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Legislative support for the public policy of national memory in Ukraine

Законодавче формування політики збереження національної пам'яті в Україні

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Abstract

The implementation of legislative support for public policy on national memory in Ukraine is realised through the enactment of legislative acts, including the Constitution of Ukraine and Ukrainian laws. The country's prevailing political situation and social moods have primarily shaped it. This article aims to examine the legislative framework of Ukraine (1991-2024) that facilitates the formation and implementation of public policy on national memory within the state. The study demonstrates that active legislation has occurred over the past ten years and continues to the present day. It is established that the legislative base in the sphere of national memory comprises conceptual, organisational, and regulatory acts, which delineate the scope of their functionality. Significant achievements have been made in the legislative support of public policy on national memory in Ukraine. It is evident that the issue of adopting a special law that would define the fundamental principles of national memory policy in Ukraine, ensuring comprehensive regulation of its formation and implementation, still needs to be solved. The completeness of memory policy regulation at all levels of the administrative system is defined, and problematic issues are identified. The necessity for enhancing the legislative framework supporting public policy on national memory in Ukraine is revealed.

Keywords: public policy of national memory, public administration, institutionalisation, legal support, legal act, law, public authorities, national memory, Ukraine.

Анотація

Реалізація законодавчого забезпечення державної політики щодо національної пам'яті в Україні здійснюється шляхом прийняття законодавчих актів, у тому числі Конституції України та законів України. Політична ситуація, що склалася в країні, і суспільні настрої сформували її передусім. Мета статті – дослідити законодавчу базу України (1991-2024 рр.), яка сприяє формуванню та реалізації державної політики національної пам'яті в державі. Дослідження демонструє, що активне законодавство відбувалося протягом останніх десяти років і триває донині. Встановлено, що законодавчу базу у сфері національної пам'яті становлять концептуальні, організаційні та нормативні акти, які окреслюють сферу їх функціональності. У законодавчому забезпеченні державної політики щодо національної пам'яті в Україні досягнуто значних здобутків. Очевидно, що ще потребує вирішення питання щодо прийняття спеціального закону, який би визначав засади політики національної пам'яті в Україні, забезпечував комплексне регулювання її формування та реалізації. Визначено повноту регулювання політики пам'яті на всіх рівнях управлінської системи та виявлено проблемні питання. Виявлено необхідність удосконалення законодавчої бази підтримки державної політики щодо національної пам'яті в Україні.

Ключові слова: публічна політика національної пам'яті, державне управління, інституціоналізація, правове забезпечення, нормативно-правовий акт, право, органи державної влади, національна пам'ять, Україна.

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Introduction

Public policy on national memory in Ukraine is designed to consolidate the Ukrainian people through shaping perceptions of a shared past for the Ukrainian political nation and affirming Ukrainian civic identity. This policy aims to achieve a unified national identity by defining pivotal moments in the history of Ukrainian nation-building and state formation, restoring and preserving national memory, and researching and popularising the history, culture, and traditions of the Ukrainian people and the people residing in Ukraine.

Over the past decade, there has been a notable increase in interest among the state and the public in Ukraine's national memory policy. It, in turn, necessitates the institutionalisation of this process, as Ukrainian scholars in public administration, Soroka and Lizakovska, posit that institutionalisation enhances the effectiveness and efficiency of public administration (Soroka & Lizakovska, 2021). The pivotal role of institutionalisation in political development was also addressed in the mid-1970s by the renowned political scientist from Haifa University, Ben-Dor (1975).

The effectiveness of the national memory policy can only be achieved with the appropriate legal, institutional, organisational-functional, informational, personnel and financial support. It is indubitable that legal support constitutes an essential component of the institutionalisation of the policy of national memory. The term 'legal support' is defined as the exercise of state power through all legal means to influence social relations to order, consolidate, protect, and develop these relations, as well as influencing the behaviour and consciousness of citizens by proclaiming their rights and obligations, establishing explicit permissions and prohibitions, and affirming certain legal acts (Hizhevskyi et al., 2003). Consequently, by establishing and consolidating specific rules (norms) in legal acts, the state ensures the legal regulation of social relations and the activities of actors regarding the formation and implementation of public policy on national memory.

