

“The fundamental dilemma in Ukraine’s decommunization process is how to undo the legal, institutional, and historical legacy of the Soviet era without repeating the Soviet approach of mandating one ‘correct’ interpretation of the past . . .”

## The Battle for Historical Memory in Postrevolutionary Ukraine

OXANA SHEVEL

The triumph of the 2014 Euromaidan protests in Ukraine raised many hopes both domestically and internationally. Yet today, two and a half years since the pro-European uprising in Kiev’s central Maidan Nezalezhnosti, or Independence Square, led to the overthrow of President Viktor Yanukovich, many goals of the protesters remain unrealized. Some progress has been made on issues such as the prosecution of corrupt politicians, judicial reform, and other measures to establish transparency and accountability for the powerful. But the overall results to date from efforts to curb corruption, overhaul the economy, and integrate with Europe are disappointing for both Ukrainian citizens and supporters of the reform movement abroad. There is one area, however, where post-Euromaidan Ukraine is looking very different from the nation that existed before the 2014 uprising: the politics of memory and, more broadly, the politics of national identity.

Instead of straddling the border between East and West—that is, between the “Russian world” and Western Europe, the two poles of the cultural, geographic, and political borderland where Ukraine is situated—the postrevolutionary government has taken major steps to pivot more decisively away from Russian influence. A package of four so-called decommunization laws adopted in May 2015 sharply parts ways with the frames and assessments of the common Soviet past in an effort to reorient historical memory. However, just how “European” some of the new policy measures are, and whether these government initiatives will find broad acceptance among the Ukrainian public, remain open questions.

Post-Euromaidan Ukraine has undergone sharp shifts in public opinion, leading commentators to talk about a process of rapid consolidation of Ukrainian national identity. This process, as well as the end of the Ukrainian government’s geopolitical and cultural-historical oscillation between Russia and the West was ironically aided by Russia itself in its quest to keep Ukraine in Moscow’s orbit in the wake of the Euromaidan protesters’ victory in February 2014. Russia’s annexation of Crimea the following month and subsequent instigation of and continued support for a separatist insurgency in eastern Ukraine led to a sharp decline in pro-Russian public sentiment, including in the Russian-speaking southern and eastern regions where Russian influence has historically been strongest.

### TURNING TO EUROPE

Given the choice between membership in the European Union or in the Moscow-led Customs Union, which includes Russia, Belarus, and Kazakhstan, Ukrainian public opinion has shifted decisively in favor of the EU. (It was Yanukovich’s decision not to sign an EU partnership agreement that precipitated the protests against him in late 2013.) In a September 2014 survey conducted by Gallup on behalf of the International Republican Institute, 59 percent of respondents favored membership in the EU, compared with just 17 percent who favored joining the Moscow-led grouping. (In September 2013, before the Euromaidan protests started, the corresponding figures were 42 percent and 37 percent, respectively.)

This clear preference for the EU over the Customs Union has persisted for the past two years: while support for the EU option has declined somewhat, the attractiveness of the Customs Union has

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not increased. According to a May 2016 poll by the Kiev International Institute of Sociology (KIIS), 49 percent of Ukrainians favor membership in the EU, versus 16 percent who prefer the Customs Union.

Ukrainian attitudes toward Russia, and especially Russia's leadership, have also become much more negative since the Crimea annexation. Polling by the KIIS found that from February 2014 to May 2015, the share of those holding positive attitudes toward Russia dropped from 78 percent to 30 percent nationwide. And even though there was a partial rebound by the middle of 2016, to 42 percent viewing Russia positively in August 2016 (possibly due to the "routinization" of the conflict in eastern Ukraine, as the KIIS institute director hypothesized), just 8 percent of Ukrainians felt positively about the Russian leadership in August 2016. Negative views of the Kremlin prevail in every region of Ukraine, even the Russian-speaking south and east.

Polls showing a jump in support for Ukraine's independence further illustrate the change in attitudes in the south and the east. Since before the December 1991 referendum on declaring independence from the Soviet Union, KIIS has been tracking popular attitudes on Ukrainian independence if another referendum were to be conducted. In 2011, for example, 53 percent in the east would have voted for independence in a hypothetical referendum and 47 percent against; in the south, 47 percent would have voted for independence and 53 percent against. By August 2016, the same pollster found that 71.5 percent in the east, and 78.5 percent in the south, would have voted for independence. Nationwide, 87 percent would have voted for independence in August 2016, compared with 67 percent in 2011.

