendation, she called on member states to reinforce their monitoring of human rights compliance by AI systems and act any time there is an infringement of these rights, as well as to strengthen independent oversight and empowerment of national human rights structures to engage in this field.

In addition, tackling algorithmic discrimination was one of the topics of the exchange of views with representatives of Equality Bodies and the EQUINET Network in Paris on 26 September. The second part of that exchange was focused on the role that Equality Bodies can play in this endeavour, as a follow-up to the Commissioner’s Recommendation.

### **2.17 Independence of the judiciary and the rule of law**

Independence of the judiciary and issues related to the rule of law featured prominently in the Commissioner’s work in 2019. She made several country-specific interventions related to these issues, including through statements, country visits and reports on Azerbaijan, Hungary, Poland, Romania and Turkey.

In a Human Rights Comment published in September entitled “The Independence of judges and the judiciary under threat”, the Commissioner warned about increasing attempts by the executive and legislative to use their leverage to influence and instruct the judiciary and undermine judicial independence. Despite efforts undertaken at the European level in recent years to protect the rule of law and judicial independence, including the work in this field of the European Court of Human Rights, the Parliamentary Assembly, the Venice Commission, GRECO and European Union institutions, more needs to be done. She underlined the need for European institutions to be stronger, more resolute and more vocal in defending the rule of law and the independence of the judiciary. Council of Europe member states need to fully comply with the European standards in this field and uphold the independence of the judiciary. She also called for more systematic scrutiny of the rule of law in Council of Europe member states against the relevant Council of Europe standards. Judges need to be involved and consulted in the preparation of legislation which concerns them and about the functioning of the judicial system, and should enjoy security of tenure and protection from undue early removal from office or involuntary transfer. The right of judges to express their views on matters of public interest should be safeguarded. Lastly, the Commissioner invited European citizens to hold their governments to account when the latter’s actions undermine the rule of law, democracy and human rights.

On 28 November, the Commissioner published a statement calling on the Hungarian Parliament to modify Bill T/8016 which risked affecting the independence of the judiciary. She expressed concern that the Bill may have a negative effect on the internal independence of courts and judges and fair trial guarantees for individuals. The Commissioner urged the Hungarian Parliament to carefully scrutinise the precise impact of the Bill and to carry out meaningful consultations with judicial professionals, experts and civil society representatives in view of modifying the draft law. She also reiterated her earlier recommendations on the need to strengthen collective judicial self-governance in Hungary.

### 3 HUMAN RIGHTS DEFENDERS

In 2019, the Commissioner and her team continued to devote close attention to the situation of human rights defenders in the Council of Europe area. The Commissioner intervened publicly at least ten times on urgent situations where the safety, liberty and security of human rights defenders were at risk or the environment for their activities had been seriously compromised. Those interventions concerned threats received by Igor Kochetkov, an LGBTI rights activist in Russia; the criminal prosecution of Taner Kılıç and other human rights activists in Turkey; the imprisonment of Chechen human rights defender Oyub Titiev; obstacles and criminalisation of NGOs assisting migrants in the EU countries; and other incidents.

The Commissioner continued to meet regularly with human rights defenders during her visits and missions to different European countries and in Strasbourg. The situation of human rights defenders was one of the main topics examined in the course of the Commissioner's travels to Azerbaijan, Hungary, Russia and Turkey. There was also a third party intervention before the European Court of Human Rights in a case concerning the arrest and detention of a civil society activist and human rights defender (*Mehmet Osman Kavala v. Turkey* -see below section 6).

During the year, the Commissioner also pursued her efforts to promote a safe and enabling environment for human rights defenders, civil society organisations and human rights NGOs, including in relation to LGBTI rights defenders, environmental activists, women's rights defenders, and defenders of migrants' rights. Following her December 2018 round table with defenders in Helsinki, she published a report on the current challenges faced by human rights defenders in the Council of Europe area, highlighting certain deleterious trends affecting defenders' safety, and also focusing on restrictions to civil society organisations, attempts by governments to delegitimise them, and the specific challenges and opportunities presented by the evolving digital environment. The report contained a set of recommendations to Council of Europe member states aimed at ensuring the effective implementation of the European and international human rights standards in this regard. In June, the Commissioner organised a round-table with human rights defenders working in conflict-affected settings to receive information about the challenges they face and to discuss specific human rights issues, including serious human rights violations and the protection of the rights of people belonging to specific groups.

As during past years, the Commissioner and her Office regularly engaged in a mutually supportive manner with other actors working towards the protection of human rights defenders and safeguarding the environment for their important work. By way of example, the Commissioner's Office participated in the 9<sup>th</sup> Inter-Mechanisms Meeting for the protection of human rights defenders, hosted by the OSCE/ODIHR in Warsaw, which was attended by the UN Special Rapporteur on the situation of human rights defenders, the Director of the OSCE/ODIHR, representatives of the UN OHCHR, the European Commission (DG DEVCO), the EU Fundamental Rights Agency, and other actors.

### 4 CO-OPERATION WITH NATIONAL HUMAN RIGHTS STRUCTURES

National Human Rights Structures (NHRs) and National Human Rights Institutions (NHRIs) – in the form of Ombudsman institutions, human rights commissions and institutes and equality bodies – are essential partners in the Commissioner's dialogue with Council of Europe member states, as envisaged in the Commissioner's mandate. The Commissioner maintains close contacts with NHRs to gain insights about human rights developments at the

national level. In the past year, the Commissioner continued to maintain a high level of engagement with NHRs both bilaterally and through their networks, such as the European Network of NHRs (ENNHRI), the International Ombudsman Institute (IOI), EQUINET and the European Network of Ombudsmen for Children (ENOC).

