

# Memory Laws in Poland and Hungary

Policy brief

By the research consortium

The Challenges of Populist Memory Politics and Militant Memory Laws (MEMOCRACY)

University of Cologne | T.M.C. Asser Institute

Polish Academy of Sciences | Copenhagen University



May 2023

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## A. Summary of the Polish and Hungarian country studies<sup>1</sup>

The study consists of two primary sections devoted to Poland's and Hungary's remembering of and dealing with the past – including with the deployment of memory laws and of other legal and extra-legal instruments in historical policy; also including soft law and relevant domestic courts' jurisprudence. The report situates these practices against European human rights law standards as inferred from the European Court of Human Rights' (hereinafter 'ECtHR') case law. The aim of this exercise is to capture the dynamics of the Polish and Hungarian states' relationship to the past after 1989 in a concise form, and to examine their current legal frameworks. This policy brief will:

- 1) outline the general technicalities regarding the legal governance of history and memory in the CEE region, in particular Poland and Hungary;
- 2) explain the particularities of mnemonic constitutionalism; the institutionalisation of mnemonic governance; memorialisation of the WWII and the Holocaust; and the reckoning with communism, education, and memory; in both Hungary and Poland;
- 3) summarize the findings of the reports.

The policy brief concludes with recommendations for both states.

### 1. INTRODUCTION

#### *1.1. Mnemonic constitutionalism, memory laws and memory wars*

The legal governance of history and memory, aiming to legitimise a socio-political order, has been a part of modern history with varying thematic, geo-political and ideological settings.<sup>2</sup> Poland and Hungary are model examples of states exercising legal governance over history with the tools of mnemonic constitutionalism and pursuit of memory wars. They have, amongst other countries, frequently fought in defence of an idealized vision of the past; with particular states and nations being portrayed only as victims or saviours of others and never as perpetrators of atrocities committed against 'the Others'. Thus, certain state-sponsored narratives on the past are thereby imposed.

In Viktor Orbán's Hungarian Fundamental Law of 2011, even the Preamble exclusively acknowledges the positive aspects of Hungarian history, presented in a self-exculpatory manner, intended to excuse a state or nation from blame of guilt of the past.<sup>3</sup>

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<sup>1</sup> For accessing the complete report, see the MEMOCRACY webpage: <https://memocracy.eu/policy-briefs>.

<sup>2</sup> See, among others, Uladzislau Belavusau, Aleksandra Gliszczyńska-Grabias (eds.), *Law and Memory: Towards Legal Governance of History*, Cambridge: Cambridge University Press, 2017; Angelika Nußberger and Caroline von Gall (eds.), *Bewusstes Erinnern und bewusstes Vergessen. Der juristische Umgang mit der Vergangenheit in den Ländern Mittel- und Osteuropas*, Tübingen: Mohr Siebeck, 2011.

<sup>3</sup> Gábor Halmai, "National(ist) constitutional identity? Hungary's road to abuse constitutional pluralism", in *EUI Working Papers* 2017/08, ([https://cadmus.eui.eu/bitstream/handle/1814/46226/LAW\\_2017\\_08.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/46226/LAW_2017_08.pdf?sequence=1&isAllowed=y)).

In the case of Poland, the 2018 Amendment of the Act on the Institute of National Remembrance, partly repealed in June 2018, penalised the defamation of the Polish state and nation, including any attribution of responsibility, or co-responsibility, to Poles for crimes committed by German Nazis in occupied Poland.



48th Vice President of the United States – Mike Pence, and the Prime Minister of Poland – Mateusz Morawiecki, at the Monument of the Warsaw Uprising 1944 Poland <sup>4</sup>

Apart from forming an image of Poland as a nation of victims and heroes, the structure of the law allows the bringing to trial of those daring to ask uncomfortable questions which challenge the government-imposed vision of Poland's past.<sup>5</sup> Political factors are thus playing a key role in shaping Poland's and Hungary's "memocracy" — the interplay between memory and democracy — and the impact of mnemonic constitutionalism on memory laws.

### *1.2. Current socio-legal context and historic heritage in Poland and Hungary*

For over half a century, communist states of the Central and Eastern European region (hereinafter 'CEE'), including both Poland and Hungary, were subjected to communist historical propaganda, which imposed a top-down understanding of the past. This propaganda was instrumentalized to achieve (then-) current political goals, both domestically and in the international arena, while simultaneously silencing national and ethnic minorities. An era of formally free historical debate began after 1989, with introduction of the freedom of speech, freedom of conducting and disseminating the results of scientific research, and media freedom.

