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# Historical Imagery and Mnemonic Constitutionalism in Belarus

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## Abstract

The article examines the historical imagery in the Belarusian country study through the lens of mnemonic constitutionalism. The first part of the article explains the concept and relevance of mnemonic constitutionalism, particularly in the context of Belarus. It then further sketches comparative perspectives on mnemonic constitutionalism and memory laws in the region of Central and Eastern Europe, briefly drawing on Hungarian, Polish, Russian and Ukrainian examples. In the third part, the article unpacks the choices for historical imagery made by Belarusian memory politics and apparent in the constitutional referendum of 27 February 2022. The article further explains the rise of Belarusian memory laws and coercive mnemonic constitutionalism in Belarus prior to, and after, Putin's invasion of Ukraine on 24 February 2022, in the fourth part. The conclusions highlight the distinct features of the Belarusian model of mnemonic constitutionalism in Europe, shaped by dystopian historical imagery and authoritarian memory politics.

## Keywords

Belarus – Łukašenka – mnemonic constitutionalism – Constitution of Belarus – Russian war in Ukraine – historical imagery – memory laws

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## 1 Introduction: Mnemonic Constitutionalism and a “Lesson of History” Amidst the War\*

The category of time represents a fundamental dimension of constitutional studies, including comparative constitutional law whereas historical imagination has been traditionally informing the set-up of constitutional narratives and their contextual comparative analyses.<sup>1</sup> In a nutshell, the historicized attitude towards time allows scholars, policymakers, and legal practitioners to assess how constitutional systems have evolved, how they adapt to contemporary challenges, and how they respond to historical legacies. Furthermore, comparative analysis in various constitutional studies often relies on a temporal perspective to gain insights into the functioning and effectiveness of constitutional arrangements worldwide.<sup>2</sup> To embrace a wider normative relationship between historical imagery and constitutional law, I advance the heading of mnemonic constitutionalism.<sup>3</sup> The latter implies that constitutional narratives often preach historical lessons as foundations of current political choices. Yet are the constitutions a proper place to educate

\* This paper is produced as part and funded by the European Union-NextGenerationEU, through the National Recovery and Resilience Plan of the Republic of Bulgaria, project No bg-rrp-2.004-0008.

- 1 Lior Barshack, “Time and the Constitution”, 7(4) *International Journal of Constitutional Law* 553 (2009); Zachary Elkins, Tom Ginsburg & James Melton, “Time and Constitutional Efficacy”, in Tom Ginsburg & Aziz Huq (eds.), *Assessing Constitutional Performance* (Cambridge University Press, 2016), 233–267; Massimo Fichera, *The EU and Constitutional Time: The Significance of Time in Constitutional Change* (Edward Elgar, 2023); Jack M. Balkin, *The Cycles of Constitutional Time* (Oxford University Press, 2020).
- 2 See Martin Belov (ed.), *Revolution, Transition, Memory and Oblivion: Reflections on Constitutional Change* (Edward Elgar, 2020); Sofia Ranchordás & Yaniv Roznai (eds.), *Time, Law and Change: An Interdisciplinary Study* (Hart-Bloomsbury, 2020); Uladzislau Belavusau, “Law and the Politics of History”, in Maria Mälksoo (eds.), *Handbook on the Politics of Memory* (Edward Elgar, 2023), 65–80.
- 3 First formulated in Uladzislau Belavusau, “Five Thoughts on Mnemonic Constitutionalism”, *Verfassungsblog*, 15 January 2018 (available at: <https://verfassungsblog.de/final-thoughts-on-mnemonic-constitutionalism/>), and further developed, *inter alia*, in Uladzislau Belavusau, “Rule of Law and Constitutionalisation of Memory Politics in Hungary and Russia”, in Martin Belov (ed.), *Rule of Law in Flux* (Routledge, 2022), 87–107. See also later engagements with this concept in Marta Bucholc, “Commemorative Lawmaking: Memory Frames of the Democratic Backsliding in Poland after 2014”, 11 *Hague Journal on the Rule of Law* 85 (2019), 85–110; Aleksandra Gliszczyńska-Grabias, “The Politics of Constitutional Memory: Mnemonic Constitutionalism, Historical Memory, and Collective Identity in Poland, Germany and Russia”, in Mark Tushnet & Dimitry Kochenov (eds.), *Research Handbook on the Politics of Constitutional Law* (Edward Elgar, 2023), 593–611; Anastasiia Vorobieva, “Education and Indoctrination: Mnemonic Constitutionalism and History Teaching in Russia”, *Verfassungsblog* (2023), available at: <https://verfassungsblog.de/education-as-indoctrination-mnemonic-constitutionalism-and-history-teaching-in-russia/>.

citizens on the historical past? To address such an inquiry and to expose the dangers of populating constitutional text with simplistic historical narratives, this article zooms into the study of Belarus in the context of the constitutional imagery advanced in Central and Eastern Europe amidst the Russian military aggression in Ukraine.

On the 1st of September 2022, the academic year in all Belarusian schools started with an atypical lesson,<sup>4</sup> on “historic memory”,<sup>5</sup> led in Minsk,<sup>6</sup> by none other than the country’s “President” himself, Aliaksandr Łukašenka,<sup>7</sup> who has been in power for a quarter of a century. Earlier, by a decree,<sup>8</sup> Łukašenka’s government proclaimed 2022 to be the “Year of Historical Memory” (*hod historyčnaj pamiaci*).<sup>9</sup> The decree followed Łukašenka’s demagogic compulsion over the interpretation of certain historical events, symbols and personalities, in particular, those regarding World War II, the “genocide of the Belarusian people”,<sup>10</sup> and, consequently, the regime’s epiphanies about symbolic and historical affiliations of the country’s democratic opposition to “Nazi collaborationism”.<sup>11</sup> Any alternative interpretation of history in Łukašenka’s Belarus, including probably this analysis – had it been written by a historian

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- 4 Biełta News, *Pieršy urok u školach Bielarusi ū dzień viedaŭ budzie prysviečany historyčnaj pamiaci* (22 August 2022), available at: <https://blr.belta.by/society/view/persh-yurok-u-shkolah-belarusi-u-dzen-vedau-budze-prysvechany-gistarychnaj-pamjatsi-118924-2022/>.
  - 5 Office of the President of the Republic of Belarus, *Open Lesson “Historical Memory – The road to the future”* (1 September 2022), available at: <https://president.gov.by/en/events/otkrytyy-urok-istoricheskaya-pamyat-doroga-v-budushchee-1662101630/>.
  - 6 Biełta News, *Historyja ad pieršaj asoby: Łukašenka u Dzień videŭ pravodzić adkryty urok* (22 August 2022), available at: <https://blr.belta.by/president/view/gistoryja-ad-pershaj-asoby-lukashenka-u-dzen-vedau-pravodzits-adkryty-urok-119037-2022/>.
  - 7 Bielsat News, *Łukašenka adkazvaje na niazručnyja pytaŭni školnikaŭ* (1 September 2022), video available at: [https://www.youtube.com/watch?v=GAQaJEe\\_r8/](https://www.youtube.com/watch?v=GAQaJEe_r8/).
  - 8 Office of the President of the Republic of Belarus, *On Declaring 2022 Year of Historical Memory Decree No. 1* (1 January 2022), available at: <https://president.gov.by/en/documents/ukaz-no-1-ot-1-yanvarya-2022-g-1641208594>.
  - 9 Botschaft der Republik Belarus in der Bundesrepublik Deutschland, *Jahr der historischen Erinnerung* (2022), available at: [https://germany.mfa.gov.by/de/bilateral\\_relations/culture/f81e4a7dcccdd58dc.html/](https://germany.mfa.gov.by/de/bilateral_relations/culture/f81e4a7dcccdd58dc.html/). The follow-up year of 2023 was proclaimed to be the “year of the Russian language”, emphasizing the positive sides of the Russification provided by Łukašenka’s administration.
  - 10 Human Constanta, *“On the Genocide of Belarusian People’ – Legal Overview of the New Law”* (13 July 2022), available at: <https://humanconstanta.org/en/on-the-genocide-of-belarusian-people-legal-overview-of-the-new-law/>.
  - 11 Naša Niva, *Vyjšla kniha pra hienacyd bielaruskaha naroda* (08 April 2022), available at: <https://nashaniva.com/?c=ar&i=287917>.

inside the country – risks leading up to eight years of imprisonment, in line with recent domestic criminal legislation.<sup>12</sup>

This 1st-of-September pedagogic extravagancy took place amidst the Russian military aggression in Ukraine, in which Łukašenka's regime was complicit by allowing the Russian army to enter the Ukrainian territory via Belarus in February 2022, despite (unlike in Russia)<sup>13</sup> barely existent support for this invasion amongst the majority of the Belarusians,<sup>14</sup> their close ethno-linguistic ties with Ukrainians,<sup>15</sup> and a history of splendid relationships between the two nations,<sup>16</sup> whose cultural elites have been traditionally consolidated against Russian imperialism.<sup>17</sup> Unsurprisingly, Belarusians also form one of the largest foreign military units fighting on the Ukrainian side,<sup>18</sup> and – despite all the terror inside Belarus – continue a strong partisan movement inside their country in support of Ukraine.<sup>19</sup> The terror inside Belarus culminated after mass protests