In 2019, the Commissioner held bilateral meetings with NHRs during her country visits, as well as multiple meetings in Strasbourg. The Commissioner also held meetings with the leadership of the various networks mentioned above. In March, she gave a keynote speech at ENNHRI's General Assembly and spoke at an event on the role of NHRs in protecting the human rights of migrants organised by the Global Alliance of NHRs in the margins of the UN Human Rights Council in Geneva.

In certain situations, the Commissioner spoke out in support of the independence and integrity of NHRs. For example, she expressed concern about the verbal attacks by public officials and some media outlets in Poland against the Ombudsman, Adam Bodnar, following his principled stance on the rights of a person suspected of a serious crime. The Commissioner also condemned the death threats against the Georgian Public Defender (Ombudsman), Nino Lomjaria, after her intervention regarding the organisation of the Pride March in Tbilisi. The Commissioner welcomed the investigation opened by the authorities in this regard and expressed the hope that the perpetrators would be promptly identified. The Commissioner's Office also contributed to various meetings and processes at the Council of Europe concerning NHRs, stressing the positive contribution of independent and effective NHRs in the protection of human rights and the need to facilitate their work.

The Commissioner continued to engage with NHRs on specific substantive issues. Her Office contributed in the steering boards and attended several meetings in the context of two projects carried out by ENNHRI, one of them on the role of NHRs in non-government controlled areas, and the other in relation to the rights of migrants, asylum seekers and refugees. In September, the Commissioner organised a workshop with EQUINET and over 30 European Equality Bodies in the margins of the 25<sup>th</sup> anniversary of the European Commission against Racism and Intolerance (ECRI) in Paris. The workshop focused on co-operation between Equality Bodies and the Commissioner, on the one hand, and on future work on algorithmic discrimination, on the other. The Commissioner took the opportunity of the workshop to draw the attention of Equality Bodies to her Recommendation on Artificial Intelligence and human rights.

## 5 CO-OPERATION WITH EUROPEAN AND INTERNATIONAL ORGANISATIONS

### 5.1 European Union

In February, the Commissioner met in Helsinki with the Director of the European Union Agency for Fundamental Rights (FRA), Michael O'Flaherty, to exchange views on their respective priorities and on-going activities, including in the field of asylum and immigration and artificial intelligence. In April, the Commissioner participated in a side-event on Communicating Human Rights organised by the EU representation to the Council of Europe, with the participation of the EU FRA Director.

In May, the Commissioner met in Strasbourg with Eamon Gilmore, European Union Special Representative on Human Rights, who took up his duties on 1 March 2019. The exchange of views focused on their respective work in member states of common interest.

Members of the Commissioner's Office attended two workshops organised by the EU FRA in Vienna: one on National Human Rights Action Plans (27-28 March) and another organised in the framework of the Rights Communicators' Network (3-4 October). A Focal point has been appointed to represent the Commissioner's Office in the network.

### 5.2 Organisation for Security and Cooperation in Europe

On 12 February, the Commissioner opened the Safety of Female Journalists Online (#SOFJO) conference: *Increasing Opportunities for Freedom of Expression and Media Plurality* in Vienna. At the end of the conference, she published a joint statement together with the OSCE Representative on Freedom of the Media, Harlem Désir. On 16 October,



she published a joint statement with the OSCE Representative on Freedom of the Media, the UN Special Rapporteur on the Right to Freedom of Opinion and Expression, and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, concerning accountability for the murder of Maltese journalist Daphne Caruana Galizia. On 8 November, the Commissioner participated in the OSCE Security Days, delivering a speech which stressed the need to ensure that technological development works for and not against human rights, democracy and the rule of law.

### 5.3 United Nations

Co-operation with the UN institutions focused on migration and refugees, freedom of expression, protection of human rights defenders, the human rights of internally displaced persons, children's rights, counter-terrorism and human rights, the 2030 Agenda for Sustainable Development, and women's rights.

On 4 and 5 March, the Commissioner carried out a mission to Geneva to meet with the UN High Commissioner for Human Rights, Michelle Bachelet, the Assistant High Commissioner for the protection of refugees, Volker Türk, and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnula Ní Aoláin. The discussions focused on the priorities of the respective institutions and on avenues for possible joint actions.

On 3 October, ahead of UNHCR's High-Level Segment on Statelessness of 7 October 2019, the Commissioner issued a statement urging all Council of Europe member states to accede without reservations to the relevant UN and CoE Conventions.

On 12 November, the Commissioner met with the UN Special Representative on Violence against Children, Maalla M'jid, to exchange views on their respective activities, issues of particular concern and priorities for action regarding children's rights.

Members of the Commissioner's Office regularly took part in events organised by UN counterparts, including: a conference on "Protecting Civic Space in the European Union" organised by the UN Human Rights Regional Office for Europe (10-11 October, Brussels); a Workshop on Enhancing Co-operation between the United Nations and Regional Mechanisms for the Promotion and Protection of Human Rights organised by the UN OHCHR (21-22 October, Geneva); the Beijing+25 Regional Review organised by the United Nations Economic Commission for Europe (UNECE) and the UN Women Regional Office for Europe and Central Asia (29-30 October, Geneva); and the UN Forum on Business and Human Rights (25-27 November, Geneva). The Office of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism attended a consultation meeting organised by the Commissioner's Office on 25 September in Paris.

## 6 EUROPEAN COURT OF HUMAN RIGHTS

### ***Grand Chamber hearing on Selahattin Demirtaş v. Turkey (no. 2)***

On 18 September, the Commissioner took part in a hearing before the Grand Chamber of the European Court of Human Rights in the case of *Selahattin Demirtaş v. Turkey (no. 2)*, concerning the pre-trial detention of a Member of Parliament. The Commissioner's intervention followed on from the written observations submitted in Chamber proceedings by her predecessor in November 2017.