## REGIONAL VARIATIONS

Changes in popular attitudes, profound as they are, have not erased regional differences. In the east (although no longer in the south), support for membership in the Russia-led Customs Union remains greater than support for membership in the EU (31 percent versus 21 percent, according to a June 2015 poll by the Raiting Group). Attitudes toward different aspects of the Soviet past also vary substantially by region.

On the one hand, in part as a result of a campaign undertaken during the 2005–10 tenure of

President Viktor Yushchenko to recognize the 1932–33 massive famine that killed millions of Ukrainians as a genocide of the Ukrainian people orchestrated by Soviet leader Joseph Stalin, attitudes toward the famine (known as the Holodomor, or death by hunger, in Ukraine) had changed already by the late 2000s, and this tendency continued post-Euromaidan. According to an October 2010 poll by the Raiting Group, 60 percent nationwide regarded the Holodomor as a genocide against the Ukrainian people. By September 2015 this figure had risen to 81 percent, and it was a majority view in every region of Ukraine (though it ranged from 64 percent in the eastern regions to 98 percent in the west).

Ukraine's experience within the USSR is another issue on which regional differences persist. The formation of the Ukrainian Soviet Socialist Republic as part of the Soviet Union is viewed positively in all areas except in the two western regions of Galicia and Volyn, according to a December 2014–January 2015 poll by the Democratic Initiatives

Foundation. At the same time, attitudes toward some other key aspects of the Soviet past remain largely unchanged. Stalin, for example, continues to be viewed positively as a "great leader" by a significant minority

nationwide (28.5 percent, according to a March 2016 KIIS poll), while a plurality of respondents in the eastern regions hold such a view (45 percent agreeing compared with 30 percent disagreeing). This is not so different from attitudes in 1991, when 26 percent of Ukrainians considered Stalin a great leader.

Historical figures who are being rehabilitated by the new decommunization laws, such as the wartime Ukrainian nationalist leader Stepan Bandera, continue to be viewed unfavorably by majorities everywhere except in the west of Ukraine, even though negative attitudes have subsided over time. Bandera has long been a highly controversial figure in Ukraine and has inspired much hatred in Russia. In June 1941, after Nazi Germany invaded the Soviet Union, supporters of Bandera declared independence for a Ukrainian state, while promising to cooperate with Nazi Germany. Many of his followers participated in killings of Jews and Poles during the war, and after Germany was defeated, nationalists in western Ukraine waged large-scale partisan warfare against Soviet forces.

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The Soviet and Russian view has long been that Bandera and his wartime followers were nothing more than murderous Nazi collaborators. Current Russian propaganda links the post-Euromaidan Kiev government to this legacy, routinely calling the new leadership “fascist.” A May 2014 poll by the Raiting Group found that 31 percent of Ukrainians had a positive view of Bandera (up from 21 percent two years earlier), while 48 percent had a negative view. Regional polarization is clear in public attitudes toward Bandera, with 76 percent in the west having a mostly positive view, in stark contrast with just 8 percent in the east and 15 percent in the south.

## NEW LANDSCAPE

Shifts in public opinion, as substantial as they are, cannot by themselves explain the dramatic legal steps that the post-Euromaidan Ukraine leadership has taken to reshape historical memory and state policies in this area. Changes in Ukraine’s memory politics, reflected in the four decommunization laws passed by the legislature in the spring of 2015, were a product of several factors. The October 2014 elections produced a major realignment in the legislature. For the first time in Ukraine’s post-Soviet history, elections had produced a pro-Western and pro-market majority rather than a parliament more or less evenly divided between broadly pro-Russian and pro-Western forces.

Changes in popular preferences contributed to this electoral outcome, but so did Russia’s annexation of Crimea and the war in Donbas. Because of the armed conflict, voting did not take place in 27 electoral districts located in the territories no longer controlled by the Kiev government. These districts had over 4.5 million voters who traditionally voted for pro-Russian parties but did not participate in the October 2014 elections.

The implosion of the pro-Yanukovich Party of Regions and low turnout in the southeastern areas where pro-Russian parties have stronger bases of support were additional contributing factors in the dramatic change in the legislative political landscape. The Communist Party, for the first time since 1991, ended up with no representation at all in the parliament, and parties with a self-declared pro-Western orientation held a majority. Five parties that won a total of 288 out of 423 contested

seats formed the ruling coalition, led by President Petro Poroshenko’s bloc. After a number of candidates who ran as independents joined the coalition, the majority increased to 302 members—large enough to amend the constitution. It has since shrunk as a result of infighting and power struggles, and by April 2016 it was down to 237 members, with just two of the original five parties (the Poroshenko Bloc and the Popular Front).

