

**Pilotprojekt**  
**„Restorative Justice‘ in der Ukraine:**  
**Die (fehlende) Aufarbeitung des Sowjetunrechts von 1991 bis heute“**  
**“Restorative Justice in Ukraine:**  
**(Not) Coping with Soviet State Crimes from 1991 until Today”**

Until 1991, Ukraine belonged to the Soviet Union, which was a dictatorial state. At the same time, the non-Russian peripheries of the Soviet empire showed distinct colonial structures. A society can only develop peacefully after the end of a dictatorial and/or colonial reign if it achieves inner reconciliation. One precondition for a successful reconciliation is to deal with the injustice of the past, i.e. with the crimes the bygone regime committed. This dealing with the past includes legal means. ‘Open wounds’ from the past are an impediment to social peace.

After 1991, Ukraine’s attempts at legally dealing with Soviet state crimes were reluctant at best, compared to some other post-socialist countries. It was the Russian aggression in 2014 which made the Ukrainian state face with more depth the injustice committed by the Soviet Union because Russia’s propaganda instrumentalises the ‘open wounds’ to disunite Ukrainian society. The law addressing the past continues to be deficient, and Ukrainian legal science has not even started yet to research the existing and future law in this field.

This is where the pilot project *Restorative Justice in Ukraine: (Not) Coping with Soviet State Crimes from 1991 until Today* sets in. German and Ukrainian legal experts inventarise the existing regulations and their application by way of an evaluation of legal gazettes, court practice and (mainly) Ukrainian legal literature, they analyse these regulations under the aspects of legal doctrine as well as of their political impacts, and identify weaknesses and lacunae in the Ukrainian law. This is a pioneering project because there are no comparable endeavours in Ukrainian legal academia or practice. The comprehensive inventory that the project produces may serve as a starting point for post-war Ukraine to take the measures necessary to address the ‘open wounds’ of the Soviet past with legal means, thus adding to societal reconciliation and social peace.

The project starts with an opening workshop which lays the theoretical foundations of the project work. A stocktaking of Soviet injustice committed on the territory of today’s Ukraine, an overview of the current debates on contents and forms of restorative justice in international and national law as well as comparative analyses of past-related legislations of other formerly socialist countries will bring all project participants on the same historical and legal page.

In the next step, several German-Ukrainian tandems examine the various fields of law that cope with a dictatorial past, such as legal and other condemnations of the dictatorial regime, dealing with the perpetrators, caring for the victims and handling of the legacies of the dictatorship, especially the

files and archives of the secret police and other repression services. The tandems collect and analyse the pertinent legal regulations and their application and identify the fields where legal rules are missing or deficient. The German side of these tandems consists of the Academic Director, senior research fellows and Ukrainian guest researchers of the Institut für Ostrecht (Institute for East European Law). On the Ukrainian side, researchers of the National Legal University Yaroslav Mudryi (Kharkiv), the National University Kyiv Mohyla-Academy, the National Vasyl-Stefanyuk-Precarpathian University (Ivano-Frankivs'k), the Doneck State University for Inner Affairs (temporarily transferred to Kropyvnytskyi) and the Research Service of the Verkhovna Rada of Ukraine (Kyiv) participate in the tandem work.

The quality of the inventory and analysis of the Ukrainian regulations on restorative justice will enable the project team to identify options and needs for further action by the Ukrainian legislator as well as Ukrainian civil society in order to rectify bad legislation, enact lacking law and create accompanying societal structures. To develop concrete options of action from the inventory will be the object of a comprehensive follow-up project which again will unite German and Ukrainian researchers and representatives of civil society.