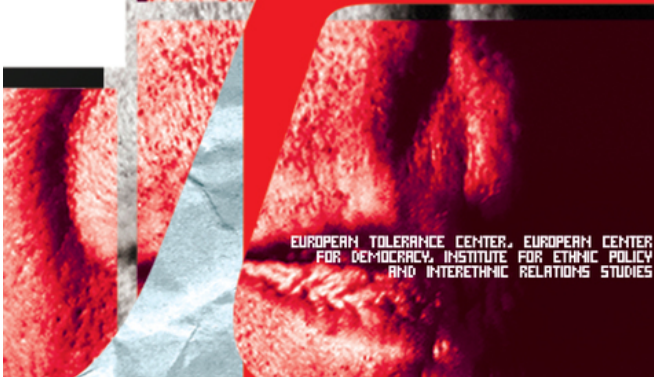
XENOPHOBIA, RADICALISM AND HATE CRIME IN EUROPE, 2015



EUROPEAN TOLERANCE CENTER, EUROPEAN CENTER FOR DEMOCRACY, INSTITUTE FOR ETHNIC POLICY AND INTERETHNIC RELATIONS STUDIES

Валерий Энгель
Анна Кастриота
Ильдико Барна
Коллектив авторов

Xenophobia, radicalism and hate crime in Europe 2015

Текст предоставлен правообладателем
http://www.litres.ru/pages/biblio_book/?art=22248558
Xenophobia, radicalism and hate crime in Europe 2015: European Centre for Tolerance; 2016
ISBN 978-5-00058-460-6

Аннотация

The book analyses major manifestations of hatred in the European space in 2015, as well as factors that influenced the demand for radicalism in society. Special attention was paid to how European governments respond to modern challenges. Analysis is given on the basis of 8 EU countries (France, Germany, Greece, Hungary, Italy, the Netherlands, Poland and the United Kingdom), as well as Russia and Ukraine, as countries who play a significant role in political and economic processes in Europe.

Содержание

Foreword 6
1. Legislation 8
1.1. Discriminatory trends in european legislation 8
1.2. Changes to counter-extremism and minority rights legislation 13
2. law enforcement practice 32
Конец ознакомительного фрагмента. 35

Xenophobia, radicalism and hate crime in Europe 2015

Authors thank the Chairman of the European Centre for Tolerance, Mr. Vladimir Shternfeld, for his financial support of the project.

European Centre for Tolerance
European Centre for Democracy Development
Institute for National Policy and Ethnic Relations Studie
Šamir Biedrība

Athens-London-Berlin-Paris-Moscow-Roma-Krakow-Budapest-Kiev-Amsterdam
2016

Editor in Chief and Project Head:
Dr. Valery Engel, Chairman of the Expert Council of the European Centre for Tolerance

Authors:
Dr. Valery Engel (general analytics), Dr. Anna Castriota (Italy), Dr. Ildikó Barna (Hungary), Bulcsu Hunyadi (Hungary), Dr. Vanja Ljujic (Germany, Netherlands), Tika Pranvera (Greece), Katarzyna du Val (Poland), Dr. Semen Charny (Russia), SOÓS Eszter Petronella (France), Ruslan Bortnik

(Ukraine), Dr. Jana Salmina (Ukraine), Alex Carter (UK)

Foreword

2015 was a year characterised by an unprecedented migrant crisis, escalated terrorist activity, and increased influence of radical political parties. Growing xenophobic tensions were accompanied by the rise of populist parties on the one hand and the radicalisation of Muslim youths on the other, which played a significant role in the attitude and treatment of refugees and immigrants this year. These trends have been observed against the background of anti-Semitic and Islamophobic sentiments, which have already been high for several years, as well as institutionalised racism in public and law enforcement bodies. Given these observations, it can be said that the European society is not only in the midst of racial and religious stratification, but also faces serious changes related to the transformation of identity and the growing civilizational conflicts.

The conducted study aimed to analyse the most prominent manifestations of hate in European countries in 2015 and to identify factors that affect the demand for radicalism in society. The study also focused on the preparedness and responses of governments to modern challenges. Research was conducted in 8 EU member states (France, Germany, Greece, Hungary, Italy, the Netherlands, Poland, and the United Kingdom), as well as Russia and Ukraine, as countries who play a significant role in political and economic processes in Europe.

The study involved researchers from various universities and research centres across Europe: Department of History at Northampton University, UK; Teesside University, Centre for Fascist, Anti-Fascist and Post-Fascist Studies, UK; Department Chair of Social Research Methodology at Eötvös Loránd University (ELTE), Faculty of Social Science; Political Capital Institute in Budapest; Pantheon University of Athens; Netherlands Institute for the Study of Crime and Law Enforcement; Jagiellonian University, Dept. of History, Krakow; Russian Institute of the National Policy and Inter-Ethnic Relations Studies, Moscow; Ukrainian Institute of the Political Analysis and Management; Human Rights Centre "Religion and the Law", Kiev.