In her intervention, the Commissioner drew the Court's attention to a number of systemic problems in Turkey in order to put in context many cases currently pending before the Court. She expressed her main concerns regarding the use of pre-trial detention by Turkish courts, including defective reasoning, the use of statements which should be protected under Article 10 of the European Convention on Human Rights as evidence, and undue limitations to the ability of suspects to challenge their detention and obtain a speedy review. She also shared her view that judicial actions, such as arrests, and initial and continuing detention, were being used to silence critical voices, including of opposition politicians, and that the inconsistency of the evidence used in this connection undermined legal certainty

and discouraged legitimate dissent. She argued that a marked erosion of safeguards ensuring the independence of the judiciary in recent years had aggravated this situation.

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

In 2019, the Commissioner made five written interventions as a third party, pursuant to Article 36, paragraph 3 of the European Convention on Human Rights.

On 10 January, the Commissioner published her written observations submitted to the European Court of Human Rights in the case of [Mehmet Osman Kavala v. Turkey](#) (application no. 28749/18). This case relates to the arrest and detention of the applicant, a civil society activist and human rights defender in Turkey, as well as the allegation that this detention was used for purposes other than those prescribed in the European Convention on Human Rights. The Commissioner's observations pointed to a situation of increasing pressure on civil society and human rights defenders in Turkey in recent years. The Commissioner also referred to the findings of her predecessor regarding the Gezi events of 2013, including numerous concerns regarding the attitude of the Turkish authorities to these events and the right to peaceful assembly in general. In addition, the Commissioner highlighted long-standing concerns relating to the use of criminal proceedings, and in particular of detentions, to punish statements and acts protected by international human rights standards, which undermines legal certainty and creates a strong chilling effect. She also expressed her concerns about the effectiveness of domestic remedies when it comes to challenging such detentions. The Commissioner concluded that such arrests and detentions must be seen against the background of a broader pattern of escalating reprisals in Turkey against civil society activists and human rights defenders for their legitimate work.

On 8 February, the Commissioner published her written observations in the case of [M.A. v. Denmark](#) (application no. 6697/18). This case relates to the refusal to grant family reunification to a person with a temporary protection status, because he had not yet held a resident permit for three years. In her submission, which draws on previous country work and the 2017 Issue Paper on family reunification, the Commissioner observed that the Court has recognised family reunification as an essential right for refugees, and that persons with subsidiary or temporary protection share a number of key characteristics with refugees. On this basis, she noted that persons with subsidiary or temporary protection should be considered to be in a similar situation to refugees as regards access to family reunification. She further emphasised the negative effects of long-term family separation and the fact that long waiting periods for family reunification fail to meet the requirement of promptness set by the Court.

On 3 June, the Commissioner published her written observations in the case of [Dabo v. Sweden](#) (application no. 12510/18). This concerns the refusal to grant family reunification because the applicant, who held refugee status, did not meet the maintenance requirement, which he was subject to because of the alleged failure to submit a family reunification request within three months of receiving that status. In her submission, which draws on previous country work and the 2017 Issue Paper on family reunification, the Commissioner recalled that family reunification is an essential right which enables refugees to resume a normal life and integrate in their host country. She noted that maintenance requirements and short deadlines to qualify for exemptions should preferably not be applied to persons granted international protection and that member states should avoid keeping families separated unnecessarily.

On 22 November, the Commissioner published her written observations in the proceedings relating to [S.S. and others v. Italy](#) (application no. 21660/18). This case relates to the interception and rescue operation of a boat in distress in the Mediterranean, carrying around 150 persons who had left Libya, and the alleged human rights violations resulting from this operation. In her submission, which largely draws from her Recommendation on the Mediterranean (see above), the Commissioner underscored that changes adopted in member states' migration practices in the Central Mediterranean, in particular certain types of assistance provided to the Libyan Coast Guard, have resulted in increased returns of migrants to Libya, whilst member states knew, or should have known, about the risks of serious human rights violations in that country. She also highlighted that member states should not transfer responsibility for rescue operations to other state authorities when they know or should know this would expose people to serious human rights violations, and that instructions issued during rescue operations should be human rights compliant.