Problem of analyzing a legislative framework of National Memory Policy is relevant during the full-scale war between Russia and Ukraine. Enshrining in normative-legal field some principles of regulating social relations and activities of subjects regarding a formation and implementation of state policy in case of national memory makes it possible to intensify the processes of national progress.

An article begins with analytical description of current scientific sources, industry publications and the latest developments in research topic. After describing research methods, results are presented. In results, the laws of Ukraine (1991-2024 pp.) were studied. Discussion describes the research of modern scientists, compared with the results of our research. The results of the research were summarized in conclusions and directions for development of scientific topics are outlined.

Literature Review

The issue of national memory policy in Ukraine has become increasingly significant over the last ten years, as evidenced by the growing scientific interest from scholars both within Ukraine and internationally. For instance, Austrian scholar of Ukrainian origin Zhurzhenko, who has published extensively on contentious issues of memory geopolitics, including World War II, Ukrainian-Polish relations, and others (Zhurzhenko, 2011; 2013), also studied the legislative consolidation of national memory policy in Ukraine. In particular, she concentrated on the period following the Revolution of Dignity and the onset of Russian aggression in 2014 (Zhurzhenko, 2022). In the context of studying the memory policy regarding the Ukrainian national liberation movement of the 20th century, Yurchuk (PhD in History, lecturer at Södertörn University, Stockholm, Sweden) analysed Ukrainian legislative acts regulating state policy on these issues (Yurchuk, 2014; 2017). Canadian historian Marples examined the processes of overcoming the communist past in Ukraine, analysing the decommunisation laws of 2015, which he called "Memory Laws" (Marples, 2018).

In Ukraine, there is a substantial corpus of scholarly works in various scientific disciplines that examine the processes of institutionalisation, including the legal framework supporting national memory policy. These include the works of scholars such as Hrytsenko (2017), Dodonov (2018), Matsyshyna (2018), Yablonskyi et al. (2019), Korniiievskyy and Rozumnyi (2019), Cherviatsova (2020), and Rudenko (2020), Sachko (2022), Kovalska-Pavelko (2022), Ivanenko and Kryvoshein (2022), Sova and Dienizhna (2022), Andriiash, Hromadska, and Malikina (2023), and others. In particular, Hrytsenko conducted a comprehensive examination of the normative legal acts issued by the presidents of Ukraine between 1994

and 2014. This analysis aimed to assess Ukraine's national memory policy and the role of the head of state in shaping it (Hrytsenko, 2017). In the works of Sachko, Andriiash, Hromadska, and Malikova, the subject of national memory policy is studied as a field of research in public administration and as a direction of public policy (Andriiash et al., 2023; Sachko, 2022). In the field of public administration, the policy of national memory is also the subject of research by the author of this article. In her scholarly work, the author examines the normative legal support of national memory policy in Ukraine in different periods, along specific directions or spheres, by subjects of norm creation (Vlasenko, 2023a; 2023b; 2024; Vlasenko et al., 2024). Nevertheless, a comprehensive scientific study of the legislative support for public policy on national memory in Ukraine needs to be improved. Moreover, several significant legislative instruments have recently been enacted that necessitate scientific analysis.

This study aims to investigate Ukraine's legislative framework, which ensures the formation and implementation of public policy on national memory in the state. It involves analysing the legislative acts that contain the policy's conceptual foundations and were adopted between 1991 and 2024.

Methodology

The article was written using a variety of approaches and research methods, including general scientific and specialised techniques. The primary focus of the research was on the processing of normative legal acts of Ukraine. A distinctive feature of this scientific research is its interdisciplinary nature and practical significance.

At the initial stage of preparing the article, a descriptive method was employed to avoid subjective evaluative statements. Furthermore, during the processing of legislative acts, general scientific methods of analysis, synthesis, comparison, and generalisation were employed.

Applying a systemic approach to analysing legislative acts governing public policy on national memory permitted the analysis of these acts according to their legal force, specifically the Constitution of Ukraine and Ukrainian laws. Given this article's subject, unique legal research methods were employed, namely formal-juridical and logic-juridical. Combining these methods with general scientific methods of analysis and comparison enabled the drawing of conclusions regarding the legislative provisions of national memory policy, identifying gaps in the legal field of the studied area, and determining problematic and uncovered issues by legislative acts.

