

## LAW OF UKRAINIAN SSR DURING DESTALINIZATION (1956–1965)



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At a closed session of the XX Congress of the Communist Party of the Soviet Union at night on 24–25 February 1956 the First Secretary of the Central Committee of the Communist Party of the Soviet Union, N. S. Khrushchev, gave a report. The Report was devoted to unmasking the Stalin cult of personality. This moment is justifiably defined as a benchmark «in the chain reaction of liberating Soviet society from certain of the most odious, reactionary features which slowed down its development even on paths charted by official communist doctrine towards the process of a partial liberalization of society, especially spiritual liberation». <sup>1</sup> It is believed that Khrushchev's address became the turning point towards the liberalization of socio-political life in Ukraine, which had commenced immediately after Stalin's death in March 1953.

In July 1956 the course towards destalinization was declared in the Decree of the Central Committee of the Communist Party of the Soviet Union «On Overcoming the Cult of Personality and Consequences Thereof», which was adopted in accordance with decisions of the XX Congress of the Communist Party of the Soviet Union. <sup>2</sup> The apogee of destalinization became the XXII Congress of the Communist Party of the Soviet Union (1961). The period of Khrushchev's rule is called the «Khrushchev thaw».

The liberalization of socio-political life in the USSR to some extent influenced law-creation activity in the USSR as a whole, including the Ukrainian SSR. It must be noted that during the 1950s the codes adopted in Ukraine during the 1920s remained in force in the Ukrainian SSR. They were to a great extent obsolete and objectively did not correspond to the requirements of the time. Taking this circumstance into account, the Presidium of the Ukrainian SSR Supreme Soviet adopted on 14 March 1956 the Decree «On Revision of the Codes of Laws of the Ukrainian

<sup>1</sup> V. A. Smolyi (ed.), *Історія України: Нове бачення* [History of Ukraine: New Vision] (Kyiv, 1996), II, p. 363.

<sup>2</sup> *Коммунистическая партия Советского Союза в резолюциях и решениях съездов, конференций и пленумов ЦК (1898–1986)* [Communist Party of the Soviet Union in Resolutions and Decisions of Congresses, Conferences, and Plenums of the Central Committee (1898–1986)] (9<sup>th</sup> rev. ed.; Moscow, 1956–1960), IX, pp. 111–129.

SSR» which noted that «in connection with the fact that the codes of laws of the Ukrainian SSR in the existing version contain a number of obsolete provisions and simultaneously a number of provisions in force do not find respective reflection in the codes of laws, and taking into account the exceptionally important ordering and further improvement of legislation of the Ukrainian SSR, consider it necessary in priority to revise such codes of laws of the Ukrainian SSR as the criminal, criminal procedure, and Code of laws on labor, and to make respective changes in them».<sup>1</sup>

However, the initiative to improve legislation was taken over by the all-union agencies of power. On 11 February 1957 the USSR Supreme Soviet adopted the Law «On Relegating to the Jurisdiction of the Union Republics and Legislation on the Structure of Courts of the Union Republics the Adoption of Civil, Criminal, and Procedure Codes».<sup>2</sup> The fact was that the important right to adopt Fundamental Principles of legislation of the USSR and union republics in branches of law specified in the said all-union law was retained within the jurisdiction of the USSR. In this connection the Law of 11 February 1957 made changes in the 1936 USSR Constitution, setting out Article 14 of the USSR Constitution in this version: «(y) the establishment of Fundamental Principles of legislation on court organization and proceedings, fundamental principles of civil and criminal legislation».<sup>3</sup> Centralist trends thus continued to retain their force in legislative activity. All the same, the Law of 11 February 1957 opened a new stage in law-making activity of all-union and republic State agencies. A second codification (after the 1920s) commenced in the union republics, including the Ukrainian SSR. As Muzychenko correctly noted, however, «the entire codification autonomy of the republics came down to working out codes which would conform strictly to the content of the all-union fundamental principles».<sup>4</sup>

In the period here being considered, the Criminal Code of the Ukrainian SSR, Civil Code of the Ukrainian SSR, Code of Criminal Procedure of the Ukrainian SSR, and Code of Civil Procedure of the Ukrainian SSR were adopted. Significant changes in many spheres of socio-economic, cultural, and political life of the Ukrainian SSR which had occurred in the Republic since the first codification of the 1920s were embodied in these codes.

