

REPORT ON THE FIFTH BUDAPEST HUMAN RIGHTS FORUM

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MINISTRY OF FOREIGN AFFAIRS OF HUNGARY

ABSTRACT

As the world and its societies are in a constant developmental flux, it is no surprise that the international community recurrently identifies new focal points in theoretical and practical human rights: new areas of success and concern. In light of this, and of the need to understand and discuss these issues as they develop, Hungary's Ministry of Foreign Affairs has established the annual Budapest Human Rights Forum.

In November 2012 the Ministry of Foreign Affairs organized the fifth annual international Human Rights Forum on four current subject areas: human rights defenders; human rights education and training; freedom of expression; and minority issues. As Ágnes Hevesi, Chair of the Forum elaborated, the Budapest Human Rights Forum always aims to provide a discussion platform for different views on different aspects of human rights. Each subject area is thereby addressed through panel discussions and subsequent Q&A sessions.

Without having been planned, a recurring line of thought developed to become the de facto motto of the fifth Forum, referred to during all panels and cited by most panellists, regardless of subject area or expertise: "The rights that people have offline must also be protected online." This is stated in the landmark UN Human Rights Council Resolution 20/8 on Human Rights and the Internet (adopted on 5 July 2012), effectively according Internet Freedom the status of a basic right. International experiences in recent years, such as the "Arab Spring" have illustrated more clearly than ever the central role the Internet plays in human rights movements. The Internet provides a global platform for sharing and receiving information freely, while at the same time that freedom also creates possibilities for abuses targeting human rights defenders. As reconfirmed during the Fifth Budapest Human Rights Forum, the Internet is thus both the most promising and most challenging of human rights areas today.

I. INTRODUCTION

The Fifth Human Rights Forum organized by the Ministry of Foreign Affairs of Hungary took place on 8-9 November 2012 in Budapest, Hungary.

Four central human rights areas were addressed in panel discussions:

- Human rights defenders around the world in memory of Raoul Wallenberg
- Human rights education and training
- Freedom of expression, including freedom of the Internet
- Minority issues, in acknowledgment of the 20th anniversary of the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

Ms. Ágnes Hevesi, Head of the Human Rights Section at the Ministry of Foreign Affairs of Hungary acted as Chair of the Forum.

Ms. Sarah Lubbersen, Senior Political Advisor to the Cabinet of the Minister at the Ministry of Public Administration and Justice of Hungary acted as rapporteur of the Forum.

II. OPENING STATEMENT

In his opening statement at the conference, **Mr. Zsolt Németh**, **Minister of State for Foreign Affairs** at the **Ministry of Foreign Affairs of Hungary**, underlined the great success and international recognition attained by the Budapest Human Rights Forum in recent years. Mr Németh identified the Forum as a visible and enduring human rights initiative by the Hungarian government, which provides a platform for dialogue between various actors on current topics related to human rights.

Drawing on his personal experiences, Mr Németh recalled that his generation lived through the reality of lack of democracy. Therefore he voiced his approval of Hungary having recently reached some historic human rights milestones. These include: the amendment to the new Fundamental Law – a manifestation of the protection of democracy; the increased protection of family and women's rights; and the Hungarian initiative of creating national Roma strategies – social inclusion programmes adopted and implemented in every EU Member State. Other positive international developments in 2012 included the adoption of the Strategic Framework and Action Plan on Human Rights and Democracy and the establishment of the post of the EU Special Representative for Human Rights.

On the other hand, certain areas of human rights have recently demanded new or renewed attention, and these areas determined the topics of the four discussions panels: human rights defenders around the world – in memory of Raoul Wallenberg; human rights education and training; freedom of expression, including freedom of the Internet; and minority issues, in acknowledgment of the 20th anniversary of the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities. The most pressing issue at the moment – and one also identified by Mr Németh – has proven to be the Internet: "The internet is a new tool for expressing and exchanging ideas – herein rights that are protected offline must equally be protected online."

III.KEYNOTE ADDRESS

A Video keynote address by **Ms. Navanethem Pillay**, **United Nations High Commissioner for Human Rights**, was streamed to the Forum. In her message Ms. Pillay stressed that all four topics discussed at the Fifth Budapest Human Rights Forum are also in focus in her office, due to their key role in strengthening and protecting human rights.

She elaborated on this by saying that human rights defenders and civil society actors provide checks and balances for states and the international community. Human rights education and training aim not only at presenting facts but also at developing the national and international mechanisms assuring them. On the topic of freedom of expression, Ms. Pillay reiterated that "Rights offline must be the same online as well." The important role of the Internet as a platform for human rights movements contrasts with the fact that free speech can also lead to physical violence, and that the Internet can also be used to violate or restrict human rights. While human rights apply universally, minorities are groups whose rights need to be enforced even further through the declaration celebrating its anniversary on that day; in her position she does this by supporting the UN Independent Expert on Minority Issues.

IV.PANEL DISCUSSIONS

In recognition of the centenary year of Raoul Wallenberg's birth, the <u>first panel</u> – moderated by **Ms. Barbara Tószegi, Chief of Cabinet** of the **Deputy State Secretary for Multilateral Relations** at the **Ministry of Foreign Affairs of Hungary**, – was dedicated to human rights defenders, and the related UN Declaration on Human Rights Defenders of 1998. Ms. Tószegi pointed out that even though the notion of human rights defenders did not exist 50 years ago, by today's standards Wallenberg qualifies as one: he saved tens of thousands of people and ultimately paid for it with his own life.

As an introduction to the first panel discussion, the video "Man Amidst Inhumanity" was screened. This outlined the Second World War in Hungary and Raoul Wallenberg's role in it. Within a period of only four months a total of 440,000 Hungarian Jews were deported from mainly rural areas. This was upon orders from SS officer Adolf Eichmann, and in line with the Nazis' "final solution of the Jewish question." The newly-appointed 31-year-old Swedish diplomat Raoul Wallenberg, deeply moved by what he witnessed, did everything within his power to save the remaining members of the Jewish community in Budapest. For instance, he was authorized to issue no more than 7,000 so-called "Schutzpass" documents that would spare individuals from being deported; in reality he issued an unlimited number. All such protective documents were declared invalid when the Arrow Cross Party came to power under its leader Ferenc Szálasi, but Wallenberg tirelessly continued to zigzag across the city and between its train stations to save as many lives as possible. His life and those of his associates were in constant danger. When eventually the Soviets seized power in Hungary, Wallenberg was instinctively aware of his insecure status. After being ordered to a meeting with Soviet leaders he wrote: "I don't know whether I am a guest or a prisoner." That same day an arrest warrant was issued, together with an order for his deportation to Moscow; shortly afterwards Raoul Wallenberg disappeared. Evidence of his whereabouts has never been found and no state or person has ever assumed full responsibility for his disappearance - Wallenberg became a legend. Although many questions remain, his heroic memory will always be honoured with gratitude in Hungary and beyond.

