

The current concerns of the Commissioner, the problem of discrimination and Roma people, financial crisis and the cooperation with the NGOs were the issues raised during the interview which started with Mr. Thomas Hammarberg's introduction of the work done by his office.

**TH:** The establishment of the Commissioner's Office stemmed from the need to have an institution which could work in a complementary way with other Council of Europe bodies, in particular the European Court of Human Rights (ECtHR). It has mainly a preventive role, focusing on the changes that should take place in member states in order to help prevent human rights violations which may lead people to bring a case before the ECtHR.

With my staff members (approx. 20 people), I carry out visits to member states in order to assess the human rights situation there. After the visit, a report is usually drafted and published, identifying the shortcomings and measures to remedy them. This includes possible changes in different fields, such as legislation, the system of justice, law enforcement, the judiciary and the penitentiary system.

We also propose measures that national authorities could adopt in order to enhance their human rights monitoring and we give advice on how to ensure that they can benefit from the work of civil society. We always recommend that governments be constructive with non-governmental organisations (NGOs), that they listen to them, have a dialogue and also learn from them. In fact, NGOs are important for the development of democracy.

We also encourage governments to have a constructive relationship with the media. It is important to avoid censorship and ensure media freedom, and there should also be a media policy which promotes diversity of the media so that different voices can be heard in society. A major problem today in many European countries is that the media are owned by very few, either the state or some very rich people who pursue their own interests. We think that improvements in this field are important for the overall development of human rights.

Furthermore, our Office has a direct dialogue with civil society groups, ombudsmen and parliamentarians both from government parties and from the opposition. We visit different institutions and places of human rights relevance, such as prisons, refugee camps, psychiatric hospitals, shelters for abused women and orphanages. During a visit we always meet the government at the end so as to have in-depth discussions with the ministers about our impressions and recommendations. After a visit we usually publish a report, which is widely disseminated among the media, as they have a crucial role in reinforcing the message and ensuring a stronger impact of our recommendations.

So far, I have to say that governments are more responsive than I thought they would be when I started. We have access to decision makers at the very highest level: presidents, prime ministers and other key ministers, such as ministers for justice or internal affairs. I have met practically with all leading politicians in Europe by now. This access is important for our human rights work. Of course we must maintain the quality of our work so that our credibility and reputation are ensured also in the future.

Finally, my mandate also entrusts me to work on human rights education. To this end, I publish every two weeks a viewpoint, which is an article highlighting one human rights problem which is particularly topical in public discussions in most of Council of Europe member states. For example, the latest topics have covered the tendency to deprive people with mental disability of their legal capacity, the topic of death penalty and the relation between climate change and human rights.

**ELSA: What are the main concerns in your work currently?**

**TH:** For me the major problem in Europe is that there is too much complacency among decision makers. Many governments feel that there are no problems any longer when it comes to human rights in Europe and seem to think that problems are only outside our continent. That is a mistake. We still have governments where human rights departments are placed in the Ministry for Foreign Affairs, which further encourages this misperception. We really try to demonstrate that the problems are not fully resolved in Europe either.

The issues which my Office deals with are numerous. For example, terrorism. After 11 September the war on terrorism was carried out in a way which all too often disregarded human rights standards. For example, some laws which were adopted during that time are not in line with international human rights norms, and there is tidying up work to be done now. We have to rectify what happened.

However, if I have to choose the most important theme in my work, I would say that it is all that relates to discrimination. For example, we have problems related to Roma, who are a vulnerable group in almost all European countries and have not been supported when it comes to their human rights. But there is a tendency towards discrimination in Europe which is not only affecting the Roma. There is also the problem concerning migration. Today in Europe there are several million people underground, many of them living in the fear that they will be discovered and arrested or sent back. In some countries, there is a quota for the number of irregular migrants who should be rounded up and sent back in a given period of time. This is an approach which misses the point. Instead, there should be individual treatment of each person, because people are not numbers. We need to develop a different approach in order to protect people from being exploited by, for example, landlords, employers or traffickers.

There is also more to be done when it comes to the rights of women and children. As regards women, I always raise three issues: domestic violence; the pay gap (i.e. lower salaries for women than for men doing the same type of work); and political representation, as women are still underrepresented in political decision making. The Council of Europe as a whole has decided that before we talk about fair representation we have to reach at least sixty-fourty ratio of men to women in representation. As concerns children's rights, there are quite a lot of discussions this autumn because of the 20<sup>th</sup> anniversary of the United Nations Convention on the Rights of the Child. There, too, we have to make further improvements, in particular to protect them from violence.

**ELSA: What are the most significant examples of the achievements of your office since the beginning of your work in 2006?**

**TH:** There was one Commissioner before me – Mr. Álvaro Gil-Robles. He managed to give the office a certain prestige and credibility. This was extremely important, as otherwise we could not really have a meaningful dialogue with human rights stakeholders. We can only function if we are regarded as respected and credible interlocutors of governments. When we publish our reports, for example, it happens quite often that the government in question sets up an inter-ministerial committee in order to go through our recommendations one by one. There is therefore a serious response to what we do.