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- 12 CIS Legislation, *Law of the Republic of Belarus of January 5, 2022 No. 146-Z About Genocide of the Belarusian People*, available at: <https://cis-legislation.com/document.fwx?rgn=136994>; See Kamil Kłysiński, “The Anti-Western Narrative in Belarus's Historical Policy Becomes Harsher”, *Centre for Eastern Studies (OSW)* (14 January 2022), available at: <https://www.osw.waw.pl/en/publikacje/analyses/2022-01-14/anti-western-narrative-belaruss-historical-policy-becomes-harsher>.
- 13 Peter Dickenson, “More than Three-Quarters of Russians Still Support Putin's Ukraine War”, *Atlantic Council – Blogs* (06 June 2022), available at <https://www.atlanticcouncil.org/blogs/ukrainealert/more-than-three-quarters-of-russians-still-support-putins-ukraine-war/>.
- 14 Alesia Rudnik, “Deep Unease in Belarus over Country's Role in Russian Invasion of Ukraine”, *Atlantic Council – blogs* (29 March 2022), available at: <https://www.atlanticcouncil.org/blogs/belarusalert/deep-unease-in-belarus-over-countrys-role-in-russian-invasion-of-ukraine/>.
- 15 Encyclopedia of Ukraine, *Belarus* (2005), available at: <http://www.encyclopediaofukraine.com/display.asp?linkpath=pages%5CB%5CE%5CBelarus.html/>; Andrej Kotljarchuk & Nikolay Zakharov, “Belarus' Relations with Ukraine and the 2022 Russian Invasion: Historical Ties, Society and Realpolitik”, *Baltic Worlds* (2022), 32–37.
- 16 Tetiana Zhurzhenko, “Sisters into Neighbours: Ukrainian-Belarusian Relations after 1991”, *Crossroads Digest* (2008).
- 17 CARNEGIE: Endowment for international peace, *Russian Neo-Imperialism and Its Limits* (1 October 2020), available at: <https://carnegieendowment.org/2020/10/01/russian-neo-imperialism-and-its-limits-event-7426/>.
- 18 Alesia Rudnik, “Belarusian Volunteers See Ukraine War as Stepping Stone to a Free Belarus”, *Atlantic Council – blogs* (11 May 2022), available at: <https://www.atlanticcouncil.org/blogs/belarusalert/belarusian-volunteers-see-ukraine-war-as-stepping-stone-to-a-free-belarus/>.
- 19 Lizaveta Kasmach, “Anti-War Resistance in Belarus: Rail Partisans Slow Russian Troops”, *BelarusDigest* (25 April 2022), available at: <https://belarusdigest.com/story/anti-war-resistance-in-belarus-rail-partisans-slow-russian-troops/>; Alesia Rudnik, “Whom do Belarusians Actually Support in the Russia-Ukraine War?”, *BelarusDigest*, (23 March 2022), available at: <https://belarusdigest.com/story/whom-do-belarusians-actually-support-in-the-russia-ukraine-war/>.

by its citizens<sup>20</sup> against Łukašenka who arguably falsified the election results on a mass scale in 2020,<sup>21</sup> leading to thousands of political prisoners, tortures and murders of the democratic opponents of the regime.<sup>22</sup> In the meantime, the President-Elect (since 2020), Ms. Sviatlana Cichanoŭskaja<sup>23</sup> (Святлана Ціханоўская, also transliterated as Tsikhanouskaya in the Anglophone sources),<sup>24</sup> representing the country in exile at the moment, has been speaking explicitly<sup>25</sup> – along with all other major Belarusian opposition leaders – in support of Ukraine and against Russia’s war.<sup>26</sup> She also spoke against the *de facto* “double occupation” of Belarus by both, the vassal Łukashenka’s regime (who lost the 2020 elections to her) and the unlawful Russian military presence (with its effective decision-making control) in Belarus.<sup>27</sup>

Yet there is also a legal – even more so, *constitutional* – dimension to these developments on historical memory in Belarus, which is better grasped through the looking glass of the aforementioned concept of *mnemonic constitutionalism*,<sup>28</sup> a term first introduced on *Verfassungsblog*<sup>29</sup>

20 Nelly Bekus, “Historical Memory and Symbolism in the Belarusian Protests”, *Cultures of History Forum* (16 February 2021), available at: <https://www.cultures-of-history.uni-jena.de/politics/historical-memory-and-symbolism-in-the-belarusian-protests/>.

21 Uladzislau Belavusau and Max Steinbeis, “Corona Constitutional #45: Europas letzter Diktator?”, *Verfassungsblog* (19 August 2020), available at: <https://verfassungsblog.de/corona-constitutional-45-europas-letzter-diktator/>.

22 UN News, *Belarus: UN Report Reveals Extent of Violations in Human Rights Crackdown* (9 March 2022), available at: <https://news.un.org/en/story/2022/03/1113582/>; Human Rights Watch, *Belarus: Events of 2021, (2022)*, available at: <https://www.hrw.org/world-report/2022/country-chapters/belarus/>.

23 Maksim Karliuk and Yuliya Miadzvetskaya, “The Kafkaesque Edifice of Law: Belarusian Presidential Elections 2020”, *Verfassungsblog* (7 August 2020), available at: <https://verfassungsblog.de/the-kafkaesque-edifice-of-law/>.

24 Sviatlana Tsikhanouskaya, *New Belarus Conference* (2022), <https://tsikhanouskaya.org/en/>.

25 Sviatlana Tsikhanouskaya, *Sviatlana Tsikhanouskaya’s speech at the Kalinouski Forum* (2022), available at: <https://tsikhanouskaya.org/en/events/news/da54e5e1f74d83a.html/>.

26 RFE/RL, *Tsikhanouskaya Accuses Lukashenka of ‘Treason’ Over Belarus’s Role in Ukraine* (26 February 2022), available at: <https://www.rferl.org/a/tsikhanouskaya-lukashenka-treason-belarus-ukraine/31725167.html/>.

27 Brian Whitmore, “While the World Watches Ukraine, Putin is Quietly Occupying Belarus”, *Atlantic Council – blogs* (2 February 2022), available at: <https://www.atlanticcouncil.org/blogs/belarusalert/while-the-world-watches-ukraine-putin-is-quietly-occupying-belarus/>.

28 Uladzislau Belavusau, “Rule of Law and Constitutionalisation of Memory Politics in Hungary and Russia”, Martin Belov (ed.), *Rule of Law in Flux* (Routledge, 2022). 87–107.

29 Uladzislau Belavusau, “Final Thoughts on Mnemonic Constitutionalism”, *Verfassungsblog* (15 January 2018), available at: <https://verfassungsblog.de/final-thoughts-on-mnemonic-constitutionalism/>. See also, lately, also on *Verfassungsblog*: Uladzislau Belavusau, “Jewish Past, Mnemonic Constitutionalism and the Politics of Citizenship”, *Verfassungsblog* (28 July 2024), available at: <https://verfassungsblog.de/jewish-past-mnemonic-constitutionalism-and-the-politics-of-citizenship/>.

in several academic publications,<sup>30</sup> and which has been gaining momentum in memory studies recently.<sup>31</sup> Through mnemonic constitutionalism, I address the advance of the legal governance of historical memory to the constitutional level.<sup>32</sup> Mnemonic constitutionalism often encompasses, yet transcends, another legal phenomenon; that is memory laws.<sup>33</sup> The heading “constitutionalism” replicates the notion that limitations can, and should, be placed on governmental powers. Mnemonic constitutionalism positions the authority and legitimacy of a state into the boundaries of a certain historical paradigm,<sup>34</sup> whereas current and future attitudes and behaviours of state actors derive from and are limited by moral lessons of the past. Within mnemonic constitutionalism, the historical past becomes the foundation underlying the collective identity prescribed by either the national constitution itself, by legal provisions that traditionally shape the substructure of national constitutional law (such as citizenship laws), or statutes shaping collective identities by virtue of imposing specific understandings of the historical past. As I have demonstrated elsewhere,<sup>35</sup> without consciously or explicitly identifying this area of law-making, and without necessarily changing the constitutional text

30 Uladzislau Belavusau, Mnemonic Constitutionalism and Rule of Law in Hungary and Russia, *Interdisciplinary Journal of Populism*, 1, 2020. 16–29; Uladzislau Belavusau and Aleksandra Gliszczyńska-Grabias, “Introduction: Academic Legacy of Wojciech Sadurski, Rule of Law, and Mnemonic Constitutionalism in Central and Eastern Europe”, in Uladzislau Belavusau, & Aleksandra Gliszczyńska-Grabias (eds.), *Constitutionalism Under Stress: Essays in Honour of Wojciech Sadurski* (Oxford University Press, 2020).

31 Marta Bucholc, “Commemorative Lawmaking: Memory Frames of the Democratic Backsliding in Poland after 2014”, 11 *Hague Journal on the Rule of Law* 85 (2019). 85–110; Aleksandra Gliszczyńska-Grabias, “The Politics of Constitutional Memory: Mnemonic Constitutionalism, Historical Memory, and Collective Identity in Poland, Germany and Russia”, in Mark Tushnet & Dimitry Kochenov (eds.), *Research Handbook on the Politics of Constitutional Law* (Edward Elgar, 2023). 593–611; Anastasiia Vorobieva, “Education and Indoctrination: Mnemonic Constitutionalism and History Teaching in Russia”, *Verfassungsblog* (2023), available at: <https://verfassungsblog.de/education-as-indoctrination-mnemonic-constitutionalism-and-history-teaching-in-russia/>.

32 Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History* (Cambridge University Press, 2017).

33 Marina Bán & Uladzislau Belavusau, “Memory Laws”, in *Bloomsbury History: Theory and Method* (2022) [an online educational resource <https://www.bloomsburyhistorytheorymethod.com/>].

34 Martin Belov “Constitutional Memories: How Do Constitutions Cope with Constitutional Past”, in Martin Belov & Antoni Abat i Ninet (eds.), *Revolution, Transition, Memory, and Oblivion* (Edward Elgar, 2020).