To ascertain the public's perception of the necessity for the enactment of specific legislation or the consequences of its implementation, data from sociological surveys conducted in Ukraine at different times and concerning various aspects of public policy on national memory were analysed. In particular, the results of multi-year surveys conducted by the sociological group "Rating" were considered.

Forecasting and generalisation methods were employed to formulate proposals for addressing the existing needs in the national memory policy, theoretically substantiate the main research results, formulate conclusions, and identify issues requiring further study.

Results

In examining the legislative framework supporting public policy on national memory in Ukraine, it is essential to recognise the law as a normative legal act of the highest juridical force, which regulates the most important social relations within the state. The current legislative base of Ukraine, which ensures the formation and implementation of public policy on national memory, is represented by legislative acts (the Constitution of Ukraine and laws of Ukraine) containing the conceptual foundations of national memory policy. The activities of the principal actors in public policy on national memory (state authorities, local self-government bodies, civil society organisations, etc.) are regulated by specific legislation that defines their status, powers, procedures for formation, etc.

The Constitution of Ukraine (Verkhovna Rada of Ukraine, 1996) constitutes the primary legal instrument through which the conceptual foundations of the state's national memory policy are defined. In particular, Article 11 stipulates that the state is responsible for the consolidation and development of the Ukrainian nation, its historical consciousness, traditions, and culture, as well as the development of the ethnic, cultural, linguistic, and religious identity of all indigenous peoples and national minorities of Ukraine. Furthermore,

the Constitution of Ukraine delineates the roles of the various actors in public policy, outlining their respective powers, rights, and obligations (state authorities, local self-government bodies, civil society organisations, and citizens).

In examining the legislative acts that serve as the conceptual foundations of national memory policy, we will adopt a chronological approach as our organising principle. It is of the utmost importance to direct attention to the Law of Ukraine "On the Holodomor of 1932-1933 in Ukraine" (Law of Ukraine No. 376-V, 2006).

The significance of this legislative act in terms of the institutionalisation of the policy of national memory can be explained by the fact that it first established the primary goal of national memory policy – the consolidation and development of the Ukrainian nation, its historical consciousness, and its culture. Furthermore, the law identified the actors involved in forming and implementing the policy – state authorities and local self-governance bodies according to their powers.

This legislation played a pivotal role in the recognition of the Holodomor of 1932-1933 in Ukraine as a genocide of the Ukrainian people. It defined the event as a "deliberate act of mass destruction of people." Public denial of the genocide is considered "an insult to the memory of millions of Holodomor victims" and is illegal.

It is noteworthy that the term "genocide" had previously been used in Ukrainian legal acts about the Holodomor of 1932-1933. For the first time, it was employed in a directive of the Cabinet of Ministers of Ukraine regarding the holding of the International Conference in Memory of the Victims of the Genocide of the Ukrainian People (Order No. 459-r, 2000). This conference took place on November 25 2000. Subsequently, in the resolution of the Verkhovna Rada of Ukraine "On the 70th Anniversary of the Holodomor in Ukraine" (Resolution No. 258-IV, 2002), the term "policy of genocide" was condemned for the first time and its characteristics were provided for the first time. These characteristics included the fact that the policy was carried out at the state level by leaders of the totalitarian Soviet regime against the citizens of Ukraine and that it targeted the national spirit, mentality, and genetic foundation of the Ukrainian people. Subsequently, a special session of the Verkhovna Rada of Ukraine (Resolution No. 789-IV, 2003) was held during which participants recognised the Holodomor of 1932-1933 as "an act of genocide of the Ukrainian people" and declared the need to give it an appropriate political and legal assessment at the highest state level and from all branches of power in Ukraine.