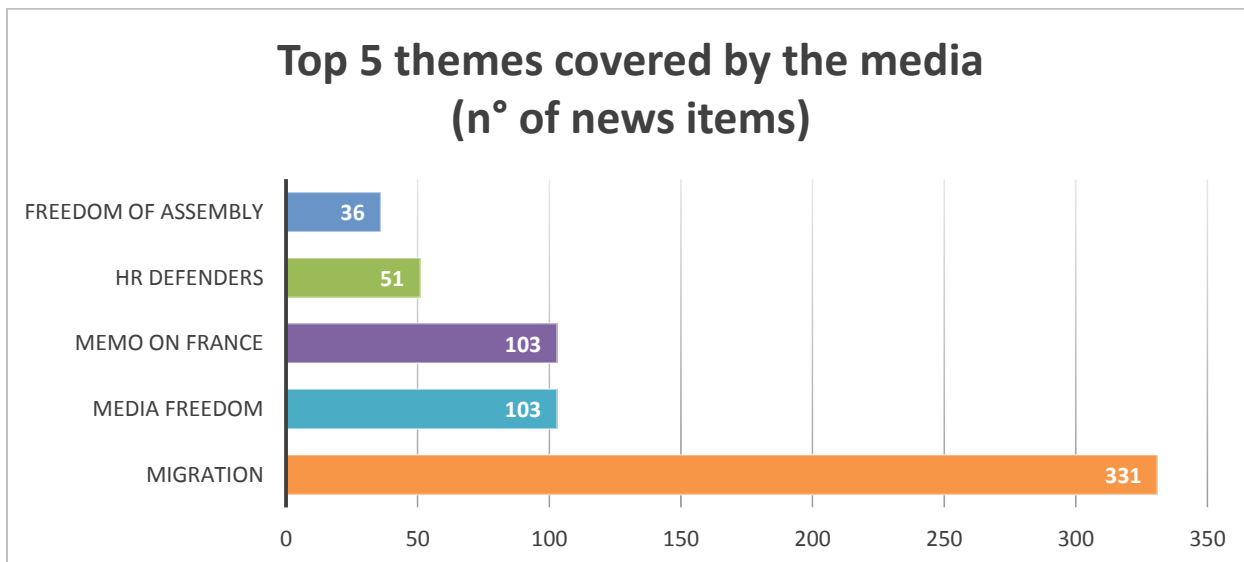
Finally, on 25 November, the Commissioner published her written observations concerning the case of [Wikimedia Foundation, INC. v. Turkey](#) (application no. 25479/19). This case relates to the blocking in Turkey of Wikipedia, a free, multi-lingual, collaborative online encyclopedia hosted by the applicant, a non-profit organisation. In her submission, the Commissioner placed the ongoing blocking of access to Wikipedia in a broader context in which the Internet Law, by its wording and spirit, caused numerous violations of the right to receive and impart information on the internet due to a disproportionate recourse to blocking measures. This issue, in turn, formed part of an even broader problem of the authorities' heavy-handed approach to any content or information they consider offensive. The Commissioner concluded that the way Turkish administrative authorities and magistrates' courts routinely have recourse to internet blocking was unacceptable in a democratic society and not compatible with Article 10 of the European Convention on Human Rights. She stressed that the systemic nature of the problem required far-reaching measures, including the complete overhaul of the relevant Turkish legislation.

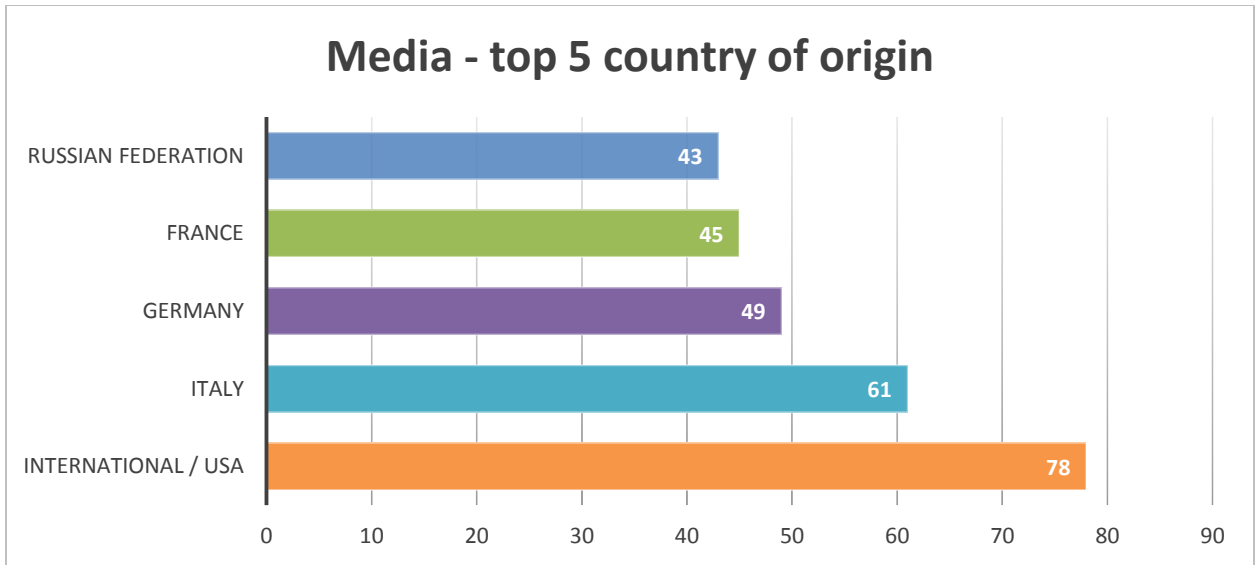
## 7 COMMUNICATION AND INFORMATION WORK

The Commissioner's work in 2019 continued to be widely reported in national and international media outlets, as well as being amplified on Twitter and Facebook. More than 1,000 news pieces were published by media outlets.

The main themes covered by the media concerned the Commissioner's work on migration, freedom of expression and assembly, women's rights and the human rights of LGBTI people.

Two opinion articles were published. The first concerned the Srebrenica genocide and was published in 8 national and international news outlets between 4 and 12 July (*Kathimerini*, *Danas*, *OpenDemocracy*, *Osservatorio Balcani Caucaso*, *Le Soir*, *Hurriyet Daily*, *Kommersant*, and *Dnevnik*). The second concerned the Roma Holocaust and was published by *OpenDemocracy* on 1 August.