35 Uladzislau Belavusau, “Rule of Law and Constitutionalisation of Memory Politics in Hungary and Russia”, in Martin Belov (ed.), *Rule of Law in Flux* (Routledge, 2022), 87–107.

itself,<sup>36</sup> new populist regimes in Central and Eastern Europe clearly perceive this invisible mnemonic constitution as an ontological foundation for their “illiberal democracies”,<sup>37</sup> as a basis for an entire governance of historical memory,<sup>38</sup> and as justification for their current political choices.

In the second part of this article, I will further sketch comparative perspectives on mnemonic constitutionalism and memory laws in the region of Central and Eastern Europe, touching upon Hungarian, Polish, Russian and Ukrainian examples. In the third part, I will unpack the choices for historical imagery made by Belarusian memory politics and apparent in the constitutional referendum of 27 February 2022, along with the rise of Belarusian memory laws and coercive mnemonic constitutionalism in Belarus prior to, and after, Putin’s invasion of Ukraine on 24 February 2022, in the fourth part. In the conclusions, I will summarize the peculiarities of the Belarusian model of mnemonic constitutionalism in Europe, driven by dystopian historical imagery and authoritarian memory politics.

## 2 Comparative Perspectives of Mnemonic Constitutionalism in the Region of Central and Eastern Europe

Within the last decade, Hungary, Russia, Poland, and Ukraine have all introduced new constitutional projects with an intense focus on historical memory. This mnemonic constitutionalism disguises the introduction of broader amendments that go contrary to rule of law standards, and reflect more general democratic decline in the CEE region.<sup>39</sup> They further reveal a struggle of competing, both in terms of allegiance and accuracy, historical narratives arising from the events of the 20th century. As demonstrated by Nikolay Koposov, countries such as Poland – along with Czechia, Hungary, Latvia, and Lithuania – have criminalized denial of communist crimes as a

36 Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias, Epilogue: Mnemonic Constitutionalism in Central and Eastern Europe, *European Papers* 1231 (2020).

37 Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias, “Academic Legacy of Wojciech Sadurski, Rule of Law, and Mnemonic Constitutionalism in Central and Eastern Europe”, in Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), *Constitutionalism Under Stress* (Oxford University Press, 2020). 1–17.

38 Uladzislau Belavusau and Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History* (Cambridge University Press, 2017).

39 For the review of recently-growing literature on memory laws, see Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias, “The Remarkable Rise of ‘Law and Historical Memory’ in Europe: Theorizing Trends and Prospects in Recent Literature”, *Journal of Law and Society* 325 (2020).



reaction to Putin's neo-imperial ambitions and as a result of memory wars with Moscow.<sup>40</sup>

The developments in Hungary and Russia in particular stand as vivid examples of evidence of the remarkable rise of mnemonic constitutionalism,<sup>41</sup> even though the manifestations of this mnemonic constitutionalism and the subsequent populism around this legal governance of historical memory somewhat differ. In turn, the Russian sample of mnemonic constitutionalism, as will be shown later, has strong parallels with the Belarusian model adopted in 2022. Although Russia was a member of the Council of Europe – it was expelled by a Committee of Ministers on 25 February 2022 – it has never been an EU state. Belarus, in contrast, has never been a member even of the Council of Europe. Accordingly, the nature of the constitutional amendments in Hungary and Poland, as well as of the legislative developments in Poland and Ukraine, deserve separate legal assessments. The account below draws only a brief overview of Hungary, Russia, Poland, and Ukraine that informs the context for the major country study in this article, namely on mnemonic constitutionalism in Belarus.

## 2.1 *Russia*

Russia has been identified as the main provocateur for mnemonic propaganda and white-washing of Stalinism and also accused of stirring up major “memory wars” in the region.<sup>42</sup> Following the fall of communism and the dissolution of the USSR, the (re-)appraisal of the Soviet past shaped a true Gordian knot in Russian memory politics, whereas the Soviet empire was presented as a source of ontological security and cemented prosperity for the Russian population.<sup>43</sup>

40 See Nikolai Kopusov, “Historians, Memory Laws, and the Politics of the Past”, *European Papers* 107 (2020).

41 Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias, “Academic Legacy of Wojciech Sadurski, Rule of Law, and Mnemonic Constitutionalism in Central and Eastern Europe”, in Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), *Constitutionalism Under Stress* (Oxford University Press, 2020). 1–17.

42 On the phenomenon of memory wars via memory laws, see Nikolai Kopusov, *Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia* (Cambridge University Press, 2017); Uladzislau Belavusau, Aleksandra Gliszczyńska-Grabias & Maria Mälksoo, “Memory Laws and Memory Wars in Poland, Russia and Ukraine”, 69 *Jahrbuch des Öffentlichen Rechts der Gegenwart* 95 (2021); Anna Wójcik, “Memory Laws and Security”, *Verfassungsblog* (5 January 2018), available at: <https://verfassungsblog.de/memory-laws-and-security/>; Ilya Nuzov, “Freedom of Symbolic Speech in the Context of Memory Wars in Easter Europe”, *Human Rights Law Review* (2019).

43 For a broader outlook on the concept of ontological security in the context of memory laws, see Maria Mälksoo, “‘Memory Must be Defended’: Beyond the Politics of Mnemonic Security”, 46(3) *Security Dialogue* 221 (2015); Maria Mälksoo, “*Kononov v. Latvia* as an

Central to this ideology is the pompous heroic narrative regarding World War II (1939–1945), embraced in Russian settings as the “Great Patriotic War” (*Великая Отечественная Война*, 1941–1945), that proclaims that Russia (as the core of the Soviet Union) single-handedly liberated CEE nations.<sup>44</sup> Furthermore, the (post-)Soviet historiography has notably delimited the war period (towards 1941) to conveniently exclude the Molotov-Ribbentrop pact that enabled the joint Soviet-Nazi occupation of Poland in 1939.<sup>45</sup>

The explicit legalisation of the governance of historical memory reached full swing during Vladimir Putin’s presidency in the 2010s. These legalisation efforts intensified following the Russian military annexation of Crimea.<sup>46</sup> As summarised by Nikolay Kopusov, Putin’s politics of memory was crucial to his “project of neo-imperial reconstruction”, which intended to “promote the cult of the Russian state”, “whose primary incarnation rests in the celebration of the heroic memory of WWII”.<sup>47</sup> In a presidential address preceding the introduction of the constitutional amendments, Putin stated:

This year, we will celebrate the 75th anniversary of Victory in the Great Patriotic War. For Russia, 9th of May is the greatest and sacred holiday. [...] our memory is not only a tribute to our heroic past, but it also serves our future, inspires us and strengthens our unity. It is our duty to defend the truth about the Victory; otherwise what shall we say to our children if a lie, like a disease, spreads all over the world? We must set facts against outrageous lies and attempts to distort history. [...] This work is our duty as a winning country and our responsibility to the future generations.<sup>48</sup>

Putin’s rhetoric is characteristic of the populist narrative promulgated by his regime in recent years. Russian official historiographical use of the terminology of the “Great Patriotic War 1941–1945” has two goals: to position the Soviet Union

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Ontological Security Struggle over Remembering the Second World War”, in Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History* (Cambridge University Press, 2017), 91–108.

44 Nina Tumarkin, “The Great Patriotic War as Myth and Memory”, 11(4) *European Review* 595 (2003).

45 Nikolay Kopusov, “Defending Stalinism by Means of Criminal Law: Russia, 1995–2014”, in Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History* (Cambridge University Press, 2017), 293–309.

46 See Nikolay Kopusov, “Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia” (Cambridge University Press, 2017).

47 Nikolay Kopusov, “Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia” (Cambridge University Press, 2017), 297.

48 See President of Russia, Presidential Address to the Federal Assembly (15 January 2020), available at: <http://en.kremlin.ru/events/president/news/62582>.

as the major, if not outright ‘winner’ and victim of World War II, as well as to cement the denial of Russian culpability – including evading the existence of the Molotov-Ribbentrop pact. Thus, the “sacred” victory of the “Great Patriotic War” has formed a central ideological pillar of the current regime, which was subsequently tuned into the amended text of the Russian Constitution in 2020 too.<sup>49</sup> The 2020 amendments to the Russian Basic Law raised this mnemonic constitutionalism to a level comparable to the self-exculpatory narrative of the Hungarian Constitution, described in detail in the section below.

Furthermore, in 2014, the Russian Duma (Lower parliamentary chamber) adopted a new law, Article 354-I, which introduced a prison term for, *inter alia*, the “denial of facts” related to the Red Army’s actions during the war or for the “desecration of the symbols of military glory”.<sup>50</sup> This provision makes it a criminal offence *to deny*:

[...] the facts established by the Judgement of the International Military Tribunal for the trial and punishment of major war criminals of European countries of the Axis, the approval of crimes established by the above- mentioned Judgement, as well as dissemination of knowingly false information on the activities of the USSR during the Second World War, committed publicly.<sup>51</sup>

These legislative efforts intensified following the Russian military intervention in Ukraine and the annexation of Crimea.<sup>52</sup> The amended text of the Russian Constitution and the criminal-legislative amendment reflect the new wave of memory wars in the CEE region, manufacturing new “external enemies” during

49 Ilya Nuzov, “Bez Prava na Pravdu” – the o popravkakh k Konstitutsii [Without a Right to the Truth: About Constitutional Amendments], Radio Svoboda (29 June 2020), available at: <https://www.svoboda.org/a/30685618.html>.

50 Article 3 in Federal’nyi zakon ‘O vnesenii izmeneniy v otdel’nyie zakonodatel’nyie akty Rossiyskoy Federatsii’ [Federal Law ‘On the Introduction to Certain Legislative Acts of the Russian Federation’], article 1.1., Rossiyskaya gazeta, 7 May 2014, available at: [www.rg.ru/2014/05/07/reabilitacia-dok.html](http://www.rg.ru/2014/05/07/reabilitacia-dok.html).