The first panellist at the Forum, **Ms. Karin Ulrika Olofsdotter**, **Ambassador** of the **Kingdom of Sweden to Hungary**, emphasized the extraordinary importance of remembering Raoul Wallenberg as a Swedish diplomat in Hungary. She acknowledged that while Wallenberg was supported by many people, he lived a very exposed life and was left alone in his work and its consequences by the Swedish government – it made no efforts to locate and free him from the Soviets following his disappearance in 1945.

Fortunately things have changed in the field of human rights since Wallenberg's time; Ms. Olofsdotter felt that support for human rights defenders is in fact part of Raoul Wallenberg's legacy. She mentioned the consensus – reflected also in UN and EU frameworks on human rights defenders – that without human rights defenders there can be no real protection of human rights. Accordingly, more than a quarter of Swedish Aid is spent on democracy and human rights through the Swedish International Development Cooperation Agency (SIDA), supported by the Ministry of Foreign Affairs and the Swedish Embassies. In collaboration with local actors, Sweden actively supports human rights defenders are monitored by Swedish observers. Moreover, Sweden further increased its aid as a reaction to the report released by Human Rights Watch in 2010 on the worsening judicial situation for human rights defenders. Ms. Olofsdotter explained that in general Sweden tries to raise public awareness and the level of education on human rights issues globally through financial support and projects.

Mr. Michael Ineichen, the Manager of the International Human Rights Defenders Programme at the International Service for Human Rights (ISHR), explained that the ISHR has a dual mandate: on the one hand it supports the engagement of human rights defenders through the international and regional human rights systems, while on the other hand it aims to improve those systems in order for them to better respond to the concerns and demands of human rights defenders. In effect the ISHR constitutes a bridge between human rights defenders and the international system, utilizing advocacy and monitoring of human, social and minority rights.

Human rights defenders face problems of safety, resources and knowledge. As threats faced by human rights defenders hamper the functioning of NGOs and international human rights treaty bodies by creating a lack of information and expertise, there is not only a need for civil society to take part in international mechanisms – particularly when national mechanisms fail to redress their pleas – but moreover it is their right to do so. Unfortunately, according to Mr. Ineichen it is often states themselves that are the perpetrators of reprisals against and intimidation of human rights defenders. In the past governments have revoked passports of human rights defenders who have spoken to UN experts, thus preventing their return home – but there have even been death threats and killings.

Looking at regional practises for recognizing and protecting human rights defenders (e.g. the Inter-American Commission on Human Rights or the International Criminal Court) could encourage best practice on a larger scale. Protective action could include: the unanimous denunciation of acts of reprisal or intimidation, thus maintaining the momentum and pressure for systematic responses by the international community; and the use of all channels open to individual states and their diplomatic missions in protecting human rights defenders – often based on individual initiatives (e.g. Wallenberg), and hopefully leading to the creation of systematic guidelines for protection based on a Resolution of unanimous condemnation of reprisals. Decisive action is difficult to agree on and implement, but it will certainly be valued by future generations.

Mr. Milan Antonijevic, **Director** of the **Lawyers' Committee for Human Rights** in Belgrade, explained that the Committee focuses on legal capacity building and provides free legal aid to human rights defenders.

Mr. Antonijević explained that the transition countries in the Western Balkan region have very active civil societies, tracing back to the anti-war movements of the 1990s and to their involvement in the ongoing democratic transition ever since. Human rights defenders face challenges from the recent past as well as challenges ahead, creating an unfavourable environment of fear and self-censorship for them. At times human rights defenders are even confronted with threats and attacks.

Mr. Antonijević attributes these challenges to: the lack of adequate responses from police and prosecution forces; the indifference of governments and inadequate reactions from politicians to public hate speech; the lack of judicial action on crimes against human rights defenders, with 70% of perpetrators never being identified or prosecuted; the demonization of civil society organizations; and also the inadequacy of existing judicial frameworks. He cited examples such as: the unjustified prohibition of pride parades in Serbia; the 2006 Serbian constitution's lack of public review and its primacy over international documents; the existence and rise of extremist groups; and difficulties with the media, including attacks on independent media and campaigns stigmatizing human rights defenders. Moreover, while a regional policy on human rights defenders is in progress, the comprehensive amendment of a legal framework on human rights defenders is still lagging behind. In sum, Mr. Antonijević highlights the need for the following: the introduction of human rights training; provision of a coherent framework on physical protection of human rights defenders; realization by leading politicians of the significance of the work of human rights defenders; increased support from the international community; special attention being paid to the fact that the Internet is used against as well as by human rights defenders.

Mr. Alexandre Fasel, the Ambassador and Permanent Representative of Switzerland to the United Nations Office in Geneva (UNOG), explained that the protection of human rights defenders' space and role has been prioritized by Switzerland for years. Clearly the risks they face negatively impact on the overall promotion of human rights, and therefore government actors and the international community should identify their protection as a common task – human rights defenders need to know and feel that they are not alone, but are part of a network of stakeholders.

Often there is a justifiable tendency to idolize individuals such as Wallenberg. He was in fact part of a mutually supportive team, however, which included Swiss consul Carl Lutz, Apostolic Nuncio Angelo Rotta, Swiss delegate of the ICRC Friedrich Born and many others who together saved in total no fewer than 100,000 people. The network logic "teams attract others to join" also needs to be applied in protecting human rights defenders today. A network of foreign ministries should be created, utilizing tools including multilateral and bilateral diplomacy, as well as project work on the ground. Governments should act jointly, raise awareness, and adopt consistent conduct, best practices and accountability in order to become reliable partners in this network. This could include drafting minimal standard guidelines on human rights defenders, adapted by embassy staff according to location and context. Moreover, embassies should themselves be knowledgeable - as are human rights defenders and be similarly active by regularly reporting via diplomatic channels to the UN and possibly feeding that information into bilateral as well as multilateral relations (vertical integration). Protected, direct contact should be established with human rights defenders, visiting them and keeping them on the guest lists of embassies providing them with (temporary) protection when necessary. In addition, embassies should provide legal assistance, offer health support,

raise issues with local authorities, issue public statements, cooperate with other actors and facilitate and protect the travel of human rights defenders to Geneva and back.

