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RUSSIA: “CRIMES AGAINST HISTORY”

Cover photo: A man with his daughter participates in the "Bell of memory" ceremony marking the Day of Remembrance for Victims of Political Repression at the Wall of Grief memorial in Moscow, Russia. By Alexey Maishev / Sputnik via AFP

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Executive Summary

In this report, we analyse the human rights situation of historians, NGOs, activists, journalists, and other history producers working on historical memory of the Soviet past in Russia. We do so through the prism of what historian Antoon De Baets calls “crimes against history,” a term denoting a range of extreme abuses of history committed by authoritarian and totalitarian regimes. This term has a particular pertinence to Russia, where State authorities have accorded an increasingly central role to historical memory of the Soviet past in self-legitimation and national identity-building, while trampling human rights along the way.

The report identifies the prevalent historical narrative of the Soviet past pursued by the current regime, which glorifies Soviet achievements, particularly victory in the Second World War, and marginalizes or relativizes Soviet-era atrocities. Based on empirical research, including 16 interviews, our report comprehensively catalogues repressive acts related to historical memory that constitute violations of human rights. These include:

- the design and implementation of laws that obstruct the work of civil society, such as the infamous “Foreign Agents” law, as well as memory laws that restrict freedom of expression, including the prohibition of criticism of the Soviet Union’s actions during the Second World War, and insults to State symbols;
- practices of censorship, such as making it impossible to publish research on certain undesirable topics, like collaborationism with Nazi Germany, or to collaborate with foreign counterparts, particularly if they are from the Baltic States, Poland, or Ukraine;
- propaganda pushing the regime’s meta-narrative through the establishment of patriotic institutions, including the Russian Military Historical Society and the Russian Historical Society; through the introduction of unified history textbooks that among other things claim that the Soviet Union entered into the Second World War in June 1941; and through inculcating a patriotic vision of the past, and creating a climate of intolerance and fear among independent historians;
- denial of access to archives, which play a special role in impeding the work of historians; of our 16 interviewees, ten have identified restrictions on access to archives as a key impediment to historical memory work in Russia, while others have identified a general tendency towards more secrecy since the early 2000s;
- increasing restrictions on commemorative and other public events that take the form of “encouragements” not to hold them, and condoning attacks on them by private actors;
- failure to provide effective remedies, adequate material or symbolic reparations to victims of Soviet-era crimes and their families, or to hold perpetrators accountable; and
- smear campaigns and intimidation against independent civil society actors like International Memorial, and malicious prosecutions of historians, most notably Yuri Dmitriev.

The report also analyses the identified “crimes against history” from the standpoint of international human rights law and Russian constitutional law. We have identified violations of the following rights, all committed systematically, as part of a State policy to target history producers: freedom of expression, freedom of association, and freedom of assembly, the right to truth, the right to work, the right to liberty, the right to a fair trial, the right to be free from torture and other forms of ill-treatment, the right to privacy, and the right to an effective remedy. In our estimation, the scale of persecution of history producers in Russia has already reached the threshold of “crimes against history,” especially since 2014.

Lastly, the report provides recommendations to national authorities on how to improve existing policy, and to remove legislative and practical restrictions undermining the capacity and ability of historians, activists, journalists, and NGOs, to work on issues relating to historical memory in Russia. Recommendations also target international organizations that are able to influence decision-makers in Russia, and to accord history producers greater protections domestically and internationally.

Methodology

The report is based on a mission to Russia conducted in October 2020, and on 16 interviews, conducted in person or remotely, with historians, including from the Russian Academy of Sciences, representatives of NGOs, journalists, activists, lawyers, one former regional Human Rights Ombudsperson and member of the President's Human Rights Council. Of the 30 requests for interviews, we received a response from 22 potential interviewees. Four potential interviewees declined to go through with the interview after having requested and received the preliminary list of questions, and two more did not respond after a follow-up. Informed consent was obtained prior to the publication of this report for the use of any testimony gleaned during the interviews. All interviewees were informed of their choice to provide testimony anonymously.

Our findings were corroborated and supplemented by research conducted in Moscow and Paris, including the analysis of primary and secondary legal sources, public reports, articles, and audio-visual archives.

To catalogue the violations in question, we go beyond professional historians and NGOs that work with historical memory. Rather, we consider as “history producers” all those involved, professionally or otherwise, in the collection, creation, or dissemination of history.¹ Our primary focus is on history producers who work on the Soviet past. Our working hypothesis is that the Soviet period serves as the primary driver of the current regime's *historical memory policy*,² which not only entrenches impunity for grave violations of human rights committed during the Soviet past, but also helps to regenerate repression in modern Russia.

FIDH wishes to express special gratitude to International Memorial, and to all interviewees and local partners, who contributed their time, reflections, and enthusiasm for the report. FIDH also heartily thanks the Eastern Europe and Central Asia Desk intern Geoffroy Thielen and the Geneva Academy of International Humanitarian Law and Human Rights intern Andjela Draganic, who during their respective internships contributed to the research and drafting of this report.

1. Antoon De Baets, *Crimes against History*, Routledge, 2019, p. 11.

2. Here, the term refers to a set of techniques and methods by which political forces in power, using the administrative and financial resources of the State, seek to affirm certain interpretations of historical events as dominant.

I. Introduction

1. “Crimes against history” is a term popularized by Antoon De Baets, a Belgian historian. In his book of the same title, he has defined crimes against history as any of the following human rights violations, when committed as part of a widespread or systematic attack pursuant to or in furtherance of a State or non-State policy: the assassination and disappearance of history producers; public personal attacks on history producers through hate speech, defamation, or malicious prosecution; intentional destruction of cultural heritage; disinformation, including genocide denial and censorship of history.³ The term thus captures the most extreme forms of attacks against historians and all those who deal with “historical memory”; in short, attacks on history itself.
2. The human rights situation of historians and other history producers in Russia depends on the State’s historical memory policy.⁴ In recent years, the Russian State has been busy constructing and enforcing an official historical narrative that centres on the glorification of Soviet-era achievements, most prominently the victory in the Second World War, while downplaying or justifying the mass atrocities committed by the Soviet regime, including the Stalinist “Great Terror.”⁵ State authorities now pursue an aggressive historical memory policy that not merely marginalizes alternative viewpoints, but also puts at serious risk all independent historians, publicists, journalists, civil society activists, and NGOs working on the subject of historical memory. In our view, the scale of persecution has already reached the threshold of “crimes against history.” This has been particularly true since the 2014 annexation of Crimea, which, according to our interviewees, triggered nothing short of a crackdown against history.
3. In 2020, the official historical narrative was enshrined in the Constitution of Russia. A series of constitutional amendments declare the Russian Federation to be the “successor” of the Soviet Union (Article 67.1 § 1); proclaim that the Russian Federation “honours the memory of defenders of the Homeland” and “protects historical truth” (Article 67.1 § 3); warn that “diminishing the significance of the people’s heroism in defending the Homeland is not permitted” (Article 67.1 § 3); and direct the Government to “inculcate patriotism” in children (Article 67.1 § 4).⁶ Continuity with the Soviet Union, the sacredness of Soviet victory in the Second World War, and the State monopoly on history—these are among the foundations of Russia’s political system today. As one interviewee put it, “the history of the victorious Soviet Union” is the “historical centrepiece of [Russia’s] current regime.”⁷

3. Antoon De Baets, *Crimes against History*, London: Routledge, 2018, p. 3.

4. Retired Judge of Russia’s Constitutional Court, Tamara Morshchakova, during a Memorial International event “Justice for totalitarian past” [Правосудие над тоталитарным прошлым], 30 October 2020, video of the event available at https://www.youtube.com/watch?v=V7iZFfX_H2c.