51 Article 354-1, Ugolovnyi Kodeks Rossiyskoy Federatsii (Criminal Code of Russian Federation), available at: [http://www.pravo.gov.ru/proxy/ips/?docbody=&link\\_id=1&nd=102041891](http://www.pravo.gov.ru/proxy/ips/?docbody=&link_id=1&nd=102041891) (in Russian).

52 See Nikolay Koposov, *Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia* (Cambridge University Press, 2017). In his monograph, Koposov summarises initial attempts to pass a memory law in Russia that were made long before Putin’s ascent to power, in the context of Boris Yeltsin’s democratic reforms and his struggle against the communist and nationalist opposition (Ibid., p. 297). Yeltsin’s government, Koposov concludes, had insufficient political and financial resources to conduct a sustained and efficient “history politics” (Ibid., p. 214).

this illusionary “defense of the Soviet past”. Such self-assertion of provably-false historical narratives on the part of the Russian governance of memory has led to the adoption of counteractive legislation in the Baltic states, Ukraine, and Poland.<sup>53</sup>

## 2.2 *Hungary*

Collectively, Hungary and Poland have been the major focus of critique extended by the European Union concerning the violation of rule of law standards up until 2023. In the 1990s, then newly-independent Hungary adopted its constitutional text promulgated by the communist regime and, unlike in most other CEE transitional democracies, it existed until the 21st century. After the victory of Fidesz in the 2010 elections, the government, for the first time, received a super parliamentary majority permitting the drafting of a new constitution to take place straightaway.

The preamble of the new Hungarian Fundamental Law (2010) is remarkable in featuring historical imagery and ontological historical narratives embedded into the constitutional narrative – referring to King Saint Stephen I as the founder of the Hungarian state, proclamation of Christianity as historically central “in the preservation of nationhood”<sup>54</sup> and, most importantly, to the Hungarian victimhood as a divided nation in the 20th century after the post-World War I Treaty of Trianon. It further claims that Hungary lost its self-determination on 19 March 1944, the date of German occupation, and regained it after the fall of the communist dictatorship on 2 May 1990, the day of assembly of the first freely elected Hungarian parliament. It rejects the 1949 constitution as unlawful and as the basis for “tyrannical rule”. As aptly explained by Miklós Könczöl, by adopting a detailed constitution with a preamble, the drafters of the constitution made it possible to take ideological positions on several controversial historical questions.<sup>55</sup>

53 See Alina Cherviatsova, “On the Frontline of European Memory Wars: Memory Law: Memory Laws and Policy in Ukraine”, *European Papers* (2020), p. 119 et seq; Nika Bruskina, “The Crime of Genocide Against the Lithuanian Partisans: A Dialogue Between the Council of Europe and the Lithuanian Courts”, *European Papers* (2020), 137 et seq.

54 Seventh Amendment to the Fundamental Law (September 2018). This Amendment references the struggles of the Hungarian State to keep its independence and fight for its existence throughout several invasions and revolutions, including the Turkish wars and the revolutions of 1848–49 and 1956. Since 2018, the Seventh Amendment has provided for an obligation of state authorities to protect Hungary’s ‘self-identity’ and Christian culture.

55 See Miklós Könczöl, “Dealing with the Past in and Around the Fundamental Law of Hungary”, in Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History* (Cambridge University Press, 2017), 246–262.

This perfidious narrative of national division justifies Hungary's role in the protection of "Hungarians beyond the borders".<sup>56</sup>

In 2013, the Hungarian government also adopted Article U as a constitutional provision, stating *inter alia* that the pre-1989 Communist Party (the Hungarian Socialist Workers' Party) and its satellite organisations that supported the communist ideology were "criminal organisations" whose leaders carry a liability that is "without a statute of limitations". Furthermore, the Fundamental Law includes a very broad and general liability for several past acts, including: destroying post-World War II Hungarian democracy; the unlawful persecution, internment, and execution of political opponents; the defeat of the 1956 October Revolution; and others.<sup>57</sup>

### 2.3 Poland

Poland has been the absolute number one in the industry of memory laws' production in the region of CEE and a country with a powerful Institute of National Remembrance, concerned with establishing the truth about the Communist and Nazi past. The Polish memory laws in their vast majority have been postulating a similar (to Hungarian and Russian) self-inculpatory rhetoric regarding the exclusive innocence and heroism of the Polish nation in the inter-war period and during World War II, even attempting to criminalise the attribution of guilt over crimes against Jews to Poles during the War, making it the most mediatized memory law at some point.<sup>58</sup>

Besides, the socio-legal discourse in Poland directly challenges historical assertions, or blurred interpretative omissions, dominant in the Russian governance of historical memory, including the Molotov-Ribbentrop Pact of 23

56 See the doctoral dissertation by Marina Bán, *The Legal Governance of Historical Memory and the Rule of Law*, University of Amsterdam (doctoral thesis), 2020.

57 Ibid.

58 On memory laws in Poland, see Uladzislau Belavusau, "The Rise of Memory Laws in Poland: An Adequate Tool to Counter Historical Disinformation?", *Security and Human Rights* 36 (2019); Anna Wójcik & Uladzislau Belavusau, "Posponer los Cambios de Nombre de las Calles Tras la Transición de la Democracia: Lecciones Legales de Polonia", in Jordi Guixé i Coromines, Jesús Alonso Carballés and Ricard Conesa Sánchez (eds.), *Diez Años de Leyes y Políticas de Memoria (2007-2017)* (Ediciones La Catarata, 2019), 27-39; Uladzislau Belavusau & Anna Wójcik, « La Criminalisation de l'Expression Historique en Pologne: La loi Memorielle de 2018 », *Archives de politique criminelle* 175 (2018); Uladzislau Belavusau, "Rule of Law in Poland: Memory Politics and Belarusian Minority", *Verfassungsblog* (21 November 2017), available at: <http://verfassungsblog.de/rule-of-law-in-poland-memory-politics-and-belarusian-minority/>.

August 1939 that enabled the joint Soviet-Nazi occupation of Poland in 1939,<sup>59</sup> and the atrocities committed by the Soviet Army and the NKVD.

#### 2.4 *Ukraine*

The case study of Ukraine provides another vivid example of the rise of implicit mnemonic constitutionalism, in particular, through its strong package of de-communization memory laws of 2015 and de-Russification policies of 2022–2023, albeit mostly non-punitive – unlike Belarusian, Polish and Russian counterparts. As of February 2022, a fully-fledged invasion of Russia into Ukraine, became a reality, which could have been well-predicated, based on a certain historical narrative that includes the abject denial of Ukraine as a legitimate independent state by Russian propaganda. The latter has intensified after the annexation of Crimea and invasion of Donbas in 2014.

As noted by a Ukrainian scholar Alina Cherviatsova, “[t]o cope with the communist past and create a new pantheon of national heroes, Ukraine is re-writing its history, selectively choosing among the several memories those that can foster its national identity and cohesion. This is a controversial process which divided Ukraine’s society and resulted in so-called memory wars – a clash of the state-sponsored historical narratives – with Russia and Poland.”<sup>60</sup> This process coincided with the rebuilding of the constitutional and political order in Ukraine, revealing a close nexus between the implementation of memory laws and an attempt to establish a Ukrainian form of mnemonic constitutionalism, intensified after the fully-fledged Russian military invasion in 2022.<sup>61</sup>

### 3 **Belarusian Memory Politics Before and After the Constitutional Referendum of February 2022**

Compared to the reviewed countries of Central and Eastern Europe, the politics of historical memory in Belarus is intimately linked to the ontological security

59 Nikolay Koposov, “Defending Stalinism by Means of Criminal Law: Russia, 1995–2014”, in Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), “Law and Memory: Towards Legal Governance of History” (Cambridge University Press, 2017), 293–309.

60 See Alina Cherviatsova, *On the Frontline of European Memory Wars: Memory Law: Memory Laws and Policy in Ukraine*, European Papers (2020).

61 Maria Mälksoo, “Militant Memocracy in International Relations: Mnemonical Status Anxiety and Memory Laws in Eastern Europe”, 47(4) *Review of International Studies* 489 (2021); Uladzislau Belavusau, Aleksandra Gliszczyńska-Grabias & Maria Mälksoo, “Memory Laws and Memory Wars in Poland, Russia and Ukraine”, *Jahrbuch des Öffentlichen Rechts der Gegenwart* 69 (2021), 95–116. Uladzislau Belavusau, Aleksandra Gliszczyńska-Grabias, Maria Mälksoo, Angelika Nußberger (eds.), *The Politics of Memory Laws: Russia, Ukraine, and Beyond* (Hart-Bloomsbury, forthcoming in 2025).

of the dictatorship of Lukašenka, which has lasted already a quarter of a century, making it a radically different country study to analyzing constitutional models in the region. Four demarcated year spans are indispensable for grasping the memory politics and related legal aspects in Belarus, after the country gained its independence in 1991.

### 3.1 *The Years 1991–1994*

The first span covers the period after the dissolution of the USSR between 1991 and 1994,<sup>62</sup> when Belarus existed as a parliamentary republic, with a strong and vocal democratic opposition in the parliament, promoting the ethos of sovereignty, the revival of the Belarusian language and culture, liberal economic reforms, the pursuit of human rights, and the rule of law. This first period inevitably led to a renaissance of Belarusian national historiography, including attribution of the early Belarusian identity to the medieval statehood of the Grand Duchy of Lithuania,<sup>63</sup> and an acclaimed tribute to the proclamation of the independent Belarusian People's Republic in 1918; the return of the poets, novelist, artists and émigré thinkers, who were repressed or diminished and ostracized during the Soviet period, into the central cultural realm; and cultivating a memory politics that is comparable to the flourishing of national myths and de-Sovietization along with de-Russification in all other neighboring states in the post-Soviet period. This period also witnessed the revival of minority cultures in Belarus, including the rise of cultural, religious and political representation of the Jewish, Lithuanian, Polish, and Ukrainian communities.