Mr. Fasel summed up his argument in five points: human rights defenders are important; their space must be protected; this protection is a joint responsibility; governments must be conscious of what they are doing; governments must base their action on common guidelines.

Mr. Anton Steynberg, Senior Trial Lawyer at the International Criminal Court (ICC),

drew attention to the fact that the ICC owes its existence to the Second World War atrocities that triggered a fundamental re-examination of the worlds' response to such events. The international military tribunal in Nuremberg set a new precedent in international justice: rather than seeking retribution, concerted efforts to serve justice were made; rather than condemning an entire nation, individual perpetrators were identified. It also brought about the concept of crimes against humanity, and the outcomes of these trials had a great impact on core international treaties and criminal law. In the 1990s ad hoc tribunals on the former Yugoslavia and Rwanda were established: civilian institutions with far more comprehensive legal frameworks. Finally – based on the 1998 Rome Statute – the ICC was founded, becoming the first treaty-based international permanent tribunal focusing on the most serious crimes of concern to the international community: war crimes, crimes against humanity and genocide.

The ICC cannot act upon all applications made to it, but has to focus on the worst cases and on people most responsible – the aim is to initiate a positive complementarity of prosecution, conflict resolution and justice in the home country. Since local governments often protect perpetrators, the ICC offers a global governance alternative based on international criminal law and courts, ensuring the right for victim participation in trials and a fair trial for the accused. It can order compensation, either from assets owned by the convicted party, or by drawing on specifically established trust funds. Yet rather than focusing on crime retrospectively, as an independent body working for peace and security the ICC functions as an ongoing deterrent to future atrocities. Moreover, the ICC's work is highly reliant on the assistance of its member states and the international community: it can only conduct research with the permission of the country in question; its jurisdiction – while potentially extendable by UN referrals (e.g. Libya and Sudan) - is limited to its member states; and it depends on member states for protection and financial support. Mr. Steynberg called for more states to become ICC members, for continuous facilitation in implementation of the Rome Statute in member states, for the improvement of cooperation with civil society and for long-term investments in the ICC.

During the **debate** the audience as well as the panellists re-emphasized: the network structure in which human rights defenders operate; the reliance of treaty bodies on information from human rights defenders (making reprisals against activists in effect attacks against human rights mechanisms as a whole); the continuous need to speak up on pressing topics; and the requirement for countries to be committed to cooperation with the ICC and to witness protection. It was argued that this would require a strong response by the international community, the revival of the 1998 Declaration and the adoption of new Resolutions.

Mr. Lajos Aáry-Tamás, Commissioner for Educational Rights at the Ministry of Human Resources of Hungary, acted as the moderator of the <u>second panel</u> dedicated to human rights education and training.

Deputy Director-General of the **United Nations Educational Scientific and Cultural Organization (UNESCO) Mr. Getachew Engida** highlighted that human rights education and training are cornerstones in effectively addressing human rights challenges in the world. Within our multicultural, diverse societies, lasting peace and justice can be achieved and upheld not through mere coexistence, but only through mutual respect, genuine dialogue and human rights – as stipulated in the UNESCO constitution. Mr. Engida accordingly argued that human rights education is one of the pillars of learning to live together peacefully in the 21st century.

Experience shows that the focus of human rights education and training must be practical, and that human rights concepts and language must be accessible, relevant and applicable to real life situations. It should aim at all age groups in all countries, but special focus should be directed at children. Moreover, action must be taken to tackle these challenges at two levels: developing firm common principles; and developing new ways of applying principles on the ground (e.g. the Internet) – ideally based on the 2011 United Nations Declaration on Human Rights Education and Training.

Knowledge of rights is central in guaranteeing them – conversely, a lack of knowledge can be a source of misunderstanding and conflict. Education also increases self-assurance – for instance, regarding one's culture. In fact cultural heritage and sites are always attacked first (e.g. in Mali, Libya, Syria), as attacking them is easy, visible and hurtful. Any disrespect for cultural heritage can easily evolve into hatred, and therefore its protection is required.

UNESCO has made many ground-breaking efforts in human rights education. It has developed educational material and disseminated it across its global network of schools ("Associated Schools Project Network"), encompassing more than 9,000 educational facilities across 180 countries. In 2012 the UN Secretary General launched the "Education First" initiative – identifying education as a force for peace through global citizenship – and the "Teaching Respect for All" initiative – launched in collaboration with the US and Brazil, developing anti-racist teaching materials.

Mr. Kishore Singh, who is the **United Nations Special Rapporteur on the Right to Education**, agreed that human rights education is not just a human right in itself, but is also indispensable for exercising human rights in general. Human rights education is a priority in creating greater awareness and commitment to the promotion and protection of human rights. The current challenge is how to operationalize more effectively the existing normative frameworks, such as the UN Declaration on Human Rights Education and Training.

Human rights education has three main components: textbooks, training of teachers and school management, and the environment for students. In today's multicultural societies each of these components must be based on respect and cultural visibility. Human rights need to be reflected upon, respected and included in all textbooks. Training teachers should on the one hand aim to educate the teachers themselves, while on the other hand show them ways of introducing human rights to their pupils – accordingly there is also a need to increase the social status and esteem of these issues. It is important to teach children the love of learning and a passion for respect for others, creating mutual understanding; this is the responsibility of school systems, parents, teachers and all other stakeholders. It is crucial that the management and environment of schools function in a way that is respectful of human rights and fundamental freedoms.

Current challenges are bringing to the fore different aspects that will make human rights education ever more important in the future, such as: the growing scope of human rights (e.g. right to peace, right to international solidarity); the need for education based on cultural diversity – necessary for the attainment of sustainable development (e.g. Millennium Development Goals, UN Decade for Education for sustainable development); the need for

international cooperation in human rights education, and also the need for all treaty bodies to reinforce education as well as training.