Analysis was conducted in the following areas: legislation affecting minorities, law enforcement practices, treatment of human rights activists, hate crime statistics, xenophobic sentiments in the population, and government responses to modern challenges, such as the refugee crisis and the threat of radical Islamism. These observations form a basis for recommendations, which outline the steps to improve the situation regarding minority rights and de-escalating public tensions.

This report has been produced with the support of the European Centre of Tolerance.

1. Legislation

1.1. Discriminatory trends in european legislation

One of the most significant elements contributing to discriminatory trends in European legislation is the *non-recognition of racial or religious hatred as an aggravating circumstance* in a crime. Of the countries under review in 2015, four had lacked such a provision – France, Greece, Hungary, and Poland. Until recently, the German legal system had a similar deficit, where Article 46 of the Criminal Code left it to the discretion of the court.[1] However, on March 19, 2015, the Criminal Code had been updated to include Art. 46.2., according to which "hate motives" are to be considered during sentencing.[2] In Ukraine, criminal responsibility for a hate crime is linked to "direct intent", which must be proved. In Italy, hate views only affect sentencing if the crime was committed with the aim of influencing the broader public in order to "change its behaviour", which is also difficult to prove in court.[3]

---

[1] http://www.iuscomp.org/gla/statutes/StGB.htm

[2] https://www.bundestag.de/dokumente/textarchiv/2015/kw12_de_nsu/364372

[3] Italy is the only country under review that, over the past 10 years, has reduced the

A no less important discriminatory element in European legislation is the *unequal legal treatment of specific religions.* For example, Greek legislation allows for discrimination of non-traditional religions with Article 13(2) of the Constitution, which states that "all *known* religions shall be free and their rites of worship shall be performed unhindered and under the protection of the law." Paragraph 3 of the same article has the same qualifier, which deals with "insulting Christianity or any other *known* religion."

It is worth noting that Greece legally recognises only three religious organisations: The Greek Orthodox Church, Thracian Muslims, and the Jewish community. Other organisations that consider themselves religious are excluded from this status and thus cannot own property as legal religious bodies.[4]

Hungarian Law "On the right to freedom of conscience and faith, religion, church, and religious organisations" (2011) also created problems for new religious organisations that have not been present in the country for more than 20 years and who have less than 1000 followers permanently residing in Hungary.

German legislation also provides for inequality of some religious organisations, dividing them into "*corporate bodies under public law*" and others. *Corporate bodies under public law* have the right to collect their part of the Church Tax, which

---

punishment for hate crime from 3 to 1.5 years, setting the maximum fine of 6,000 euros for racial discrimination or hate speech (Law N 85/2006).

[4] http://cm.greekhelsinki.gr/index.php?sec=194&cid=3834

is derived from the taxable income by the regional financial body (Finanzamt) and given to the community. Other religious organisations are deprived of this status, which presumes that a religious community is guaranteed long-term existence by its statute and the number of followers. Currently, such status is applied to various Christian denominations, including Orthodox Mormons, Jehovah's Witnesses, as well as the Jewish community, and the Union of Religious Communities that consists of several smaller communities and sects (predominantly Christian). Meanwhile, the Muslim community in Germany, which has more than 4 million members (almost 5 % of the population), does not fall under the status of a corporate body under public law, despite meeting all necessary conditions.

Similar issues can be observed in Italy. In this country religious communities that have not entered in a concordat (e.g. Muslims) with the government encounter various problems.

Ukraine amended its Law "On freedom of conscience and religious organisations" in 2012, making registration of religious organisations more difficult and providing various government bodies with the authority to monitor and control their activities (including Prosecution, Ministry of Culture, and other local and central bodies). 2012 amendments also introduced a procedure for conducting peaceful public religious events, which contradicts Article 39 of the Ukrainian Constitution.

It is worth mentioning the Law "On protecting religious

feelings," adopted by Russia in 2013.[5] The law is characterised by its vague wording, essentially opening up the possibility of prosecuting criticism or disrespectful portrayal of religious organisations in art. For example, the law introduces the concept of "public actions displaying clear disrespect towards a community and committed in order to insult religious feelings" (Article 148.1 of the Criminal Code)[6], but does not further expand on its meaning, which allows for misuse of the law, particularly towards atheists and members of "non-traditional" religions.

However, the most significant problems in European legislation are laws regulating inter-ethnic relations.

There are several countries in Europe that do not recognise t*he presence of ethnic minorities* as such, which deprives them of corresponding rights that may differ from the regular human rights. Ethnicity and self-determination of minorities are excluded from the legal and political vocabulary in countries like France and Greece (excluding Western Thrace). The argument for this practice is that granting "special rights" to certain national minorities would escalate racism and inequality on ethnic grounds. Thus, France and Greece have been reluctant to join the Framework Convention for the Protection of National

---

[5] Official title: Law "On introducing amendments to Article 148 of the Russian Criminal Code and several legislative acts in order to combat insults of religious beliefs and feelings of citizens".