### 3.2 *The Years 1994–1995 and the Period Until 2020*

The second short span, from 1994–1995, is particularly important as this is when Lukašenka won the first (and so far, last transparent) presidential election in Belarus. Since then, he has built an authoritarian state with the full expulsion of democratic opposition from the parliament, suppression of the rule of law and media freedoms, mass repressions and violence, and embedded machinery of consistently falsifying all of its elections and referenda. The very first referendum he staged in 1995,<sup>64</sup> has made Russian the second state language *de jure*. *De facto*, it is the only fully protected official language. He has re-introduced the Soviet-Belarusian flag and coat of arms (instead of the historic “white-red-white” flag that was used in Belarus in 1991–1994) and has constitutionally

62 Alena Marková, “Institutional Historical Memory and History in Post-Soviet Belarus”, 9(1) *Journal of Belarusian Studies* 51 (2020).

63 Uładzimir Arloŭ, *Belarus – The Epoch of The Grand Duchy of Lithuania* (Technalohija, 2018).

64 Ales Piletski, “The Day Belarus Lost its Language, White-Red-White Flag and Pahonia Coat of Arms”, *EuroRadioFM* (2016), available at: <https://euroradio.fm/en/day-belarus-lost-language-white-red-white-flag-and-pahonia-coat-arms/>.

imposed closer economic ties with the Russian Federation. This time span proved crucial for the entire subsequent period up until 2020, which can be characterised by a peculiar competition of two sets of memory politics in the country. One of them built upon the existing national historiography, stressing the uniqueness of the Belarusian identity and its historical development. To a certain – albeit weak – degree, its soft promotion has become possible due to the activism amongst history educators at schools and universities, who for many years resisted the Russification and re-Sovietization when teaching Belarusian history, as well as thanks to the mobilisation of cultural activists,<sup>65</sup> along with the bare necessities – on behalf of the formally independent state – of maintaining albeit minimum diversification from Russia (*inter alia*, under national toponymics,<sup>66</sup> Belarusian spelling of the names,<sup>67</sup> as well as modest investment into the restoration of historical monuments).<sup>68</sup> Yet the second competing politics of memory,<sup>69</sup> with its cult of World War II (or rather “Great Patriotic War”, the post-Soviet vocabulary and chronology transplanted from the Russian analogues) has been incomparably more powerful, due to its sustainment (including financial) by Łukašenka’s state machinery. It has encompassed not only the explicit linguistic Russification of all the major social spheres (from teaching at schools and universities to Russian becoming *de facto* the only language of court proceedings), but also showcased Belarusian historiography and cultural representation as derived from the Soviet hagiography of Belarusian statehood. Whilst imperial Russian concepts have also been given a green light for competing on this *non-free* market of historical ideas in Belarus, the state-sponsored memory politics foremost favoured the Soviet elements of historical narratives (including pompous military parades glorifying victory in the “Great Patriotic War”,<sup>70</sup> on

65 Serguei Alex. Oushakine, “How to Grow out of Nothing: The Afterlife of National Rebirth in Postcolonial Belarus”, 28(2) *Qui Parle* 423 (2017).

66 UN Economic and Social Council, *The Roman Alphabet Transliteration of Belarusian Geographical Names*, Tenth United Nations Conference on the Standardization of Geographical Names (13 July 2012), available at: [https://unstats.un.org/unsd/geoinfo/ungegn/docs/10th-uncsgn-docs/crp/E\\_CONF.101\\_CRP2\\_The%20Roman%20alphabet%20transliteration.pdf/](https://unstats.un.org/unsd/geoinfo/ungegn/docs/10th-uncsgn-docs/crp/E_CONF.101_CRP2_The%20Roman%20alphabet%20transliteration.pdf/).

67 Rylhor Astapenia, “Getting Belarusian Names and Places Right”, *BelarusDigest* (20 July 2015), available at: <https://belarusdigest.com/story/getting-belarusian-names-and-places-right/>.

68 Culture Partnership Europe, *Developing the Cultural Heritage Sector in Belarus*, <https://www.culturepartnership.eu/en/article/report-stureika>.

69 Aliaksei Lastouski, *The Politics of Memory in Belarus: Narratives and Institutions*, CBEEES State of the Region Report (2020), available at: [https://www.academia.edu/44921433/The\\_Politics\\_of\\_Memory\\_in\\_Belarus\\_Narratives\\_and\\_Institutions](https://www.academia.edu/44921433/The_Politics_of_Memory_in_Belarus_Narratives_and_Institutions).

70 Uladzislau Belavusau & Maksim Karliuk, *The State of Denial Amidst a Military Parade: COVID-19 in Belarus*, *Verfassungsblog* (20 May 2020), available at: <https://verfassungsblog.de/the-state-of-denial-amidst-a-military-parade-covid-19-in-belarus/>.



9 May) rather than outright Russian imperialistic constructs (the latter deny Belarusians and Ukrainians any historical agency and independent identity).<sup>71</sup> Civil society, with its mnemonic practices,<sup>72</sup> has continued to function inside the country, though under quasi-dissident conditions.<sup>73</sup>

### 3.3 *The Year of 2020*

The unsuccessful mass protests of 2020 triggered the start of the third time span which is crucial for understanding the escalation of Łukašenka's politics of memory and the rise of mnemonic constitutionalism.<sup>74</sup> This new period was marked by its unsuccessful though impressively massive, and peaceful,<sup>75</sup> uprising against the political regime of Łukašenka after the presidential elections in August 2020.<sup>76</sup> Despite their fraudulent result,<sup>77</sup> the elections have demonstrated the unequivocal victory of a democratic – albeit completely accidental – candidate, Ms. Sviatlana Cichanoŭskaja (Tsikhanouskaya),<sup>78</sup> with all the major opponents of Łukašenka (including her husband)<sup>79</sup> having already been imprisoned that summer. The peaceful uprising was brutally suppressed (with Russia backing Łukašenka's massacres),<sup>80</sup> alongside several people losing their lives (including those under circumstances that were not investigated), thousands of people being tortured and imprisoned,<sup>81</sup> and hundreds of

71 Maria Mälksoo, *The Postcolonial Moment in Russia's War Against Ukraine*, *Journal of Genocide Research* (2022).

72 Serguei Alex. Oushakine, "How to Grow out of Nothing: The Afterlife of National Rebirth in Postcolonial Belarus", 28(2) *Qui Parle* 423 (2017).

73 Viasna, *Human Rights Situation in Belarus* (31 December 2020), available at: <https://spring96.org/en/news/101166>.

74 Uladzislau Belavusau & Max Steinbeis, "Corona Constitutional #45: Europas letzter Diktator?", *Verfassungsblog*, (19 August 2020), available at: <https://verfassungsblog.de/corona-constitutional-45-europas-letzter-diktator/>.

75 Maksim Karliuk & Yuliya Miadzvetskaya, "The Kafkaesque edifice of Law: Belarusian Presidential Elections 2020", *Verfassungsblog* (7 August 2020), available at: <https://verfassungsblog.de/the-kafkaesque-edifice-of-law/>.

76 European Parliament, *Statement: the Democratic Opposition in Belarus* (2020), available at: <https://www.europarl.europa.eu/cmsdata/215921/>.

77 Jocelyn Kinnear, *Fraudulent Presidential Election in Belarus: Joint Statement to the OSCE*, via UK Government – Foreign, Commonwealth and development office (2 September 2022), available at: <https://www.gov.uk/government/speeches/fraudulent-presidential-election-in-belarus-joint-statement-to-the-osce/>.

78 See <https://tsikhanouskaya.org/en/>.

79 Euractiv.com, *Belarus Opposition Leader Tsikhanouski Jailed for 18 Years* (14 December 2021), available at: <https://www.euractiv.com/section/europe-s-east/news/belarus-opposition-leader-tsikhanouski-jailed-for-18-years/>.

80 Alla Leukavets, *Russia's Game in Belarus: 2020 Presidential Elections as a Checkmate for Lukashenka?*, 29(1) *New Perspectives* 90 (2021).

81 BBC News, *Belarus Jails: Stories of Fear and Violence* (27 May 2021), available at: <https://www.bbc.com/news/world-europe-57238628>.

thousands leaving the country in the two years following<sup>82</sup> (both as political refugees and even more so as economic migrants escaping the dictatorship).<sup>83</sup> The widespread use of the *red-white-red* flag, and other historical symbols during the protest,<sup>84</sup> constituted a trigger for the impulsive turn in Łukašenka's politics of memory, towards not only *re-Sovietization* of the historical policies, but also – to a large degree – their substitution with Russian historiographic myths.<sup>85</sup> Furthermore, support by Poland and Lithuania extended to the Belarusian democratic opposition has led to Łukašenka's notoriously aggressive stance towards not only activists of the Polish<sup>86</sup> and Lithuanian<sup>87</sup> minorities, but also towards the periods of the Belarusian historiography that are shared for Belarusians with Lithuanians (during the Grand Duchy of Lithuania) and with Poles (during the Commonwealth of Poland and Lithuania, and the later period up until 1939), along with Łukašenka's staging of the refugees crisis on the Polish and Lithuanian borders.<sup>88</sup> Putin's economic and political support of Łukašenka's suppression of the mass peaceful protest has led to daily arrests, as well as gigantic political and social repression on various levels.<sup>89</sup>

82 Modesta Gaučaitė-Znutienė, *Thousands of Belarusians Flee to Lithuania for Fear of Repressions and Conscription* (27 July 2022), available at: <https://www.lrt.lt/en/news-in-english/19/1745790/thousands-of-belarusians-flee-to-lithuania-for-fear-of-repressions-and-conscription>.