The next step in the legislative establishment of the fundamental principles of the national memory policy was adopting the so-called "decommunisation package of laws" on April 9, 2015. These four Laws of Ukraine include: "On the Legal Status and Honoring the Memory of Fighters for Ukraine's Independence in the 20th Century," "On the Perpetuation of the Victory over Nazism in World War II 1939-1945," "On Access to the Archives of Repressive Bodies of the Communist Totalitarian Regime 1917-1991," (Law of Ukraine No. 314-VIII, 2015, Law of Ukraine No. 316-VIII, 2015, Law of Ukraine No. 317-VIII, 2015) and "On the Condemnation of the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols." (Venice Commission Opinion, 2015). These legislative acts can genuinely be milestones in countering Soviet identity and nostalgic sentiments for the USSR that existed among some citizens at the time. Indeed, a nationwide survey conducted by the sociological group "Rating" (2014) showed that 33% of respondents at that time regretted the dissolution of the Soviet Union. In particular, the Law of Ukraine, "On the Legal Status and Honoring the Memory of Fighters for Ukraine's Independence in the 20th Century" (Law of Ukraine No. 314-VIII, 2015), recognised as fighters for independence those who participated in all forms of political, armed, and other collective or individual struggle in the 20th century. The law lists government bodies, organisations, structures, and formations whose participants are recognised as fighters for Ukraine's independence. It also defines the directions of state policy for the restoration, preservation, and honouring of the national memory of the fighters and the struggle they waged. Specifically, the state ensures a comprehensive history study, raises societal awareness, encourages and supports research and educational work, and facilitates memory commemoration. The law defines the public denial of the legitimacy of the struggle for independence of Ukraine in the 20th century as illegal (Kniaziev et al., 2011).

Incidentally, the issue regarding adopting such a law had been raised earlier. For instance, President Viktor Yushchenko directed the Cabinet of Ministers of Ukraine, in collaboration with the National Academy of Sciences of Ukraine, to develop a draft law about the Ukrainian liberation movement of the 1920s-1950s.

This law was intended to define the status of the participants, provide for their social protection, and recognise the activities of organisations that fought for Ukraine's independence (Decree No. 879/2006, 2006). In 2008, a draft law, "On the Legal Status of Participants in the Fight for Ukraine's Independence of the 1920s-1990s," was developed but not adopted. Some of its provisions can be traced in the Law of Ukraine of April 9, 2015. (League 360, 2008).

The Law of Ukraine, "On Perpetuating the Victory over Nazism in World War II 1939-1945" (Law of Ukraine No. 315-VIII, 2015), ensured respectful recognition not only of the memory of the victory in World War II but also of the war's participants. For the first time at the legislative level, veterans of the war, participants of the liberation movement, and victims of Nazism were officially recognised. It established one of the fundamental principles underlying European memory policy: reconciliation and understanding. The legislation also delineated the principal methods of commemorating the triumph over Nazism, regulated matters about World War II memorials, and ensured Ukraine's fulfilment of international obligations. Among the international acts referenced in the law, the United Nations General Assembly resolution of November 22 2004, No. A/RES/59/26, which declared 8 and 9 May as days of remembrance and reconciliation, stands out. By the law, May 8 was designated as the Day of Remembrance and Reconciliation, while May 9 was established as Victory Day over Nazism in World War II (Victory Day), which is recognised as a national holiday. In 2023, amendments were made to the law (based on the Law of Ukraine of May 29 2023, No. 3107-IX), whereby May 9 was no longer associated with the war, and May 8 was established as the Day of Remembrance and Victory over Nazism in World War II 1939-1945. The enactment of this legislation played a pivotal role in challenging Soviet and contemporary Russian narratives surrounding the Second World War. It signified a rejection of the Soviet-era term "Great Patriotic War 1941-1945" and the introduction of "World War II 1939-1945" at the legislative level (Law of Ukraine No. 3107-IX, 2023).

The Law of Ukraine "On Access to Archives of Repressive Bodies of the Communist Totalitarian Regime 1917-1991" is more regulatory and organisational (Law of Ukraine No. 316-VIII, 2015). The legislation contains provisions that regulate the fundamental principles, guarantees, and methods of implementing state policy regarding access to archival information of repressive bodies. The legislation defines the term "repressive body" and enumerates the repressive organs of the communist totalitarian regime. It is beyond doubt that the enactment of this legislation constituted one of the most significant factors in the democratisation of Ukrainian society. The law reflected European practices regarding the openness of state archives in the context of memory policy to overcome the communist totalitarian past. It was by the Recommendations of the Committee of Ministers of the Council of Europe to member states on European policy regarding access to archives, as set out in No. R (2000) on July 13 2000. Despite the existence of the particular Law of Ukraine "On the National Archival Fund and Archival Institutions," which regulates the main issues of archival affairs, including relations related to the use of archival document information, the necessity of adopting the Law of Ukraine "On Access to Archives of Repressive Bodies of the Communist Totalitarian Regime 1917-1991" was substantiated (Law of Ukraine No. 316-VIII, 2015).