Ms. Katalin Szajbély, Head of Division at the Office of the Commissioner for Fundamental Rights of Hungary, stated that the Commissioner and his office function independently from the Government, but do not constitute an NGO.

The work of the Office is based on annually identified focus topics based on constitutionality, general public and media interests, and preliminary research. All projects related to the focus topics are based on the Human Rights Catalogue (a thesis based on international legislation), previous decisions of the Constitutional Court of Hungary and previous reports by the Commissioner. The Commissioner has powers to investigate human rights infringements, as well as to publish reports and recommendations thereon. He also raises awareness, issues press releases, makes appearances and takes part in meetings. These traditional tasks, however, are now combined with approaches which are new, proactive and outside the legislative field, including organizing conferences, exhibitions, competitions, annual projects, workshops, festivals, human rights education, and the utilization of social media and websites. For 2013 five focus topics have been identified: human rights in penal institutions; dignity of work; the situation of lawyers; "the losers of the crisis"; and child-friendly justice. Since 2008 projects on children's rights have been running, including those related to awareness-raising of children, violence at school, children in state care, the right to health and child-friendly justice. Specialized teams are formed according to each focus topic, also cooperating with international organizations. For children rights projects, partners included Eurochild, the European Network of Ombudsmen for Children, the European Forum on the Rights of the Child, the European Commission, UNICEF and many others. Surveys have shown that, among EU Member States, Hungary ranks poorly when measuring children's awareness of their rights – a fact addressed by organizing child-oriented festivals, as well as by creating the successful website gyermekjogok.ajbh.hu, which is tailored to the needs and understanding of young children and allows them to pose questions or submit complaints.

Mr. Gábor Gombos, the **Hungarian member** of the **United Nations Committee on the Rights of Persons with Disabilities** explained that in order to come up with practicable and effective recommendations for member states, human rights treaty bodies require a thorough understanding of the given situation on the ground. Information gathered through state reports is insufficient, as it often has a narrow, legislative focus. On the other hand, lived experience has to be put within a human rights framework, as otherwise it would be equally inadequate. This intellectual challenge requires knowledgeable civil society actors who are able to place their lived experience within the relevant human rights frameworks. Everybody on the ground needs to be educated and, moreover, needs to have the right to be educated on human rights approaches. Recent discussions on the right to human rights education have shown that human rights are not just an abstract academic, intellectual subject, but are also a very concrete issue – we either exercise them in our lives or violate them through our acts.

Mr. Gombos gave a personal account of how human rights education can work. As a human rights defender he had been profiled and interviewed in a civil society education and awareness-raising project called "Speak truth to power". A book had been distributed to different high schools in various countries, which in fact inspired some to produce a play about the human rights struggle between good and evil, involving the students emotionally. The real enemies of human rights, Mr. Gombos argued, are not governments as such, but rather the ignorance of individuals and the arrogance of the authorities; these need to be combated. Ignorance is not only intellectual, but human rights violations are rather fed by negative attitudes, and thus emotions. If emotions are not addressed in human rights

education, we can produce intellectually well-informed people, who in their lives may either respect human rights, or still violate them. Human rights education is fundamentally about permanently challenging our attitudes.

Ms. Dragoljuba Benčina, Director-General of the Directorate for Global Issues and Multilateral Political Relations at the Ministry of Foreign Affairs of the Republic of Slovenia, mentioned with satisfaction that all panel topics in the Forum are priorities of the Slovenian government. While Slovenia only became a member of the UN 20 years ago, it actively participates in international forums on human rights, and despite current financial restraints, the Government continues to finance human rights-related projects. Human rights are mostly the responsibility of states in relation to people, and since the state is made up of people, the education of every single individual is indispensable in strengthening and promoting – as well as preventing – the abuse of human rights as a whole. Human rights education is a life-long systematic endeavour, in which informal and non-governmental forms of human rights education are just as important as formal ones.

In December 2012 Slovenia celebrated the first anniversary of its adoption of the UN Declaration on Human Rights Education and Training and, due to its short period of experience and relatively small size, it has decided to cooperate with other countries, including Austria, Switzerland and Liechtenstein. Slovenia is part of the World Programme for Human Rights Education, but also runs the Slovenian extra-curricular "Our Rights" project initiated during Slovenia's OSCE presidency in 2005, aimed at engaging people of all ages in discussions on basic human rights. This has been a great success, for instance, in harnessing the enthusiasm of children and their ability to learn quickly, thus becoming a continuously used vehicle in the teaching of basic human rights. The project is being translated into 19 languages, involves local NGOs, and to date more than 135,000 children and youngsters have participated internationally. The project constitutes a best practice that Slovenia is proud of, and is open to exchanging ideas and sharing experiences on. Moderator Lajos Aáry-Tamás added that the Hungarian Commissioner for Fundamental Rights has a shared project on children's rights with his Slovenian counterpart.

In the **debate** it was emphasized that specific education programmes and supervision need to be developed, dealing with issues such as the mode of teaching or the content of school history books. Past conflicts can potentially spark future conflicts, and so the history of ethnic tensions and national minorities should be handled with care, especially in peace-building phases. Education is a globally unifying force that should be utilized in eradicating stereotypes and tensions, raising responsible and tolerant global citizens. For example, the rewritten general history book on Africa, realized with the help of UNESCO, has enabled African children to understand their heritage.

It was also mentioned that human rights is not a universal concept, as in some places communities rather than individuals are emphasized, leading to variations of interpretations.

Moderator Mr. Tamás Lattmann, Assistant Professor at the National University of Public Service in Hungary, mentioned that the topic of the <u>third panel</u> – on freedom of expression – is one of the most pressing areas today in which Hungary is an active participant. It is regularly argued that freedom of the Internet should be considered a universal human right, in conflict however with some established international regulations, as well as with the potential to abuse the Internet.

As Chairperson of the Inter-Ministerial Working Committee on Human Rights, Mr. Zoltán Kovács, Minister of State at the Ministry of Public Administration and Justice, explained that the Working Committee is a human rights consultation mechanism, whereby civil society organizations, representatives of the Government and other central figures in the field of human rights in Hungary come together in roundtable discussions.