[6] http://www.rg.ru/2013/06/30/zashita-site-dok.html

Minorities and the European Charter for Regional or Minority Languages. Meanwhile, de facto national minorities in France and Greece constitute for at least 10 % of their populations. Their presence is officially unrecognised, and therefore, their rights are not protected.

This problem exists in various shapes and forms in other monitored countries, except Russia, which has more than one hundred different nationalities. However, Russia adopted a completely different nation-state model, which it inherited from the Soviet Union as a state founded on an idea, rather than traditions of the titular nation.

Non-indigenous peoples – particularly immigrants – are affected by this the most. However, there also millions of citizens in Germany, for example, who were born in these countries, but not recognised as national minorities due to not identifying themselves as any of the 4 accepted ethnic groups. These are Turks, former Yugoslavians and people of Asian and African origins, who are excluded from the Framework Convention.

These factors indicate that the rights of most national minorities in Europe are not observed on a legislative level.

1.2. Changes to counter-extremism and minority rights legislation

Legislative changes in Europe this year were predominantly aimed at solving the following issues: a) rapid illegal immigration; b) integration of legal immigrants; c) social radicalisation; d) terrorism. This was done by introducing tougher migration and anti-racism legislation, and combating various forms of hate crime. The European Union also continued to liberalise LGBT relations. However, countering terrorism has been the main objective of European legislators in recent years.

France, which has the highest number of radical Islamist groups in the European Union and has suffered most from extremism in the region, had adopted a Security and Counter Terrorism Act in December 2012. The law provided for much tougher punishment for people complicit in terrorist activities.[7] On November 4, 2014, France adopted another counter-terrorism law that allowed its authorities to confiscate passports and prohibit exit for people who are leaving for Syria and Iraq with the intention to join radical Islamist organisations. The law also allowed for extra-judicial blocking of Islamist websites.[8]

---

7 https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000026809719&categorieLien=id

8 https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029754374&categorieLien=id

In 2015, France furthered its anti-extremism legislation by adopting a surveillance act (July 24, 2015), which among other things allowed the security services to plant so-called "black boxes" at internet service providers in order to "monitor traffic and suspicious behavioural patterns through the real-time analysis of metadata."[9]

Note that the French were particularly critical of the United States Counter Terrorism Act, adopted following the 9/11 attacks and containing similar provisions. Thus, following the adoption of the French counterpart of the Act, President François Hollande sent the bill for the approval of the Constitutional Council, which found it corresponded to the French Constitution.[10] This was an unprecedented step since the Council's establishment in 1958.

It is fair to say that French and American anti-extremism legislation formed the model for counter terrorism legislation in many countries around the world.

In 2015, Germany[11] and the United Kingdom[12] adopted new

---

[9] *Loi n° 2015-912 du 24 juillet 2015 relative au renseignement*, https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000030931899&categorieLien=id

[10] *Décision n° 2015-713 DC du 23 juillet 2015 – Loi relative au renseignement,* http://www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/les-decisions/acces-par-date/decisions-depuis-1959/2015/2015-713-dc/communique-de-presse.144139.html

[11] http://statewatch.org/news/2015/jul/germany-terror-laws.html

[12] http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0127/en/15127en.htm

counter terrorism acts. Italy and the Netherlands also tightened their counter terrorism legislation during the monitored period.[13] In 2016, Russia is to follow their example.[14] In 2015, Russia had increased fines for the production of media containing the justification of, or public calls for, terrorist or extremist activities[15].

Analysing modern European counter terrorism legislation reveals several of its key elements:

1. Possibility of temporary border control or closure.
2. Introduction of pre-trial ban on travel and confiscation of travel documents, based on security intelligence.
3. Legalisation of internment, deprivation of citizenship, and deportation of persons complicit in terrorist activity (amendments to the Citizenship Act of the Netherlands allows for the annulment of citizenship in the interest of national security).
4. Increased online surveillance.
5. Tougher measures to combat the funding of terrorist activities.
6. Closer monitoring of suspicious activity or behaviour

---

[13] http://www.nctv.nl/onderwerpen/tb/actieprogramma-integrale-aanpak-jihadisme/

[14] http://static.kremlin.ru/media/events/files/ru/Q7t146BkLNBDUXEsAPvOdb44JdrQPQPt.pdf

[15] http://base.garant.ru/71001234/#ixzz3iUYmRMdT

through cooperation with ISPs, transport, medical and other services.

7. Bans on social welfare for so-called "Jihadi tourists."

Another group of legislative changes in Europe in 2015 focused migration flows.