5. See, generally, Robert Conquest, *The Great Terror: A Reassessment*, OUP, 2008.

6. The Constitution of the Russian Federation, URL: <http://publication.pravo.gov.ru/Document/View/0001202007040001>

7. FIDH interview with Alexander Guryanov.



Servicemen march on the Red Square in Moscow during the military parade on May 9, 2020. Despite the rapid spread of the newly discovered Covid-19 virus, the Kremlin did not cancel the commemoration of the 75th anniversary of Victory in the Second World War. By Ramil Sitdikov / Sputnik via AFP

4. To be sure, the State does not completely eliminate the dark pages of the Soviet past from public discourse and education. The State's policy on historical memory is ambivalent. The State acknowledges, to a certain extent, the crimes of the communist regime, and pays tribute to its victims, especially when doing so is politically expedient. This explains some of the more positive remarks on the current trends, such as the interview with Roman Romanov, the Director of the GULAG History State Museum, who has underscored his ability to receive State financing, including for a new and bigger facility in Moscow, which opened its doors in 2015. In his FIDH interview, Roman Romanov remarked that the Museum is subordinate to the Moscow Department of Culture and receives significant State support: the Museum's projects "My Gulag," the "Maps of Gulag," and a prototype of a database of victims of political repressions, were all made thanks to presidential grants.
5. Also in 2015, the Government adopted the Policy for the Memorialization of Victims of Political Repression.⁸ As part of that policy, the authorities maintain official remembrance institutions, fund State museums, and create memorials. At the same time, however, the State also seeks to frame the discourse about Soviet-era crimes in a way that does not undermine the image of the triumphant USSR. This is achieved by means of two complementary strategies. On the one hand, the State depersonalizes the crimes. It makes no effort to investigate the atrocities, or to name those responsible for the grave atrocities committed by the Soviet regime. Given that Soviet State crimes were sanctioned by the country's top leadership, doing so would mean condemning the entire Soviet regime, and, by implication, would shake the foundation of the current regime, which portrays itself as the Soviet Union's successor, and whose leader is a former KGB officer. The Government portrays the Soviet-era persecution as something of a "natural disaster,"⁹ for which no one is to blame. On the other hand, the State depersonalizes the victims.¹⁰ It has never made a good faith effort to name all of them, to identify the remains of those who were killed, or to provide meaningful compensation to the survivors. Instead, the Government has embraced politically neutral, innocuous actions, such as the decision to erect anonymous monuments like

8. State Policy of the Russian Government No. 1561-p, About the Memorialization of Victims of Political Repression, 15 August 2015, URL: <http://static.government.ru/media/files/AR59E5d7yB9LddoPH2RSlhQpSCQDERdP.pdf>.

9. Remarks by Alexander Podrabinek, *Perpetuation of the repression? [Увековечивание репрессий?]*, interview by Lyudmila Ulitskaya, Arseny Roginsky, Sergey Davidis, Radio Svoboda, 11 September 2015, URL: <https://www.svoboda.org/a/27230965.html>.

10. While the President issued instructions in 2020 to create a common database of victims, our interviewees have described the initiative as not having moved forward so far. E.g. FIDH interview with A. Razumov. See, *Putin orders to work on the creation of a common database of victims of repressions [Путин поручил проработать создание единой базы жертв репрессий]*, available at <https://rg.ru/2020/01/30/putin-poruchil-prorobotat-sozdanie-edinoj-bazy-zhertv-repressij.html>.

the Wall of Grief, installed in 2017 in an unremarkable Moscow location, away from the notorious headquarters of the former Soviet security services. The issues of accountability and remedies play no part in the official narrative. In addition, the State tolerates and increasingly supports the once-marginal negationist and revisionist views that are now prevalent among pro-Government conservative groups.

6. Those who do not share the official narrative, and try to pursue alternatives, are being silenced or persecuted. “The Russian government wants to control this topic,” says an expert on transitional justice in Russia. “Whoever does that independently is being pushed out.”¹¹ Over the past years, the Government has done a great deal to discourage independent work in this field. In the words of the Executive Director of International Volunteer Public Organization Memorial (“Memorial” or “International Memorial”), Elena Zhemkova, the “authorities’ goal is to create an atmosphere of hostility and intolerance” for these independent voices.¹² As we detail below, the authorities have stigmatized and penalized civil society organizations that receive international support, criminalized a broad range of expression that is dissonant with the State’s interpretation of Russian history, and have organized show trials of independent researchers and activists.
7. The purpose of this study is threefold. First, the report seeks to provide an overview of the legal framework governing the issues of historical memory in Russia, and to catalogue “crimes against history” committed or condoned by the authorities. Those include repressive laws that suppress free speech on historical issues; practices of censorship; denial of access to archives; restrictions on commemorative and other public events; malicious prosecutions; smear and intimidation campaigns against independent civil society actors; establishment of State, quasi-State, or State-affiliated historical propaganda institutions; destruction of memorials, and so on. A separate focus is on the State’s failure to remedy Soviet-era crimes. That, in a sense, is also a “crime against history,” since it perpetuates the cycle of repression: a society that has not addressed its past eventually reaches a point at which its government resumes persecution of its opponents, including those in the field of historical memory.
8. Second, the report intends to analyse the identified “crimes against history” from the standpoint of international human rights law, including the International Covenant on Civil and Political Rights, the European Convention on Human Rights, soft law instruments, and Russian constitutional law, and to identify the fundamental rights and principles violated.
9. Third, the report seeks to provide recommendations on how to improve existing policy, and remove legislative and practical restrictions undermining the capacity and ability of historians, activists, journalists, and NGOs to work on issues relating to historical memory in Russia. Recommendations also target international actors that are able to influence decision-makers in Russia.
10. The report consists of four sections. Section I is the introduction. Section II provides a catalogue of “crimes against history” in present-day Russia. Section III provides a legal analysis of “crimes against history.” Section IV contains recommendations.

11. Remarks by Nikolay Epplee. *Born in Soviet Exile, They Might Die in a Russian One*, interview by Ivan Nechepurenko, in *The New York Times*, 13 March 2021, URL: <https://www.nytimes.com/2021/03/13/world/europe/russia-stalin-exile.html>.

12. FIDH Interview with Elena Zhemkova.

II. Identifying “Crimes Against History”: The Facts

1. Criminalization of speech

11. Russia has been one of the most prolific manufacturers of laws that suppress free expression on historical issues. These include the law against “exoneration of Nazism”; laws targeting symbolic speech; and anti-extremism and anti-terrorism laws. Recent years have seen a surge of criminal cases, new repressive legislative proposals, and institutional developments designed to step up enforcement.

1.1. “Exoneration of Nazism”

12. Russia’s most notorious “memory law”¹³ is Article 354.1 of the Criminal Code of Russian Federation, which criminalizes “exoneration of Nazism.” The title of the law is misleading, for it actually penalizes a much broader range of expression—not only about Nazi crimes, but also about the role of the Soviet Union in the Second World War, and about Russia’s military history in general.
13. The legislative history of the law is worth recounting. The initial bill was submitted to Russia’s parliament by a group of deputies in the State Duma, the Lower Chamber of the Russian Parliament, back in May 2009. In its original version, the bill would criminalize (i) “misrepresentation of the Nuremberg Tribunal judgment or judgments by national courts or tribunals based on the Nuremberg Tribunal judgment,” (ii) “declaring criminal the actions of states-members of the anti-Hitler coalition,” and (iii) “approval or denial of Nazi crimes against peace and security of mankind.”¹⁴ Echoing the bill’s broad wording, its authors said they sought to criminalize “assault on historical memory of the Second World War events.”¹⁵ The bill was met with widespread disapproval, including by the cabinet of ministers. It lay dormant for several years until it was revived, revised, and swiftly adopted in May 2014 amidst the crisis in Ukraine that resulted in the ouster of its Moscow-allied president, and which was branded by Russia’s official media as a “fascist junta”¹⁶ coup.
14. In its current version, the law establishes four distinct crimes: (i) “denial of facts established by the judgment of the [Nuremberg] International Military Tribunal”; (ii) “approval of crimes established by the said judgment”; (iii) “dissemination of knowingly false information about the activities of the USSR during the Second World War”; and (iv) “dissemination of manifestly disrespectful information about the dates of military glory and memorable dates of Russia relating to the defence of the Homeland as well as desecration of symbols of Russia’s military glory.” The law provides for penalties of up to five years of imprisonment. A higher penalty is prescribed for these crimes if they are committed “using one’s professional position,” “through mass media,” or by “making up evidence.”
15. While the first two clauses of Article 354.1 resemble classic “memory laws” that have been adopted in several other European countries over the past few decades, and that prohibit denial or support of Nazi crimes,¹⁷ the final two clauses of Article 354.1 belong to a different paradigm. Rather than protect the dignity of the individual victims of State crimes, their purpose is rather “to enforce an officially sanctioned way of relating to the past [...] as a means of strengthening

13. Generally refers to laws governing the regulation of historical memory. For an overview of definitions, see, e.g., Uladzislau Belavusau, Aleksandra Gliszczyńska-Grabias *Law and Memory: Towards Legal Governance of History*, Cambridge: Cambridge University Press, 2017, p. 3. See also Nikolai Koposov, *Memory Laws, Memory Wars: The Politics of the Past in Europe and Russia* (2018), p. 253.

14. Bill No. 197582-5 on Amending the Criminal Code of the Russian Federation, URL: <https://sozd.duma.gov.ru/download/9B2FE47E-5D8F-46BD-BB59-3523EA54E19E>.

15. Explanatory note to the original Bill No. 197582-5 on Amending the Criminal Code of the Russian Federation, URL: <https://sozd.duma.gov.ru/download/04956086-0E9A-4E6B-9B23-D0EB54F935BA>.

16. Sam Sokol, *Russian Disinformation Distorted Reality in Ukraine. Americans Should Take Note*, in *Foreign Policy*, 2 August 2019. URL: <https://foreignpolicy.com/2019/08/02/russian-disinformation-distorted-reality-in-ukraine-americans-should-take-note-putin-mueller-elections-antisemitism>.