Media regulations are an issue of debate globally, and Hungary has found itself in the midst of this. In recent years much unfounded criticism has been levelled against the newly-created Hungarian media laws and the Media Authority, while in fact there was a need for reform and a need to create integrated and diversified supervision structures. As an independent body staffed by non-partisan professionals with limited terms of office, the Media Authority can voice its opinion on media issues such as unbalanced reporting, but it cannot impose sanctions. An indication of Hungary's good performance is the fact that Freedom House placed it fifth among 47 states in the category of Freedom of the Net.

Mr. Kovács argued that in Hungary freedom of speech, expression and the Internet are not human rights issues, but rather subject to political debate. The dispute between Hungary and the US on the extremist right-wing website kuruc.info for instance has highlighted, that there remain political and technical difficulties related to cyber security and the prevention of hate speech. Hate speech – along with issues such as the protection of minors – should be resisted more robustly. He also mentioned that the issue surrounding the Hungarian broadcaster Klubrádió is not one of human rights, but simply a broadcast frequency question: a case still awaiting a final verdict in a court of law.

Thus far the establishment of European standards has appeared impossible, owing to political, regulatory and traditional differences between Member States. Mr. Kovács compared intervening in the field of the Internet to opening a Pandora's Box, as both internet neutrality and regulation are crucial and require flexibility. The fact that cyber regulation will always lag behind the technical advances and know-how employed by criminal forces makes it an even more complex issue. Nevertheless, state intervention is not only of interest to the state but also to the security of private entities.

Ms. Marcia Kran, Director of the Research and Right to Development Division at the Office of the High Commissioner for Human Rights (OHCHR), emphasized that the right to the freedom of opinion and expression are spelled out in many international legal documents and are the catalyst for the enjoyment of all other human rights (e.g. the Arab Spring, Occupy Wall Street).

Manifestations such as child pornography and incitement to genocide, for instance, are clearly prohibited by international law, but any restrictions should nevertheless be established by law, have legitimate grounds, stay in balance with freedom and should generally be exceptions. Some governments have unjustly attempted to block websites or even the World Wide Web altogether to prevent the rapid spread of information. Many international organizations and experts have criticized the new media legislation and the Media Authority in Hungary for curbing media pluralism and putting the media at risk of political control, for its appointment procedures, broad regulatory powers and high fines for journalists which, for instance, lead to self-censorship.

Generally speaking, the Internet is a tool to share and receive information, and has actually transformed human rights movements, including in terms of a higher vulnerability and visibility of individuals. Accordingly Ms. Kran advocated undertaking human rights impact assessments when developing internet policies, and exploring – independent of regulatory measures – educational and co-regulatory measures.

Restrictions and human rights abuses against journalists, online activists and bloggers increasingly occur in non-conflict areas. Violations against journalists (illegal hacking,

monitoring, intimidation, arbitrary arrests, disappearances and even killings) are not caused by a lack of legal standards, but rather by a lack of implementation, thus giving perpetrators seeming impunity.

The recently adopted Rabat Plan of Action aims to regulate against incitement to hatred in a manner compatible with human rights by attempting to provide instruments for measuring and identifying the risks of hate speech against six criteria: context, speaker, intent, content, extent and likelihood.

Mr. Andrew Stroehlein, **Director of Communication** at the **International Crisis Group**, focused his presentation on the topic of media regulations and freedom of expression in post-conflict areas. Mr. Stroehlein argued that in these situations a special, more robust form of media regulation might be required, due to the need to balance freedom of speech on the one hand and rules that prohibit hate speech on the other. These considerations have to be made in the light of the danger of resurfacing conflict – after all, the indicator for future mass violence is historic mass violence. While human rights are universal, in post-conflict situations a more delicate balancing approach is needed, with the prevention of violence being the key interest. Accordingly a more aggressive approach is called for in cracking down on hate speech and incitement.

Monitoring remains a very difficult task, and in addition some might worry that more restrictive media legislation only delays the conflict. It is unclear how long such restrictions should be kept in place, as for some ruling administrations it might be beneficial to keep them in place. In Rwanda, for instance, genocide denial laws are used to lock up political opponents. In Germany displaying the swastika is still prohibited – a regulation that was almost integrated into European law – but it is unclear whether this is in fact still necessary. Removing restrictions can reignite a conflict – the duration of restrictions and the authority to decide in these questions remain crucial and disputed factors. Restriction reviews need to be built into the restrictions and into post-conflict solutions themselves, in order to prevent them from lasting forever. Actors deciding on these disputed factors and carrying out the reviews should ideally be drawn from a diverse range, specifically including the conflict parties as well.

Mr. Charles-Michel Geurts, Deputy Head of Division on Human Rights and Democracy at the European External Action Service (EEAS), commended the commitment of Hungary to protect freedom of expression and to engage in public debate.

Due to its speed, reach, accessibility, high rate of participation and relative anonymity, the Internet is a new and indispensable vehicle for freedom of expression, the documentation of human rights violations and as a driver in political development. These characteristics, however, can also have a negative, snowball effect. As the Internet does not have the same effects everywhere, global regulations would be inefficient. Accordingly, hate speech has to be tested on a national, local basis (e.g. tests presented at the OHCHR Rabat meeting).

Thus, much work is going into finding common EU Internet guidelines, in order to overcome national fragmentation and help the Member States towards a safe digital environment, while remaining flexible to meeting national needs. Key EU principles are that freedom of expression must apply online as well as offline, that legitimate restrictions need to be based on international standards and treaties, and that the primary responsibility lies with the state. The EEAS uses acclaimed international standards (e.g. ICCPR) in regulating the Internet abroad (e.g. child pornography, genocide) and providing assisting guidelines on hate speech, incitement to hostility and violence (predictability, transparency, legitimacy, necessity and proportionality).

Ultimately the implementation of the legal framework is what really matters. Responsibility for the blockage of content cannot lie with the private sector, but rather requires state decisions through an independent judiciary. The European Commission and the EEAS are developing social and corporate responsibility guidelines to implement EU business and human rights guidelines in the ICT sector, as well as guidelines on sanctions and the export of materials used in internet surveillance. In addition, the newly-appointed EU Special Representative for Human Rights Stavros Lambrinidis wants to develop guidelines for diplomatic conduct, not only on legal standards but also on practise. Cyber security based on the rule of law and human rights safeguards EU interests at the international level.