On 8 December 1961 the USSR Supreme Soviet confirmed the Fundamental Principles of Civil Legislation of the USSR and Union Republics. The Fundamental Principles were introduced into operation from 1 May 1962. The content of these Fundamental Principles were fully reflected in the Civil Code of the Ukrainian SSR, adopted on 18 July 1963 by the Ukrainian SSR Supreme Soviet and introduced into operation from 1 January 1964. The Civil Code of the Ukrainian SSR consisted of a preamble and eight sections: Section I. General Provisions; Section II. Law of Ownership; Section III. Law of Obligations; Section IV. Author's Right; Section V. Right to a Discovery; Section VI. Invention Law; Section VII. Law of Inheritance; Section VIII. Legal Capacity of Foreigners and Stateless Persons. The Application of Civil Laws of Foreign States, International Treaties and Agreements.<sup>5</sup> In all, the Civil

<sup>1</sup> *Історія держави і права Української РСР* [History of State and Law of the Ukrainian SSR] (Kyiv, 1967), II, p. 242.

<sup>2</sup> *Ведомости* Верховного Совета СССР (1957), no. 4, item 63.

<sup>3</sup> *Ibid.*

<sup>4</sup> *P. P. Muzychenko, Історія держави і права України* [History of State and Law of Ukraine] (2d rev. ed.; Kyiv, 2000), p. 557.

<sup>5</sup> *Гражданский кодекс Украинской ССР* [Civil Code of the Ukrainian SSR] (Kyiv, 1973), pp. 435–438.

Code of the Ukrainian SSR comprised 572 articles. The Civil Code of the Ukrainian SSR consolidated the principles of socialism in the civil law of the Ukrainian SSR because it regulated property and related personal non-property relations by proceeding from the fact that, as was consolidated in Article 1 of this Code, «the basis of property relations in Soviet society shall be the socialist system of economy and socialist ownership of the instruments and means of production. The economic life of the Ukrainian SSR shall be determined and directed by the State national economic plan».<sup>1</sup> The Civil Code of the Ukrainian SSR proceeded from the indivisible dominance of socialist ownership in its two principal forms – State and cooperative-collective farm. The ownership of social organizations also was considered to be socialist (Article 87, Civil Code). The Civil Code (Article 88) defined personal ownership as the ownership of citizens to property «intended for the satisfaction of their material and cultural requirements». Private ownership was not provided for in the 1963 Civil Code, unlike the 1922 Civil Code of the Ukrainian Code. The law of obligations under the 1963 Civil Code, proceeding from the indivisible dominance of the planned socialist economy, did not provide for the regulation of private economic turnover. All other institutes of civil law whose norms were contained in the 1963 Civil Code were imbued with socialist principles.

On 25 December 1958, the second session of the USSR Supreme Soviet, fifth convocation, adopted the Fundamental Principles of Criminal Legislation of the USSR and Union Republics. In December 1958 the USSR Supreme Soviet also adopted Laws «On Criminal Responsibility for Crimes against the State» and «On Criminal Responsibility for Military Crimes». The said Fundamental Principles and laws determined for many years the «basic orientations of criminal policy in the country».<sup>2</sup> They became the basis for the development of criminal legislation in the Ukrainian SSR. On 28 December 1960, in elaboration of the said normative legal acts, the fourth session of the Ukrainian SSR Supreme Soviet, fifth convocation, adopted the 1960 Criminal Code of the Ukrainian SSR, which entered into force from 1 April 1961.<sup>3</sup> The Criminal Code of the Ukrainian SSR was subdivided into the General Part and the Special Part. The General Part had five chapters: Chapter I. General Provisions; Chapter II. Limits of Operation of the Criminal Code; Chapter III. On Crime; Chapter IV. On Punishment; Chapter V. On the Assignment of Punishment and Relieving from Punishment.