In July 2015, Germany tightened its Refugee Act, introducing criminal liability for providing false information when seeking asylum. Illegal migrants can not only be arrested, but also have their passports taken away until further notice. Federal Minister of the Interior Thomas de Maizière (Christian Democratic Union) said that strict treatment of new migrants is necessary to ensure that the public agrees with immigration and entry of people who are really in need of Germany's protection.[16]

In July and August, Hungary amended its border regulations and introduced criminal responsibility for illegally entering the country.[17] It also recognised Servia as a "safe third party", which allowed for a quick return of transit refugees to that country. The law introduced army presence at the border and allowed the use of non-lethal measures against migrants and refugees, including rubber bullets and tear gas.

Russia is taking measures to streamline the immigration process. As of May 2015, Russian authorities rejected entry for 1.35 million foreign nationals who violated the regulations

---

[16] http://www.spiegel.de/international/germany/germany-registers-sharp-increase-in-attacks-on-asylumseekers-a-1045207.html

[17] https://www.hrw.org/ru/world-report/2016/country-chapters/286136#383e61

of stay. Registration of foreign nationals has been somewhat improved. Previously, many migrant workers were registering in so-called "rubber flats" – addresses that have no relation to their actual place of residence. Such flats often officially housed hundreds of migrants, who actually lived in other places, or did not have housing at all. Since the adoption of a corresponding law, the number of rubber flats was reduced from 10,090 to 1,160.[18]

On September 17, 2015, British Parliament introduced a new Immigration Bill, which was the result of a Conservative policy aimed at attracting Eurosceptics and those concerned with the increased flows of refugees.[19] This policy culminated in summer 2016, when following a national referendum Britain voted to leave the European Union. The Immigration Act was criticised by the British public, as it was aimed at reducing the number of immigrants and people seeking asylum by reducing social welfare and tightening the control over the housing and labour market.[20]

In 2015, the British government announced a plan to increase youth employment. It was proposed that jobseekers aged 18 to 21 will be sent to work boot camps – doing community service

---

[18] http://kremlin.ru/events/president/transcripts/49417

[19] http://www.parliament.uk/business/news/2015/october/immigration-bill-commons-second-reading/

[20] http://www.migrantsrights.org.uk/blog/2015/09/immigration-bill-2015-what-you-need-know

for 30 hours per week, four weeks per year, or face losing their Jobseekers Allowance.[21]

This sparked criticism from the public, including the fact that the bill would have been primarily aimed at national minorities and immigrants, as these groups have the highest levels of youth unemployment. For example, youth unemployment in black communities in the country is more than 50 %.[22]

France had also transformed its immigration legislation in 2015. Applications for asylum have been sped up from the maximum of 24 months to 9 months. At the end of this term, asylum seekers are to be granted asylum or deported from the country. Asylum seekers are now placed in special camps across the whole country (easing the burden on the Paris region), and under threat of losing social assistance and other privileges. In addition, the French parliament started considering a new bill on the rights of foreign nationals.[23]

The third group of legislative changes adopted in 2015 was

---

[21] https://www.theguardian.com/society/2015/aug/17/unemployed-young-people-work-boot-camp-tory-minister

[22] http://www.irr.org.uk/news/workfare-and-the-legacy-of-structural-racism/

[23] *Loi 7 mars 2016 relative au droit des étrangers en France,*http://www.immigration.interieur.gouv.fr/Immigration/Loi-du-7-mars-2016-relative-au-droit-des-etrangers-en-France. *For English language report about the initial proposals, see: „New French law aims to boost foreigners' rights", The Local, 20 July 2015,* http://www.thelocal.fr/20150720/france-foreigners-rights-visas-immigration-new-law *and France: National Assembly Adopts Immigration Bill, 9 September 2015*,http://www.loc.gov/law/foreign-news/article/france-national-assembly-adopts-immigration-bill/.

aimed at streamlined integration of legal immigrants.

In June 2015, Greece adopted a law that automatically granted Greek citizenship to children of foreign nationals born in the country. This bill affects almost 200,000 second-generation immigrants.[24]

A similar bill was adopted in Italy. At the time of writing, it is awaiting the Senate's approval. The so called *ius soli* act also provides citizenship to children of foreign nationals, provided they are permanent residents in the country. The law specifically mentions that it is targeted at non-EU citizens.[25] Experts believe that this law means that the new generation of Italians who are almost fully integrated into society (with knowledge of language, traditions, and having received education in Italy) will finally be able to identify themselves as part of the nation.

European governments have been taking measures to encourage immigrants to adapt to new realities. However, these measures often result in outright forced denouncement of their identities. This was most apparent in the Netherlands, which adopted amendments to its integration legislation that affected non-EU citizens seeking residency. The new bill requires people who have been residing in the Netherlands for several years to pass a language exam and demonstrate knowledge of the

---

24 http://grreporter.info/en/greece_grants_citizenship_100000_children_immigrants/12824

25 https://www.repubblica.it/politica/2015/10/13/news/legge_cittadinanza_senato-124967907

local labour market. Some human rights observers believe that these exams are of no practical help to immigrants; rather, they demonstrate negative attitudes towards immigrants and facilitate isolationist tendencies. For example, migrants from Maghreb and Africa are asked what they would do "if they saw two men kissing on the street." Expressing negative views in this case often results in failing the exam.[26] As a result, many refuse to take the exam altogether.