17. Koposov, *Memory Laws, Memory Wars*, p. 1.

national identity.”¹⁸ These clauses permit the State to prosecute those who share Government-disapproved (read “false”) views on the Soviet Union’s policies during the Second World War, or who express “disrespectful” opinions about Russia’s military history.¹⁹

16. Between 2015 and 2019, enforcement of Article 354.1 of the Criminal Code has resulted in 25 convictions and only one acquittal, not including an unknown number of criminal cases that did not reach (or have not yet reached) trial.²⁰ Ironically, the only acquittal under this article was a Holocaust-denial case. Roman Yushkov, a resident of Perm, wrote on social media that “the so-called Holocaust [was] a shameless swindle intended for non-Jews, Germans, Russians, and everyone else.” He also questioned the Holocaust death toll, saying the estimate of six million Jews was a “great fraud.”²¹ Instead, the majority of other proceedings under Article 354.1, to the extent they are publicly available, concern those who spoke about the Soviet Union’s international crimes committed between 1939 and 1945, questioned the official narrative of the Soviet Union’s role in the Second World War, or invoked history in their critique of the current regime.
17. The first person convicted under Article 354.1 was Vladimir Luzgin, an auto mechanic from Perm. In 2014, he had shared a link on social media to an online article about the history of the Ukrainian Rebel Army. The article’s author had argued, among other things, that “the Communists [...] actively collaborated with Germany in dividing Europe according to the Molotov-Ribbentrop Pact,” and that “Communists and Germany jointly attacked Poland and started the Second World War on 1 September 1939!” In 2016, Russia’s Supreme Court ruled that those historical statements contained knowingly false information about the activities of the USSR during the Second World War, and were contrary to the Nuremberg Tribunal judgment, despite the fact that the latter never adjudicated the Soviet Red Army’s invasion of Poland in September 1939.²² Luzgin was fined 200,000 rubles (about EUR 2,200). Since 2017, his case has been pending at the European Court of Human Rights (ECtHR).²³
18. In 2015, Yevgeniy Dzhugashvili, Joseph Stalin’s grandson, requested that the authorities launch criminal proceedings under Article 354.1 against historian David Feldman, who had spoken on Russian television about the mass execution in 1940 of Polish prisoners of war by the Soviet authorities (the Katyń massacre).²⁴ This case was apparently dismissed.
19. Feldman was not the only historian targeted for prosecution under Article 354.1. One of FIDH’s interviewees, Alexander Guryanov, head of the Polish Program at International Memorial, a leading Russian historical and human rights NGO documenting Soviet-era State terror, routinely faces threats of prosecution under Article 354.1 by those who deny the USSR’s responsibility for Katyń.²⁵ According to Guryanov, one such threat came from a representative of the State Duma after Guryanov objected to a conference whose principal aim was to deny the involvement of the NKVD in the Katyń war crime.
20. In 2018, the authorities in Magadan opened a criminal case under Article 354.1 against 62-year-old Igor Dorogoy for several posts on social media, wherein he recalled crimes committed by prominent Soviet military and government figures. Dorogoy used strong language, calling Red Army Marshal Mikhail Tukhachevsky a “hangman,” Red Army Marshal Georgy Zhukov a “plunderer,” and Roman Rudenko, the chief prosecutor for the USSR at Nuremberg, and member of various extrajudicial “troikas” during the Great Terror of the 1930s, a “wet-work man.”²⁶

18. George Soroka, Félix Krawatzek, *Nationalism, Democracy, and Memory Laws*, in *Journal of Democracy*, 2019, p.157.

19. On the manipulation of historical memory around the Second World War, see, generally Koposov, *Memory Laws, Memory Wars*, *supra* n. 13.

20. Official statistical data by the Judicial Department of the Supreme Court of Russia, URL: <http://www.cdep.ru/index.php?id=79>.

21. Dima Shvets, *Denial, anger, bargaining, depression, and justification. Rehabilitation of Nazism in the Perm Regional Court* [Отрицание, гнев, торг, депрессия и оправдание. Реабилитация нацизма в Пермском краевом суде], Mediazona, 7 December 2019, URL: <https://zona.media/article/2019/12/07/jury-yushkov>.

22. Supreme Court of the Russian Federation, appeal judgment of 1 September 2016, case No. 44-APU16-17, *Luzgin Vladimir Vladimirovich*, URL: http://vsrf.ru/stor_pdf.php?id=1470274.

23. European Court of Human Rights, application of 26 September 2017, no. 17942/17, *Luzgin v. Russia*, URL: <http://hudoc.echr.coe.int/eng?i=001-178086>.

24. Sergey Golubev, *Looking for Excuses*, Mediazona, 15 May 2015, URL: <https://zona.media/article/2015/15/05/codex-354-1>, accessed:

25. FIDH interview with Alexander Guryanov.

26. Elena Racheva, *The only thing I regret is that I did not take into account the development of snitching in the country.* [«Единственное, о чем я сожалею, — не учел развитие в стране стукачества»], in *Novaya Gazeta*, 13 February 2018, URL: <https://novayagazeta.ru/articles/2018/02/13/75493-edinstvennoe-o-chem-ya-sozhaleyu-ne-uchel-razvitie-v-strane-stukachestva>.

21. In 2019, Alexey Volkov, coordinator for Russian opposition politician Alexey Navalny's Volgograd office, was convicted under Article 354.1 for posting several collages on social media in 2017 that showed the face of the Motherland Statue, commemorating the sacrifice of Soviet soldiers during the Second World War, painted in green. The images were meant to call attention to an assault against Alexei Navalny by pro-Government activists using a green antiseptic dye (known as "zelyonka"). The court ruled that Volkov had desecrated a military monument, although the statue itself had not been harmed in any way.²⁷
22. In 2019, Konstantin Ishutov, an opposition blogger in Russia's Chuvashia Republic, was convicted of two episodes of "exoneration of Nazism," based on his posts on social media. First, he had shared a 1941 German propaganda leaflet that promised Soviet citizens the restoration of private property and religious freedom in the event of a Nazi victory, commenting that "the Third Reich had treated the Soviet people better than Putin treats Russians." Second, he had blamed the local authorities for abandoning a mass grave of German prisoners of war, and had compared the treatment of mass graves and war memorials in Russia and Germany. The court found that he had "downplayed the importance of the Soviet people's victory in the Great Patriotic War."²⁸
23. In 2020, the authorities opened a criminal case under Article 354.1 against Nikolay Gorelov, a Kaliningrad blogger, for a 2014-2015 satirical piece about the Second World War. The piece explored various controversial themes, including crimes committed by the Soviet Red Army against the civilian population, a particularly sensitive topic for the present regime. It contained fictional monologues by contemporary and historical figures, including Hitler, who said that the Soviet Union's victory in the Second World War "strengthened Stalin's regime," that "Russians ha[d] nothing to be proud of," and that therefore "the victory [...] would for hell-knows-how-long remain the only thing that would give Russians at least some sense of their own significance."²⁹ In June 2020, the case was closed due to the expiry of the statute of limitations.
24. In 2020, the authorities launched criminal proceedings under Article 354.1 against Mikhail Alferov, a Kemerovo blogger, for posting a "disrespectful" video about Victory Day (May 9).³⁰ In the video, he had expressed his outrage about the scale of the official celebrations, saying that "crooks [had been] sawing up enormous budgets on victory frenzy."³¹
25. In February 2021, the Russian Military Historical Society (RMHS)³² requested that the authorities prosecute Alexander Nevzorov, a prominent journalist and publicist, under Article 354.1, for his remarks about Zoya Kosmodemyanskaya, an iconic Soviet partisan executed by the Nazis for acts of sabotage. In 1941, Kosmodemyanskaya had burned Russian villages in which the occupying German army was garrisoned. Nevzorov said on the radio that Kosmodemyanskaya was not a hero, but rather a "fanatic who followed an unlawful order." The RMHS claimed that Nevzorov's statement "amounts to slander against the Soviet State and falsification of historical truth."³³
26. Russian civil society and international organizations have repeatedly denounced the "exoneration of Nazism" law.³⁴ The SOVA Center for Information and Analysis, a Moscow-based think tank, has stated that the law "does not have any practical sense and actually seeks to stifle historical

27. Mark Krutov, *Zelenka for the "Motherland." Penalty for "desecrating graves" in Photoshop* [Зеленка для "Родины". Штраф за "осквернение могил" в фотопше], Radio Svoboda, 15 March 2019, URL: <https://www.svoboda.org/a/29823414.html>.

28. SOVA Center for Information and Analysis, *Konstantin Ishutov sentenced to three and a half years in prison* [Константин Ишутов приговорен к трем с половиной годам лишения свободы], 24 December 2019, URL: <https://www.sova-center.ru/misuse/news/persecution/2019/12/d41882>.

29. Oleg Zurman, *Adolf Hitler's monologue from hell. A case for the rehabilitation of Nazism was opened against a Kaliningrad blogger due to a literary text about the Red Army* [Монолог Адольфа Гитлера из ада. Против калининградского блогера возбудили дело о реабилитации нацизма из-за литературного текста о Красной Армии], Mediazona, 10 January 2020, URL: <https://zona.media/article/2020/01/10/red-army>.