## LEGISLATING HISTORY

On April 9, 2015, the Ukrainian parliament by a comfortable majority adopted the four decommunization laws, which had been prepared under the auspices of the Ukrainian Institute of National Memory, a government body originally created by Yushchenko to support research and forge a policy. They include Law No. 2558, “On the condemnation of the communist and national socialist (Nazi) regimes, and prohibition of propaganda of their symbols”; Law No. 2538-1, “On the legal status and honoring of fighters for Ukraine’s independence in the twentieth century”; Law No. 2539, “On remembering the victory over Nazism in the Second World War”; and Law No. 2540, “On access to the archives of repressive bodies of the communist totalitarian regime from 1917–1991.”

The laws were adopted without public or parliamentary debate. Votes were held just a few days after the drafts were submitted to the parliament. This swift passage was in stark contrast with the fate of similar measures just a few years before. During Yushchenko’s presidency there were multiple failed attempts to pass draft laws recognizing nationalist organizations from the interwar and World War II period as fighters for Ukrainian independence. Under Yanukovich, no such attempts were made.

The decommunization laws contained a number of provisions that pivoted Ukraine’s official memory regime in a direction sharply away from the Russian-Soviet narrative of the Soviet period, and in particular the World War II era. The law on remembering the victory over Nazism replaced the Soviet term “Great Patriotic War” with the internationally used “Second World War,” and established May 8 as the Day of Memory, also corresponding to European practices for commemorating the surrender of Nazi Germany. The new Day of Memory did not replace Victory Day on May 9, however,

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and thus combined acceptance of the Soviet-era May 9 celebration, still highly popular in Ukraine, with a new date and new terminology for remembering the war.

The law on victory commemoration contained a controversial provision prohibiting “falsification of the history of the Second World War.” The law on the condemnation of totalitarian regimes equated communism with Nazism, and banned the propagation of their symbols except for scientific-educational activities, military-historical reenactments, and imagery in cemeteries. One major practical consequence of these measures was a ban on, and mandated removal of, many Soviet-era symbols and monuments. By the end of August 2016, 1,200 Lenin statues had been taken down. Another provision in the law compelled local authorities to change within a six-month period all geographic names honoring communist and Soviet leaders. By late August 2016, 987 cities, towns, and villages had been renamed, as well as 26 administrative districts.

The law on condemnation of totalitarianism also criminalized “propaganda” in support of the communist and Nazi regimes, which it defined as “public denial of the criminal nature” of those regimes and “spreading of information aimed at justifying [their] criminal nature.” Disseminating such propaganda and symbols of the totalitarian regimes was made an offense punishable by 5 to 10 years’ imprisonment.

Perhaps the most controversial of the decommunization laws was the one on recognition of fighters for Ukrainian independence in the twentieth century. This law granted such status to members of Bandera’s Organization of Ukrainian Nationalists (OUN) and the Ukrainian Insurgent Army (UPA), two of the most important nationalist organizations from the interwar and World War II period. While these groups did fight for independence, their members also committed war crimes by participating in the Holocaust and in the extermination of Polish civilians. Despite these aspects of their history, the law forbade “public display of disrespectful attitudes” toward recognized independence fighters, as well as “public denial of the legitimacy of the struggle for Ukraine’s independence in the twentieth century.”

## DEFENDING DEBATE

Immediately after their adoption, the decommunization laws came under criticism from several quarters, ranging from the Russian Foreign Min-

istry to Ukrainian Communist Party leaders and members of Yanukovich’s former Party of Regions (now known as the Opposition Bloc), to Ukrainian and international rights groups, Ukrainian academics and public figures, and Western experts. There have been several broad thrusts to this criticism.

First, critics have noted that the laws have the potential to stifle open debate over history by introducing legal punishments for publicly expressing “wrong” opinions about the communist period or about fighters for Ukraine’s independence. The law’s “falsification of history” language is strongly reminiscent of infamous measures adopted in Russia several years earlier, leading one commentator writing in May 2015 in the influential Ukrainian intellectual magazine *Krytyka* to ask rhetorically: “Has this law been adopted in postrevolutionary Ukraine or in Putin’s Russia?”