Ms. Any Freitas, Senior Programme Manager at the European Union Institute for Security Studies, referenced the report on the freedom of expression by Frank La Rue, proposing a series of guidelines and defence mechanisms. One of these guidelines is that governments should not rely on private entities to censor content, while another guideline is that, with few exceptions, governments should not be able to develop user identity registries. Currently, internet users have equal access to the complete network made possible by the concept of internet neutrality, and profit from its speed, worldwide reach, low cost and anonymity – all of which could be hampered by private entities. Internet providers and telecommunications services cannot discriminate against or restrict consumer access, nor limit content or platforms. Internet neutrality ensures freedom of expression and freedom of information.

There is a risk, however, that one day companies or states will try to exploit the economic possibilities of the Internet by creating scarcity. A possible scenario would be the creation of a two-speed Internet, similarly to cable TV: one standard Internet with no variety and low speed, and a broader, faster but also more expensive premium Internet. This would make profits at the possible cost of limiting user access and endangering net neutrality. Indeed this tendency can already be observed in various countries and regions (e.g. the US, China and Latin America), and Internet users not aware of net neutrality are the main victims of the restrictions.

The right to the Internet is a human right, and therefore net neutrality should be an international policy goal. The EU has recognized its importance to the functioning of democratic systems, and the Human Rights Committee should follow suit. Political will is required in order to find a balance between national and international interests. Net neutrality is an economic, technical, political issue, as well as a human rights issue.

In the **debate** issues such as the legitimacy of the Hungarian Media Authority and the Klubrádió frequency debate were raised, but also the need for better law enforcement guidelines.

It was also mentioned that the national differences between online and offline freedom require harmonization.

Ms Klára Breuer Chief of Cabinet of the Minister of Foreign Affairs hosted the participants of the Forum at the gala dinner. In her welcome speech Ms Breuer pointed out that the MFA had launched the Human Rights Forum five years ago with the objective to create a platform for exchange of views, ideas, experiences and best practices in different areas of human rights. Since its establishment the Forum has become a respected place of gathering of human rights specialists representing international, governmental and non-governmental organizations, academic life and civil society. She also expressed her hope that the Budapest Human Rights Forum would continue to provide room for future debates of human rights for long years.

Mr. Botond Zákonyi, the **Director** of the **Hungarian Institute of International Affairs**, moderated the <u>fourth panel</u> on minority issues on the 20th anniversary on the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

The Independent Expert on Minority Issues to the United Nations Ms. Rita Izsák highlighted areas of progress, as well as some remaining challenges. Despite its possible shortcomings, the Declaration forms a vital part of the global theoretical and practical catalogue of human rights standards related to minorities.

Minorities face coercive acts (such as forced or uncompensated expulsions/ evictions), vandalism of cultural or religious sites, arbitrary detention, violence and even genocide, while at the same time their identities are threatened by assimilation. However, as more than 50% of all conflicts are related to ethnic tensions, respect for minority rights, religious rights and citizenship are crucial. Ms. Izsáks' mandate prescribes conducting country visits, in order to gather information on the ground from a wide range of actors; recommendations and technical support for implementation are based upon these. Thus far 13 country visits have been carried out, but conducting follow-up visits has not been possible yet, due to the continuously large amounts of incoming information and complaints. Her most frequent task – but the least visible – is communicating with the 193 member states and their minorities. The level of response is low, and this is also true for governments' efforts at achieving current goals and keeping to deadlines. At times there is no cooperation whatsoever in these areas, and as a result Ms. Izsák tries to raise awareness by issuing press releases and reports.

More than 400 stakeholders participate in the UN Forum on Minority Rights each year, producing recommendations on specific topics. In 2012 the focus was on the practical implementation of the Declaration, with the conclusion that measures should go beyond non-discrimination and include the right to educational, economic and political participation. Without education, the protection and realization of minority rights will always be hampered, as it is the first step towards knowing and claiming ones rights. Governments have the greatest responsibility in protecting these rights institutionally, which constitutes the step between legislation and practical implementation – especially in societies where ethnic, cultural or religious tensions have long existed.

Mr. Csaba Pákozdi, Head of the International Minority Law Department at the Ministry of Foreign Affairs of Hungary, recalled that conflicts related to ethnicity have led to the conclusion that states are more stable when minorities are protected. Minority protection developed in steps, firstly with the Declaration on the Rights of Minorities in 1992, later with the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1993, the UN Working Group on Minority issues in 1995 and the Independent Expert on minorities. It is the duty of states to protect minorities through acting against exclusion, negative discrimination and assimilation, and through ensuring their autonomy, their identity and their right to education. Strengthening minority languages, for instance, potentially increases the integration and overall prosperity of the European area. Languages need to constantly develop, and so language protection restricted to the domestic domain is insufficient to assure the survival of minority languages, culture and communities. UN frameworks on language rights emphasize the role of the state and the reciprocity between minorities and majorities, with both being integral and equal parts of the public domain and of society, and both possibly learning each other's languages. The European minority protection system needs to be greatly enhanced - the Constitution of Kosovo, for instance, can function as a good

example by assuring de facto autonomy, community and language rights. Initially, minority protection functioned only as a political measure, but later on it became an accession criterion for countries such as Croatia – and will be even more so in the cases of Serbia, Kosovo or Macedonia.

All legislation and protection systems need to be continuously monitored, amended and improved. The political will is lacking, however, leading to the absence of a comprehensive EU framework on minority protection. Respect and dignity, foremost priorities for all member states, could potentially function as common denominators for minority protection systems.

Mr. Asbjørn Eide, Former Chair of the United Nations Working Group on the Rights of Minorities and one of the founding fathers of the Declaration on the Rights of Minorities, emphasized that while a lot has already been achieved, there is still a need to further enhance social integration and identity protection, when aiming to attain sustainable and peaceful societies.

The UN was created in 1945 and the Universal Declaration on Human Rights was adopted in 1948 as part of an effort to prevent the horrors of the two world wars from reoccurring. According to Mr. Eide, these were great steps for civilization, reflecting the social problems of the past 300 years. However, the conflicts of the 1990s, driven by ethnic conflict entrepreneurs exploiting insecurities for their own personal gains (e.g. the Balkans, the Soviet Union, Rwanda and Sri Lanka), as well as the heterogeneity within minority communities (e.g. the Roma in Hungary and religious minorities in Norway), have made it difficult to develop common standards which are equally applicable everywhere. Accordingly, while the Universal Declaration was an historic step on the road of integration, the Declaration on Minorities protects specific groups.