The fourth of the "decommunisation package" is the Law of Ukraine "On the Condemnation of the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols" (Venice Commission Opinion, 2015). The legislation identified the communist and Nazi totalitarian regimes in Ukraine as "criminal and having implemented a policy of state terror." It prohibited the propagation of these regimes and the utilisation of their symbols. The foundation of the law was a series of international legal acts that addressed the issue of overcoming the legacy of communist and Nazi totalitarian regimes in Europe. A distinctive feature of the law is not only its declarative but also its criminal component. Relevant changes and additions were made to the Criminal Code of Ukraine (Code No. 2341-III, 2001): "The manufacture, distribution, and public use of the symbols of the communist, national-socialist (Nazi) totalitarian regimes [...] are punishable by restriction of liberty for a term of up to five years or imprisonment for the same term, with or without confiscation of property" (Article 4361).

It is important to note that the Law of Ukraine, "On the Condemnation of the Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols" (Venice Commission Opinion, 2015), has been the subject of a mixed evaluation among experts and academics both in Ukraine and abroad. The constitutionality of the law was also called into question. On July 16 2019, the Constitutional Court of Ukraine ruled on an appeal by 46 members of the Ukrainian parliament that the law was following the Constitution of Ukraine (Verkhovna Rada of Ukraine, 2019). The joint opinion of the Venice Commission and the OSCE Office for Democratic Institutions and Human Rights (Venice

Commission Opinion, 2015) contained significant recommendations for improving the law, particularly concerning provisions on symbols, propaganda, denial of crimes, sanctions, etc. The opinion highlighted the right of states to enact legislation that prohibits or criminalises the use of symbols and propaganda of specific totalitarian regimes, provided that these laws comply with the requirements of the European Convention and other regional and international legal documents on human rights.

In our estimation, the impact of this legislation on the national memory policy regarding the communist totalitarian past cannot be overstated. Over two decades after the dissolution of the USSR and the restoration of Ukraine's state sovereignty, the communist totalitarian regime was legally recognised as criminal and condemned as "incompatible with fundamental human and civil rights and freedoms," and its propaganda and symbols were prohibited. Nevertheless, it is crucial to highlight that the anticipated outcomes of this legislation have yet to be fully realised. In particular, the process of decommunisation has not been executed effectively, and Ukraine has yet to eradicate communist/Soviet symbols. Doctor of Public Administration Pavlo Pokataiev identified a shortcoming of the law as the limited time allowed for discussion and renaming of settlements. Furthermore, one of the problems encountered during the implementation of its provisions was the passive attitude of the population towards the decommunisation of public spaces (Pokataiev, 2018). A survey by the sociological group "Rating" (2016) revealed that only 48% of respondents supported banning communist ideology in Ukraine, while only 35% supported the initiative to rename cities and streets.

Decommunisation represents a pivotal aspect of national memory policy. Furthermore, it encompasses the rehabilitation of citizens who were repressed by the communist totalitarian regime. These processes have been ongoing for many years and relate to policies in national memory and, more broadly, the social sphere. The legal framework for this policy is provided by the Law of Ukraine "On the Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime 1917-1991" (Verkhovna Rada of Ukraine, 1991). This law's history commenced before the restoration of Ukraine's state independence. On April 17 1991, the Verkhovna Rada of the Ukrainian SSR adopted the Law "On the Rehabilitation of Victims of Political Repressions in Ukraine" (Law of Ukraine No. 962-XII, 1991). The adoption of this law demonstrated the democratisation of Ukrainian society, was of significant importance in restoring the rights of citizens who suffered from the communist regime, and simplified the rehabilitation procedure. Nevertheless, the law failed to consider the interests of specific population categories affected by repressions, including participants in the national liberation movement, citizens who were repressed but not detained, and family members of the repressed.

Since 1991, amendments and additions have been made to the law on several occasions, which have expanded the categories of citizens eligible for rehabilitation. In March 2018, the legislation underwent a significant amendment and was renamed. The 2018 edition of the law contains a comprehensive list of terms used, including the definition of "repressions of the communist totalitarian regime from 1917-1991" and "repressed person". It also lists extrajudicial and other repressive bodies. It outlines the motives for repression (class, national, political, religious, social) and forms of repression (exile, deportation, banishment, internment, deprivation of housing, forced repatriation, dekulakization).