30. Ovd-info, *A criminal case on the rehabilitation of Nazism was opened against Kemerovo blogger Mikhail Alferov* [На кемеровского блогера Михаила Алферова завели уголовное дело о реабилитации нацизма], 21 July 2020, URL: <https://ovdinfo.org/express-news/2020/07/21/na-keмеровskogo-blogera-mihaila-alferova-zaveli-ugolovnoe-delo-o>.

31. URL: <https://www.youtube.com/watch?v=f-5123lqVU0>.

32. See more on the Russian Military Historical Society at § 94 below.

33. Russian Military Historical Society (RMHS), *RMHS Appealed to the Prosecutor General's Office after Nevzorov's statements on Zoya Kosmodemyanskaya* [РВИО обратилось в Генпрокуратуру после высказываний Невзорова о Зое Космодемьянской], 5 February 2021, URL: <https://rvio.histrf.ru/activities/news/item-7914>.

34. See, e.g.: MKRU, *Putin is asked not to pass the law on "Rehabilitation of Nazism"* [Путину просят не принимать закон о «реабилитации нацизма»], 28 April 2014, URL: <https://www.mk.ru/politics/2014/04/28/putina-prosyat-ne-prinimat-zakon-o-reabilitatsii-natsizma.html>.

debate, while its adoption marks a significant restriction on freedom of speech.”³⁵ The OSCE Representative on Freedom of the Media has stated that the law “might suppress political and critical speech on issues of history.”³⁶ Experts say Article 354.1 of the Criminal Code “criminalizes the ‘wrong’ views on Russia’s Soviet-era history.”³⁷ While enforcement of the law has affected not only historians but also political activists and laypersons, experts argue that the sweeping interpretation of Article 354.1 by courts and law enforcement authorities “represents a very serious threat for history studies.”³⁸

27. In the meantime, the authorities are expanding the law’s reach. In November 2020, Prosecutor-General Igor Krasnov suggested introducing a further legal ban on “propaganda of Nazism.”³⁹ Around that same time, Irina Yarovaya, a Duma deputy who was the main protagonist behind Article 354.1 back in 2014, proposed new amendments to the law. First, they would make “exoneration of Nazism” online an aggravated form of the crime, punishable by up to five years’ imprisonment.⁴⁰ Second, they would introduce public liability for companies based on “exoneration of Nazism.” The amendments provide for fines of up to three million rubles (about EUR 33,000), accompanied by the possible confiscation of an “object of the offense” (in such cases, usually a computer or other electronic device).⁴¹ The new law will likely apply to media outlets, and will therefore substantially increase the “chilling effect” on freedom of speech. In March 2021, the Duma adopted both bills.
28. In February 2021, Irina Yarovaya proposed yet another amendment to the law. It would criminalize defamatory or denigrating statements about Second World War veterans, punishable by up to five years’ imprisonment.⁴² The development was prompted by a recent court verdict against Russian opposition politician Alexei Navalny. He had been convicted of “slandering” a Soviet veteran who had featured in a promotional video in support of the 2020 constitutional amendments clearing the way for Vladimir Putin to remain president until 2034. Navalny had described the people in the video as “traitors” and “corrupt lackeys.”⁴³ Yarovaya’s amendment builds upon two earlier proposals to criminalize speech “insulting the sentiments of the Great Patriotic War veterans,” brought by the Communist Party⁴⁴ and the Parliament of the Chechen Republic⁴⁵ in 2016 and 2017, respectively. Yarovaya emphasized that the law would apply to statements not only about living but also deceased veterans. This would practically outlaw any discussion of crimes committed by Soviet servicemen and servicewomen during the Second World War. In March 2021, the Duma adopted the amendment.⁴⁶ All amendments to Article 354.1 proposed by Yarovaya became law on April 5.⁴⁷
29. Finally, in May 2020, Alexander Zhuravlev, a Duma deputy, proposed to add a new Article 354.2 to the Criminal Code. The proposed provision would make it a crime to “declare the USSR responsible

35. SOVA Center for Information and Analysis, *The law on “Rehabilitation of Nazism” has been signed* [Подписан закон о реабилитации нацизма], 5 May 2014, URL: <https://www.sova-center.ru/misuse/news/lawmaking/2014/05/d29466>.

36. OSCE, *OSCE Media Freedom Representative calls recent legislative initiatives in Russia potentially harmful to freedom of expression and freedom of the media*, 26 June 2013, URL: <https://www.osce.org/fom/103121>.

37. Gleb Bogush, Ilya Nuzov, *Russia’s Supreme Court Rewrites History of the Second World War*, in *EJIL:Talk!*, 28 October 2016, URL: <https://www.ejiltalk.org/russias-supreme-court-rewrites-history-of-the-second-world-war>.

38. Remarks by Kirill Koroteev, URL: <https://www.youtube.com/watch?v=1sGgSCMjt8E>.

39. *Vedomosti*, *Prosecutor General proposed a law to prohibit Nazi propaganda* [Генпрокурор предложил законодательно запретить пропаганду нацизма], 20 November 2020, URL: <https://www.vedomosti.ru/society/news/2020/11/20/847715-genprokuror-predlozhit-zakonodatelno-zapretit-propagandu-natsizma>.

40. Bill No. 1050812-7 on Amending Article 354.1 of the Criminal Code of the Russian Federation, URL: <https://sozd.duma.gov.ru/bill/1050812-7>.

41. Bill No. 1050733-7 on Amending Article 3.5 and 13.5 of the Code of Administrative Offenses of the Russian Federation, URL: <https://sozd.duma.gov.ru/bill/1050733-7>.

42. Interfax, *The Duma proposed to punish veterans with imprisonment of up to 5 years for slander* [В Думе предложили наказывать за клевету на ветеранов сроками до 5 лет], 24 February 2021, URL: <https://www.interfax.ru/russia/752288>.

43. Radio Free Europe, *Back In Court, Navalny Tells Russian Judge To “Stop Disgracing Yourself,”* 12 February 2021, URL: <https://www.rferl.org/a/russia-navalny-veteran-slander-case/31098983.html>.

44. Bill No. 1166853-6 on Supplementing the Criminal Code of the Russian Federation with Article 148, URL: <https://sozd.duma.gov.ru/bill/1166853-6>.

45. Artem Filipenok, *The Parliament of Chechnya upholds criminal punishment for distorting the truth about the War* [Парламент Чечни поддержал уголовное наказание за искажение правды о войне], 15 February 2015, URL: <https://www.rbc.ru/politics/15/02/2018/5a8580e69a79474264326841>.

46. Bill No. 1050812-7 on Amending Article 354-1 of the Criminal Code of the Russian Federation, URL: <https://sozd.duma.gov.ru/bill/1050812-7>.

47. Federal Law dated 5 April 2021 No. 58-FZ, URL: <http://publication.pravo.gov.ru/Document/View/0001202104050008?index=3&rangeSize=1>.

for starting the Second World War,” “deny the leading role of the USSR in the victory over the Axis countries in the Second World War,” or “equate” Communism and Nazism.⁴⁸ The bill largely duplicates the already existing provisions of Article 354.1, and it is doubtful whether it will ever become law. Yet its ideas keep circulating in official circles, ostensibly as a potential response to the European Union’s September 2019 Resolution, which effectively equated the Nazi and Soviet totalitarian regimes.⁴⁹ Thus, in January 2021, President Putin formally urged the Duma to adopt a law that would “prohibit making public statements that equate the role of the USSR and fascist Germany during the Second World War (1939-1945),” and a bill to that effect was formally introduced in the Duma on 5 May 2021.⁵⁰ These latest proposals aptly demonstrate the obsession of Russia’s ruling elite with control over historical memory. As one prominent scholar of historical memory has put it, they “seek to create a heroic national narrative and legislate away any doubt about the state’s historical righteousness.”⁵¹

1.2. Laws targeting symbolic speech

30. Russia has legislated extensively to curb symbolic speech, beginning in the 1990s, but its attempts to drive the historical narrative through regulation of historical symbols has accelerated since 2014.⁵² While these laws primarily take the form of prohibitions on the display of certain “offensive” symbols, the previously mentioned Article 354.1 also criminalizes “public insults to the symbols of Russia’s military glory.” Article 6 of the 1995 Federal Law titled “On the Memorialization of the Victory of the Soviet People in the Great Patriotic War of 1941 – 1945,” in its original version, prohibited the use “in any form” of Nazi symbols, “as offending the multinational people and memory of the human losses in the Great Patriotic War.” Article 20.3 of the 2001 Code of Administrative Offenses originally penalized “propaganda *and* public display of Nazi attributes or symbols” [emphasis added]. However, the 2014 amendment to the Administrative Code substituted the word “and” for “or,” meaning that any public display of Nazi attributes or symbols *per se*, even without an intent to glorify or otherwise promote Nazism, became an offense.⁵³ Moreover, the amendment banned the display of symbols of organizations that have collaborated with the Nazis, as well as symbols that negate the facts or the judgment of the International Military Tribunal at Nuremberg. The Constitutional Court twice declined to consider the constitutionality of these amendments.⁵⁴ According to a report by Agora International, a Russian human rights group, this amendment “unleashed a massive hunt for swastika symbols [on] the [I]nternet.”⁵⁵
31. Between 2014 and 2019, 9,171 persons were fined or imprisoned for up to 15 days under these laws.⁵⁶ In hundreds of cases, convictions were accompanied by confiscation of computers, mobile phones, or other electronic devices.⁵⁷ For example, in 2014, the authorities instituted proceedings against the owner of a bookstore selling a historical study titled “Soldiers of the Wehrmacht,” which featured a swastika on the cover.⁵⁸ In 2015, Polina Danilevich, a journalist

48. Bill No. 963440-7 on Amending the Criminal Code of the Russian Federation, URL: <https://sozd.duma.gov.ru/bill/963440-7>.