The Special Part of the Criminal Code consisted of eleven chapters: Chapter I. Crimes against the State; Chapter II. Crimes against Socialist Ownership; Chapter III. Crimes against Life, Health, Freedom, and Dignity of the Person; Chapter IV. Crimes against the Political and Labor Rights of Citizens; Chapter V. Crimes against the Personal Ownership of Citizens; Chapter VI. Economic Crimes. Chapter VII. Official Crimes; Chapter VIII. Crimes against Justice; Chapter IX. Crimes against the Administrative Order; Chapter X. Crimes against Public Security, Public Order, and Public Health; Chapter XI. Military Crimes.

The trend towards democratization of social life in Ukraine during the «Khrushchev thaw» influenced the content of the 1960 Criminal Code of the Ukrainian SSR. The

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<sup>1</sup> *Цивільний кодекс Української РСР* [Civil Code of the Ukrainian SSR] (Київ, 1963), p. 5.

<sup>2</sup> See *Сборник документов по истории уголовного законодательства СССР и РСФСР (1953–1991 гг.)* [Collection of Documents on the History of Criminal Legislation of the USSR and RSFSR (1953–1991)] (Kazan, 1992), p. 6.

<sup>3</sup> *Ведомости* Верховного Совета УССР (1961), no. 2, item 14.

criminal law of the Ukrainian SSR developed in the direction of humanization. Criminal responsibility for acts which did not represent a great danger for society and the State was narrowed and mitigated. The Criminal Code renounced the use of analogy, previously known to Soviet criminal law. The 1960 Criminal Code indicated that only a person guilty of the commission of a crime was subject to criminal responsibility and punishment, that is, intentionally or through negligence committed a dangerous act (Article 3). The 1960 Code did not make provision for such measures as deprivation of electoral rights, as was previously the case. The maximum term of deprivation of freedom comprised ten years, and for especially grave crimes and for especially dangerous recidivists – fifteen years. Previously, the maximum term of deprivation of freedom was 25 years.

At the same time, the 1960 Criminal Code included Article 62, «Anti-Soviet Agitation and Propaganda», which ensured the preservation in practice of political repressions against dissidents. Norms called upon to protect the private life of the individual were lacking in the 1960 Criminal Code of the Ukrainian SSR and in all-union criminal legislation.<sup>1</sup>

Commencing from 1961 at the level of the USSR, legislative acts were adopted in the domain of criminal law, which intensified criminal-law compulsion as a method of administering society.<sup>2</sup>

In the period here considered, criminal procedure legislation was codified. On 25 December 1958 the USSR Supreme Soviet adopted the Fundamental Principles of Criminal Procedure of the USSR and Union Republics. This legal act became the basis for the development and then the adoption by the fourth session of the Ukrainian SSR Supreme Soviet, fifth convocation, on 28 December 1960, of the Code of Criminal Procedure of the Ukrainian SSR. The Code entered into force from 1 April 1961.<sup>3</sup> The 1960 Code of Criminal Procedure of the Ukrainian SSR consisted of six sections, 34 chapters, and 424 articles. The Code of Criminal Procedure proclaimed democratic principles of criminal procedure such as, for example, the inadmissibility of bringing an accused to trial other than in the procedure established by a law; the effectuation of justice only by a court; the independence of judges and their subordination only to a law; the comprehensive, full, and objective investigation of the circumstances of the case; the duty of an agency of inquiry, investigator, procurator, and court to elicit the conditions which promoted the condition of the crime; the participation of people's assessors and collegiality in the consideration of a case in court; the glasnost of a judicial proceeding; the active participation of the public in identifying and preventing crimes and violations in a court proceeding, and others. Other procedural provisions emerged in Soviet criminal procedure legislation during the «thaw».<sup>4</sup>

However, not all were impeccably part of the Code of Criminal Procedure of the Ukrainian SSR. The 1960 Code of Criminal Procedure of the Ukrainian SSR, just as Soviet criminal procedure legislation as a whole, had not fully reflected the presump-

<sup>1</sup> S. A. Denisov, «Развитие уголовно-правовой охраны неприкосновенности личной жизни в Советском государстве во второй половине XX века» [Development of Criminal-Law Protection of the Inviolability of Personal Life in the Soviet State in the Second Half of the XX Century], in История государства и права [History of State and Law], no. 7 (2007), p. 33.