Furthermore, the revised text significantly revised the article defining the categories of rehabilitated citizens (Article 12), added an article defining the categories of citizens affected by repression (Article 13), and significantly expanded the list of forms of repression, which includes 23 items (Article 2). A significant addition was delineating the roles and responsibilities of the National Rehabilitation Commission and regional rehabilitation commissions. These commissions can recognise individuals as rehabilitated or affected by repression (Article 7).

The amendments and additions made to the Law of Ukraine "On the Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime 1917-1991" in 2018 constituted a significant reorganisation of the rehabilitation processes, defining mechanisms for the fair resolution of a range of issues related to the restoration of the rights of citizens affected by repression. For example, between 2019 and 2023, nearly 3,000 proposals from regional rehabilitation commissions were considered, with 2,370 individuals recognised as rehabilitated or affected by repression.

The full-scale war between the Russian Federation and Ukraine has prompted a re-evaluation of the policy of national memory, which has been the subject of legal regulation. The legislative acts adopted after February 24 2022, have implications extending beyond the humanitarian sphere and are of considerable

consequence to the state's security policy. Although some of these were already under development, the full-scale aggression accelerated the legislative actions concerning their adoption.

In particular, the Verkhovna Rada of Ukraine enacted the Law of Ukraine "On the Basic Principles of State Policy in the Field of Affirming Ukrainian National and Civic Identity" (Law of Ukraine No. 2834-IX, 2022). The law defines the formation and implementation of state policy in this area as a component of ensuring Ukraine's national security. Given that historical memory is an integral part of national identity (as defined in the law as "Ukrainian national identity"), this law plays a significant role in national memory policy. Among the areas of civic-patriotic education (one of three components of state policy in the field of affirming Ukrainian national and civic identity), the organisation of a comprehensive study of the history of Ukrainian state formation, stages of the struggle for the restoration of statehood, and the dissemination of relevant information in Ukraine and internationally are defined. These directions align with the objectives of the Ukrainian Institute of National Memory (UINM), which serves as the central executive body responsible for implementing state policy in the restoration and preservation of the national memory of the Ukrainian people (Ukrainian Institute of National Memory, 2020).

Among the legal acts of Ukraine during the full-scale war, which are significant tools in the policy of national memory, is also the Law of Ukraine "On Condemnation and Prohibition of Propaganda of Russian Imperial Policy in Ukraine and Decolonization of Toponymy" (Law of Ukraine No. 3005-IX, 2023). For the first time, the law employed the term "decolonisation," although its precise definition was not provided. In contrast, the legislator introduced the concept of "Russian colonial/imperial policy," defining it as "a system of measures aimed at subjugation, exploitation, and assimilation of the Ukrainian people, carried out by administrative bodies, armed formations, political parties, non-governmental organisations, institutions, enterprises, groups, or individual citizens (subjects)" of all state entities that existed throughout Russian history (from the Muscovite Tsardom to the Russian Federation, including the Soviet Union). The legislation recognises Russian imperial policy as criminal and prohibits the dissemination of propaganda associated with this policy and its symbolism. It is important to note that the law not only delineates the procedure for removing symbols related to the Russian colonial past from public spaces but also specifies the applicable administrative levels.

The Law of Ukraine "On Condemnation and Prohibition of Propaganda of Russian Imperial Policy in Ukraine and Decolonization of Toponymy" (informally known as the "decolonisation law") represents a logical progression of the decommunisation processes that have been ongoing in the country since 2015 (Law of Ukraine No. 3005-IX, 2023). Moreover, the law reflects a strong public demand for the removal of symbols associated with both the communist totalitarian and the Russian imperial past. For example, in the initial months of the full-scale Russian-Ukrainian war, over 65% of respondents expressed support for the renaming of streets bearing Russian or Soviet names. In comparison, 71% endorsed the dismantling of monuments associated with Russia (as reported by the sociological group "Rating" (2022)). Consequently, the public initiative, which emerged in response to the invasion of the Russian Federation in Ukraine in February 2022, prompted the actions of public authorities in collaboration with civil society organisations towards the legal regulation of processes to overcome the Russian imperial colonial past.