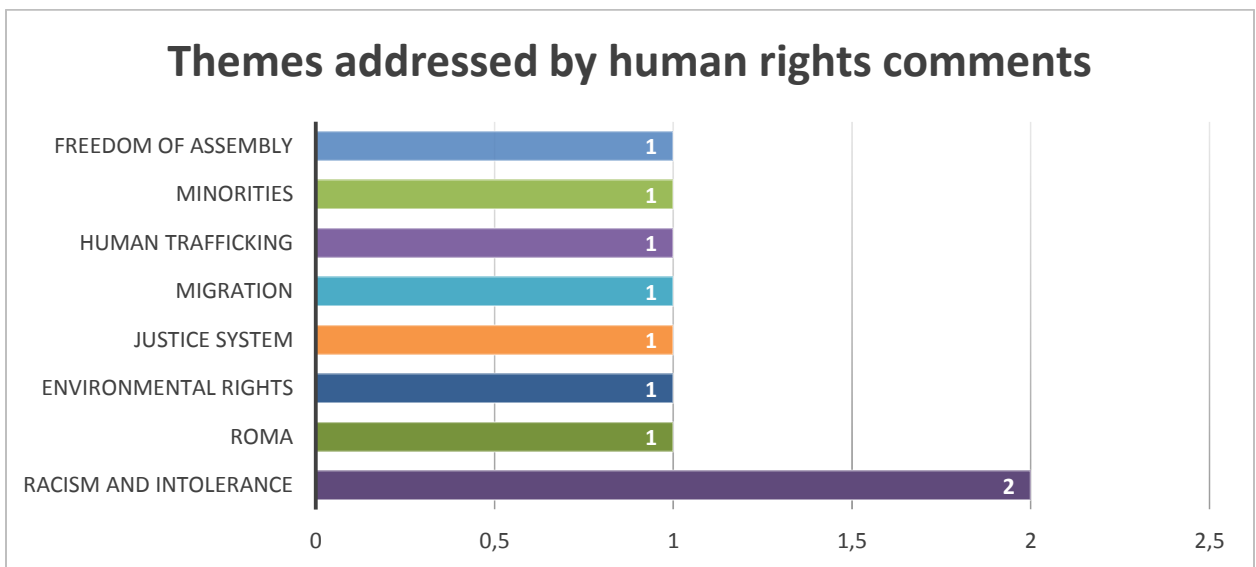




**Human Rights Comments**

Seven Human Rights Comments were published in 2019:

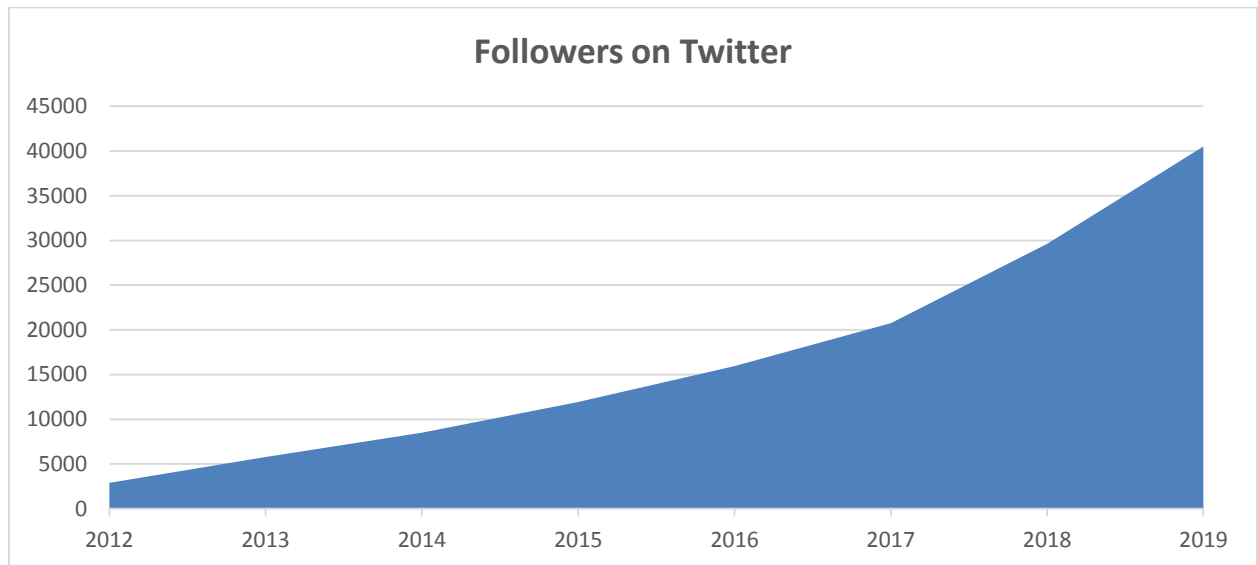
- Shrinking space for freedom of peaceful assembly (9 December)
- Language policies should accommodate diversity, protect minority rights and defuse tensions (29 October)
- Time to deliver on commitments to protect people on the move from human trafficking and exploitation (12 September)
- The independence of judges and the judiciary under threat (3 September)
- Living in a clean environment: a neglected human rights concern for all of us (4 June)
- Ethnic profiling: a persisting practice in Europe (9 May)
- European states must demonstrate resolve for lasting and concrete change for Roma people (4 April)



