

EUROPE AND CENTRAL ASIA REGIONAL OVERVIEW

2015 was a turbulent year in the Europe and Central Asia region, and a bad one for human rights. It opened with fierce fighting in eastern Ukraine and ended with heavy clashes in eastern Turkey. In the EU, the year was bookended by armed attacks in and around Paris, France, and dominated throughout by the plight of the millions of people, most of them fleeing conflict, who arrived on Europe's shores. Against this backdrop, respect for human rights regressed across the region. In Turkey and across the former Soviet Union, leaders increasingly abandoned respect of human rights altogether, as they strengthened their control of the media and further targeted their critics and opponents. In the EU, the regressive trend took a different form. Fuelled by lingering economic uncertainty, disenchantment with establishment politics and growing anti-EU and anti-immigrant sentiment, populist parties made significant electoral inroads. In the absence of principled leadership, the place of human rights as a cornerstone of European democracies looked shakier than ever. Sweeping anti-terrorism measures and proposals to restrict the inflow of migrants and refugees were typically announced with all the customary human rights caveats, but they were increasingly stripped of their content.

In the UK, the ruling Conservative Party put forward proposals to repeal the Human Rights Act; in Russia, the Constitutional Court was given the power to overrule the decisions of the European Court of Human Rights; in Poland, the ruling Law and Justice Party pushed through measures restricting the oversight of the Constitutional Court within months of its election. Increasingly diminished on the international stage, EU

member states turned a blind eye to human rights violations that they would once have strongly condemned, as they sought to cut economic deals and enlist the support of third countries in their efforts to combat terrorism and keep refugees and migrants at bay.

Although there was progress on equality for lesbian, gay, bisexual, transgender and intersex (LGBTI) people (in most Western European countries at least) and the European Commission continued to tackle the systemic discrimination against Roma, almost all underlying trends across the region offered a bleak outlook for the state of human rights in 2016.

THE REFUGEE CRISIS

The defining image of the year was that of Alan Kurdi, a three-year-old Syrian boy, lying on a Turkish beach. Either side of his tragic death in September, over 3,700 refugees and migrants lost their lives trying to reach Europe's shores, as EU member states struggled to deal with the impact of a global refugee crisis on Europe. While Turkey was hosting over 2 million Syrian refugees, and Lebanon and Jordan a further 1.7 million between them, 1 million refugees and migrants, many of them refugees from Syria, entered the EU irregularly during the year. However, the EU, the world's richest political bloc with a total population of over 500 million people, singularly failed to come up with a coherent, humane and rights-respecting response to this challenge.

The year began inauspiciously, with European leaders declining to replace the Italian Navy's Mare Nostrum search and rescue operation with an adequate alternative, despite ample evidence of continuing migratory pressure on the central Mediterranean route. It took the death of more than 1,000 refugees and migrants in a series of incidents off the Libyan coast over one weekend in mid-April to finally prompt a rethink. At a hastily convened summit, EU leaders agreed to expand EU border agency Frontex's maritime border control Operation Triton, while a number of countries, including

the UK and Germany, dispatched additional naval vessels to the region. The results were positive: according to the International Organization for Migration, death rates along the central Mediterranean route declined by 9% compared to 2014, but still stood at 18.5 deaths for every 1,000 travellers. The number of refugees and migrants dying in the Aegean Sea increased considerably, however, reaching over 700 by the end of the year; this represented around 21% of all deaths in the Mediterranean in 2015, compared to 1% in 2014.

The increase in deaths in the Aegean Sea reflected the sharp rise in irregular sea arrivals in Greece, from the summer onward. In the absence of safe and legal avenues of entry to EU countries, over 800,000 people, overwhelmingly refugees fleeing conflict or persecution in Syria, Afghanistan, Eritrea, Somalia and Iraq, made the dangerous crossing to Greece. Only 3% of those entering Greece irregularly crossed via the largely fenced-off land border.

The logistical and humanitarian challenges presented by such large numbers utterly defeated Greece's already ailing reception system. As hundreds of thousands of refugees and migrants left Greece and marched on through the Balkans, most of them aiming to reach Germany, the so-called "Dublin regime" – the EU system for allocating responsibility for the processing of asylum applications across member states – broke down too. The funnelling of refugees and asylum-seekers to just a few external border countries, essentially Greece and Italy, made it impossible to uphold a system allocating the primary responsibility for processing asylum claims to the first EU country the applicant entered. The Schengen Agreement – which abolished border controls across internal EU borders – also showed signs of cracking, as Germany, Austria, Hungary, Sweden and Denmark suspended its provisions.