I think the Office is now well known and effective in complementing the work of other human rights bodies of both the Council of Europe and other international organisations, as well as NGOs and the media.

**ELSA: Has the financial crisis affected the topics of your work?**

**TH:** First of all, I do not think we have seen the full consequences of the crisis yet. The most vulnerable groups in society will risk being even more vulnerable; there will be more unemployment and less money for social expenditures, education and health. Cutting the budget for social expenditures is partly a consequence of the enormous sums that have gone from state budgets to rescuing the bank system. That money has been taken from somewhere. I am not questioning the policies but I am concerned about the consequences. This is why we are emphasising the importance of social rights. The Council of Europe has a powerful tool in this field – the Revised European Social Charter – which has now been ratified by almost all its member states.

**ELSA: What are the main actions that you take to persuade governments to address problems related to Roma?**

**TH:** When looking at the social indicators related to Roma we find that they are below those of any other group in society when it comes to education, employment, housing, the general standard of living, and also political representation. The experience that we have is that there are certain key points when it comes to support, for instance education. However, if one does not tackle all the other problems at the same time it just does not work. For example, if we want to promote schooling of Roma children, we have to understand that they have difficulties in coping if the housing situation is as bad as it is now, if their parents are unemployed, poor and marginalised in society and so on. All the aspects belong to the same picture which makes it more complicated to find a solution. Education is the key because it invests in the future and therefore could save young Roma from continued marginalisation. It should therefore be inclusive and allow Roma children to attend the same schools as the majority population. But to get there we need a comprehensive approach which does not only focus on education, but also on social needs, housing and employment.

We have published several documents on this theme. A couple of months ago we visited two camps in Cesmin Lug and Osterode, in northern Mitrovica, which are in the midst of an extremely polluted area because there had been a lead processing factory. People who lived there before, including army personnel, were moved away quickly when they realised how dangerous the area was. Roma have now been there for ten years. It is likely that the children are

permanently affected because of the poison. We published a report and began raising awareness about this major human rights problem. The situation was particularly embarrassing because this is an area which has been run by the United Nations for several years. Now the UN is trying to do something but we do not see the effects yet.

**ELSA: Can you see a difference in the actions taken if you look a few years back?**

**TH:** Unfortunately the statistic is not very positive when it comes to the Roma. I think there is more awareness in the political circles, and the Roma are more on the agenda. There is the UNDP “Decade for Roma inclusion”, the OSCE programme in Warsaw and of course the Council of Europe’s work. There are a lot of activities but the result has yet to be weighed.

**ELSA: As ELSA is an NGO we are very much interested in your cooperation with NGOs. We would like to know what their role is in your work.**

**TH:** Every time I visit a country, I meet the most important NGOs working on human rights. They provide me with their views as to the main issues we should be aware of and what they feel is the key problem.

In reality, these NGOs are often true human rights defenders. They are sometimes targeted by governments because they are not very accommodating to them. Our work is to defend them and explain to governments that they should listen to these organisations. We recently had a meeting in Kyiv with such NGO representatives from Armenia, Azerbaijan, Belarus, Georgia, Moldova, Russia and Ukraine, and discussed what we can do in order to support them and what they could do to give us more information.

**ELSA: You worked in Amnesty International as well. Do you see any differences between these two positions that you have had and what are they?**

**TH:** I think it is important not to do the same thing with the same approach. Amnesty, Human Rights Watch and the other NGOs have their strengths with the way they work which is very much with publicity and reports. In my work, I relate very closely to governments. When there is a problem in a given country, I usually ask the ambassador to discuss the matter with me. Therefore, the influence is probably somewhat more informal, but also on a higher level. Indeed, although we are transparent in what we do, sometimes we do not make everything public immediately, as the NGOs almost always do. I think the strength is the combination of the two. Often when I make recommendations to a government, and they know that Amnesty or others have published a statement or a report on the same problem, they feel that the issue is on the agenda and really have to give responses. Being inside an intergovernmental organisation may carry constraints, but there are also some big advantages which do help us to move forward.

In this context, the relation between my Office and the European Court of Human Rights is particularly noteworthy. We are complementary bodies and we keep a constant exchange. I put a strong emphasis on its case-law during my discussions with governments, for example as regards the implementation of the Court’s judgments.

**ELSA:** Could you give us any recommendations on how to educate ourselves as law students?

**TH:** You should remember that lawyers are key actors in protecting human rights. Law is about defending principles which have been agreed upon and the main purpose of lawyers is to defend ordinary people and to give them justice. This is a very important task. You should therefore never forget that human rights are a pillar of justice and, paying close attention to the human rights discussion will never be lost time.