There is thus an intrinsic conflict between on the one hand preventing discrimination through equal treatment and on the other hand protecting minorities through respect for differences. The promotion of pluralistic integration is needed based on identity and self-government of minorities, on equal dignity, equal protection under the law ensured by law enforcement, equal participation in governance or equal access to social facilities. Solutions to ethnic conflict require the promotion of equality in the common domain and assurance of pluralism, while allowing some territorial liberalisation. A famous case of pluralistic integration is the re-elected US President Barack Obama, who embodies the differences in American society and who fosters social integration (e.g. health care reform). The question of how far we should go with either protection or integration remains unanswered, however.

Mr. Larry Olomofe, Training Coordinator and Advisor on Racism and Xenophobia at the Office for Democratic Institutions and Human Rights (ODIHR) at the Organization for Security and Co-operation in Europe (OSCE), highlighted that the aim of his office is to combine security with human and minority rights. He argued that security is an empty ambition if human rights are not respected. Generally the OSCE provides assistance in filling the gap between the normative frameworks and reality.

Hate crimes – one of the focus areas of the OSCE – can occur when people and their society feel their culture, economy and politics are threatened by social developments (e.g. globalization, migration). The OSCE provides an annual hate crime report on the region, addressing the situation of minority communities, and providing legislative reviews and recommendations. They also organize training courses on the implementation of regulations and raise awareness on hate crimes – for police forces or judges, for instance – which are in great demand in Hungary and the region. Conversely, lack of knowledge and training allow the continuation of hate crimes and lack of judicial response. The role of law enforcement is to protect all citizens equally, and the political elite should set an example of what is and is

not tolerated. The biggest challenge, however, is to determine the dividing line between freedom of expression and intimidation and incitement to hatred - in other words, the balance between fundamental freedoms and rights and the protection of others.

The organization also focuses on human rights violations across the region, such as targeting particular groups as threats to society (e.g. anti-terrorism), and assisting in adequately addressing issues and human rights breaches in order to prevent their future reoccurrence. The challenge here is not to improve dialogue, but to actually realize initiatives. While addressed at the structural level, discriminatory sentiments remain unaddressed at the individual level, allowing crimes against the Jewish and Roma communities to continue up until today, while at the same time hampering integration.

Mr. Gordan Grlić-Radman, Ambassador of the Republic of Croatia to Hungary, presented the human and minority rights situation in the Republic of Croatia.

In conflict and post-conflict situations the rights of minorities are always threatened – Croatia is prepared to share its knowledge and experience in rebuilding societies and establishing institutions, as well as implementing measures to protect those threatened by hostility and violence. On 1 July 2013 Croatia will join the European Union, an ongoing and labour-intensive endeavour. The regulation and practical realization of freedom and rights of national minorities has been a measure of democratization, as well as a central aspect of the economic and political integration of Croatia into Europe. There are significant levels of legal provisions and protection of the 22 national minorities enshrined in the Constitution, as only the strong rule of law allows an effective protection of minority rights. The Constitutional Act on National Minorities, for instance, foresees the participation of national minorities. In addition, Croatia believes that minorities have responsibility for their own community and their integration into wider society.

Croatia pays particular attention to the Roma in legal documents on gender or integration, or in terms of education, employment, health care and decision-making. The empowerment of Roma women is an explicit aim formulated in the National Strategy for the Gender Equality and the Action Plan for the Decade of Roma Inclusion 2005-2015; the Government will continue to make efforts towards integration of the Roma, particularly Roma women, and especially in less developed areas. Croatia has also focused on Roma women in its current presidency of the Roma Decade.

Minorities are still under pressure in most regions of the world, including Europe – Mr. Grlić-Radman hopes the awareness of the rights of minorities will continue to increase. Croatia will actively promote and advocate this at EU and UN levels through its foreign policy. The country wants to achieve peace: not only in terms of the absence of war, but also measured by human and minority rights standards.

Mr. Bernard Rorke, Director of Research of the Roma Participation Program at the **Open Society Foundation**, recalled the judgement by the European Court for Human Rights in the case "D.H. and others vs. the Czech Republic", which found automatically placing Roma children into special schools to be unlawful; to date, however, the Czech government continues to deny Roma children equal opportunities and adequate schooling. International institutions continually draw attention to lack of progress and to strong prejudice present in society – even among these children's teachers. The Commission has renewed its calls for eliminating school segregation, the misuse of special schooling, the improvement of teachers' mediation and teaching skills, parental awareness and early enrolment.

European member states have thus far failed to adopt an integrated approach to education which is inclusive, and is based on equal access and quality; the picture is similar in the areas

of health, housing and employment. Specific measures, explicit targets, earmarked funding and sound monitoring and evaluation are needed - the devil is in the detail, and this is what the national Roma strategies lack. While there are some inadequacies in Brussels, the primary responsibility for combating racism, protecting citizens, defusing tension and promoting dialogue lies with Member States. While reassuring rhetoric is common, there is a need for policies directly affecting lives for the better. Moreover, Roma inclusion requires structured and active Roma participation. Continuing anti-Roma violence and continual attacks by state and non-state actors within the region make a mockery of the Roma Strategy and its ambitions - they need an overhaul and strict monitoring by the Commission in order to make a difference by 2020, as only foresight can divert a major future crisis. Anti-Roma rhetoric from politicians and the media, as well as ambivalence among majority populations, often precede premeditated acts of violence. Prejudice should not derail progress: there needs to be nothing less than zero-tolerance policies towards anti-Roma prejudice, as discrimination is economically disadvantageous and as continued exclusion degrades the quality of Europe's democracies, corrupting the sense of citizenship. The aspiration to create inclusive societies by 2020 should be made reality.

Mr. Máté Fischer, Project Coordinator at the Tom Lantos Institute, elaborated on the social inclusion and integration of minorities in Hungary and the region from an NGO perspective.

The Institute, with its region-wide focus, was established in June 2011 based on an all-party agreement, and accordingly has an all-party board (excluding the far-right Jobbik party). Its work involves, on the one hand, carrying out research, while on the other focusing on action-oriented empowerment projects. Research – generally rare in Hungary – is needed to identify the real roots of problems; this in turn is needed to identify and implement effective projects. At the moment, empowerment projects and capacity-building are aimed at Roma youth in Hungary, but expansion of the target group is planned.