As the crisis grew, EU leaders organized summit after summit, but to no avail. While the European Commission vainly sought to

propose constructive measures for the redistribution of asylum-seekers and the organization of reception facilities along the route, EU member states for the most part vacillated or actively obstructed potential solutions. Only Germany showed leadership commensurate with the scale of the challenge.

Little effort was made to increase safe and legal avenues of entry for refugees into the EU. Member states agreed to an EU-wide resettlement scheme for 20,000 refugees from across the globe proposed by the European Commission in May. UNHCR, the UN refugee agency, had put the number of Syrian refugees in need of resettlement and other forms of humanitarian admission at 400,000, but other than Germany, hardly any EU countries offered to resettle more than a few thousands of them.

European leaders also struggled to agree on and implement an effective mechanism to redistribute arriving refugees and migrants across the EU. At a summit in May, EU leaders voted to approve a relocation scheme for 40,000 asylum-seekers from Italy and Greece, in the face of fierce opposition from a number of Central European countries. In September, the scheme was extended by a further 120,000, including the relocation of 54,000 asylum-seekers from Hungary. Never enough in the first place, the scheme foundered in the face of logistical challenges and the reluctance of recipient states to meet the targets they committed to: only around 200 asylum-seekers had been transferred from Italy and Greece by the end of the year, while Hungary declined to participate.

As pressure mounted, Balkan countries alternated between closing their borders and simply ushering refugees and migrants through. Border guards used teargas and batons to beat back crowds as Macedonia briefly closed its border in August and Hungary permanently sealed its border with Serbia in September. By the end of the year, a more or less orderly corridor, passing through Macedonia, Serbia, Croatia, Slovenia and Austria, was in place, amounting to an ad

hoc response to the crisis that remained entirely contingent on Germany's continued willingness to accept incoming asylum-seekers and refugees. Thousands were still sleeping rough, as authorities along the route struggled to provide adequate shelter.

Hungary led the way in refusing to engage with pan-European solutions to the refugee crisis. Having seen a sharp increase in arriving refugees and migrants at the start of the year, Hungary turned its back on collective efforts and decided to seal itself off. It constructed over 200km of fencing along its borders with Serbia and Croatia and adopted legislation rendering it almost impossible for refugees and asylum-seekers entering via Serbia to claim asylum. "We think all countries have a right to decide whether they want to have a large number of Muslims in their countries", Hungarian Prime Minister Viktor Orbán said in September.

Public opinion across Europe ranged from indifference or hostility to strong shows of solidarity. The shocking scenes of chaos and need along the Balkan route prompted countless individuals and NGOs to plug the gaps in the humanitarian assistance provided to refugees and migrants. However, European leaders overwhelmingly chose to listen to vocal anti-immigrant sentiment and concerns over the loss of national sovereignty and security threats. As a result, the only policies they could agree on were measures to strengthen "Fortress Europe".

As the year progressed, European summits increasingly focused on measures designed to keep refugees and migrants out or hasten their return. EU leaders agreed to create a common list of "safe" countries of origin, to which asylum-seekers could be returned after expedited proceedings. They agreed to strengthen the capacity of Frontex to carry out expulsions. Most significantly, they started to look to countries of origin, and especially transit, to restrict the flow of refugees and migrants to Europe. The outsourcing of the EU migration controls to third countries reached its peak with the signing of a Joint Action Plan with Turkey in October. The deal

essentially involved Turkey agreeing to limit the flow of refugees and migrants to Greece by strengthening its border controls, in exchange for 3 billion euros of aid for its resident refugee population and, unofficially, the turning of a blind eye to its growing list of human rights indiscretions. It ignored the fact that despite Turkey's broadly positive reception of over 2 million Syrian refugees, many still lived in dire poverty, while those from other countries had little prospect of ever being recognized as refugees on account of Turkey's woefully inadequate asylum system. Towards the end of the year, evidence emerged of Turkey forcibly returning refugees and asylum-seekers detained in its western border provinces to Syria and Iraq, further highlighting that the EU was limiting the influx of refugees and migrants at the expense of their human rights.

As the year drew to a close, around 2,000 people were still entering Greece daily. While reception capacity on the Greek islands and further along the Balkan route had increased and reception conditions improved, they remained woefully incommensurate with the scale of the challenge. With no sign of the number of arriving migrants and refugees decreasing significantly in 2016, the EU was no closer to finding sustainable, rights-respecting solutions for those seeking sanctuary within its borders than at the start of the year.