83 Polish Press Agency, *Zaryn: Belarusians are Fleeing the Country* (17 June 2022), available at: <https://www.pap.pl/en/news/news%62C1251774%62Czaryn-belarusians-are-fleeing-country.html>.

84 Nelly Bekus, "Historical Memory and Symbolism in the Belarusian Protests", in *Cultures of History Forum*, (16 February 2021), available at: <https://www.cultures-of-history.uni-jena.de/politics/historical-memory-and-symbolism-in-the-belarusian-protests/>.

85 Grigory Ioffe, "Belarus's Politics of Memory Swing Back Toward Russo-Centrism", 19 *Eurasia Daily Monitor*, (2022), available at: <https://jamestown.org/program/belarus-politics-of-memory-swing-back-toward-russo-centrism/>.

86 InfoNapalm, *Minsk Regime Began to Oppress the Polish Minority in Belarus* (19 May 2021), available at: <https://informnapalm.org/en/minsk-regime-began-to-oppress-the-polish-minority-in-belarus/>.

87 Ramūnas Jakubauskas, *Belarus Bans Lithuanian Instruction in Minority Schools, Prompting Protests from Vilnius* (25 April 2022), available at: <https://www.lrt.lt/en/news-in-english/19/1680264/belarus-bans-lithuanian-instruction-in-minority-schools-prompting-protests-from-vilnius>.

88 Agnieszka Kubal, "Why is There a Humanitarian Crisis at the Polish-Belarusian Border?", *Georgetown Journal of International Affairs* (17 November 2021), available at: <https://gjia.georgetown.edu/2021/11/17/why-is-there-a-humanitarian-crisis-at-the-polish-belarusian-border/>.

89 Belsat.eu, *Genocide of Belarusian People (ENG Video)*, (16 November 2021), available at: <https://belsat.eu/en/programs/16-11-2021-genocide-of-belarusian-people-eng-video/>; see publications of *Viasna* on human rights situation in Belarus found at: <https://spring96.org/en/publications>.

### 3.4 *The Year of 2022 Onwards: the War and the Referendum*

The final period starts with the year of 2022, which marks another evolution in the memory politics of the dictatorial regime in Belarus. During this period, memory politics serve as a partial justification for the war in Ukraine, by absorbing to a large degree a Russian colonial outlook on Belarus,<sup>90</sup> and fighting national historiography as “nationalist” (that is, pregnant with “Nazi ideas”, and threatening the ontological security of the Union state of Russia and Belarus,<sup>91</sup> in the words of Belarusian TV propaganda). Back in the winter of 2021, a law recognising the “genocide of Belarusian people” (supposedly committed by the German Nazis and their collaborators during the “Great Patriotic War”) was introduced. At that moment, civil society on the territory of Belarus ceased to exist; even within the dissident conditions within which it survived between 1994 and 2020. Members were either imprisoned (and often physically tortured),<sup>92</sup> or tried to launch new channels of cultural communication in their ever-growing diaspora of political and economic émigrés, foremost in neighboring Lithuania and Poland.

A fraudulent constitutional referendum,<sup>93</sup> taking place immediately after the Russian invasion of Ukraine (substantially from the Belarusian territory), has introduced to the Basic Law,<sup>94</sup> amongst other provisions,<sup>95</sup> the peculiar provisions of mnemonic constitutionalism as follows:

90 Grigory Ioffe, “Belarus’s Politics of Memory Swing Back Toward Russo-Centrism”, 19 *Eurasia Daily Monitor*, (2022), available at: <https://jamestown.org/program/belarus-politics-of-memory-swing-back-toward-russo-centrism/>.

91 Clingendael Institute, *Historical and Legal Context of the Union State of Russia and Belarus*, in Clingendael Report (August 2021), available at: <https://www.clingendael.org/pub/2021/an-ever-closer-union/2-historical-and-legal-context/>.

92 Bielsat English, *Torture Center: Stories from Belarusian Detention Center* (21 October 2020), available at: <https://www.youtube.com/watch?v=4AkG3vGUjPo>.

93 European External Action Service, *Belarus: Statement by the High Representative/Vice-President Josep Borrell on the Constitutional Referendum* (28 February 2020), available at: [https://www.eeas.europa.eu/eeas/belarus-statement-high-representativevice-president-josep-borrell-constitutional-referendum\\_en/](https://www.eeas.europa.eu/eeas/belarus-statement-high-representativevice-president-josep-borrell-constitutional-referendum_en/).

94 Ryhor Astapenia, “Belarus’ New Dubious Constitution”, *Democracy and Society* (3 March 2022), available at: <https://www.ips-journal.eu/topics/democracy-and-society/belarus-new-dubious-constitution-5760/>.

95 Venice Commission, *Draft Amendments and Additions to the Constitution of the Republic of Belarus Published by the Authorities for Public Discussion* (14 February 2021), available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2022\)007-e/](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2022)007-e/).

[Article 15] *The State shall be responsible for the preservation of the historical, cultural and spiritual heritage and the free development of the cultures of all ethnic communities living in the Republic of Belarus. The state ensures the preservation of historical truth and memory of the heroic feat of the Belarusian people during the Great Patriotic War.*

[Article 54] *Everyone is obliged to protect the historical, cultural, spiritual heritage and other national values. The manifestation of patriotism, the preservation of the historical memory of the heroic past of the Belarusian people are the duty of every citizen of the Republic of Belarus.*

These and other 2020 amendments to the Belarusian constitution have been criticized by the Venice Commission as incompatible with the rule of law standards.<sup>96</sup> In combination with the law on the genocide of the Belarusian people, the new constitutional provisions set up the foundation of the mnemonic constitutionalism of the dictatorial regime in Belarus, with its peculiar colonial dependence on the Russian and Soviet historical myths.

#### 4 The Rise of Memory Laws and Their Victims Amidst the “Year of Historical Memory”

Vladimir Putin infamously justified the Russian invasion of Ukraine in February 2022 via a simplistic historical propaganda, central to which remains his slogan about the “artificial” and erroneous existence of Ukraine – a country, he claimed, to be created by communists.<sup>97</sup> This claim fits the narrative of

96 See Venice Commission, “Belarus: Urgent Interim Opinion on the Constitutional Reform” (05 April 2022), available at: [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2022\)008-e/](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)008-e/).

97 A Smith for NBC News, *Putin’s ‘Surreal’ Version of Ukrainian History Alarms Experts* (22 February 2022), available at: <https://www.nbcnews.com/news/world/putin-russia-ukraine-history-speech-rcna17132/>; See Putin’s speech preceding the invasion here: [https://www.youtube.com/watch?v=\\_PgG4cfs6Qg](https://www.youtube.com/watch?v=_PgG4cfs6Qg). See also, the most recent interview of Vladimir Putin to Tucker Carlson, 9 February 2024, available at: <https://www.youtube.com/watch?v=hYfByTcY49k>. For the analysis, see David R. Marples, “Vladimir Putin Justifies His Imperial Aims in Tucker Carlson Interview”, *Conversation*, 15 February 2024, available at: <https://theconversation.com/vladimir-putin-justifies-his-imperial-aims-in-tucker-carlson-interview-223395>.

the last decade of Putin's presidency, continuously imposed on the Russian audience by his TV propagandists. They were successful in inciting hatred against Ukrainians along with nurturing the maniacal belief of many Russians in their superiority,<sup>98</sup> explicit in recent Medvedev's Tweets.<sup>99</sup>

In contrast, until 2020, Lukašenka did not build his memory politics directly upon the Russian colonial myth. His propaganda neither resisted nor explicitly promoted Russian imperialist doctrines, despite the full dependency of his regime on the Kremlin and linguistic Russification of the country. Ukraine was not portrayed therein as an antagonist state, leading to – ironically – a notable popularity of Łukašenka amongst Ukrainians in the epoch.<sup>100</sup> Yet like Putin, Łukašenka was notoriously known in the post-Soviet space for his rhetoric of whitewashing and denying crimes of the Soviet regime,<sup>101</sup> as well as for promoting various cultural policies that have effectively kept on reproducing the cult of the Soviet state and the hagiography of the Great Patriotic War (1941–1945).<sup>102</sup> Nonetheless, the spectrum of Belarusian memory laws during his presidency remained rather modest in comparison to the veritable boom<sup>103</sup> of such legislation on historical memory in neighbouring Poland,<sup>104</sup> Russia,<sup>105</sup> and Ukraine,<sup>106</sup> where these laws have been to a large degree converted into swords and shields during so-called 'memory wars'.<sup>107</sup> The Belarusian legislation

98 Igor Torbakov, "Examining the Origins of Russians' Superiority Complex vis-à-vis Ukrainians", *Eurasianer* (26 May 2020). available at: <https://eurasianer.org/perspectives-examining-the-origins-of-russians-superiority-complex-vis-a-vis-ukrainians/>.

99 Amy Mackinnon, "The Fall of Dmitry Medvedev", *Foreign Policy* (23 June 2022), available at: <https://foreignpolicy.com/2022/06/23/fall-dmitry-medvedev-russia-war-hawk/>.

100 Belsat English, "Lukashenka Most Liked Foreign Leader in Ukraine" (11 December 2019), available at: <https://naviny.belsat.eu/en/news/lukashenka-most-liked-foreign-leader-in-ukraine/>.