<sup>4</sup> [https://commons.wikimedia.org/wiki/File:Mike\\_Pence\\_and\\_Mateusz\\_Morawiecki\\_at\\_the\\_Monument\\_of\\_the\\_Warsaw\\_Uprising\\_1944\\_Poland.jpg](https://commons.wikimedia.org/wiki/File:Mike_Pence_and_Mateusz_Morawiecki_at_the_Monument_of_the_Warsaw_Uprising_1944_Poland.jpg).

Kancelaria Premiera / Krystian Maj via Wikipedia commons

Or <https://pixabay.com/photos/poland-warsaw-warsaw-uprising-891562/>.

<sup>5</sup> Aleksandra Gliszczyńska-Grabias, "Deployments of Memory with the Tools of Law – the Case of Poland, in *Review of Central and East European Law* 44(4), 2019, pp. 464–492.

However, this freedom came along with certain challenges, as both societies and states had to face certain historical myths that have bound together their national communities for centuries. Even though the historical developments and contexts were different in the case of Poland and Hungary, the **general overtone** of being the **‘chosen’ nation**, as well as other aspects of historical exceptionalism, were to be noticed; with profound consequences for the future ‘dealing with the past’ by both states. Nonetheless, the last thirty years have seen a change in the parameters of collective memory in both states.



The Monument to the Fallen and Murdered in the East in Warsaw, Poland<sup>6</sup>

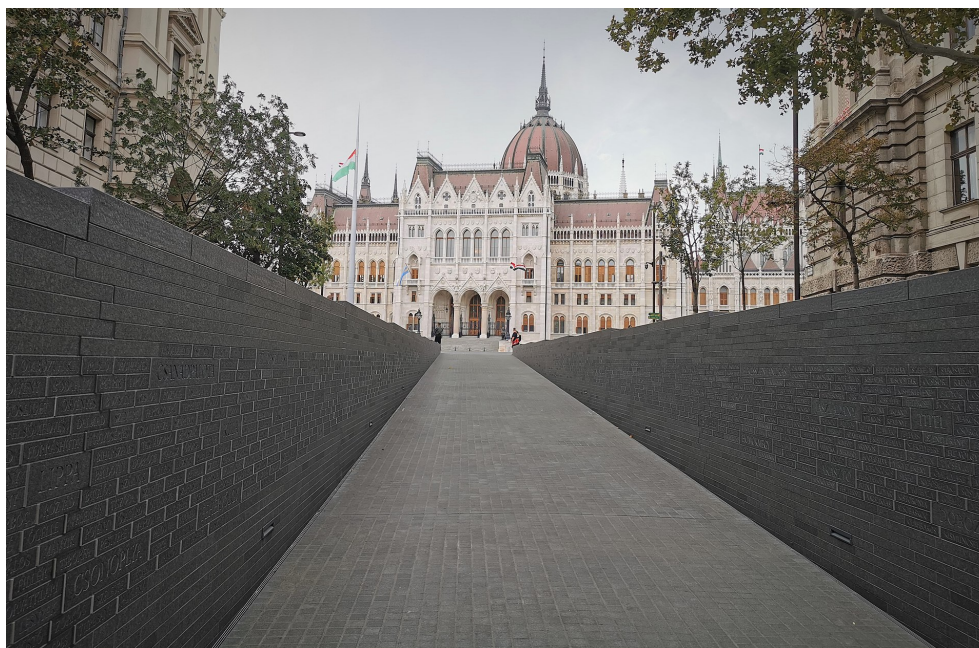
In the case of **Poland**, a confrontation started with the historical truth about the **guilt of a significant portion of Polish society** with respect to the **minorities** living in historical Polish lands – especially Jews, but also Ukrainians, Belarusians, Lemkos, Silesians and Roma. The voices of historians, journalists or artists demanding the acknowledgement of this guilt in the hope of working through it, and later reconciliation, have been met by a strong reaction from Polish society.<sup>7</sup> This strong emotion was instrumentally exploited by politicians, as reflected in the drafting of criminal memory laws to protect the ‘good name’ of the Polish nation, and introducing sanctions for those speaking uncomfortable truths about the past.