49. European Parliament, Resolution on the importance of European remembrance for the future of Europe, 18 September 2019, RC-B9-0097/2019, URL: https://www.europarl.europa.eu/doceo/document/RC-9-2019-0097_EN.html.

50. Order of the President of the Russian Federation, List of Instructions Following the Meeting of the Council for Culture and Arts, 23 January 2021, URL: <http://www.kremlin.ru/acts/assignments/orders/64925>; <https://sozd.duma.gov.ru/bill/1166218-7>.

51. Ivan Kurilla, *The Implications of Russia’s Law against the “Rehabilitation of Nazism”* in *PONARS Eurasia*, Policy Memo No. 331, August 2014, URL: http://www.ponarseurasia.org/sites/default/files/policy-memos-pdf/Pepm331_Kurilla_August2014_0.pdf.

52. See, generally, I. Nuzov, “Freedom of Symbolic Speech in the Context of Memory Wars in Eastern Europe,” 19 *Human Rights Law Review* 2 (June 2019), pp. 231-253.

53. Federal Law dated 4 November 2014 No. 332-FZ.

54. Constitutional Court of Russia, decision of 23 October 2014, No. 2480-O, URL: <http://doc.ksrfr.ru/decision/KSRFDecision179775.pdf>; Constitutional Court of Russia, decision of 24 October 2019 No. 2923-O, URL: <http://doc.ksrfr.ru/decision/KSRFDecision437507.pdf>.

55. Report by Agora International, *Russia against History. Revision and Punishment*, URL: http://en.agora.legal/fs/a_delo2doc/17_file_Russia_v_History_ENG.pdf.

56. Official statistical data of the Judicial Department of the Supreme Court of Russia, URL: <http://www.cdep.ru/index.php?id=79>.

57. Mediazona, *169 people who published prohibited symbols on social networks in 2015 lost their computer by court decision [169 человек, опубликовавших запрещенную символику в соцсетях в 2015 году, лишились компьютеров по решению суда]*, 7 June 2016, URL: <https://zona.media/number/2016/07/06/no-device>.

58. SOVA Center for Information and Analysis, *Sakhalin Prosecutor’s Office found Nazi symbols in history book [Сахалинская прокуратура нашла нацистскую символику в книге по истории]*, 16 September 2014, URL: <https://www.sova-center.ru/misuse/news/persecution/2014/09/d30223>.

in Smolensk, was fined because she had posted on social media a historical photograph of her home during the German occupation.⁵⁹ In 2018, the courts fined Oyumaa Dongak, a Tuva activist, for a series of her posts on social media about the history of Nazi Germany, accompanied by archival photographs. The texts condemned Nazism, but the courts found that irrelevant.⁶⁰

32. In 2018, the ECtHR communicated to the Russian authorities 11 applications for legal redress that the Court had received concerning swastika display cases. In one case, the applicant shared on his Facebook page collages pairing propaganda posters from the Nazi Germany and the USSR of the 1930s-1940s, with the applicant's comment, "They were stealing from each other, thinking no one would notice," arguably aiming at underscoring the historical similarities of the regimes. In another case, the applicant posted a photo collage showing Vladimir Putin with a swastika background; the collage resembled a famous photo showing Hitler in a similar setting, and was arguably aimed at criticizing Putin's policies and his candidacy in 2012 for a third term as president.⁶¹
33. The growing number of cases at Strasbourg, the seat of the ECtHR, coupled with the absurdity of several well-publicized cases, prompted the authorities to amend the legislation in 2019-2020. Explicitly exempt now are cases in which the use of Nazi symbols and attributes "does not contain the elements of propaganda of or condoning Nazi and extremist ideology," and "forms a negative attitude towards Nazi and extremist ideology."⁶² However, experts say that the positive effect of these amendments has been limited so far, because their wording is ambiguous.⁶³
34. At the same time, in November 2020, a group of Duma deputies proposed to expand the laws against Nazi symbols and attributes. They seek to proscribe the public display of images of Nazi war criminals. These proposals are now pending in the Parliament.⁶⁴

1.3. Laws against extremism

35. Until 2019, Article 282 of the Criminal Code criminalized hate speech, or statements "aimed at inciting hatred or enmity and humiliating the dignity of an individual or a group of individuals on the grounds of gender, race, ethnic origin, language, background, religious beliefs or membership in a social group." This provision was widely used by the authorities to stifle dissent, and to silence journalists and civil society activists. Between 2012 and 2017, more than 1,500 individuals were convicted under this provision.⁶⁵ Some of the criminal cases concerned statements about history.
36. For instance, in 2009, Russian courts convicted Rafis Kashapov, a Tatar activist and head of the local branch of the Tatar Civic Centre, and sentenced him to a suspended prison term of eighteen months under Article 282, for six publications he posted on a popular Internet blog. Kashapov had referred to the forcible conversion of Muslims to Christianity, criticized Moscow's chauvinist policy *vis-à-vis* ethnic minorities, and described the "so-called Tatar-Mongolian yoke" (referring to the Mongol invasion of Russia in the 13th century) as a "State lie" and a "monstrous myth." He had argued that the "yoke" was, in fact, a time of "unprecedented economic and cultural revival as well

59. Meduza, *In Smolensk, a journalist has been tried for a photo of the German occupation period* [В Смоленске журналистку решили судить за фото времен немецкой оккупации], 2 March 2015, URL: <https://meduza.io/news/2015/03/02/v-smolenske-zhurnalistku-reshili-sudit-za-foto-vremen-nemetskoj-okkupatsii>.

60. Maria Kravchenko, *Unlawful application of the anti-extremist legislation in Russia in 2018* [Неправомерное применение антиэкстремистского законодательства в России в 2018 году], SOVA Center for Information and Analysis, 22 February 2019, URL: https://www.sova-center.ru/misuse/publications/2019/02/d40687/#_Toc1617687.

61. European Court of Human Rights, application of 14 May 2018, no. 56317/16, *Kasimov v. Russia and 10 other applications*, URL: <http://hudoc.echr.coe.int/eng?i=001-183729>.

62. Bill No. 606648-7 on Amending Article 6 of the Federal Law "On Perpetuating the Victory of the Soviet People in the Great Patriotic War of 1941-1945" and Article 1 of the Federal Law "On Countering Extremist Activity," URL: <https://sozd.duma.gov.ru/bill/606648-7>; Bill No. 606698-7 on Amending Article 20.3 of the Code of Administrative Offenses of the Russian Federation, URL: <https://sozd.duma.gov.ru/bill/606698-7>.

63. Maria Kravchenko, *Briefly on unlawful anti-extremism from January to August 2020* [Кратко о неправомерном антиэкстремизме с января по август 2020 года], SOVA Center for Information and Analysis, 25 September 2020, URL: <https://www.sova-center.ru/misuse/publications/2020/09/d42963>.

64. Bill No. 1064063-7 on Amending Article 6 of the Federal Law "On Perpetuating the Victory of the Soviet People in the Great Patriotic War of 1941-1945" and Article 1 of the Federal Law "On Countering Extremist Activity," URL: <https://sozd.duma.gov.ru/bill/1064063-7>; Bill No. 1064108-7 on Amending Article 20.3 of the Code of Administrative Offenses of the Russian Federation, URL: <https://sozd.duma.gov.ru/bill/1064108-7>.

65. Official statistical data by the Judicial Department of the Supreme Court of Russia, URL: <http://www.cdep.ru/index.php?id=79>.

as political consolidation in Russia.”⁶⁶ The courts considered that Kashapov had disseminated information inciting hatred and enmity, and debasing the human dignity of a group of people on account of their ethnicity and religious beliefs. Kashapov subsequently served three years in prison on other similar charges and had to leave Russia. His case is pending before the ECtHR.⁶⁷

37. In 2019, Article 282 was revised, with the effect that first-time cases of hate speech would entail administrative rather than criminal liability. However, such speech would still be punishable by up to 15 days’ imprisonment for individuals, or by fines of up to 500,000 rubles (about EUR 5,600) for companies, under the new Article 20.3.1 of the Code of Administrative Offenses.