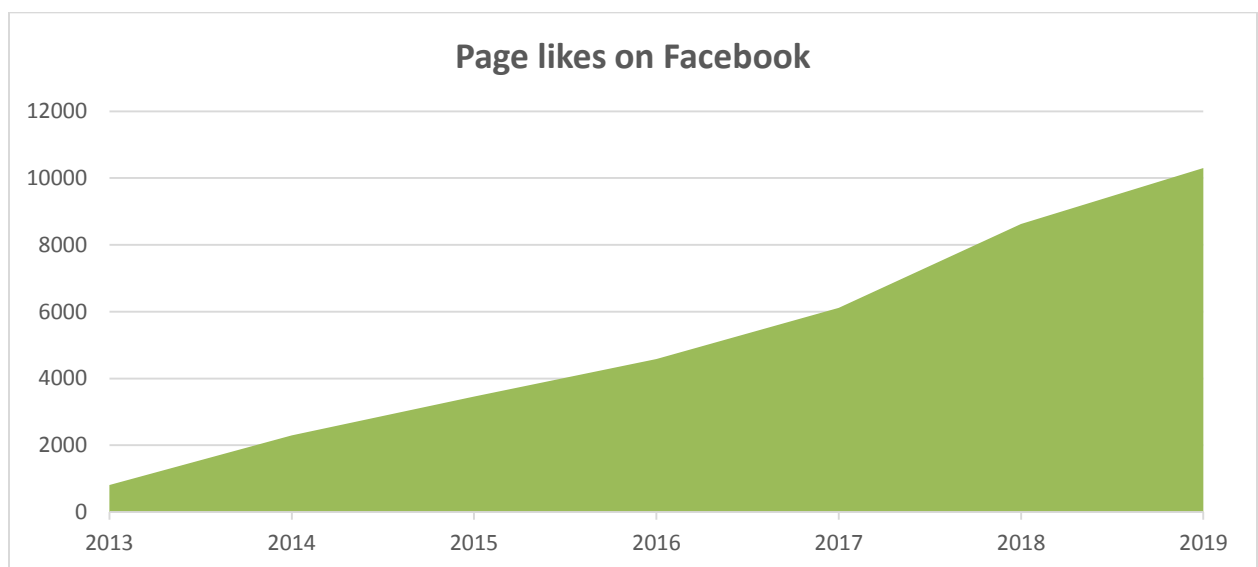
### **Web site and social media**

Over 250,000 users visited the Commissioner’s website, almost double the number recorded in 2018. The most viewed news were those concerning the mission to France, the demonstrations in Catalonia and the Human Rights Comment on national human rights structures. The most visited thematic pages were those on media freedom, women’s rights and the rights of LGBTI people.

The 258 tweets published earned a reach of 6.5m impressions and 10869 new followers with a total of 40495 followers (an increase of 22% compared to the increase recorded in 2018).



On Facebook, 85 posts earned a reach of 337 564 and 1675 new page likes with a total of 10 300 page likes at the end of the year (an increase of 19% from last year)



## 8 STAFF AND BUDGET

In 2019, the total number of permanent posts in the Commissioner's office amounts to 24 posts (16 A-grade posts and 8 B-grade posts) and 3 fixed-term positions. The Office employed two temporary staff members financed by the ordinary budget. The ordinary overall budget appropriations were of €3,571,500 which represents 1.5% of the total ordinary budget.

The budget of the Commissioner for Human Rights covers the basic structure necessary for the implementation of the mandatory activities which should be assured by permanent means from the ordinary budget of the Council of Europe.

## APPENDIX

### List of office activities in 2019

#### A. Visits and reports

In 2019 the following country visits, missions and contact visits were carried out:

28 January	France
4 to 8 February	Hungary
11 to 15 March	Poland
1 to 5 April	Russian Federation
29 to 30 May	Ireland
1 to 5 July	Turkey
8 to 12 July	Azerbaijan
19 to 20 September	Netherlands
26 to 31 October	Greece
25 to 29 November	Bulgaria
2 to 6 December	Bosnia and Herzegovina

In 2019, the following country reports and letters were published:

##### *Armenia*

- [Report](#) by the Council of Europe Commissioner for Human Rights following her visit to Armenia from 16 to 20 September 2018. Issues reviewed: women's rights, gender equality and domestic violence; the human rights of disadvantaged or vulnerable groups; and accountability for past human rights violations (published on 29 January 2019 with reference CommDH(2019)1).

##### *Azerbaijan*

- [Report](#) by the Council of Europe Commissioner for Human Rights following her visit to Azerbaijan from 8 to 12 July 2019. Issues reviewed: the right to freedom of expression; recent developments concerning the situation of lawyers; and the human rights of internally displaced persons (published on 11 December 2019 with reference CommDH(2019)27).

##### *Bosnia and Herzegovina*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Mirsad Zaimović, Chairman of the House of Representatives of the Parliament of the Federation of Bosnia and Herzegovina regarding the human rights of children with disabilities with a focus on deinstitutionalisation (dated 27 November 2019 and published on 29 December 2019).

##### *Czech Republic*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Andrej Babiš, Prime Minister and Robert Plaga, Minister of Education, Youth and Sports of the Czech Republic regarding the proposed changes to Decree 27/2016 Coll. on the education of pupils with special education needs (dated 19 December 2018 and published on 15 January 2019).

##### *France*

- [Memorandum](#) by the Council of Europe Commissioner for Human Rights on maintaining public order and freedom of assembly in the context of the "yellow vest" movement in France (published on 27 February 2019 with reference CommDH(2019)8).

*Germany*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Andrea Lindholz, Chairwoman of the Committee on Internal Affairs and Community of the Parliament of Germany (Bundestag) regarding some aspects of the bill “Geordnete-Rückkehr-Gesetz” that aims at facilitating removals of people obliged to leave the country (dated 16 May 2019 and published on 23 May 2019).

*Greece*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Michalis Chrysochoidis, Minister of Citizen Protection of Greece and Giorgos Koumoutsakos, Alternate Minister for Migration Policy of Greece on the reception of migrants, including asylum seekers (dated 25 November 2019 and published on 3 December 2019).

*Hungary*

- [Report](#) by the Council of Europe Commissioner for Human Rights following her visit to Hungary from 4 to 8 February 2019. Issues reviewed: human rights of asylum seekers and refugees; human rights defenders and civil society, independence of the judiciary; and gender equality and women’s rights (published on 21 May 2019 with reference CommDH(2019)13).