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<sup>6</sup> The Monument to the Fallen and Murdered in the East is a monument in Warsaw, Poland which commemorates the victims of the Soviet invasion of Poland during WWII and subsequent repressions. It was unveiled on 17 September 1995 (56th anniversary of the Soviet invasion into Poland), and a ceremonial unveiling of a new part of the monument took place in Warsaw on 24 February 2023, on the anniversary of the Russian aggression against Ukraine. The commemoration has been prepared in the form of a bronze railroad sleeper/monumental memorial plaque, which bears the following inscription: “To the victims of communism and Russian imperialism responsible for crimes against humanity committed against the nations of Central and Eastern Europe”. <https://pixabay.com/photos/monument-poland-warsaw-symbol-3262358/>.

<sup>7</sup> Kornelia Kończal, “Politics of Innocence: Holocaust Memory in Poland” in *Journal of Genocide Research*, Vol. 24(2), 2022, pp. 250–263.

Simultaneously, the **majority of controversies in Hungary** are related to the heritage of the **1920 Treaty of Trianon**, which confirmed the transfer of large territories then belonging to the Hungarian part of Austria-Hungary to its neighbouring countries, including present-day Romania and Slovakia.



Az Összetartozás Emlékhelye, Trianon Memorial in Budapest, Hungary<sup>8</sup>

Such a narrative of the post-First World War (hereinafter ‘WWI’) border changes is unique to Hungary, and it is not part of the shared European memory of WWI and its aftermath. The current Hungarian government has been openly nostalgic about pre-Trianon Hungary, and has projected strong political messages around it – both domestically and abroad. At the same time, also in the case of Hungary, the Holocaust-related past<sup>9</sup> raises controversies and provokes political – and legal – responses from the government, characterized by Andrea Pető as the ‘non-remembering of the Holocaust in Hungary’.<sup>10</sup>

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<sup>8</sup> The new Trianon monument is situated across from the Budapest parliament that was inaugurated in August 2020. Sporting the names of all the towns and villages of 1913 Hungary, the monument implicitly claims the entire expanse of pre-1920 Hungary for the agenda of “national solidarity”. <https://www.cultures-of-history.uni-jena.de/politics/the-trianon-ramp-and-the-obstinate-memory-of-a-magyar-greater-hungary>; [https://de.wikipedia.org/wiki/Denkmal\\_der\\_nationalen\\_Zusammengehörigkeit#/media/Datei:Összetartozás\\_Emlékhelye.jpg](https://de.wikipedia.org/wiki/Denkmal_der_nationalen_Zusammengehörigkeit#/media/Datei:Összetartozás_Emlékhelye.jpg).

<sup>9</sup> For the selection of the most relevant topics within the Holocaust memory realm in Hungary, see the excellent edited volume: Randolph L. Braham and András Kovács (eds.), *The Holocaust in Hungary: Seventy Years Later*, CEU Press, 2016.

<sup>10</sup> Andrea Pető, “Hungary 70: Non-remembering the Holocaust in Hungary”, in *Culture & History Digital Journal*, vol. 3, issue 2, 2014.

At the same time, at the international level, the post-communism period brought many positive examples of reconciliation between Poles and Hungarians with their former and current neighbours. This was part of an orientation described as a ‘**return to Europe**’; an end to the isolationism and hostility forced on both states during the communist era, and a perception of the realisation of their interests in cooperation, dialogue and agreement with partners and the friendly family of European nations.

On the other hand, Poland and Hungary have been involved in several ‘memory wars’ over the last thirty years, causing a temporary deterioration of their relations with various states – notably with Israel, Russia, Ukraine, and Germany, which was also often pursued by legal means. Yet, there have been no ‘memory wars’ in Polish-Hungarian relations, and in recent years, the closeness of the alliance between the current Polish and Hungarian populist, anti-liberal governments have also manifested in dismantling certain democratic standards: including, notably, the rule of law.<sup>11</sup> These developments strongly influence Poland's and Hungary's mnemonic narratives, new memory law mechanisms (which are removed from European human rights law standards) and the new laws' contents, which are often nationalistic and supports entrenched majoritarian narratives and the persecution of those against them.