101 RadioLibertyEurope, "Lukashenka Comes to Praise Stalin, Not to Bury Him" (17 October 2012), available at: <https://www.rferl.org/a/lukashenka-belarus-russia-stalin-lenin/24742548.html/>.

102 David R. Marples, *Our Glorious Past: Lukashenka's Belarus and the Great Patriotic War* (Ibidem Press, 2014).

103 See *Verfassungsblog* special symposium on memory laws, available at: <https://verfassungsblog.de/category/debates/memory-laws-debates/>.

104 Uladzislau Belavusau, "The Rise of Memory Laws in Poland: An Adequate Tool to Counter Historical Disinformation?", *Security and Human Rights* 29 (2018).

105 Nikolai Koposov, *Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia* (Cambridge University Press, 2017).

106 Maria Mälksoo, "Decommunization in Times of War: Ukraine's Militant Democracy Problem", *Verfassungsblog* (9 January 2018), available at: <https://verfassungsblog.de/decommunization-in-times-of-war-ukraines-militant-democracy-problem/>.

107 Uladzislau Belavusau, Aleksandra Gliszczyńska-Grabias & Maria Mälksoo, "Memory Laws and Memory Wars in Poland, Russia and Ukraine", *Jahrbuch des Öffentlichen Rechts der Gegenwart* 69 (2021).

contained only rather standard – for this region – provisions in this regard, e.g., about criminal prosecution for denying the crimes of the Nazi (though of course, characteristically, not of the Soviet) regime. The failed peaceful uprising of 2020 has led to neurotic political rhetoric that has accelerated the discussion and adoption of memory laws by the puppet that is Łukašenka's parliament, including, by far the most controversial, a criminal provision on the denial of the genocide against Belarusian people.<sup>108</sup>

By introducing this law, the Belarusian parliament has seemingly borrowed from both Polish<sup>109</sup> and Russian samples,<sup>110</sup> by elevating memory populism in constitutional law towards almost surrealistic demagoguery. The 2021 Belarusian “memory law” added Article 130 to the Criminal Code of Belarus resulting in a penal measure of five-to-eight years imprisonment for the denial and trivialisation of the “genocide of the Belarusian people” during World War II and up until December 1951. This also covers the period of the anti-Soviet national Belarusian resistance after 1945 on the communist-occupied territory of Belarus. Similar to Putin's version of mnemonic constitutionalism,<sup>111</sup> this law frames World War II as the “Great Patriotic War” – transplanting post-Soviet Russian historiographic imagery and denialism of the joint Soviet-German aggression towards Poland in 1939. Unlike the 2018 Polish analogue of this law<sup>112</sup> (often – erroneously, in my opinion<sup>113</sup> – referred to in the press as the ‘Polish Holocaust Law’), which it seems to almost mock in rhetoric, the Belarusian version does not even hint at the Holocaust or the Jews,<sup>114</sup> equating the latter

108 CIS Legislation, *Law of the Republic of Belarus of January 5, 2022 No. 146-Z About Genocide of the Belarusian People*, available at: <https://cis-legislation.com/document.fwx?rgn=136994>; Human Constanta, “On the Genocide of Belarusian People”: Legal Overview of the New Law (13 July 2022), available at: <https://humanconstanta.org/en/on-the-genocide-of-belarusian-people-legal-overview-of-the-new-law/>.

109 Aleksandra Gliszczyńska & Wojciech Kozłowski, “Calling Murders by Their Names as Criminal Offence: a Risk of Statutory Negationism in Poland”, *Verfassungsblog* (1 February 2018), available at: <https://verfassungsblog.de/calling-murders-by-their-names-as-criminal-offence-a-risk-of-statutory-negationism-in-poland/>.

110 Gleb Bogush & Ilya Nuzov, “Russia's Supreme Court Rewrites History of the Second World War”, *EJIL:Talk* (28 October 2016), available at: <https://www.ejiltalk.org/russias-supreme-court-rewrites-history-of-the-second-world-war/>.

111 Nikolai Koposov, “‘The Only Possible Ideology’: Nationalizing History in Putin's Russia”, *Journal of Genocide Research* 24 (2022).

112 Uladzislau Belavusau & Anna Wójcik, “Polish Memory Law: When History Becomes Source of Mistrust”, *New Eastern Europe* (19 February 2018), available at: <https://neweasterneurope.eu/2018/02/19/polish-memory-law-history-becomes-source-mistrust/>.

113 Uladzislau Belavusau & Anna Wójcik, « La criminalisation de l'expression historique en Pologne: la loi mémorielle de 2018 », *Archives de politique criminelle* 30 (2018).

114 BELTA English, MFA Hosts Exhibition about Genocide of Belarusian People During War (18 July 2022), <https://eng.belta.by/society/view/mfa-hosts-exhibition-about-genocide-of-belarusian-people-during-war-151843-2022/>.

to the political ethnonym of “Belarusian people” (*беларускі народ* / *bielaruski narod*), although most of the “Belarusian” victims of the *systemic* annihilation in Nazi-occupied Belarus were Jews. Unsurprisingly, the law has been criticised by the Israeli press<sup>115</sup> (yet comparably less widely than during the analogous Polish affair of 2018). By no means has the law been a sleeping monster, it has been weaponized to attack independent media,<sup>116</sup> leaders of the Polish minority in Belarus,<sup>117</sup> cultural figures, historians and even tour guides.<sup>118</sup> The propaganda agencies explicitly link the “genocide of the Belarusian nation”<sup>119</sup> to the “rehabilitation of the Nazi collaborationism” by the democratic opposition.<sup>120</sup>

The Belarusian Prosecutor’s Office has opened the official criminal proceedings and arranged almost theatrical investigation of that “international crime of genocide”, collecting evidence and periodically hinting at the assumption that the perpetrators of that genocide share the same political ideologies with the current opponents of the Belarusian regime.<sup>121</sup> The first person accused of the crime of the denial of the genocide of the Belarusian people was detained in March 2024.<sup>122</sup> The new educational policies embrace these changes in the legislative memory politics with further efforts to Russify the education space, in particular, by forbidding the usage of the Belarusian Latin alphabet (*tacinka*) and via removal from the school program of the Belarusian classical writers who referred pejoratively to Russians or the Russian occupational forces.<sup>123</sup> Furthermore, the efforts are made to bring

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- 115 Leonid Smilovitsky, “The Real Reason Belarus’ Dictatorial Regime is Downplaying the Holocaust,” *Haaretz* (12 January 2022), available at: <https://www.haaretz.com/world-news/2022-01-12/ty-article-opinion/.premium/the-real-reason-belarus-dictatorial-regime-downplays-the-holocaust/0000017f-e9f7-dc91-a17f-fdff62590000/>.
- 116 Viasna, “Sud nad mastakom Alesiem Puškinym zrabili adkrytym” (10 March 2022), available at: <https://spring96.org/be/news/107036>.
- 117 Naša Niva, “Andrzej Poczobut pačaŭ znajomicca z materyjałami spravy” (8 April 2022), available at: <https://nashaniva.com/297212>.
- 118 Naša Niva, “Nia možaš raskazvać, što dumaješ: jak režym ciśnie na ekskursavodaŭ” (10 August 2022), available at: <https://nashaniva.com/297141>.
- 119 Naša Niva, “Henprakturatura źviazała henacyd z padziejami 2020 hoda ŭ Bielarusi” (27 January 2022), available at: <https://nashaniva.com/?c=ar&i=283701>.
- 120 Naša Niva, “Vyjšla kniha pra hienacyd bielaruskaha Naroda” (8 April 2022), available at: <https://nashaniva.com/?c=ar&i=287917>.
- 121 For the investigation materials in Russian, available at: <https://adu.by/ru/pedagogam/rassledovanie-ugolovnogo-dela-o-genotside.html> and <https://www.mvd.gov.by/ru/page/genocid-belorusskogo-naroda>.
- 122 See *Naša Niva*, “Chto toj bielarus, jakoha pieršym zatrymali za “admaŭleńnie henacydu bielaruskaha narodu” (4 March 2024), available at: <https://nashaniva.com/337758>.
- 123 *Naša Niva*, “Što adbyvalasia na apošnim pasiedžańni Respublikanskaj rady pa historyčnaj palitycy – vytrymki z pratakola” (29 February 2024), available at: <https://nashaniva.com/337460>.

changes to the legislation on the tourist guides and interpreters for foreigners during those guides, by monitoring those employers for any instances of the “rehabilitation of Nazism” and “genocide denial”.<sup>124</sup>

Since the year 2022 was announced as the “year of historical memory” in Belarus and the follow-up year of 2023 was proclaimed to be the “year of the Russian language”, this intensified further concern for the protection of minorities, status of the Belarusian language, culture and independent historiography, the safety of historians as well as the broader freedom of academic research being conducted under this dictatorial regime. During this period, the regime went as far as demolishing the burial places of the Polish soldiers,<sup>125</sup> to give just one example of how the year of 2022 has been unfolding for the “respect of historical memory”. There is not a single independent TV channel, radio station or a newspaper functioning on the territory of Belarus at the moment, in 2024. The state propaganda that fully controls the media and press has been emphasizing the binary ontology of “good Russia” versus “evil Poland and Ukraine” in interpreting the past and the present of Belarus. The truly barbaric acts over Polish graves have been just some of the myriads of daily episodes in this memory war of the regime.