ARMED VIOLENCE

In January and February, heavy fighting resumed in Ukraine's eastern region of Donbass, as Russian-backed separatists in the self-proclaimed Donetsk People's Republic and Luhansk People's Republic sought to advance and straighten their frontline. Amid heavy military losses, Ukrainian forces ceded control over the long-contested Donetsk airport and the area around the town of Debaltseve, with heavy shelling by both sides resulting in numerous civilian casualties. By the end of the year, the UN estimated that the death toll for the conflict exceeded 9,000 people, including

2,000 civilians, many of whom appeared to have died as a result of indiscriminate rocket and mortar fire. War crimes and other violations of international humanitarian law included the torture and other ill-treatment of detainees by both sides, and the summary execution of captives by separatist forces. While the conflict had subsided by the end of year as a fragile ceasefire took hold, the prospect of accountability for the crimes committed remained remote. On 8 September, Ukraine accepted the jurisdiction of the International Criminal Court (ICC) with respect to alleged crimes committed in its territory since 20 February 2014, but no progress was made on the ratification of the Rome Statute of the ICC. While a few criminal investigations into suspected abuses by Ukrainian forces – mostly by paramilitary groups – were opened by Ukrainian authorities, there had been no convictions by the end of the year. Total impunity persisted in the Donetsk and Luhansk regions, where a more pervasive lawlessness took hold.

Accountability for the abuses committed in the course of the 2013-2014 pro-European demonstrations in the capital Kyiv (“EuroMaydan”) also proved elusive. In November, the Prosecutor General’s Office reported that investigations into over 2,000 criminal incidents related to EuroMaydan were ongoing, with criminal proceedings instigated against 270 individuals. The trial of two former riot police (Berkut) officers on charges of manslaughter and abuse of authority began but no convictions were secured for EuroMaydan-related crimes during the year. An International Advisory Panel set up by the Council of Europe to monitor investigations into EuroMaydan published two reports in April and November, both of which deemed the investigations inadequate.

While accountability for past human rights abuses continued to stall, some progress was made in instituting structural reforms to Ukraine’s notoriously corrupt and abusive law enforcement agencies; a law backed by the Council of Europe creating a new agency to

investigate offences by public officials, including torture and other ill-treatment, was finally adopted. Ukraine took its first tentative steps towards institutional reform, but the Donbass region remained far from stable and, like Crimea, a black hole for unmonitored human rights abuses.

While the conflict in Ukraine subsided, heavy clashes erupted in Turkey as the ever uncertain peace process with the Kurdistan Workers’ Party (PKK) collapsed in July. By the end of the year, over 100 people were reported killed in the course of law enforcement operations in urban areas that took on an increasingly militarized aspect. There were numerous reports of excessive use of force and extrajudicial executions by Turkish forces. Law enforcement operations were typically conducted under round-the-clock curfews, often lasting several weeks, during which residents had their water and electricity cut and were unable to access medical treatment or food. The significant escalation in human rights violations largely escaped international censure, as Turkey successfully leveraged its crucial role in relation to the Syrian conflict and the refugee crisis to dampen criticism of its domestic actions.

FREEDOMS OF EXPRESSION, ASSOCIATION AND ASSEMBLY

The respect for freedoms of expression, association, and peaceful assembly deteriorated across the former Soviet Union. Government control over the media, internet censorship, the curbing of protest and the criminalization of the legitimate exercise of these freedoms intensified almost everywhere.

In Russia, the steady squeeze on government critics gathered pace, as repressive laws enacted in the aftermath of Vladimir Putin’s return to the presidency were applied. By the end of the year, over 100 NGOs were included, most of them compulsorily, on the Ministry of Justice’s list of “foreign agents”. Not a single NGO succeeded in legally challenging its inclusion

on the list. The Human Rights Centre (HRC) Memorial was one of a number of NGOs to be fined for failing to brand its publications with the toxic label “foreign agent”, paving the way for criminal prosecution of its leaders in the future. The law, whose purpose was to discourage NGOs from receiving foreign funding and discredit those that did, was supplemented in May by a new law enabling authorities to designate foreign organizations as “undesirable” if deemed to pose a “threat to the country’s constitutional order, defence or state security”. The target appeared to be foreign donor organizations, in particular US ones. By the end of the year, four US-based donors had been declared “undesirable”, rendering their continued operations in Russia – and any co-operation with them – illegal. The authorities further extended their control over the media and the internet. Thousands of websites and pages were blocked by government regulators, often in violation of the right to freedom of expression. Restrictions on freedom of peaceful assembly also intensified and the number of public protests declined. For the first time, four peaceful protesters were prosecuted under a 2014 law which criminalized the repeated breach of the law on assemblies.