### *1.3. Reckoning with a different past(s)*

In the CEE region, the ongoing ‘reckoning with the past’ applies to two pivotal historical settings: the Second World War (hereinafter ‘WWII’) including the Holocaust, and the Stalinist and Communist past. The central element of the official narrative regarding both Nazi and Communist times is the victimhood status of Polish and Hungarian nations and states. The European project's remembrance culture has been built on common memory of the Holocaust; however, the CEE states, including Poland and Hungary, have demanded this culture to be enlarged and include the memory of crimes committed by ‘the other’ brutal totalitarian regime of the 20th century. For now, the CEE's part of 20th century history has not yet been fully or universally acknowledged as part of shared European history.<sup>12</sup>

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<sup>11</sup> For one of the most comprehensive academic accounts of this process, see Wojciech Sadurski, *A Pandemic of Populists*, Cambridge University Press, 2022.

<sup>12</sup> Aleksandra Gliszczyńska-Grabias, “Communism Equals or Versus Nazism? Europe's Unwholesome Legacy in Strasbourg”, in *East European Politics and Societies*, vol. 30(1), 2016, pp. 74–96.



Memorial for Victims of German Occupation in Budapest, Hungary<sup>13</sup>

The limited understanding of the CEE experience of Communist totalitarianism and authoritarianism as part of shared European remembrance memory culture, is in turn being used and abused by ruling circles and their allies, including in Poland and Hungary, to then cause domestic and international unrest over the visions and understanding of the past to mobilize their political supporters and, ultimately, win elections. It is to be hoped that the longer and more embedded the CEE countries are in European structures, the more the European institutions, including courts, will understand the specifics of the memory of the Soviet and Communist regimes.

The Polish and Hungarian sections are structured around common themes: mnemonic constitutionalism; the institutionalisation of mnemonic governance; memorialisation of WWII and the Holocaust; and their reckoning with communism, education, and memory.

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<sup>13</sup> Announced at the end of 2013, the monument was erected in central Budapest last summer, with the alleged intention of Viktor Orbán's government to honor all the victims of the German occupation of Hungary during WWII and to shift the blame for the WWII crimes exclusively on the Nazi Germany. <https://historycampus.org/2015/erect-a-memorial-erase-the-past-the-memorial-to-the-victims-of-the-german-occupation-in-budapest-and-the-controversy-around-it/>; <https://www.pexels.com/photo/memorial-for-victims-of-german-occupation-in-budapest-hungary-7614817/>



Poland	Hungary
<p><b>Mnemonic constitutionalism</b></p> <p>as a process of embedding specific historical paradigms in the structures and framework of European law, national constitutional law, memory laws (understood as provisions of the law shaping, imposing or even sanctioning the collective understandings of historical events), as well as judicial assessments of the attitude to the past. These range from the evaluation of the constitutionality of specific provisions of the law by the courts to judicial reasoning dictated by ideological and political pressure.<sup>14</sup></p>	
<p>The 1997 Constitution attempted to <b>combine the various traditions</b> of modern Polish political thought:</p> <ul style="list-style-type: none"> <li>• The <b>conservative tradition</b>, with references to the Christian heritage;</li> <li>• The <b>liberal tradition</b>, with emphasis on the separation and cooperation of powers and a separate chapter on the protection of rights and freedoms;</li> <li>• The <b>leftist tradition</b>, emphasizing a social market economy and the protection of minority rights;</li> <li>• Acknowledgement of the <b>continuity of the achievements</b> of the First (1569–1795) and Second (1918–1939) Republics and <b>distancing itself from their shortcomings</b>, as well as on the appreciation of the centuries-old independence aspirations at a time when the Polish state did not exist (1795–1918);</li> <li>• Remembering <b>past human rights violations</b> as a <b>foundation for a democratic community</b>;</li> <li>• Emphasising the bond with the Polish diaspora worldwide, <b>acknowledging centuries of political and economic immigration</b> from Poland’s territories.</li> <li>• Direct ban on <b>political parties</b> that apply methods and practices of non-democratic regimes, including <b>both Nazism and communism</b>.</li> </ul>	<p>The Hungarian Basic Law or Fundamental Law, promulgated symbolically on 25 April 2011 (Easter Monday), contains numerous references to Hungarian history:</p> <ul style="list-style-type: none"> <li>• A preamble presents a <b>dichotomous understanding of various events from the country’s history</b>, referencing family values and links to Christianity, in particular Roman Catholicism;</li> <li>• The references to the <b>country’s historical constitution</b> and the ‘<b>Holy Crown Doctrine</b>’ link contemporary Hungary with over five hundred years of its legal past;</li> <li>• A <b>lack of statute of limitations</b> is established for crimes against the Hungarian nation committed <b>during Nazism and communism</b>;</li> <li>• A <b>list of remembrance days</b> is presented, including 15 March (the 1848 Revolution), 20 August (the first Hungarian king’s day); and 23 October (the 1956 Revolution).</li> </ul> <p>A <b>2017 amendment</b> to the constitution introduced a new duty on all state institutions, ordering them to protect “Hungary’s constitutional self-identity and Christian culture,” further <b>limiting the Hungarian identity to a historical, Christian one</b>.</p>