Criticisms voiced in Ukrainian media and blogs, as well as a number of influential Western outlets, also highlighted the dangers to free speech and scholarly inquiry inherent in vague provisions such as those banning “propaganda” for the communist and Nazi regimes, public display of “a disrespectful attitude” toward independence fighters, and “public denial of the legitimacy of the struggle for the independence of Ukraine.” Some decried the honorable recognition bestowed on organizations whose members committed war crimes against civilian populations.

Critics also warned of the laws’ potential to aggravate domestic divisions by alienating the south and east of the country, given that most of the localities to be renamed were concentrated in those regions. Nostalgia for the Soviet era is stronger there, and greater resistance to decommunization was to be expected. According to the Ukrainian Institute of National Memory, the regions with the largest shares of the 877 localities slated for renaming were in the east and the south: Donetsk, with 99 localities; Kharkiv, 97; Dnipropetrovsk, 84; Crimea, 66; Odessa, 55; and Luhansk, 54.

## LOCAL RESISTANCE

The decommunization laws entered into force in May 2015, and by now several consequences of their implementation (or the lack thereof) have become apparent, some of them unexpected. For one, the laws so far do not seem to have aggravated polarization in Ukraine. In part this is because many places subject to the renaming requirement are located in parts of the country that the central government does not control (in Crimea and the

conflict areas in Donetsk and Luhansk). Of 54 localities to be renamed in Luhansk, for example, only 19 are in Ukrainian-controlled territory. In other words, in areas where resistance to decommunization measures was likely to have been the strongest, the process has not taken place.

Another reason behind the limited local opposition to decommunization is the nonideological nature of much of the resistance. Polls, media interviews with citizens, and records of town hall meetings show that people often oppose decommunization not for ideological reasons (because they have positive views of Soviet-era leaders or are committed to the preservation of Soviet-era symbols) but because of the perceived financial costs of renaming places and removing monuments, and the feeling that decommunization will not result in any socioeconomic improvements. Such nonideological opposition leads to a certain public passivity rather than active protest, though the renaming of some places became highly controversial.

One example is Kirovohrad, a regional capital in central Ukraine named after the Leningrad Communist Party head Sergei Kirov, who was murdered, most likely on Stalin's orders, in the 1930s. Polls showed that Kirovohrad residents overwhelmingly preferred to retain the name. But once the renaming process at the local level ended in a stalemate, the national parliament got involved and changed the name to Kropyvnytsky in honor of the author and playwright Marko Kropyvnytsky (1840–1919)—the option favored by just 8 percent of local residents, according to an April 2016 KIIS poll. Otherwise, the renaming of 1,021 localities (completed by July 2016) proceeded largely uneventfully, and in many cases the process had an unintended positive side effect of spurring public activism and discussion in mandatory local hearings.

The decommunization laws nevertheless did produce some troubling consequences. The Kharkiv Human Rights Protection Group reported in May 2016 that police in the city of Cherkasy started a criminal investigation of marchers who unfurled a communist-era red flag during the Victory Day march. Such actions are unlikely to withstand scrutiny if brought before the European Court of Human Rights.

In its December 2015 interim report on the law condemning the communist and Nazi regimes, the

Council of Europe's Venice Commission, an expert body on constitutional law, opined that a mere display of symbols should not result in imprisonment. The commission more generally criticized the law for its potential to infringe on the rights of freedom of expression and association, and for not being "precise enough to enable individuals to regulate their conduct according to the law and to prevent arbitrary interference by public authorities."

## PROVOKING THE POLES

Advocates of the laws seem to view decommunization as nothing less than a security issue, and link the process to the war effort against Russia-backed separatists. In the words of the deputy director of the Institute of National Memory, "Where there are no monuments [to Lenin and other Soviet leaders], there is no war today. Where this tradition, this mythology, this hatred that was propagated by communist propaganda is alive—this is where we see war, confrontation, and deaths." Yet there is no evidence that decommunization will result in fun-

damental changes of opinion in regions where stronger pro-Russian attitudes predominate, especially in the short term.