Discussion

In analysing the legislative support for public policy on national memory in Ukraine, it is essential to consider the role of this legislation as an important tool influencing societal processes by establishing mandatory legal rules of conduct for policy actors. The existing legislative base in the field of national memory comprises several Ukrainian laws that contain conceptual foundations particularly relevant to the historical memory issues of Ukrainian post-colonial society.

The formation of the legislative base in the area of national memory occurred during the democratisation of Ukrainian society, the development of Ukraine as a legal state, and the restoration of the national identity of the Ukrainian people. These laws were enacted by a surge in public interest in specific matters about national memory. For instance, the "decommunisation laws" and the "decolonisation law" were responses by public authorities to societal demands that emerged in response to the Euromaidan and the Revolution of Dignity (November 2013 – February 2014) and the beginning of Russian aggression against Ukraine in February 2014. It culminated in the full-scale invasion by the Russian Federation into Ukraine on February 24 2022. For instance, the so-called "Leninfall" during the Revolution of Dignity prompted the adoption of

the Law of Ukraine "On the Condemnation of Communist and National Socialist (Nazi) Totalitarian Regimes in Ukraine and Prohibition of Propaganda of Their Symbols".

As the former head of the Ukrainian Institute of National Memory, Volodymyr Viatrovych observed that the decommunisation laws "were not imposed from above but rather reflected the prevailing moods within society, providing these moods with clear and legitimate frameworks" (Viatrovych, 2023). It is beyond doubt that these laws had a profound social impact. Concurrently, they attracted considerable criticism from both Ukrainian and foreign experts. For instance, Barbara Törnquist-Plewa and Yuliia Yurchuk identified elements of Ukrainian "post-colonial hybridity" in memory policy within the decommunisation laws, noting their symbolic nature, manifested in the "rhetorical, almost poetic language" in which they were written (Törnquist-Plewa, & Yurchuk, 2019). In contrast, Tetiana Zhurzhenko, in comparing the legislation of Ukraine in the field of national memory prior to 2015 with the decommunisation laws, has described them as "much more ambitious and comprehensive" (Zhurzhenko, 2022).

In our estimation, although the decommunisation laws were imbued with specific symbolism, they played a pivotal role in the institutionalisation of the policy of national memory in Ukraine. The legislation above constituted the legal foundation for regulating memory policy about the most pressing and critical issues in Ukrainian 20th-century history. The legislation established effective mechanisms for overcoming the legacy of communist totalitarianism and constructing the national memory of the Ukrainian people's struggle for state independence. These laws became a vital instrument in countering Russian historical myths, facilitating the restoration of historical justice, and initiating processes that ensured the consolidation of Ukrainian society. Furthermore, adopting these laws demonstrated a collaborative relationship between state authorities and civil society organisations in the legislative process. For instance, this process involved the public organisation "Center for the Study of the Liberation Movement" and the coalition of leading Ukrainian experts and civil society organisations "Reanimation Package of Reforms Coalition".

Regarding the Ukrainian law "On the Holodomor of 1932-1933 in Ukraine," scholars have identified it as the inaugural significant step towards formally recognising the Holodomor as genocide (Vasylenko, 2013). Additionally, it has been posited that this legislation is a potent instrument for shaping collective national memory (Coulson, 2021). It is widely acknowledged that this law played a pivotal role in shaping public policy on national memory, particularly about the recognition of the Holodomor of 1932-1933 as genocide against the Ukrainian people. The adoption of this law was due to the political will of President Viktor Yushchenko, during whose tenure (2005–early 2010) political and legal assessments of this national tragedy were made. It resulted in the holding of the most significant number of commemorative events for the victims of the Holodomor at local, national, and international levels. Memorials and monuments were established across Ukraine and abroad. A vast amount of documentary and oral testimonies were opened and published. Significant scholarly research was conducted, and progress was made in gaining international recognition of the genocide of the Ukrainian people.