1.4. Law against condoning terrorism

38. Article 205.2 of the Criminal Code criminalizes “public calls to engage in terrorism, publicly condoning terrorism, or propaganda of terrorism.” The law defines condoning terrorism as “a public statement that declares the ideology and practice of terrorism to be correct and in need of support and emulation.” The law provides sanctions for this crime of up to five years’ imprisonment, or up to seven years’ imprisonment for statements made through mass media or online.
39. In July 2020, Svetlana Prokopyeva from Pskov became the first journalist in Russia convicted under Article 205.2 for condoning terrorism. The prosecution asked that she be jailed for six years, but, following an outcry, she was instead fined 500,000 rubles (about EUR 5,600).⁶⁸ Prokopyeva had expressed her opinion on the radio about the underlying causes of a suicide bombing attack by an 17-year-old anarchist against a local Federal Security Service (FSB) office in Arkhangelsk. Prokopyeva had argued that a “ruthless state” had raised someone who saw violence as the only path, and compared the young man to the Narodnaya Volya revolutionaries of 19th-century Russia. One of the witnesses against Prokopyeva lambasted her for using that historical analogy. He drew a parallel between 19th-century press coverage of Narodnaya Volya and Prokopyeva’s reporting: “I see such condoning terrorism by the 19th-century press as one of the steps in the destruction of Russia’s statehood, its weakening, and the pursuit of geopolitical interests by other States-competitors.”⁶⁹
40. Experts believe that Article 205.2 of the Criminal Code can be used to prosecute historians, for example those who study the military and paramilitary forces of the Chechen separatist movement of the 1990s-2000s.⁷⁰

1.5. Institutional developments

41. In September 2020, Alexander Bastrykin, head of Russia’s Investigative Committee, established a department dedicated to the “investigation of crimes relating to exoneration of Nazism and falsification of history.”⁷¹ The move came just ten days after Vladimir Putin said at a nationwide online lesson for Russian schoolchildren: “People who cooperate with the enemy during a war are called and have always and everywhere been called collaborationists. Those who agree with the re-writers of history can easily be called the collaborationists of today.”⁷²

66. Report by Agora International, *Russia against History. Revision and Punishment*, URL: http://en.agora.legal/fs/a_delo2doc/17_file_Russia_v_History_ENG.pdf ; Kirill Antonov, *European Court Will Evaluate the Tatar Yoke* [Европейский Суд Оценит Татарское Иго], in *Kommersant*, 30 March 2018, URL: <https://www.kommersant.ru/doc/3587748>.

67. European Court of Human Rights, application of 29 August 2017, no. 1097/10, *Kashapov v. Russia*, URL: <http://hudoc.echr.coe.int/eng?i=001-177245>.

68. Radio Free Europe, *Russian Journalist To Appeal Ruling By Russian Court In Controversial Case*, 6 July 2020, URL: <https://www.rferl.org/a/russia-journalist-svetlana-prokopyev-verdict/30709068.html>.

69. Anna Kozkina, *Experts, people’s will and secret acquaintances. What are the charges against Pskov journalist Svetlana Prokopyeva based on?* [Эксперты, народовольцы и секретные знакомые. На чем основано обвинение против псковской журналистки Светланы Прокопьевой], *Mediazona*, 16 June 2020, URL: <https://zona.media/article/2020/06/16/prokopieva>.

70. Remarks by Alexander Verkhovskiy. URL: <https://www.youtube.com/watch?v=zbF7IKhqblE>.

71. *A unit created in the Investigative Committee to investigate crimes of falsification of history* [В СК создается подразделение по расследованию преступлений о фальсификации истории], 10 September 2020, URL: <https://tass.ru/obschestvo/9423583>.

72. Kremlin, *Remembering is Knowing open lesson*, 1 September 2020, URL: <http://en.kremlin.ru/events/president/news/63983>.

42. Experts fear that this institutional development will prompt a “conveyor belt of criminal cases,” because the new department “needs fuel,” meaning people who write or speak about history.⁷³

2. Censorship

43. “Censorship of history” is the systematic control over historical facts or opinions and their exchange, as imposed by State authorities.⁷⁴ This section addresses censorship in the more narrow sense of the term, meaning regulation or official action meant to preclude dissemination of certain historical materials, such as books, films, performances, and other materials or productions. In Russia, censorship of historical memory has been both sanctioned by law and perpetuated through various silencing practices, including with the connivance of private parties.
44. The primary legal mechanism for censorship is the Federal List of Extremist Materials, which is maintained by the Ministry of Justice. Article 13 of the Federal Law titled “On Countering Extremist Activity,” provides that materials be labelled extremist and added to the list by court orders issued during criminal, administrative, or civil proceedings, or upon application by a prosecutor. Experts describe the procedure as essentially arbitrary, and often driven by the desire of law enforcement agencies to report more cases.⁷⁵ The circulation of extremist materials is subject to fines reaching one million rubles (about EUR 11,200) for companies, the temporary closure of businesses for up to 90 days, and the confiscation of materials and equipment used for their production.⁷⁶
45. Since its launch in 2007, the Federal List of Extremist Materials has grown from 14 to more than 5,100 items.⁷⁷ As has been noted by Agora International, the list includes dozens of history publications, such as “Fascism and Russian Emigrants (1920–1945)” (2002), by historian Alexander Okorokov; “Hitler’s Black Guard. Waffen-SS” (2007), by K.A. Zaleskiy and P. Hausser; “Hitler’s Table Talk,” a collection of Hitler’s monologues recorded by Henry Picker in the 1940s, and translated into Russian in 1993; “Ossetians at the Service of the Third Reich. Instances of Ossetians’ Mass Collaboration with Fascists during the Great Patriotic War” (2019); as well as scores of books and brochures about the Organization of Ukrainian Nationalists (OUN) and Stepan Bandera, its leader, including collections of documents.⁷⁸
46. In 2013, a Bryansk court declared six social media publications by Sebastian Stopper, a German historian, to be extremist. For several years, Stopper had done research on guerrilla movements in the Bryansk Region during the Second World War; in 2012, he had defended his thesis in Berlin. In particular, Stopper’s research had challenged previous claims about the guerrilla fighters’ effectiveness, and the support of the guerrilla movement by the civilian population. According to a local Ministry of Justice expert report, approved by the court, Stopper’s findings could “contribute to the formation of negative perceptions about social ideals and moral values (heroism of ancestors, respect for veterans of the guerrilla movement and their military merits) existing in today’s society, the history of the Great Patriotic War in general, and the guerrilla movement of the Bryansk Region in particular.”⁷⁹
47. In 2016-2017, the authorities censored a doctoral thesis by a leading historian of Russia’s wartime Nazi collaborators. Kirill Alexandrov’s thesis, “The Generals and the Officer Corps of the Armed Forces of the Committee for the Liberation of the Peoples of Russia 1943 – 1946,” detailed the biographies of General Andrey Vlasov and 180 of his associates, and explored the reasons for their collaboration with Nazi Germany. The thesis caused a major controversy. One week

73. Remarks by Kirill Koroteev, URL: <https://www.youtube.com/watch?v=1sGgSCMjt8E>.

74. *Crimes against History*, *supra*, n. 1, p. 1.

75. Galina Yuzefovich, “We do not have a clear list of leaders” [«Четкого списка вождей у нас нет»], in *Meduza*, 25 December 2014, URL: <https://meduza.io/feature/2014/12/25/chetkogo-spiska-vozhdey-u-nas-net>.

76. Article 20.29 of the Code of Administrative Offenses.

77. Ministry of Justice of the Russian Federation, *Extremist Materials* [Экстремистские Материалы], URL: <https://minjust.gov.ru/ru/extremist-materials>.

78. Report by Agora International, *Russia against History. Revision and Punishment*, URL: http://en.agora.legal/fs/a_delo2doc/17_file_Russia_v_History_ENG.pdf.