In Azerbaijan, the prominent NGO leaders arrested in 2014 were predictably convicted on a range of trumped-up charges. At the end of the year, at least 18 prisoners of conscience, including human rights defenders, journalists, youth activists and opposition politicians, remained behind bars. Leyla Yunus, president of the Institute for Peace and Democracy, and her husband and co-worker Arif Yunus were released towards the end of 2015, although they still faced spurious treason charges.

The human rights situation in Kazakhstan also regressed. The new Criminal Code that came into effect in January retained the offences of inciting social and other “discord”. Four criminal investigations were opened under the vaguely worded offence, including against activists Yermek Narymbaev and Serkzhan Mambetalin after they posted

extracts from an unpublished book deemed to denigrate the Kazakh people on their Facebook page. They remained in pre-trial detention at the end of the year. Drawing inspiration from Russia and sharing the same suspicion of foreign NGO funding, Kazakhstan adopted amendments to the Law on Non-Profit Organizations, creating a central “operator” to raise funding and administer state and non-state funds to NGOs, including foreign funding, for projects and activities that comply with a limited list of issues approved by the government. Kyrgyzstan also toyed with adoption of a “foreign agents” law along Russian lines; a draft bill was put before Parliament with strong backing from President Atambaev, but was withdrawn “for further discussion” in June. Parliament also got to a third reading on a law criminalizing “fostering positive attitude” towards “non-traditional sexual relations”, before it too was withdrawn for additional consultation.

Tajikistani President Emomali Rahmon was granted lifetime immunity from prosecution and the title “leader of the nation”, while Uzbekistan and Turkmenistan remained fundamentally unchanged in their deeply repressive rules. Georgia and Ukraine continued to offer broadly free environments, but neither without their wobbles. In Ukraine, it became increasingly dangerous to voice pro-Russian views: pro-Russian journalist Oles Buzina was shot dead by two masked gunmen in April, while journalist Ruslan Kotsaba became Ukraine’s first prisoner of conscience for five years when he was remanded in custody on charges of treason in February. Following the adoption in May of four so-called “decommunization laws” banning the use of communist and nazi symbols, the Ministry of Justice initiated proceedings to ban the Communist Party of Ukraine. In Georgia, the opposition party United National Movement and several NGOs accused the government of orchestrating a protracted legal battle between an ousted former shareholder and the current owners of pro-opposition TV station Rustavi 2. In

November, the Tbilisi City Court ordered the replacement of the station's director general and chief financial officer.

Elsewhere in Europe, perhaps the most significant human rights regression took place in Turkey. Against the backdrop of two successive parliamentary elections which resulted in an outright majority for the ruling Justice and Development Party (AK), the increasingly autocratic rule of its former leader and current President Recep Tayyip Erdoğan, and the breakdown of the peace process with the PKK, freedom of expression suffered further. Countless unfair criminal prosecutions under criminal defamation and counter-terrorism laws targeted political activists, journalists and other critics of public officials or government policy. Particular targets were pro-Kurdish commentators and supporters of media outlets associated with former AK Party ally Fethullah Gülen. People expressing criticism of the President, particularly through social media channels, were increasingly prosecuted. Over 100 cases of criminal defamation under article 299 for "insulting the President" were initiated by the President and sanctioned by the Ministry of Justice.

Critical media outlets and journalists were subjected to immense pressure. Journalists were regularly dismissed by editors for their critical reporting and comment. News websites, including large swathes of the Kurdish press, were blocked on unclear grounds by administrative orders, aided by a compliant judiciary. Journalists were harassed and assaulted by police while covering stories in the predominantly Kurdish south-east. Media outlets linked to Fethullah Gülen were systematically targeted, and either taken off air or taken over by government administrators.

Sensitive protests continued to be disrupted. May Day demonstrations were banned for the third year in a row and Istanbul's annual Gay Pride was violently dispersed for the first time in over a decade. Reports of excessive use of force by law enforcement agents breaking up

protests were frequent, particularly in the south-east.