<sup>14</sup> Official information posted by the International Historical Educational Charitable and Human Rights Society “Memorial”: “Russia’s Supreme Court Approves Liquidation of International Memorial”, 28 February 2022 (<https://www.memo.ru/en-us/memorial/departments/intememorial/news/690>).

<b>Institutionalisation</b>	
<p>The <b>Institute of National Remembrance</b> (Polish: Instytut Pamięci Narodowej, IPN) was established in 1998 and became a model for similar organisations in the CEE region. It conducts documentary activities, the maintenance of archives and is required to investigate crimes committed in Poland and against its citizens, political repressions, and the activities of the bodies of state security during 1917–1990.</p>	<p>The <b>Committee of National Remembrance</b> was established with the 2013 Constitutional amendment and tasked with documenting the memory of the communist period.</p>
<b>Memorialization of the Second World War and the Holocaust</b>	
<p>The basis of the remembrance of the Holocaust in both states is in the official narrative formed during the times of communism, with monuments dedicated to all the victims of fascism, not just Jews, also often emphasising the role of the Red Army in the liberation of the ghettos</p>	
<ul style="list-style-type: none"> <li>• The Act of the IPN of 18 December 1998 introduces a <b>criminal prohibition to deny</b>: <u>‘Nazi crimes, communist crimes, crimes of members of Ukrainian formations collaborating with the Third Reich, and other crimes against peace, humanity, or war crimes, perpetrated against persons of Polish nationality or Polish citizens of other nationalities between 8 November 1917 and 31 July 1990.’</u></li> <li>• The <b>most applied</b> memory law is <b>art. 256 of the Penal Code</b>, which prohibits the promotion of fascism and totalitarian ideologies;</li> <li>• The public debate in Poland on the Holocaust has focused <b>on who was responsible for the Holocaust</b>, carried out mainly on Polish territory occupied by Nazi Germany - being named as the principal perpetrator. The criminal self-exculpatory memory laws cement <b>Poland as the centre of cycles of victimhood and Poles as helpers, not perpetrators.</b></li> </ul>	<ul style="list-style-type: none"> <li>• A 2010 Holocaust denial ban was further supplemented with a ban on the negation of communist crimes, with the law taking the form of a prohibition of <u>‘the denial of the genocide and crimes against humanity committed by the National Socialist and communist regimes’.</u></li> <li>• Hungary observes two remembrance days regarding the Holocaust: the international commemoration on 27 January and the Memorial Day of the Hungarian Victims of the Holocaust, marking the establishment of the Budapest Ghetto on 16 April.</li> <li>• The instrumentalisation of Holocaust memory by FIDESZ goes further than fostering the ‘double occupation’ concept, as public commemorations in 2014 also saw several <b>narrative-distorting initiatives</b>, including the construction of a <b>monument to all the victims of the German invasion</b>, attempts to <b>reinterpret specific pre-1944 actions by the Hungarian government</b> with respect to the Jewish minority, and budgetary exclusion of organisations experienced in the question of Shoah remembrance in favour of novice organisations.</li> <li>• Section 269/B of the Criminal Code prohibits the</li> </ul>

<ul style="list-style-type: none"> <li>• The <b>current era of Poland's memory law</b>, which dates back to PiS party coming to power in 2015, is characterised by the increased <b>interest of the state in pursuing its historical policy</b> using commemorations, memory laws, and commemorative law-making;</li> <li>• Mnemonic, and penal populism has been exemplified in the January 2018 criminal memory law prohibiting the false attribution of responsibility for Nazi crimes during WWII to the Polish state or nation.</li> </ul>	<p>public exhibition, use during rallies and distribution of the <b>swastika, the arrow-cross, the hammer and sickle, the SS symbol, the five-pointed red star, and any symbols depicting them</b>, except for educational, historical, scientific, or artistic purposes, under the penalty of a fine.</p>
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### Reckoning with the communist past