79. SOVA Center for Information and Analysis, *History becomes extremism* [История становится экстремизмом], 25 April 2014, URL: <https://www.sova-center.ru/misuse/news/persecution/2014/04/d29418>.

before the academic council meeting where Alexandrov was due to defend his thesis, Nikolay Smirnov, Director of the Saint Petersburg Institute of History under the Russian Academy of Sciences, was summoned to a local prosecutor's office and faced pressure from his superiors to cancel the event. The academic council nonetheless awarded the doctoral title to Alexandrov by 17 votes to 1.⁸⁰ Russia's Ministry of Education and Science then invalidated that decision and denied Alexandrov his degree.⁸¹ Soon after, Alexandrov's article "Bandera and Banderovites. Who They Actually Were," published in Russia's leading *Novaya Gazeta* newspaper back in 2014, was declared extremist and included in the Federal List of Extremist Materials.⁸² Historian Nikita Sokolov, Deputy Director of the Yeltsin Museum, speaking with FIDH, stated that any research on the subject of collaborationism with Nazi Germany has become "blocked."⁸³ In 2018, the Ministry of Culture withdrew the screening license for "The Death of Stalin," a British-French-Belgian political and satirical comedy film depicting the power struggle among Joseph Stalin's inner circle following his death in 1953. Two days before the film's scheduled release in Russia, the Ministry organized a closed-door screening attended by Duma deputies, representatives of the Russian Historical Society,⁸⁴ members of the Ministry's Public Board, and members of the film industry. The attendees demanded that the film be banned, saying it "insulted Russians' national sentiments."⁸⁵ Two days later, the Ministry withdrew the license. Culture minister Vladimir Medinsky argued that the public "may perceive [the film] as an insulting mockery of the entire Soviet past."⁸⁶ One Moscow cinema, Pioneer, nonetheless screened the film for two days, and was fined as a result. The cinema then challenged the film licensing regulatory regime before the Constitutional Court, arguing that it permitted censorship by the executive without any meaningful judicial control. The Constitutional Court declined to consider the application, on formal grounds.⁸⁷

48. Known cases of censorship likely represent merely the tip of the iceberg. The scale of discreet censorship is hard to measure, yet it is plainly common. For example, as historian Nikolay Kuposov remarked in his interview with FIDH, any discussion of controversial issues about the Second World War, especially any "anti-Soviet theory of the War," wherein the Soviet Union is accorded a share of the blame for starting the War, disappeared from Russia's leading history journals after 2002.⁸⁸ In 2014, in the wake of the Ukraine crisis, historians began reporting cases of their books being withdrawn from bookstores. Alexander Gogun reported the disappearance of his book, "Between Hitler and Stalin: Ukrainian Insurgents" (2012), in which he had polemically compared Ukrainian Nazi collaborators with members of the ruling United Russia party.⁸⁹ In 2019, the government of the Saratov Region slashed the agreed-upon tour program by the Moscow-based GULAG History State Museum that was to have included lectures about the local history of Soviet-era repression, a screening of the documentary "My GULAG," workshops on how to research information about GULAG victims, a Memory Lesson, and an exhibition. Instead, the local government only agreed to one theatrical performance, without explaining why it had modified the partnership.⁹⁰ Similar experiences were reported by numerous historians and NGO leaders interviewed by FIDH.⁹¹

80. Elena Kuznetsova, *Defence with General Vlasov* [Защита с генералом Власовым], in *Fontanka.ru*, 2 March 2016, URL: <https://www.fontanka.ru/2016/03/01/173>.

81. Order of the Ministry of Education and Science of the Russian Federation no. 834/NK on the Cancellation of the Decision on the Defence of Dissertations for the Degree of Candidates in science, for the Degree of Doctor of Science, on the Award of the Degree of Doctor of Science and on the Refusal to Issue a Diploma of Doctor of Science, 26 July 2017.

82. Mediazone, *The Ministry of Justice has included an article of "Novaya Gazeta" about Bandera in the list of extremist materials* [Минюст внес статью в «Новой газете» о бандеровцах в список экстремистских материалов], 22 February 2018, URL: <https://zona.media/news/2018/02/22/bandera>.

83. FIDH interview with Nikita Sokolov.

84. See more on the Russian Historical Society at § 94 below.

85. TASS, *Yuri Polyakov: The film "The Death of Stalin" offends the national feelings of Russians* [Юрий Поляков: фильм "Смерть Сталина" оскорбляет национальные чувства россиян], 23 January 2018, URL: <https://tass.ru/kultura/4894743>.

86. Interfax, *The Ministry of Culture decides to send "The Death of Stalin" for legal expertise* [Минкультуры решило направить "Смерть Сталина" на юридическую экспертизу], 23 January 2018, URL: <https://www.interfax.ru/culture/596765>.

87. Constitutional Court of the Russian Federation, decision of 2 October 2019, No. 2641-O., URL: <http://doc.ksrfd.ru/decision/KSRFDecision432175.pdf>.

88. FIDH interview with Nikolay Kuposov.

89. Dmitry Volchek, *Forbidden Bandera* [Запрещенный Бандера], Radio Svoboda, 20 April 2014, URL: <https://www.svoboda.org/a/25355555.html>.

90. Philip Kochetkov, Elena Balayan, *The Gulag History Museum will Show a play based on Aitmatov's novel in Saratov* [Музей истории ГУЛАГа покажет в Саратове спектакль по роману Айтматова], in *Vzglyad-Info*, 27 August 2019, URL: <https://www.vzsar.ru/news/2019/08/27/myzey-istorii-gylaga-pokajet-v-saratove-spektakl-po-romany-aytmatova.html>.

91. FIDH interviews with Zhemkova, Flige, Latypov, Shcherbakova.

49. In November 2020, a group of Russian senators proposed amendments to the Federal Law titled “On Education,” which would require scholars and educators to obtain authorization from the authorities before doing public outreach outside the confines of formal educational programs. The new law would also forbid them to “disseminate false statements about historical, national, religious, and cultural traditions of peoples.”⁹² Lawmakers said the amendments were needed to curb anti-Russian propaganda and prevent the “revision of history.”⁹³ Russia’s intellectuals have fiercely criticized the proposal, calling it “a form of censorship,” and saying it “directly restricts freedom of speech and public debate.”⁹⁴ Nikita Sokolov told FIDH that the law would have a “catastrophic impact on Russian scholarship.”⁹⁵ More than 200,000 people have signed a petition against the bill.⁹⁶ Nonetheless, the Duma adopted it in March 2021, and it became law on April 5.⁹⁷

3. Denial of access to archives

50. Democratization of power structures is impossible without a public discussion, and a discussion is not possible without access to archives.⁹⁸ Almost 30 years after the collapse of the Soviet Union, and after a brief period of relatively open access to archives regarding Soviet State terror, the authorities continue to keep secret most of the historical records of the Soviet security services (VChK-NKVD-KGB). This policy seriously hampers the work of historians and NGOs who study the communist regime, and, in particular, document its domestic and international crimes. Some exceptions from recent practice, including joint research projects with Germany and Finland, only confirm this rule. Denial of access to archives is a consequence of both a restrictive legal framework and official practices. Of our 16 interviewees, ten have identified restrictions on access to archives as a key impediment to historical memory work in Russia.⁹⁹ Historian Alexander Guryanov told FIDH that the central and local authorities aim to “remove historians” from the archives because the work they are trying to accomplish is “contrary to the official [historical] values.”

3.1. Access to archives of repressive State organs

51. In 1992, then-President Boris Yeltsin decreed the declassification of all Soviet-era regulations and decisions that “had served as a basis for mass repression and infringement of human rights.”¹⁰⁰ Moreover, Article 7 of the 1993 Law titled “On State Secrets” (the 1993 Law) explicitly provided that information regarding violation of human rights or violation of the law by the authorities may not be classified as a State secret. However, in practice, Yeltsin’s decree was only partially implemented.¹⁰¹ The successors of former Soviet security services, such as the FSB, only partially, depending on the region, transferred to local State archives the files of discontinued criminal and related cases against the victims of Soviet-era persecution, keeping all other documents of

92. Bill No. 1057895-7 on Amending the Federal Law “On Education in the Russian Federation,” URL: <https://sozd.duma.gov.ru/download/A6636592-522B-4617-91AF-C261886B8177>.

93. Explanatory note to Bill No. 1057895-7 on Amending the Federal Law “On Education in the Russian Federation,” URL <https://sozd.duma.gov.ru/download/58E7AA50-8B8B-4001-B892-71490ACFF824>.

94. Colta, Russian educators oppose the law on educational activities [Российские просветители выступили против закона о просветительской деятельности], 19 January 2021, URL: <https://www.colta.ru/news/26406-rossiyskie-prosvetiteli-vystupili-protiv-zakona-o-prosvetitel'skoy-deyatelnosti>.

95. FIDH interview with Nikita Sokolov.

96. Change.org, *Against amendments to educational activities* [Против поправок о просветительской деятельности], URL: <http://chnng.it/DpFjmMHVW9>.

97. URL: <http://publication.pravo.gov.ru/Document/View/0001202104050036>.

98. Marina Agaltsova, during a Memorial International event “Justice for totalitarian past” [Правосудие над тоталитарным прошлым], 30 October 2020, video of the event available at https://www.youtube.com/watch?v=V7IZFFX_H2c.

99. FIDH interviews with Sergey Krivenko, Nikita Sokolov, Irina Shcherbakova, Roman Romanov, Sergey Prudovsky, Sergey Parkhomenko, Alexander Guryanov, Irina Flige, Marina Agaltsova, a historian of Russian Academy of Sciences.