*Italy*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Giuseppe Conte, Prime Minister of Italy, regarding the negative consequences that the Decree-Law No. 113/2018 on International Protection, Immigration and Public Security may have on the human rights of asylum seekers and beneficiaries of protection to access reception and essential services (dated 31 January 2019 and published on 7 February 2019).

*Malta*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Joseph Muscat, Prime Minister of Malta, regarding the pending posthumous defamation lawsuits against the family of Daphne Caruana Galizia (dated 12 September 2019 and published on 19 September 2019).
- [Letter](#) from the Council of Europe Commissioner for Human Rights to Joseph Muscat, Prime Minister of Malta, regarding the investigation into the murder of investigative journalist Daphne Caruana Galizia (dated 26 November 2019 and published on 29 November 2019).

*Poland*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Stanisław Karczewski, Marshal (Speaker) of the Senate of Poland, regarding a proposed set of amendments to Poland’s Criminal Code which would deprive certain categories of life prisoners of eligibility for conditional release (dated 22 May 2019 and published on 27 May 2019).
- [Report](#) by the Council of Europe Commissioner for Human Rights following her visit to Poland from 11 to 15 March 2019. Issues: the independence of the judiciary and the prosecution service; women’s rights, gender equality and domestic violence (published on 28 June 2019 with reference CommDH(2019)17).

*Romania*

- [Report](#) by the Council of Europe Commissioner for Human Rights following her visit to Romania from 12 to 16 November 2018. Issues: the human rights of persons with disabilities, violence against women and the ongoing reform of the judiciary and of criminal legislation (published on 28 February 2019 with reference CommDH(2019)5).

*Russian Federation*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Tatiana Moskalkova, High Commissioner for Human Rights in the Russian Federation, concerning the situation of Svetlana Prokopyeva, a freelance journalist who is a suspect in a criminal investigation for alleged “justification of terrorism” (dated 13 February 2019 and published on 19 February 2019).
- [Letter](#) from the Council of Europe Commissioner for Human Rights to Tatiana Moskalkova, High Commissioner for Human Rights in the Russian Federation, concerning new developments in the case of Svetlana Prokopyeva, a freelance journalist who is a suspect in a criminal investigation for alleged “justification of terrorism” (dated 12 July 2019 and published on 19 July 2019).
- [Letter](#) from the Council of Europe Commissioner for Human Rights to Vladimir Kolokoltsev, Minister of Interior of the Russian Federation regarding the action taken by law enforcement agencies to disperse the largely peaceful protests in Moscow on 27 July 2019 (dated 2 August 2019 and published on 5 August 2019).

*Serbia*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Nela Kuburović, Minister of Justice of Serbia, regarding concerns that draft legislation on life imprisonment be compliant with the case-law of the European Court of Human Rights (dated 7 May 2019 and published on 15 May 2019).

*Slovak Republic*

- [Letter](#) from the Council of Europe Commissioner for Human Rights to Andrej Danko, Speaker, Róbert Madej, Chairperson of the Constitutional and Legal Affairs Committee and to Štefan Zelník, Chairperson of the Committee on Health Care of the National Council of the Slovak Republic, regarding a legislative proposal which would restrict existing access to safe and legal abortion care (dated 2 November 2019 and published on 26 November 2019).

*United Kingdom*

[Letter](#) from the Council of Europe Commissioner for Human Rights to Ruth Maguire MSP, Convener of the Equalities and Human Rights Committee of the Scottish Parliament regarding the Age of Criminal Responsibility (Scotland) Bill (dated 10 January 2019 and published on 16 January 2019).

**B. Third Party Interventions before the European Court of Human Rights**

The Commissioner fosters the effective observance of human rights by assisting member states in the implementation of Council of Europe human rights instruments, in particular the European Convention on Human Rights. The Commissioner submitted written observations concerning the following Court cases:

- Third party intervention by the Council of Europe Commissioner for Human Rights: application No. 28749/18 [Mehmet Osman KAVALA v. Turkey](#) (submitted on 20 December 2018 and published on 7 January 2019 with reference CommDH(2018)30);
- Third party intervention by the Council of Europe Commissioner for Human Rights: application No. 6697/18 [M.A. v. Denmark](#) (submitted on 31 January and published on 8 February with reference CommDH(2019)4);
- Third party intervention by the Council of Europe Commissioner for Human Rights: application No. 12510/18 [Dabo v. Sweden](#) (submitted on 24 May and published on 3 June with reference CommDH(2019)19);
- Third party intervention by the Council of Europe Commissioner for Human Rights: application No. 21660/18 [S.S. and others v. Italy](#) (submitted on 15 November and published on 22 November with reference CommDH(2019)29);

- Third party intervention by the Council of Europe Commissioner for Human Rights: application no. 25479/19 [Wikimedia Foundation, INC. v. Turkey](#) (submitted on 18 November and published on 25 November with reference CommDH(2019)28).

### **C. Events organised by the Office**

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

In 2019, the Commissioner's office organised or co-organised the following events:

- 20th anniversary celebration of the Commissioner for Human Rights "The state of human rights in Europe: forward and back?" (Strasbourg, 22 January);
- Experts brainstorming meeting on artificial intelligence and human rights (Strasbourg, 1 February);
- Round-table with human rights defenders on human rights issues in conflict-affected territories (Strasbourg, 20-21 June);
- Consultation on the human rights aspects of the return of foreign fighters and their families to Europe (Paris, 25 September);
- Workshop with Equality Bodies on artificial intelligence and discrimination (Paris, 26 September).