COUNTER-TERROR AND SECURITY

The year began with violent attacks in Paris against journalists at the satirical weekly *Charlie Hebdo* and against a Jewish supermarket, resulting in 17 deaths and an outpouring of solidarity both in France and abroad. Another series of attacks in and around Paris on 13 November killed a further 130 people. The attacks gave fresh impetus – in France in particular, but also elsewhere in Europe – to a raft of measures that threatened human rights. These included measures targeting those travelling or intending to travel abroad to commit or otherwise pursue ill-defined terrorism-related acts; sweeping new surveillance powers; extended powers of arrest with reduced procedural guarantees; and "counter-radicalization" measures that would potentially repress freedom of expression and discriminate against certain groups.

Some of the most significant developments took place in the area of surveillance, as a range of states adopted or tabled measures granting intelligence and law enforcement agencies almost unfettered access to electronic communications. In France, Parliament approved two laws on surveillance that provided extensive executive powers to monitor people's communications and internet use, including by way of indiscriminate mass interception of internet traffic. The second law, adopted in October, paved the way for the use of mass surveillance techniques on communications in and out of the country, in the pursuit of an undefined list of objectives, including promoting foreign policy, economic and scientific interests. None of the new surveillance measures required prior judicial authorization, instead granting limited and occasional powers to an administrative authority to advise the Prime Minister.

Switzerland adopted a new surveillance law which granted sweeping powers to the Federal Intelligence Service to intercept data

on internet cables entering or leaving Switzerland, access metadata, internet histories and content of emails, and use government spyware. The Dutch government put forward a bill that would in effect legalize the bulk collection of telecoms data, including internal communications without prior judicial approval. The UK government proposed a new Investigatory Powers Bill which would authorize intelligence services to intercept all communications in and out of the country, and oblige phone and internet companies to hand over customers' internet and phone histories – all with insufficient judicial control.

While European governments threatened the right to privacy, a number of key international court decisions laid down markers for what is likely to be a fiercely contested and highly litigated issue in the years ahead. In December, in *Roman Zakharov v. Russia*, the Grand Chamber of the European Court of Human Rights highlighted the need for prior individual suspicion and meaningful judicial scrutiny for any surveillance-related interference with the right to privacy to be considered necessary and proportionate.

After the landmark Digital Ireland case rendered in 2014, the Court of Justice of the European Union also delivered another key ruling. In October, it invalidated the 15-year-old “safe harbour agreement” between the USA and the EU, which allowed private companies to transfer personal data between the two, on the assumption of an essentially equivalent level of protection of fundamental rights relating to personal data in the USA and in EU law. Following the revelations of the extent of the US surveillance programme by Edward Snowden, the Court concluded that “the United States authorities were able to access the personal data transferred from the Member States to the United States and process it in a way [that was] beyond what was strictly necessary and proportionate to the protection of national security.”

The increasing use of exceptional right-threatening counter-terrorism measures since the 11 September 2001 attacks on the USA

found particularly vivid expression in France in the wake of the November attacks. A state of emergency introducing a range of measures including the ability to carry out warrantless house searches, forcing people to remain in specific locations and the power to dissolve associations or groups broadly described as participating in acts that breach public order, was declared for an initial period of 12 days and then extended by three months. In the space of just a few weeks, French authorities conducted 2,700 warrantless house searches, resulting in just two terrorism-related investigations being opened (but another 488 for unrelated offences); assigned 360 people to fixed residency; and closed down 20 mosques and numerous Muslim associations. Throughout the year, the authorities initiated a spate of prosecutions under vague “apology for terrorism” legislation, several of them in apparent breach of the right to freedom of expression.

France was not alone, however. Proposals for new counter-terrorism laws in the aftermath of the November attacks were tabled in countries across the region, including Belgium, Luxembourg, Netherlands, and Slovakia. In all these countries, new proposals included lengthening the time period permitted for pre-charge detention for persons suspected of terrorism-related offences on a lower standard of proof than “reasonable suspicion”.

Throughout the year, European states worked on the adoption of legislation to curtail and criminalize travelling or preparing to travel abroad for the vaguely defined purpose of committing or otherwise pursuing terrorism-related acts, following on from the adoption in 2014 of the UN Security Council Resolution 2178. In December, the EU Commission tabled a proposal for a new directive that would introduce a prohibition on travel and acts associated with travel for the purpose of committing acts of terrorism abroad into the national legislation of member states. This followed and referred to the adoption earlier in the year under the

auspices of the Council of Europe of a treaty containing similar measures. These laws, and others introduced to tackle the so-called “foreign fighters” phenomenon, threatened to various extents a range of human rights guarantees. In several countries, and the UK in particular, these measures went hand in glove with a wider set of measures designed to prevent and identify “violent extremism” that risked discriminating against and stigmatizing Muslims.

EMBARGO
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