The Ukrainian Law on the Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime 1917-1991 has also generated considerable debate and diverse evaluations among Ukrainian scholars and experts. Among the positive changes and additions are the expansion of the categories of the repressed, the presence of a list of forms of repression, the definition of procedures for restoring the rights of the victims, the definition of the time limits of crimes committed by the Soviet authority, the definition of critical terms. Among the shortcomings are the absence of the motives and normative acts under which the repressions were carried out, the absence of a rehabilitation procedure for former employees of punitive-repressive organs, the absence of the vital concept of "rehabilitation" (Demianchuk, 2023; Zakharov, 2018; Prots & Kopeltsiv-Levytska, 2023; Rozhkova, 2018).

The Law of Ukraine, "On the Fundamental Principles of State Policy in the Sphere of Affirming Ukrainian National and Civic Identity," received a positive evaluation among experts. In particular, Doctor of Philosophy Nataliia Kryvda (Stozhary, 2024) called it a "growth point for Ukraine," although she stated the need for its future refinement. Indeed, this law is extremely important for the consolidation of the Ukrainian nation, and its adoption during a full-scale war can be seen as a weapon against the aggressive Russian policy towards Ukraine.

Meanwhile, the legislative base's development and improvement in the national memory field in Ukraine continues. In this context, we propose for discussion an issue that, in our opinion, requires urgent resolution:

– It is imperative that the legislative activity of public authorities be expedited in collaboration with civil society organisations to adopt a particular legislative act that would directly regulate the policy of national memory in Ukraine. This necessity has become particularly acute during the full-scale Russian-Ukrainian war, which poses a threat to the country's territorial integrity, state sovereignty, constitutional order, and national identity. In these conditions, the national memory policy is vital in ensuring the state's national security. At the beginning of 2024, the Ukrainian Institute of National Memory developed and submitted the draft Law of Ukraine for public discussion, "On the Principles of State Policy on the National Memory of the Ukrainian People" (Ukrainian Institute of National Memory, 2024). It defines the legal bases of national memory policy, its goals, main principles, tasks, policy subjects, and their powers. It is important to emphasise that this draft law incorporates two key provisions regarding national memory policy: 1) It serves to consolidate the Ukrainian people around a common past; 2) It constitutes a component of the foundations of Ukraine's national security, an essential factor in forming societal immunity against human rights violations. In light of the above, it seems appropriate to include the protection of national interests as a fundamental principle of national memory policy. This principle is the first and fundamental basis of the state's internal policy in the Law of Ukraine "On the Principles of Domestic and Foreign Policy" (Law of Ukraine No. 2411-VI, 2010). Threats to Ukraine's national security directly threaten the realisation of national interests and the preservation of national values (Law of Ukraine No. 2469-VIII, 2018). Consequently, the state's external and internal political activity is oriented towards ensuring its national interests and security. It is achieved by counteracting humanitarian aggression, strengthening the identity of the Ukrainian nation, and so forth. In this context, the policy of affirming Ukrainian national and civic identity is defined as a component of ensuring national security, and national memory is an integral characteristic of the Ukrainian nation as a distinctive community (Decree No. 392/2020, 2020).

Conclusions

Legislative support for public policy on national memory in Ukraine is provided by legislative acts (the Constitution of Ukraine and Ukrainian laws), which contain the conceptual foundations and play a vital role in forming and implementing the policy, meeting the requirements of international law. The legislative base in the field of national memory has been developed throughout the entire period of state independence and, to some extent, has reflected the country's political situation and public moods. The active phase of lawmaking has occurred over the last ten years and continues today.

The legislative framework in the field of national memory consists of:

- Legislative acts that contain the conceptual framework and play a vital role in the formation and implementation of the public policy of national memory;
- Legislative acts of an organisational and regulatory nature that ensure the activities of the main actors of the public policy of national memory.

Significant achievements in Ukraine's legislative support of public policy on national memory can now be acknowledged. A series of legislative acts containing the conceptual foundations of national memory policy have been adopted. However, the issue of adopting a special law defining the basic principles of national memory policy in Ukraine and ensuring comprehensive regulation of its formation and implementation still needs to be solved. Currently, such a bill is in the development stage.

Further scientific research will focus on studying subordinate acts operating in national memory. It will allow for assessing the completeness of memory policy regulation at all management system levels and identifying problematic issues. Additionally, the legal support of memory policy in the European Union and individually in EU member states will be examined. It will help form the theoretical basis for Ukraine's integration into the memorial space of Europe.

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