In Hungary the Roma face difficulties of integration and at the same time struggle against discrimination. Far-right groups are rhetorically openly extremist and racist - espousing antiziganism and anti-Semitism - and have become increasingly popular among youth in Hungary. Moreover, racist hate speech has become an increasing part of the public discourse, desensitizing society - the Institute aims to identify its causes and possible solutions. Social inclusion can be an effective approach to fight discrimination and build tolerance at the same time, targeting the majority as well as far-right elements in society, while also including the minority and creating synergy in the long run. Education plays a vital role in raising awareness and tolerance - for instance, as stipulated by the UN Declaration, the history and traditions of minorities need to be included in national curricula. Another effective tool is the media: while currently Roma are portrayed rather negatively, this should be changed, with Roma becoming more visible - including in roles not connected to Roma issues. The Institute also engages in capacity-building and empowerment of Roma women by, for instance, teaching them English and networking skills to enable them to launch careers. The philosophy of empowerment is the expectation that people go back to their communities and pass on their knowledge. Democratic citizenship and civic responsibility are crucial, and every community, organization and individual has such responsibility.

During the **debate** one comment pointed to the uncertainties of defining minorities based on subjective and objective criteria, thus complicating protection efforts even more (e.g. length of history of coexistence, self-identification, special native rights versus other minorities). The difficulty of regulating cyber hate speech due to the conflict between freedom of speech and incitement to hatred – as well as judicial and instrumental inadequacies or political interests –

was also reiterated. Incitement is rarely clearly identifiable (exceptions are, for instance, hit lists or deaths threats) but proving the link between incitement and crimes is even more challenging – requiring a reflective, local approach. It was also added that almost all genocides start off with hate speech, and thus it should never become "normal", or be hidden behind patriotism. Generally a "one size fits all" solution for minority issues does not exist – rather political intervention is required, according to local needs.

PROGRAM OF THE FITH BUDAPEST HUMAN RIGHTS FORUM 8-9 November 2012

Venue: Budapest, MFA, Conference Hall

Chair of the Conference: Ágnes Hevesi, Head of Human Rights Section, MFA of Hungary **Rapporteur of the Conference: Sarah Lubbersen**, Senior Political Advisor, Ministry of Public Administration and Justice

8 NOVEMBER 2012

08.30-09.00 Registration

09.00–09.15 Opening statement by Zsolt Németh, Minister of State, Ministry of Foreign Affairs of Hungary

09.15–09.30 Video Message by Navanethem Pillay, High Commissioner for Human Rights of the United Nations

09.30–10.40 First Panel - HUMAN RIGHTS DEFENDERS IN THE WORLD – REMEMBERING RAOUL WALLENBERG

Moderator: Barbara Tószegi, Chief of Cabinet of the Deputy State Secretary for Multilateral Relations, MFA of Hungary

Remembering of Raoul Wallenberg – short video screening

Panellists:

- Karin Ulrika Olofsdotter, Ambassador of the Kingdom of Sweden to Hungary
- **Michael Ineichen**, Manager of IHRD Program, International Service for Human Rights
- Milan Antonijevic, Director, Lawyers Committee for Human Rights
- Alexandre Fasel, Ambassador, Permanent Representative of Switzerland to the United Nations Office in Geneva
- Anton Steynberg, Senior Trial Lawyer, International Criminal Court

10.40-11.00 Q&A

11.00-11.25 Coffee break

11.25-12.25 - Second Panel - HUMAN RIGHTS EDUCATION AND TRAINING

Moderator: Lajos Aáry-Tamás, Commissioner for Educational Rights, Office of the Commissioner for Educational Rights, Ministry of Human Resources

Panellists:

• **Getachew Engida**, Deputy Director-General, UNESCO

- Kishore Singh, Special Rapporteur on the Right to Education, UN
- Katalin Szajbély, Head of Division, Office of the Commissioner for Fundamental Rights
- Gábor Gombos, Hungarian member of the Committee on the Rights of Persons with Disabilities
- **Dragoljuba Benčina**, Director-General, Directorate for Global Issues and Multilateral Political Relations, Ministry of Foreign Affairs of the Republic of Slovenia

12.25-12.50 Q&A

13.00-15.00 Lunch in the MFA

15.00-16.45 THIRD PANEL – FREEDOM OF EXPRESSION, INCLIDUNG THE FREEDOM OF INTERNET

Moderator: Tamás Lattmann, Associate Professor, National University of Public Service

Panellists:

- **Zoltán Kovács**, Minister of State, Head of the Inter-Ministerial Committee on Human Rights, Ministry of Public Administration and Justice
- Marcia Kran, Director, Research and Right to Development Division, OHCHR
- Andrew Stroehlein, Director of Communication, International Crisis Group
- Charles-Michel Geurts, Deputy Head of Division, Human Rights and Democracy, EEAS
- Any Freitas, Senior Programme Manager, European Union Institute for Security Studies

16.45-17.20 Q&A

18.00 - Dinner with boat trip on the Danube

Host of the event: Klára Breuer, Chief of Cabinet of the Minister of Foreign Affairs

9 NOVEMBER 2012.

9.00-9.30 Registration and coffee

9.30-11.00 Fourth Panel – MINORITY ISSUES ON THE OCCASION OF THE COMMEMORATION OF THE 20TH ANNIVERSARY OF THE UNITED NATIONS DECLARATION ON THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

Moderator: Botond Zákonyi, Director, Hungarian Institute of International Affairs Panellists:

- Csaba Pákozdi, General Director, MFA of Hungary
- **Rita Izsák**, Independent Expert on Minority Issues to the UN
- Asbjørn Eide, Former Chair of the UN Working Group on the Rights of Minorities
- Larry Olomofe, Advisor on Racism, ODIHR
- Bernard Rorke, Director of Research, Open Society Foundation
- Máté Fischer, Project Coordinator, Tom Lantos Institute

• Neil Clarke, Head of Europe and Central Asia Programmes, Minority Rights Group Europe

11.00-12.00 Q&A

12.00-12.15 CLOSURE OF THE CONFERENCE

12.15-13.00 Sandwich buffet