This is a typical example of how European governments try to speed up the integration of legal immigrants, where integration comes in the form of assimilation and loss of traditional identities.

Russia has been seeking to improve the conditions for the employment of migrant workers. Since January 2015, people from countries with a visa-free agreement with Russia can seek employment outside quotas by acquiring a work patent (permit), provided they have indicated "work" as the reason for entry in the country. Thus migrant workers have been divided into two categories, which was supposed to improve the position of migrants from visa-free countries. However, the project turned out to be fraught with bureaucratic problems (see Section 2).

Finally, the fourth legislative trend in 2015 was related to combating radicalisation, racism, xenophobia, and facilitating peaceful religious relations.

---

26 http://www.ncbopleidingen.nl/cursusnederlands/nieuwe-regels-voor-inburgeringsexamen-of-staatsexamen-nt2

On September 25, 2015, Poland introduced amendments to the Law on National, Ethnic Minorities, and Regional Languages (January 6, 2005). The proposed Article 9 of the Law on Supported Languages states that a minority language may be used in communication with municipal authorities to the same extent as the official language. This condition applies to municipalities where a "supported" linguistic minority group constitutes for 20 % of the population or above.[27] President Duda, however, had vetoed the bill citing the "high cost of implementation." It is to be reviewed in parliament in 2016.[28]

In 2015, the German Criminal Code was amended with Art. 46.2, which instructed the courts to consider racist, xenophobic, or other discriminatory motives as aggravating circumstances in the commission of a crime.[29] This is an important development, since previous German legislation did not cover these factors when dealing with violent crime, stating instead that the courts may take them into consideration during sentencing.

In Greece, a proposed amendment to the Criminal Code

---

[27] http://administracja.mac.gov.pl/adm/baza-jst/843,Samorzad-terytorialny-w-Polsce.html

[28] See: President's veto, Druk nr 3999, October 26, 2015, http://orka.sejm.gov.pl/Druki7ka.nsf/0/0489813F186FFD08C1257EEE00319 °C2/%24File/3999.pdf

[29] https://www.bundestag.de/dokumente/textarchiv/2015/kw12_de_nsu/364372;http://www.antidiskriminierungsstelle.de/SharedDocs/Downloads/DE/aktuelles/20150407_Rechtsgutachten_Hasskriminalitaet.pdf;jsessionid=388532642D__blob=publicationFile&v=1http://rvrn.org/wp-content/uploads/2016/04/Report_2015eng.pdf

(Article 361B) introduced criminal responsibility for refusing goods and services on the basis of race, colour, national or ethnic origins, religion, disability, sexual orientation, and gender identity. The article came into force in July 2016[30], and is predominantly aimed against the neo-Nazi Golden Dawn party, which regularly organised giveaways to "pure" Greeks during Orthodox holidays.[31]

The decade-long debates surrounding the construction of a cathedral mosque and a mosque at a Muslim cemetery in Athens continued in the Greek parliament throughout 2015. The issue was first raised in 2006 and finally approved by parliament on August 3, 2016.[32] Advocates for the mosque argue that the project has more social than religious connotations, as it is aimed to improve the position of minorities in Greece. Education and Religious Affairs Minister Nikos Filis argued that Greece should avoid mistakes made by other European policymakers that left many migrant communities socially isolated and vulnerable to the threat of extremism. «It is truly the elephant in room: Europe has not accepted that Islam is a reality,» he told parliament. "The

---

[30] http://rvrn.org/wp-content/uploads/2016/04/Report_2015eng.pdf

[31] https://greekhelsinki.wordpress.com/2016/07/09/%CF%85%CF%80%CE%BF%CF%85%CF%81%CE%B3%CE%B5%CE%AF%CE%BF-%CE%B4%CE%B9%CE%BA%CE%B1%CE%B9%CE%BF%CF%83%CF%8D%CE%BD%CE%B7%CF%82-%CE%B4%CE%B5%CE%BD-%CE%B1%CF%80%CE%BF%CF%80%CE%BF%CE%B9%CE%BD%CE%B9%CE%BA/

[32] http://www.dailysabah.com/diplomacy/2016/06/25/greek-approval-of-mosque-construction-in-athens-may-better-relations-with-turkey

existence of makeshift mosques (in Athens) is a disgrace for our country."[33]