However, the decommunization process as it has been implemented could actually weaken Ukraine's security by offending some long-term allies such as Poland. The glorification of wartime Ukrainian nationalist groups and leaders implicated in the mass murder of Polish civilians has already led to friction with Warsaw. In April 2015, the decommunization laws were approved by the Ukrainian parliament right after Polish President Bronislaw Komorowski addressed the legislature. The provocative renaming of Kiev's Moscow Prospect as Stepan Bandera Avenue was also ill-timed, occurring on the eve of the anniversary of the 1943 Volyn massacre of Poles by Ukrainian nationalists.

After Komorowski lost a presidential election to the right-wing challenger Andrzej Duda in May 2015, Ukraine and Poland clashed over the history of the OUN and the UPA. In July 2016, both chambers of the Polish parliament voted to make June 11 a day of memory for the Polish "victims of genocide perpetuated by the OUN-UPA." In September 2016, the Ukrainian legislature responded by adopting a resolution condemning the Polish move for "giving a politically and legally incorrect characterization to the

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tragic pages of Polish-Ukrainian history, in particular to the conflict between our people during World War II.” The resolution states that the Polish parliament’s act threatens to undermine “positive results of cooperation reached during the constructive Polish-Ukrainian dialogue over the course of the past decades.” But part of the blame for this outcome can be attributed to some of the content of Ukraine’s decommunization laws and the manner of their adoption. So far the frictions have not lead Poland to lessen its support for Ukraine against Russia, but future relations may depend on whether more radical or more conciliatory voices come to steer each country’s domestic politics on these issues.

### HEROES AND VILLAINS

The fundamental dilemma in Ukraine’s decommunization process is how to undo the legal, institutional, and historical legacy of the Soviet era without repeating the Soviet approach of mandating one “correct” interpretation of the past and punishing the public expression of dissenting viewpoints. This dilemma is further complicated by the fact that criticism of the decommunization laws has come both from intellectual circles in the West and in Ukraine that are genuinely concerned with upholding freedom of expression and fostering free historical inquiry, and from retrograde forces in Ukraine and Russia concerned first and foremost with keeping Ukraine in the Russian sphere of influence and preserving the Soviet-era memory regime with its assessments of events, groups, and individuals.

At an intellectual and normative level it may seem quite obvious that Ukraine should substantially amend the decommunization laws to respond to criticism of the threat they pose to freedom of speech and scholarly inquiry, and refrain from granting formal historical recognition to individuals and organizations implicated in war crimes against civilians. As a matter of politics, however, this course of action is not so easy, since it could be readily construed as bowing to pressure from Russia, the aggressor state, which itself is all too ready to falsify history and silence opponents in historical and political discussions. The legacy of past fighters for Ukrainian independence also has particular appeal in the context of today’s territorial aggression and serves as an inspiration for defense efforts.

Yet it is clear that the laws in their current form do not accomplish genuine decommunization. They do not move Ukraine away from a highly politicized approach to the history of the Soviet era, when the government decreed a single correct interpretation of history, designated heroes and villains, and reduced historical complexities to a black-and-white ideological picture of a good “us” versus an enemy “other.” Nor do the laws reflect European standards of memorialization policies whereby freedom of expression is upheld, honoring civilian victims of political violence is a central priority, and murder and brutalization of the civilian population are condemned, regardless of the goals for which they were carried out.

Whether Ukraine will revise its decommunization laws to actually move closer to Europe and away from its Soviet and authoritarian past remains to be seen. Poroshenko promised to introduce amendments to address the criticisms when he signed the laws into force, but so far he has not submitted any. However, a pair of amendments to the law on the recognition of independence fighters, proposed by two members of parliament in July 2016, are pending. One of them would exclude “persons whose actions qualify as a crime against humanity” from eligibility for the status of independence fighters. It would also explicitly exempt “historical research and publication of its results” from those unlawful actions that constitute a “disrespectful attitude” toward the fighters or “public denial of the rightfulness of the struggle for independence.”

If these amendments are adopted, it would be a step in the right direction. As stated in the Council of Europe opinion, the law should protect not only historical research but any scholarly inquiry or artistic work, and should not be used to “force a certain view of history on the residents of the country, or stifle public discussion.”

The political changes ushered in by the Euro-maidan victory and by Russia’s aggression have led to a consolidation of Ukrainian national identity and opened new horizons for Ukrainian lawmakers to legislate major reforms in the sphere of memory and identity politics. To take advantage of this new reality and to firmly reorient Ukraine toward Europe, Ukrainian leaders need to be aware that a true break from the authoritarianism of the “Russian world” and the communist era cannot be accomplished by neo-Soviet methods. ■