### **D. Events in which the Commissioner or the Office took part**

The Commissioner or the Office participated in the following major events during 2019:

- Exchange of views with European Network of Ombudsmen for Children (ENOC) Bureau (Strasbourg, 15 January);
- Exchange of views with PACE Committee on Legal Affairs and Human Rights (Strasbourg, 24 January);
- OSCE Representative on Freedom of the Media conference on online safety of female journalists "Increasing Opportunities for Freedom of Expression and Media Plurality" (Vienna, 12 February);
- High-level conference "Artificial Intelligence: Governing the Game Changer – Implications of AI development on human rights, democracy and the rule of law", co-organised by the Finnish Presidency of the Council of Europe Committee of Ministers (Helsinki, 26-27 February);
- ENNHRI General Assembly meeting (Geneva, 4 March);
- GANHRI Annual Conference "Role of NHRIs re migration", session on "National implementation: Promoting human rights of all migrants, gender equality and the empowerment of all migrant women and girls" (Geneva, 6 March);
- Council of Europe Education Department experts' meeting to develop a policy roadmap for improving the quality of education in Bosnia and Herzegovina (Strasbourg, 7 March);



- European Parliament Stocktaking conference “Creating Trust through Uncovering and Recognising the Truth: Advancing Recognition and Remedy for Anti-Gypsyism”, part of 4<sup>th</sup> Roma Week of the European Parliament (Brussels, 20 March);
- “Communicating rights” Side Event hosted by the EU Delegation to the Council of Europe (Strasbourg, 10 April);
- Stanford Global Digital Policy Incubator event “The Future of Human-Centered AI: Governance Innovations and Protection of Human Rights” Stanford University (Palo Alto, 16 April);
- 129<sup>th</sup> Committee of Ministers Formal Session (Helsinki, 16-17 April);
- IDAHOT+ Forum 2019 “LGBTIQ Policies on the Move. Challenges and Next Steps” (Oslo, 13-15 May);
- Exchange of views with the Council of Europe Gender Equality Commission (Strasbourg, 23 May);
- Conference “Women’s Rights at the Crossroads: Strengthening International Co-operation to Close the Gap between Legal Frameworks and their Implementation” within the framework of the 5th meeting of regional and international mechanisms on violence against women – Grevio (Strasbourg, 24 May);
- EuroPride 2019 Vienna (Vienna, 15 June);
- High-level Forum “Ireland and the Council of Europe: 70 years of human rights - the challenges and the future” hosted by the Minister for Foreign Affairs and Trade (Dublin, 30 May);
- Rights Con Tunisia (Tunis, 11 June);
- “Mind the gap: Supporting young disabled people’s right to live independently and to be included in the community through exploring mental health as a disability issue”, study session organised by European Network for Independent Living and Euro-Youth Mental Health in co-operation with the Youth Department of the Council of Europe (Strasbourg, 21 June);
- Exchange of views with the Advisory Committee on the Framework Convention for the Protection of National Minorities ACFC (Strasbourg, 25 June 2019);
- Parliamentary Assembly of the Council of Europe Debate on “Ending coercion in mental health: the need for a human rights-based approach” (Strasbourg, 26 June);
- Exhibition "Srebrenica - Mothers' long fight for justice" and meetings with the Association “Movement of Mothers of Srebrenica and Žepa Enclaves” (Strasbourg, 26-27 June);
- Netherlands Institute of Human Rights Annual Peter Baehr lecture (Utrecht, 20 September);
- Exchange of views with Equality Bodies (Paris, 26 September);
- High-Level Conference, “On the Road to Effective Equality”, organised on the occasion of the 25th anniversary of the European Commission against Racism and Intolerance ECRI (Paris, 26 September);
- 70<sup>th</sup> anniversary of Council of Europe (Strasbourg, 1 October);
- 1st Regional Journalists’ Days (Sarajevo, 2-3 October);
- Organized Crime and Corruption Reporting Project (OCCRP) high-level release of the Four-Point Plan to Protect Journalists in the European Union (Brussels, 1-2 October);

- Council of Europe Social Cohesion Platform (Rome, 9-11 October);
- Conference of Council of Europe Justice Ministers “Justice in Europe facing the challenges of digital technology” (Strasbourg, 15 October);
- Independent Police Complaints Authorities' Network (IPCAN) Seminar on “Relationships between Police and the population” (Paris, 18 October);
- Workshop on Enhancing Co-operation between the United Nations and Regional Mechanisms for the Promotion and Protection of Human Rights (Geneva, 21-22 October);
- Launch of Cartooning for Peace Exhibition within the framework of the French Presidency of the Committee of Ministers of the Council of Europe (Strasbourg, 23 November);
- ILGA-Europe’s 23rd Annual Conference (Prague, 14-15 October);
- Exchange of Views with Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament (Strasbourg, 21 October);
- Legal Dialogue Symposium of the EU-Russia Civil Society Forum (Berlin, 31 October);
- 30th Anniversary of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – CPT (Strasbourg, 4 November);
- NATO Parliamentary Assembly’s Committee on the Civil Dimension of Security (Strasbourg, 6 November);
- OSCE Security Days expert roundtable on “A Human Rights-Centred Approach to Security and Technology” (Vienna, 8 November);
- International High-Level Conference “Measuring and Enhancing the Impact of National Preventive Mechanisms” organised by the Public Defender (Ombudsman) of Georgia on the occasion of the 10th anniversary since the designation of the Public Defender as an NPM (Tbilisi, 12 November);
- Conference “Redefining power: Strengthening the rights of the child as the key to a future-proof Europe organised in the framework of the French Presidency of the Committee of Ministers of the Council of Europe (Strasbourg, 13 November);
- Exchange with Strasbourg Press Club (Strasbourg, 21 November);
- 2019 EU NGO Human Rights Forum (Brussels, 3-4 December).