France has taken significant steps in combating xenophobia and hate crime in 2015, introducing the New National Plan of Action to Counter Racism and Anti-Semitism for the period until 2017.[34] The plan was published on April 17, 2015 and contains the following elements: organisation of a public awareness campaign in support of national minorities; physical protection of Jewish and Islamic schools, places of worship, etc.; establishment of a national department to combat hate speech online, and others. However, more importantly, the plan proposes a prompt modification of the French criminal law to introduce racism and anti-Semitism as aggravating circumstances in all violations. On October 8, 2015, President Hollande instructed the Justice Minister to prepare a formal proposal of this bill by the end of the year.[35] The bill is currently being reviewed by parliament. There is also a possibility that sexism will be included, alongside racism as an aggravating

---

[33] http://www.dailysabah.com/europe/2016/08/04/greek-parliament-approves-mosque-construction-in-capital-athens

[34] *La République mobilisée contre le racisme et l'antisémitisme – Plan d'action 2015–2017. Dossier de presse,*http://www.gouvernement.fr/sites/default/files/liseuse/4040/master/projet/La%2DR%C3%A9publique%2Dmobilis%C3%A9e%2Dcontre%2Dle%2Dracisme%2Det%2Dl%2Dantis%C3%A9mitisme%2D%2D%2DPlan%2Dd%2Daction%2D2015%2D2017.pdf

[35] *Rof, Gilles, „François Hollande veut davantage punir le racisme", LeMonde.fr, 8 October 2015,*http://www.lemonde.fr/politique/article/2015/10/08/hollande-veut-davantage-punir-le-racisme_4785604_823448.html

circumstance in the commission of a crime.[36]

On November 23, Russian President Vladimir Putin signed a law that prohibited recognising the main Christian, Muslim, Jewish, and Buddhist texts as extremist. The law will apply to the Bible, Koran, Tanakh, and Kangyur.[37] The law became necessary when Yuzhno-Sakhalinsk City Court recognised a Muslim book "Dua to God: its purpose and place in Islam" as extremist, finding that the book promoted the superiority of Islam over other religions. In November, the decision was overruled, and the bill prohibiting the recognition of ancient religious texts as extremist followed shortly afterwards.[38]

In 2015, a whole range of bills aimed at harmonising ethnic and religious relations have been adopted in Ukraine. However, some of them have sparked criticism among human rights activists and minority groups. On August 25, 2015, President Petro Poroshenko signed the Decree № 501/2015 "On the Approval of the National Human Rights Strategy".[39] The strategy listed several systemic problems in Ukraine related to human rights and freedoms and focused on preventing and combating discrimination, as well as "ensuring the rights of indigenous

---

[36] *See here: Le sexisme, bientôt circonstance aggravante des crimes et délits, Libération.fr, 17 June 2016,* http://www.liberation.fr/direct/element/le-sexisme-bientot-circonstance-aggravante-des-crimes-et-delits_40164/

[37] http://kremlin.ru/acts/news/50759

[38] https://meduza.io/news/2015/11/23/putin-zapretil-iskat-ekstremizm-v-korane-i-biblii?utm_source=email&utm_medium=vecherka&utm_campaign=2015-11-23

[39] http://zakon3.rada.gov.ua/laws/show/501/2015

peoples and national minorities", aiming to bring Ukraine's anti-discrimination legislation in line with international standards.

On November 12, 2015, the Ukrainian parliament (Verkhovna Rada) introduced amendments to the Labour Code in order to harmonise anti-discrimination legislation with the European Union.[40] The bill prohibited any form of discrimination in the workplace, including sexual orientation, gender identity, disability and others.[41]

In December 2015, the intergovernmental Ukrainian-German commission was established to deal with affairs relating to German nationals living in Ukraine.[42]

However, on November 23, 2015, the Ukrainian Cabinet of Ministers adopted a Decree № 1393-р which approved the Action Plan on the Implementation of the National Human Rights Strategy for the period up to 2020.[43] Among other important provisions, the Action Plan proposes to remove a paragraph from Article 161 of the Criminal Code, which provides criminal responsibility for discrimination. Instead, it proposes administrative and civic responsibility in the form

---

[40] http://zakon3.rada.gov.ua/laws/show/785-19

[41] http://newsradio.com.ua/rus/2015_11_12/Vmeste-s-zapretom-na-diskriminaciju-v-KZoT-zakrepili-polukrepostnoe-pravo-Zaborin-9603/;http://www.segodnya.ua/opinion/eduardbagirovcolumn/zakon-protiv-diskriminacii-seks-menshinstv-nichego-ne-izmenit-666922.html; http://zavtra.ru/content/view/ukraina-prinyala-zakon-o-zaprete-trudovoj-diskriminatsii-seks-menshinstv/

[42] http://zakon5.rada.gov.ua/laws/show/1075-2015-п

[43] http://www.kmu.gov.ua/control/uk/cardnpd?docid=248740679

of fines for damages.[44] This measure is indicative of the shortcomings in the country's policy towards prevention and counteraction of ethnic discrimination. It is worth noting that in May 2015, the Ukrainian Cabinet adopted a Decree № 333, which dissolved the National Expert Commission on the Public Morality Affairs.[45] The Commission was the last remaining body that had the right to monitor media and public events to identify incitement to hate crime, in accordance with the law "On the Protection of Public Morality" (20/11/2013).[46] In other words, the aforementioned commission was equipped to provide legal assessment of a public action, which had to be considered by court during trials. This included incitement to ethnic and religious hostilities, blasphemy, and desecration of places of national and religious importance. Since its dissolution, Ukraine does not have a state body capable of assessing actions in this field.