<ul style="list-style-type: none"> <li>• Resolutions of the Sejm and Senate directly condemned the Polish state's undemocratic actions and human rights violations during the communist era and rehabilitated its victims;</li> <li>• Benefits were introduced for war veterans and victims of repressions of the War and the post-War period and their families;</li> <li>• The legal basis for the prosecution of communist crimes was established in 1991;</li> <li>• The first lustration act was adopted in 1997 with a 'confessional' lustration model which requires the person being investigated to declare whether he cooperated with the security services. Another lustration act was passed in 2006, amended in 2007.</li> <li>• The 2009 act reduced pension benefits for people who had worked in certain formations and institutions of the communist state in 1944–90 in institutions responsible for human rights violations and political repression. The 2016 act reducing the pensions of everyone who worked for</li> </ul>	<ul style="list-style-type: none"> <li>• A lustration law was enacted in 1994 as the Act on Background Checks for Individuals Holding Certain Key Offices opting for calling the process 'screening' rather than 'lustrating'.</li> <li>• The Act affected anyone who collaborated with the communist domestic state security services, supplied secret reports as informers, received secret information reports or belonged to the fascist Arrow Cross Party;</li> <li>• Hungary opted for only moral sanctions, potentially only damaging an individual's reputation, through the establishment of the so-called 'inclusive system', one <b>based</b> not on removal from office but <b>on public transparency</b>: anyone found to have collaborated with the communist or fascist regimes was to receive a notice and be asked to resign from their posts and upon refusal, the information would be publicised in the official gazette.</li> <li>• The prosecution of communist crimes was ultimately permitted by a ruling of the 1993 Constitutional Tribunal and furthered by the 2011 Constitution.</li> <li>• The lustration measures remain well within the established framework of dealing with the communist past in Central Europe</li> </ul>
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<p>institutions and formations of the communist state in 1944–1990 constituted another example of mnemonic populism adopted under the PiS government.</p> <ul style="list-style-type: none"> <li>• The 2016 act on the mass renaming of streets and public buildings aimed to finalise the removal of communist names from public spaces.</li> <li>• PiS’ historical policy in its decommuni-sation dimension also included the removal of the statute of limitations for communist crimes, which would otherwise have been time-barred on 1 August 2020;</li> <li>• A notion of an ‘anti-communist opposition activist’ was introduced in 2015, together with a monthly allowance of around €100 for anti-communist opposition activists or their families.</li> </ul>	<ul style="list-style-type: none"> <li>• The other decommunization process initiated in public spaces by the Orbán government focused primarily on Budapest, unlike in other countries of the region, which conducted a more general cleansing, affecting the whole state in a similar manner.</li> <li>• Decommunisation instigated the removal of monuments (many of which were transported to a museum outside Budapest specially created for that purpose) and the changing of street names in the immediate aftermath of the 1989 transition.</li> </ul>
<p><b>Commemoration, education and memory</b></p>	
<p>Of the <b>fourteen</b> public holidays, <b>twelve commemorate historic events</b>. Almost half of them are related to WWII, showing the importance that the Polish legislator has attached to events related to this war;</p> <ul style="list-style-type: none"> <li>• A specific law protects the territories of former concentration camps. A much larger group of places is protected by the 1993 Act on war graves and cemeteries.</li> <li>• The history curriculum at school in Poland strongly emphasises Polish history, which starts from the Christianization of Poland in 966 and brings the students up to the 21st century.</li> <li>• Major post-2015 political initiatives were taken to change education in</li> </ul>	<p>Changes to the national curriculum were introduced, in particular after the 2010 elections:</p> <ul style="list-style-type: none"> <li>• Creation of several new textbooks supervised by the ‘single national schoolbook publisher’ and the alteration of their content, often including inaccuracies and oversimplifications, with the inclusion of specific controversial figures, all under the auspices of the highly influential <b>Ministry of Human Capacities</b>.</li> <li>• Higher education was also affected by the new government’s policies – while in the 2010s, <b>state universities</b> were transferred to private foundations, <b>losing their autonomy</b>;</li> <li>• Funding arrangements were modified to grant more power to government-dependant research institutions, including: the National Research, Development and Innovation Office, and the Hungarian Academy of Arts. Previously existing institutions, such as the Hungarian Academy of Sciences and the 1956 Institute, were overhauled,</li> </ul>