## 5 Conclusions: Łukašenka’s Take on Mnemonic Constitutionalism

Łukašenka’s constitutional novelties of 2022, approved through a fully orchestrated and state-controlled referendum of February 2022, closely mirrored several constitutional provisions introduced in Putin’s 2020 constitutional revision,<sup>126</sup> stressing the “heroism of the Belarusian people” and even a “constitutional duty” to protect the memory of such heroism. Seemingly, when compared to both Russian constitutional provisions in 2020 and an earlier Hungarian example<sup>127</sup> (taking the 2010 Basic Law by

124 *Sputnik*, *Gidov v Belarusi predlagajut proveriat' na prichastnost' k reabilitatsii nazizma* (12 March 2023), available at: <https://sputnik.by/20240312/gidov-v-belarusi-planiruyut-proveryat-na-prichastnost-k-reabilitatsii-natsizma-1084415586.html>.

125 Al Jazeera, *Poland Says WWII Grave Destroyed by Russian ally Belarus* (25 August 2022), available at: <https://www.aljazeera.com/news/2022/8/25/poland-says-wwii-grave-is-destroyed-by-russian-ally-belarus/>.

126 Uladzislau Belavusau, “Rule of Law and Constitutionalisation of Memory Politics in Hungary and Russia”, in Martin Belov (ed.), *Rule of Law in Flux* (Routledge, 2022), 87–107.

127 Gábor Halmai, “Memory Politics in Hungary: Political Justice without Rule of Law”, *Verfassungsblog* (10 January 2018), available at: <https://verfassungsblog.de/memory-politics-in-hungary-political-justice-without-rule-of-law/>.



Fidesz,<sup>128</sup> with its powerful mnemonic constitutionalism), both of which were promulgated via referenda, the provisions on historical memory in this novelised Belarusian constitutional text are clearly designed to mask other, broader, amendments that are arguably ruining the remains of liberal democracy and rule of law requisites. In many respects, the Belarusian memory laws of 2021–22 stand in stark contrast to the Ukrainian de-communization laws of 2015,<sup>129</sup> and 2022.<sup>130</sup> As argued elsewhere,<sup>131</sup> mnemonic constitutionalism (that to a certain degree, exists perhaps in most if not all countries in the world, including those without a written constitution) is not necessarily a negative phenomenon. Yet the mnemonic constitutionalism of Central and Eastern Europe,<sup>132</sup> as seen in recent years, clearly indicates the instrumentalisation of militant memocracy (i.e., governance based on historical memory),<sup>133</sup> amidst the decline of liberal democracy,<sup>134</sup> and rule of law,<sup>135</sup> in the region. Belarus joined this stream of mnemonic constitutionalism, memory laws, and memocratic governance prior to, and during, the war. The year 2022 that Łukašenka declared to be the “year of historical memory in Belarus” served as an ideological shield justifying the undeniable complicity of the regime in Putin’s attack on Ukraine. The peculiar mnemonic constitutionalism, along with a number of memory laws in the

128 Marina Bán, *The Legal Governance of Historical Memory and the Rule of Law*, PhD Thesis, University of Amsterdam (2020), available at: <https://pure.uva.nl/ws/files/51201837/Thesis.pdf>.

129 Lina Klymenko, “Cutting the Umbilical Cord: The Narrative of the National Past and Future in Ukrainian De-communization Policy”, in Uladzislau Belavusau & Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History* (Cambridge University Press, 2017).

130 Ministry of Culture and Information Policy of Ukraine, *MCIP updated the list of decisions on relocation or dismantling of monuments in the framework of decommunization and de-russification* (23 June 2022), <https://www.kmu.gov.ua/en/news/mkip-onovilo-spisok-rishen-shchodo-peremishchennya-chi-demontazhu-pamyatnikiv-v-ramkah-dekomunizaciyi-ta-derusifikaciyi/>.

131 Uladzislau Belavusau, “Rule of Law and Constitutionalisation of Memory Politics in Hungary and Russia”, in Martin Belov (ed.), *Rule of Law in Flux* (Routledge, 2022), 87–107.

132 Uladzislau Belavusau, “Final Thoughts on Mnemonic Constitutionalism”, *Verfassungsblog* (15 January 2018), available at: <https://verfassungsblog.de/final-thoughts-on-mnemonic-constitutionalism/>.

133 Maria Mälksoo, “Militant Memocracy in International Relations: Mnemonical Status Anxiety and Memory Laws in Eastern Europe”, *Review of International Studies* (2021).

134 Uladzislau Belavusau, & Aleksandra Gliszczyńska-Grabias (eds.), *Constitutionalism Under Stress: Essays in Honour of Wojciech Sadurski* (Oxford University Press, 2020).

135 Uladzislau Belavusau, “Rule of Law in Poland: Memory Politics and Belarusian Minority”, *Verfassungsblog* (21 November 2017), available at: <http://verfassungsblog.de/rule-of-law-in-poland-memory-politics-and-belarusian-minority/>.

country, in contrast, serves as a Russifying and re-Sovietising ideological sword against pro-European democratic national-oriented Belarusian opposition in the country, where the absolute majority (unlike in Russia)<sup>136</sup> has been against this colonial war of the decaying Russian empire.<sup>137</sup>

The despairing reality of the past two years has exposed the monstrosity of such Russifying and re-Sovietising memory politics. One can get arbitrarily arrested by the police in Belarus for the pure “crime” of speaking Belarusian on the street,<sup>138</sup> for providing a small independent historical city tour (even free of charge),<sup>139</sup> and even detained for several weeks for opening a book shop with Belarusian history books and literature,<sup>140</sup> or for singing a Ukrainian song in public.<sup>141</sup> One can receive a prison term for putting a “like” on social media,<sup>142</sup> or get detained (tortured,<sup>143</sup> humiliated and videotaped for the state TV<sup>144</sup>) for posting pictures with a historical “red-white-red flag” of Belarus. One can get five to eight years of imprisonment for stating that Soviet Russia and Germany illegally attacked Poland in 1939, or for expressing doubt about the juridical sanity of the term “genocide of the Belarusian people”, as applied to the murder of every fourth dweller of Belarus in the 1940s (while most of those systemically

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- 136 Peter Dickenson, “More Than Three-Quarters of Russians Still Support Putin’s Ukraine War”, *Atlantic Council – Blogs* (6 June 2022), available at: <https://www.atlanticcouncil.org/blogs/ukrainealert/more-than-three-quarters-of-russians-still-support-putins-ukraine-war/>.
- 137 Alesia Rudnik, “Whom do Belarusians Actually Support in the Russia-Ukraine war?”, *BelarusDigest* (23 March 2022), available at: <https://belarusdigest.com/story/whom-do-belarusians-actually-support-in-the-russia-ukraine-war>; Maria Mälksoo, “The Postcolonial Moment in Russia’s War Against Ukraine”, *Journal of Genocide Research* (2022).
- 138 EuroRadio, „Stala viadoma za što zatrymali krajaznaūcu i žurnalista Ihara Chmaru” (12 August 2022), available at: <https://euroradio.fm/stala-vyadoma-za-shto-zatrymali-krajaznaucu-i-zhurnalista-igara-hmaru>.
- 139 EuroRadio, *Minskiju ekskursavodku zatrymali za niekarektnyja vykazvaŋni na adras Lukaŋenki* (31 August 2022), available at: <https://euroradio.fm/minskuju-ekskursavodku-zatrymali-za-nekarektnyja-vykazvanni-na-adras-lukashenki>.
- 140 RFE/RL, *Belarusian Publisher, Associate Arrested After Opening New Bookstore* (17 May 2022), available at: <https://www.rferl.org/a/belarus-bookstore-harassment-arrest/31854941.html/>.
- 141 EuroRadioFM, *Belarus Young Singer Defies Crackdown* (7 August 2022), available at: <https://euroradio.fm/en/singer-herasimenka-monitored-law-enforcement>.
- 142 RFE/RL, *Russian in Belarus Sentenced to 11 Years for Social Media Posts Urging Protests* (27 December 2021), available at: <https://www.rferl.org/a/belarus-russian-citizen-sentenced-protests/31628127.html/>; Svaboda, “Chronika pieraŋledu 30 kastryčnika” (30 October 2021), available at: <https://www.svaboda.org/a/31537140.html>.
- 143 DW, “Ekskluziv DW: Natalja Hershe w Schvejtsarii posle tiur’my v Belarusi” (26 February 2022), available at: [https://www.youtube.com/watch?v=S\\_Ln\\_R6XsVI](https://www.youtube.com/watch?v=S_Ln_R6XsVI).
- 144 Jury Drahachrust, “Čhto i navoŋta prydumaū pakajalnyja videa”, *Radyjo Svaboda* (19 May 2022), available at: <https://www.svaboda.org/a/31855304.html>.

assassinated were Jewish). Not to mention all the inhuman treatment (in cold tiny unhygienic cells, without walks or letters permitted),<sup>145</sup> and huge prison terms (along with threats of capital punishment, still executed)<sup>146</sup> for the Belarussian partisans damaging railways to prevent movement of Russian military resources to Ukraine.<sup>147</sup> All of these instances shape the gloomy reality for a country under *de facto* Russian occupation, facilitated by an unelected dictator obsessed with the Soviet past and molesting the Constitution via fraudulent referendums. The dictator has been slowly but surely converting Belarus into a North Korean type of closed regime, where the socio-political landscape, including constitutional law, is populated by the imagery of historical propaganda.

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145 Tages-Anzeiger, *Eine Schweizerin in belarussischen Foltergefängnissen* (6 December 2021), available at: <https://www.youtube.com/watch?v=cbLfz64M9sk>.

146 Simon Pirani, "Belarusian 'Railway Partisans' Face Death Penalty" *International Viewpoint* (24 July 2022), available at: <https://internationalviewpoint.org/spip.php?article7751/>.

147 RFE/RL, "Belarusian 'Railway Guerrillas' Handed Prison Terms" (10 August 2022), available at: <https://www.rferl.org/a/belarus-railway-guerrillas-prison-terms-ukraine-war/31982008.html>.