On May 14, 2015, the government of Ukraine reduced state funding for cultural publications in minority languages.

The law "On Local Elections" (14/07/2015) has deprived the Internally Displaced Persons (IDPs) from the Donetsk, Luhansk, and Crimea regions of the right to vote in elections of the regions they are registered in. There are certain exceptions in special constituencies. Some publications, citing the Central

---

[44] http://www.kmu.gov.ua/control/uk/cardnpd?docid=248740679, page 214

[45] http://zakon5.rada.gov.ua/laws/show/333-2015-п

[46] http://zakon5.rada.gov.ua/laws/show/1296-15

Election Commission of Ukraine, reported that IDPs will be able to participate in local elections in their regions only after the conclusion of the armed conflict.[47] Critics noted that the law is in conflict with the law "On the Provision of Rights and Freedoms of Internally Displaced Persons", according to which IDPs can participate in local elections by changing the constituency they vote in.

Shortly thereafter, the Ukrainian Cabinet adopted the Decree № 736 (24/09/2015) relating to the "questions regarding the Republic of Crimea and the city of Sevastopol".[48] The Decree specified the steps to ensure the rights and freedoms in a territory no longer under Kiev's control. It also stressed the need to create conditions for the "free development of the Crimean Tatar language, languages of other indigenous peoples and ethnic minorities residing on the temporarily occupied territory of Ukraine", as well as to "facilitate the satisfaction of cultural and educational needs, development of ethnic identity" of national minorities in the region. Interestingly, such measures have not been brought up until after the annexation of Crimea by Russia in 2014.

Lack of a cohesive anti-discrimination legislation remains a problem for Russia. "Discrimination" as a term is only contained in the Russian Criminal Code and is poorly defined

---

[47] http://cxid.info/bolee-milliona-pereselencev-iz-donbassa-i-kryma-lishila-prava-golosa-n124697

[48] http://www.kmu.gov.ua/control/uk/cardnpd?docid=248514004

as the violation of citizens' rights, freedoms, and legal interests. However, according to international law, violation of rights and freedoms can be one of the goals or consequences of discrimination, but not its form. In addition, Russian legislation does not specify what constitutes as a "violation of rights", does not identify forms of discrimination, differences between direct and indirect discrimination, victimisation, and does not prohibit discrimination by officials, or discrimination based on nationality. A whole range of important legislative documents did not contain the prohibition of discrimination at all. Normative acts that prevent informal discrimination in employment, housing, education, healthcare, etc. are virtually non-existent.

To summarise, we have observed the following legislative trends relating to combating hate crime across Europe in 2015:

• Tougher counter terrorism legislation, sometimes to the point of violation of civil rights.

• Tougher criminal legislation with the aim to protect minority rights and establish hate motives as an aggravating circumstance in the commission of a crime.

• Tougher immigration legislation with the aim to reduce illegal immigration.

• Easing of the naturalisation process for legal immigrants, under certain conditions – their knowledge of state language, respect for local traditions, and familiarity with the labour

market.

- Tougher anti-racism and anti-discrimination legislation.

These factors certainly demonstrate a shifting situation, comparing to previous years, when hate crime and related offenses were handled solely through police measures and occasional declarations. In this regard, the situation in Ukraine is particularly alarming, after the country removed criminal responsibility for discrimination and dissolved the last body responsible for assessing the public sphere and identifying incitements to violence. Ukraine's treatment of IDPs in terms of the right to vote in local elections is also concerning. Another worrying fact was the Polish President's veto on the Law on National, Ethnic Minorities, and Regional Languages, which would have introduced the term "supported languages" to the legal vocabulary of the country. Anti-discrimination legislation in Russia leaves a lot to be desired and has a negative impact on a whole range of vulnerable groups.

Certain legislative measures taken in 2015 have worried human rights observers, who regard them as a direct threat to civil rights. The new British Immigration Act has been widely criticised as discriminatory, along with the proposed measures to deal with unemployment among young adults, 50 % of whom are national minorities. Counter terrorism laws in several countries have been criticised for excessive surveillance and encroaching on the private life of citizens. Amendments to the Integration

Act in the Netherlands have introduced compulsory exams for immigrants that can be regarded as insulting to religious feelings and secular traditions of some countries.