<sup>2</sup> Сборник документов по истории уголовного законодательства СССР и РСФСР (1953–1991 гг.) [Collection of Documents on the History of Criminal Legislation of the USSR and RSFSR (1953–1991)] (Kazan, 1992), I, p. 7.

<sup>3</sup> Ведомости Верховного Совета УССР (1961), no. 2, item 15.

<sup>4</sup> К. F. Gutsenko (ed.), Уголовный процесс [Criminal Procedure] (3d ed.; Moscow, 1998), p. 32.

tion of innocence as one of the major democratic principles of a civilized criminal proceeding.<sup>1</sup> In the view of Iakupov, under conditions of liberalism of a political regime during the «Khrushchev thaw», the process was renewed of a «mixed, adversarial-investigative form of a criminal proceeding».<sup>2</sup> Other scholars share this view.<sup>3</sup> However, ultimately the 1960 Code of Criminal Procedure in essence (as the code of criminal procedure of the other union republics) had all the indicia of «primarily an investigative criminal procedure».<sup>4</sup>

Civil procedure legislation also was codified during the period here considered. On 8 December 1961 the USSR Supreme Soviet confirmed the Fundamental Principles of Civil Procedure of the USSR and Union Republics, on the basis of which the Code of Civil Procedure of the Ukrainian SSR was drafted and confirmed by the Second Session of the Ukrainian SSR Supreme Soviet, sixth convocation, on 18 June 1963. It was introduced into operation from 1 January 1964.<sup>5</sup>

Only those branches of law such as civil, criminal, and procedural were codified in the period here considered. This does not mean, however, that the other branches of Soviet legislation remained without any changes. Labor law underwent material changes, having developed in the mainstream of measures of the State directed towards increasing the material security of citizens and raising the guarantees of ensuring their social rights. During the second half of the 1950s, a number of legislative acts were adopted that were directed towards reducing the duration of work time. By 1960 all workers and employees were transferred to seven-hour and six-hour work time. Earnings were retained and then increased.

In 1956 criminal responsibility was repealed for arbitrary leaving work and shirking.<sup>6</sup> The right of citizens at their own wish to conclude and dissolve a labor contract was reinstated, having been previously prohibited by Edict of the Presidium of the USSR Supreme Soviet of 26 June 1940. A new Statute on the Procedure for the Consideration of Labor Disputes, confirmed by the Presidium of the USSR Supreme Soviet on 31 January 1957,<sup>7</sup> further the cause of protection the rights of workers. Measures were undertaken to improve the pension security of citizens, embodied in the Law on State Pensions of 14 July 1956.<sup>8</sup>

The process of democratization also affected collective farm law. The regulation of social relations in this branch of law was effectuated primarily by all-union legal acts which often were adopted in the form of joint decrees of the Central Committee of the Communist Party of the Soviet Union and the USSR Council of Ministers. Among them were, for example, the Decree of the Central Committee of the Communist Party of the Soviet Union and the USSR Council of Ministers of 4 July 1957, «On

<sup>1</sup> E. A. Chernenko, «Принципы презумпции невиновности в советском уголовном процессе второй половины XX века» [Principles of the Presumption of Innocence in Soviet Criminal Procedure of the Second Half of the XX Century], *История государства и права* [History of State and Law], no. 9 (2007), p. 29.

<sup>2</sup> R. Kh. Iakupov (ed.), *История законодательства СССР и РСФСР по уголовному процессу. 1955–1991 гг.* [History of Legislation of the USSR and RSFSR on Criminal Procedure, 1955–1991] (Moscow, 1997), p. 5.

<sup>3</sup> V. T. Maliarenko, *Реформування кримінального процесу України в контексті європейських стандартів: Теорія, історія і практика* [Reform of Criminal Procedure of Ukraine in the Context of European Standards: Theory, History, and Practice] (Kyiv, 2004), p. 100.