<p>Poland: such as the new subject which adds history from 1945 to 2015 and its influence on today's world presented from the point of view of the current memory politics – for example, by highlighting the positive role of the Catholic Church and politicians connected with the ruling party.</p> <ul style="list-style-type: none"> <li>• The PiS government has invested in the construction of new state museums and cultural institutions commemorating Polish history.</li> </ul>	<p>while new ones were established.</p> <ul style="list-style-type: none"> <li>• The government succeeded in replacing the authorities of the leading Hungarian literary museum.</li> </ul>
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## 2. CONCLUSIONS

Thus, mnemonic governance in Poland is supposed to reinforce the belief in the **historical heroism and martyrdom** of the nation, including through punitive memory laws – which leads to a contest of historical, national suffering in which there is no room for an honest display of, or reckoning with, the dark elements of the history of Polish society. In addition to the rise in self-exculpatory memory laws – which have been repealed, at least in their most dangerous, criminal part, because of international pressure – Poland has ascertained several self-congratulatory forms of historical governance of memory; notably through the establishment of commemorations, museums and new institutes tasked with promoting historical policy. Memory laws that mushroomed after 2015 extend beyond criminal legislation, and include mechanisms of restricting political rights (such as freedom of expression) and social rights.

Hungarian memory politics are **highly particular**. Their perhaps most unique feature is that, at first glance, they seem to conform to the standards of the European institutions: yet more complex motivations lay behind other seemingly typical legal regulations, with a most often instrumental use of past events to further particular political goals. These include employing memory politics in conjunction with, and often as a way of supporting, different illiberal measures. Under the Orbán government, the questions of memory seem to have penetrated every aspect of the country's everyday life: from the political and legal, to cultural aspects, to education, and to public spaces, the official narrative is entrenched and visible. The Hungarian constitution is full of historical references, establishing a whole list of state-imposed collective memories. Another particularity of the Hungarian relationship with law and memory can be referred to as memory syncretism – while other countries also often address historical events from various eras in the present-day, the Hungarian government seems to draw a clear line in the nation's collective memory from St. Stephen, to the Trianon Treaty and the inter-War era, to the times of communism and the 1956 Revolution.

Even though the two states (and legislators) use different tools to regulate these two areas of memory, it seems that the standard message behind these attempts is the same: to minimise narratives about the crimes committed by Poles and Hungarians during WWII, and to strengthen the remembrance of the communist past – with a strong emphasis on national

victimhood. To a great extent, the latter approach is understandable because of the lack of common knowledge outside the CEE zone about the nature and consequences of communist crimes. Still, measures taken in this respect need to remain in compliance with national and international legal norms, and many of those provisions fail to pass the conformity test in accordance with the standards of the European Convention on Human Rights.

## **B. Recommendations**

1. The introduction of relevant amendments to existing legislation regarding memory and the past, to ensure compliance with international standards of human rights protection – including with freedom of speech and academic freedom standards developed by the European Court of Human Rights – in order to avoid the intentional political misuse of memory laws (legislators);
2. The invitation of experts on memory laws and policies to the legislative process while shaping national legislation on this (legislators);
3. The organisation of training for judges, prosecutors, law enforcement officers, and other legal professions on the legal aspects of dealing with the past (government, civic society);
4. The facilitation of academic exchange and joint research projects in the area of memory studies (legal, political, sociological, and historical studies), in particular in the European legal and cultural sphere, and promotion of their research results (public and private funding agencies, civic society, academia);
5. The review of school curricula to include various perspectives on complex historical events (civic society, teachers);
6. The encouragement of free media to present and to fairly and objectively interpret controversial, complex historical events (civic society, media associations);
7. The monitoring of (and public commenting on) court cases and proceedings, as well as actions of prosecutors regarding the area of memory and history (academia, civic society);
8. The drafting of expert opinions and analyses of the existing memory law framework and its uses and abuses (academia, legal practitioners, civic society);
9. The monitoring of cases of historical denialism and negationism (especially appearing online) (civic society, Prosecutor's Office);
10. The facilitation of a broad public discussion on dealing with past issues, with the involvement of various actors, including: legislators, civil society, academia, state institutions, national representatives of ethnic and religious minorities, and the judiciary (academia, civic society);
11. In the case of Poland, strengthening the Polish-Ukrainian reconciliation process (all actors).