Several legislative measures in 2015 have been aimed at liberalising LGBT relations as part of the general EU policy protecting LGBT rights. On December 22, 2015, Greece finally recognised civil partnerships among same-sex couples. The new law, supported by the SYRIZA party, allows same-sex couples to enjoy some of the same rights as traditional married couples, such as medical proxy and the right to inheritance. On the other hand, transgender people are still excluded from these rights. Greece had also abolished the obsolete provision that prohibited "unnatural indecency" in public (Art. 347 of the Criminal Code). On the same day, Greek parliament started working on a law that would recognise gender self-identification.

The Netherlands, where same-sex marriage has been legal for several years, adopted two new legislative acts in 2015, which provided certain rights to the transgender people and provided the right to adoption for lesbian couples.[49]

Meanwhile, Poland rejected a bill on civil partnerships (May 26, 2015). 215 out of 385 members of parliament have voted against the proposition, 146 voted in favour and 24 abstained from voting.[50]

---

[49] http://www.government.nl/issues/gay-rights/news/2015/07/31/security-and-justice-is-joining-the-canal-parade-for-the-first-time-with-its-own-boat.html

[50] http://www.sejm.gov.pl/sejm7.nsf/agent.xsp?

LGBT rights is still an issue in countries like Northern Ireland, Hungary, Germany, Italy, Russia, and Ukraine. Therefore, it can be concluded that countries with more widespread Christian traditions are more socially conservative and are not yet prepared to accept new western trends.

---

symbol=glosowania&NrKadencji=7&NrPosiedzenia=93&NrGlosowania=1

2. law enforcement practice

Law enforcement practice is influenced not only by the legislative norms concerning minorities, but also by the level of professionalism and personal views among law enforcement officers. In 2015, law enforcement practices aimed at combating hate crime, discrimination, and radicalism revolved around the following priorities:

– Prevention of extremist activity.

– Combating illegal immigration and establishment of infrastructure for refugees.

– Combating xenophobia and racism, ensuring peaceful inter-ethnic relations.

– Integration of refugees and Roma (travellers).

Often, progress in one area had led to deficits in another. For example, measures of *terrorism prevention* often encroached on minority rights, while measures against illegal immigration violated the rights of asylum seekers.

Following a wave of terrorist attacks, Europe adopted a series of counter terrorism laws in 2015, which resulted in a wave of repressions against persons suspected of extremist activity. In January 2016, French President Francois Hollande reported that in 12 months, French security services have prohibited 200 people from leaving the country and 50 people have been denied

entry on suspicion of links to extremist groups. From November 2015, when a state of emergency was introduced across the country until mid-January 2016, French police had carried out 3,336 administrative searches, 290 people have been placed under house arrest, and 344 people have been arrested.[51]

British, German, and Italian law enforcements were following similar policies in 2015, albeit not as strict.

These measures have sometimes impacted law-abiding citizens. Human rights observers note that most cases are related to national or religious minorities that were suspected of links to the so-called Islamic State (ISIS). One of the most notable cases occurred in the United Kingdom, which had recently adopted a 2015 Counter Terrorism and Security Act that places a statutory duty on schools and colleges to prevent people being drawn into terrorism.[52] There, a 10-year-old Muslim boy who misspelled a word during an English lesson, wrote that he lived in a "terrorist house." The primary school pupil meant to write that he lived in a "terraced house", but this did not stop the police carrying out a thorough search of the house and examining the family computer. Both police and social services had carried out extensive interviews with the boy to establish whether or not

---

[51] *„France: 3336 perquisitions administratives", Le Figaro, 9 February 2016,* http://www.lefigaro.fr/flash-actu/2016/02/09/97001-20160209FILWWW00269-etat-d-urgence-3336-perquisitions-administratives.php.

[52] http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0127/en/15127en.htm

his family has any ties with extremist organisations.[53] Another Muslim schoolboy was questioned about Islamic State after the 14-year-old used the term "ecoterrorism" during a classroom discussion about environmental activism.[54] In another ironic incident, Muslim postgraduate student of counter-terrorism, Mohammed Umar Farooq, was falsely accused of being a terrorist after an official at Staffordshire University had spotted him reading a textbook entitled Terrorism Studies in the college library. According to his own accounts, he was questioned about attitudes towards homosexuality, Islamic State, and al-Qaida.[55]

---

[53] http://www.huffingtonpost.co.uk/2016/01/20/muslim-child-terrorist-house-spelling-error_n_9025336.html

[54] https://www.theguardian.com/education/2015/sep/22/school-questioned-muslim-pupil-about-isis-after-discussion-on-eco-activism

[55] https://www.theguardian.com/education/2015/sep/24/student-accused-being-terrorist-reading-book-terrorism

Конец ознакомительного фрагмента.

Текст предоставлен ООО «ЛитРес».

Прочитайте эту книгу целиком, купив полную легальную версию на ЛитРес.

Безопасно оплатить книгу можно банковской картой Visa, MasterCard, Maestro, со счета мобильного телефона, с платежного терминала, в салоне МТС или Связной, через PayPal, WebMoney, Яндекс.Деньги, QIWI Кошелек, бонусными картами или другим удобным Вам способом.