<sup>4</sup> Iakupov (ed.), *История законодательства СССР и РСФСР по уголовному процессу. 1955–1991 гг.* [History of Legislation of the USSR and RSFSR on Criminal Procedure, 1955–1991] (Moscow, 1997), p. 6.

<sup>5</sup> *Ведомости Верховного Совета СССР* (1963), no. 30, item 464.

<sup>6</sup> *Ведомости Верховного Совета СССР* (1956), no. 7, item 126.

<sup>7</sup> See O. D. Orlova, «История развития форм защиты трудовых прав в Советской России» [History of the Development of Forms of the Defense of Labor Rights in Soviet Russia], *История государства и права* [History of State and Law], no. 12 (2007), p. 29.

<sup>8</sup> *Ведомости Верховного Совета СССР* (1956), no. 15, item 313.

the Repeal of Obligatory Deliveries of Agricultural Products to the State by Farms of Collective Farmers, Workers, and Employees»,<sup>1</sup> the Decree of the Central Committee of the Communist Party of the Soviet Union and the USSR Council of Ministers of 10 January 1961, «On Measures for the Further Strengthening of the Economy and Financial State of Collective Farms»,<sup>2</sup> the Decree of the Central Committee of the Communist Party of the Soviet Union and the USSR Council of Ministers of 25 February 1961, «On Improvement of the Organization of the Sale of Surplus Agricultural Products of Collective Farmers and Collective Farms»,<sup>3</sup> and others.

In the period here considered material changes were made in legislation of the Ukrainian SSR on administrative responsibility by Edict of the Presidium of the Ukrainian SSR Supreme Soviet on 15 December 1961, «On the Further Limitation of the Application of Fines Imposed in an Administrative Procedure». The content of this Edict contained the idea of further democratization of administrative legislation which regulated the use of compulsion. Guarantees of the defense of the rights of citizens were strengthened thereby to a certain extent.

Thus, on the whole the contradictory character of the destalinization period in the second half of the 1950s and first half of the 1960s influenced the legal system of the Ukrainian SSR. Also positive was the fact that in this period a new codification of legislation of the Ukrainian SSR commenced and democratic processes affected those branches of law not yet codified. However, the administrative-command system of management, headed by the Communist Party that in somewhat changed form continued to function during the period of destalinization, negatively affected all branches of law.

**Honcharenko V. Law of Ukrainian SSR during Destalinization (1956–1965)**

**Abstract.** The article is devoted to the legal system of the Ukrainian SSR in destalinization period of the second half of 1950 – the first half of 1960. The positive was the fact that during this period a new codification of the laws of the Ukrainian SSR set in and democratic processes have affected those areas of law that had not been codified yet.

**Key words:** branch of law, civil law, criminal law, labor law.

**Гончаренко В. Д. Право УРСР у період десталінізації (1956–1965)**

**Анотація.** Статтю присвячено правовій системі УРСР у період десталінізації другої половини 1950-х – першої половини 1960-х рр. Позитивним було те, що в цей період почалася нова кодифікація законодавства УРСР, демократичні процеси торкнулися і тих галузей права, які ще не були кодифіковані.

**Ключові слова:** галузь права, цивільне право, кримінальне право, трудове право.

**Гончаренко В. Д. Право УССР в период десталинизации (1956–1965)**

**Аннотация.** Статья посвящена правовой системе УССР в период десталинизации второй половины 1950-х первой половины 1960-х гг. Позитивным было то, что в этот период началась новая кодификация законодательства УССР, демократические процессы затронули и те отрасли права, которые ещё не были кодифицированы.

**Ключевые слова:** отрасль права, гражданское право, уголовное право, трудовое право.

<sup>1</sup> *Сборник* решений по сельскому хозяйству [Collection of Decisions on Agriculture] (Moscow, 1962), pp. 267–270.

<sup>2</sup> *СП СССР* (1961), no. 1, item 1.

<sup>3</sup> *СП СССР* (1961), no. 4, item 22.