100. Decree of the President of the Russian Federation No. 658 of 23 June 1992, URL: <https://www.prlib.ru/item/353815>.

101. FIDH interview with a historian of Russian Academy of Sciences.

Soviet security services in their own archives, with no public access.¹⁰² Another promising piece of legislation, the 2010 Law titled “On Providing Access to Information on the Activities of State Bodies and Bodies of Local Self-Government,” remains more or less a dead letter as concerns access to the archives of repressive State organs.¹⁰³

52. In 2012, Nikita Petrov, a historian and leading expert on the history of Russia's security services, made a request to the FSB for copies of three decrees of the USSR Ministry of State Security for his research. The FSB refused, saying that the decrees had earlier been classified, and that the circumstances did not call for review of that decision. Article 13 of the 1993 Law provided that the maximum time-limit for secrecy was 30 years, but that it could be prolonged “in exceptional cases.” Upon Petrov's application, the Constitutional Court ruled that the 30-year time limit applied also to pre-1993 documents,¹⁰⁴ thereby triggering the reviewability of all Soviet-era archival materials. In 2014, however, the Inter-Agency Commission for the Protection of State Secrets prolonged the classification period for most of the 1917-1991 documents of the Soviet security services for another 30 years, the maximum possible term under the law.¹⁰⁵ The Commission offered little, if any, justification for their decision. More than 100,000 people signed a petition demanding that the Commission reconsider its decision,¹⁰⁶ but to no avail.¹⁰⁷ Therefore, most of the VChK-NKVD-KGB archives will remain secret until 2044.
53. In 2004, the Chief Military Prosecutor's Office classified the decision to discontinue the investigation into the 1940 Katyń massacre, which had lasted from 1990 to 2004. That same year, the Inter-Agency Commission for the Protection of State Secrets classified 36 out of 183 volumes of the investigation file. Memorial sought to declassify the discontinuation decision through litigation, but the courts dismissed the lawsuit. They rejected Memorial's reliance on Article 7 of the 1993 Law, saying that the challenged decision “contained information in the field of intelligence, counterintelligence and operational and search activities which, pursuant to Article 4 of the Law on State Secrets, constituted a State secret.”¹⁰⁸ Therefore, the safeguard clause in Article 7 of the 1993 Law proved to be meaningless in practice. In *Janowiec and others v. Russia*, a case brought by relatives of the executed Polish prisoners of war, the ECtHR concluded that, in the declassification proceedings, the Russian courts had failed to perform the required balancing exercise between national security considerations, on the one hand, and “the public interest in a transparent investigation into the crimes of the previous totalitarian regime,” and “the private interest of the victims' relatives in uncovering the circumstances of their death,” on the other.¹⁰⁹
54. Apart from secrecy, the authorities invoke personal data arguments to deny historians access to archival documents. In 2020, Memorial requested that the Prosecutor General's Office provide information about 11 prosecutors who had sat on the extrajudicial “troikas” of the Great Terror. Memorial needed their biographies for a historical reference book about all “troika” members, a joint project of Memorial, the Russian State Archive of Social and Political History, the State Archive, and the FSB Central Archive. The Prosecutor General's Office refused, relying on the Federal Law titled “On the Protection of Personal Data,” that requires the consent of any individual for the disclosure of his or her personal data. Memorial is challenging that decision in court, arguing that personal data laws are inapplicable to archival materials.¹¹⁰ Ian Rachinsky, head of Memorial, told the media that the new policy of the authorities “would make the creation of any encyclopaedias and biographical reference books impossible.” According to Memorial lawyer Marina Agaltsova, the representative of

102. Nikolay Bobrinsky, Stanislav Dmitrievsky, *Between Revenge and Oblivion. A Concept of Transitional Justice for Russia*. Chapter 6 [Между мстью и забвением: концепция переходного правосудия для России], URL: <https://trjustice.ilpp.ru/chapter-6.html>.

103. See, e.g., Article 19, *Opening up Russia: The right to information and the fight for transparency*, 2008, URL: <https://www.article19.org/opening-up-russia-the-right-to-information-and-the-fight-for-transparency/>.

104. Constitutional Court of the Russian Federation, decision of 22 November 2012, No. 2226-O. URL: <http://doc.kssf.ru/decision/KSRFDecision119514.pdf>.

105. The decision has never been published. For an unofficial reproduction, see: URL: <https://dedushka-stepan.livejournal.com/68875.html>.

106. Change.org, *For a free access to the archives of the Cheka-NKVD-KGB* [За свободный доступ к архивам ВЧК-НКВД-КГБ], URL: <http://chn.org/it/HLh6MNdqCF>.

107. Dmitry Evstifeev, *The KGB will not be declassified* [КГБ не рассекретится], in *Gazeta.ru*, 19 January 2016, URL: <https://www.gazeta.ru/social/2016/01/19/8030279.shtml>.

108. European Court of Human Rights, judgment of 21 October 2013, applications nos. 55508/07, 29520/09, *Janowiec and others v. Russia*, para 57-60, URL: <http://hudoc.echr.coe.int/fre?i=001-127684>. See also §§116; 125 below.

109. *Ibid.*, para 214. See also §§ 116; 125 below.

110. Elizaveta Lamova, *Moscow Court stood up for Stalin's prosecutors* [Московский суд вступился за сталинских прокуроров], in *Kommersant*, 30 July 2020, URL: <https://www.kommersant.ru/doc/4434686>.

the Prosecutor General's Office justified shielding Stalin-era prosecutors based on the fact that they "had served the Homeland."¹¹¹ Memorial lost at trial in July 2020, and on appeal in March 2021,¹¹² but the case is still ongoing. Separate requests to copy materials in FSB archives, addressed by Memorial to the FSB Central Archive and to the FSB of the Karelia region, have been denied with the explanation that the FSB internal rules do not permit the copying of materials in the FSB archives. Memorial has challenged the refusals in courts but has so far lost every appeal in both of these cases and plans to take the matter to the Supreme Court.¹¹³

3.2. Access to files of rehabilitated persons

55. Access to archival files of discontinued criminal and related cases against the victims of Soviet-era persecution is governed by a special, and at first glance more permissive, legal framework. Article 11 of the law titled "On Remedies to Victims of Political Repression" (the 1991 Law) provides that "rehabilitated individuals," meaning the victims who were recognized as such by the State, have the right of access to their case files, as well as the right to receive copies. After the victim's death, this entitlement extends to his or her relatives. However, in 2006, the FSB, the Ministry of the Interior, and the Ministry of Culture adopted a regulation¹¹⁴ (the 2006 Order) that placed restrictions on the exercise of this right. In particular, paragraph 9 of the 2006 Order prohibits State archives from granting access to documents in the case files that contain the personal data of individuals other than the victims. This means that the applicants are unable to obtain any information about State officials implicated in their persecution. Paragraph 14 of the 2006 Order mandates that State archives provide redacted versions of case documents to the applicants. In practice, data redaction can be extensive.¹¹⁵ In 2011, Memorial unsuccessfully challenged paragraph 9 of the 2006 Order at the Supreme Court.¹¹⁶ For persons other than the victims, Article 11 of the 1991 Law refers to the Federal Law titled "On Archival Business." That law provides for free access to archives, with the caveat that documents containing information on "personal and family secrets or private life" shall be restricted for a period of 75 years from the date of creation of the document (Article 25). Relying on this law, paragraph 6 of the 2006 Order introduced a blanket 75-year-long ban on access the case files by all third parties, absent the consent of the victim or his or her relatives. In 2009-2011, Arkhangelsk historian and professor at the Pomor State University Mikhail Suprun teamed up with a an officer of a Regional Police Department, the German Red Cross, and a German research foundation, to compile a Book of Memory on the Germans and Poles who had been deported to the region. Both the officer and the historian were investigated by the Investigative Committee, and Suprun was subsequently convicted for processing more than 8,000 archival records of German deportees of the 1940s in the State archives, on the grounds that he had "unlawfully collected personal and family secrets" of the victims of Soviet repression without their consent.¹¹⁷ Suprun's defence team argued that information about a victim's removal, imprisonment, repatriation, and/or judicial sanctions against him or her by the authorities fell outside the scope of his or her private life.¹¹⁸ Suprun's case is now pending before the ECtHR. In 2011, Memorial unsuccessfully challenged paragraph 6 of the 2006 Order at the Supreme Court.¹¹⁹ In the words of Suprun's lawyer Ivan Pavlov, the case became emblematic of the "selective prosecution" of historians who are seeking to establish the historical truth about Soviet-era abuses.¹²⁰

111. FIDH interview with Marina Agaltsova.

112. The New Times, *NKVD without agreement on personal data* [НКВД без соглашения о персональных данных], 5 March 2021, URL: <https://newtimes.ru/articles/detail/201730?fcc>.

113. <https://www.memo.ru/ru-ru/memorial/departments/intermemorial/news/551>; <https://hrdco.org/stories/kopii-kak-veshhdoki/>.

114. Joint order of the Ministry of Culture, the Ministry of the Interior and the Federal Security Service No. 375/584/352 of 25 July 2006.

115. FIDH interview with Sergey Prudovsky.

116. Supreme Court of the Russian Federation, judgment of 26 January 2011, No. GKPI10-1510, URL: http://vsrf.ru/stor_pdf.php?id=422414.

117. *The case of Arkhangelsk historians: the Law on Access to State Information is Not Working* [Дело архангельских историков: Закон о доступе к госинформации не работает], DW, 23.11.2010.

118. See more on the Suprun case at § 78 below.

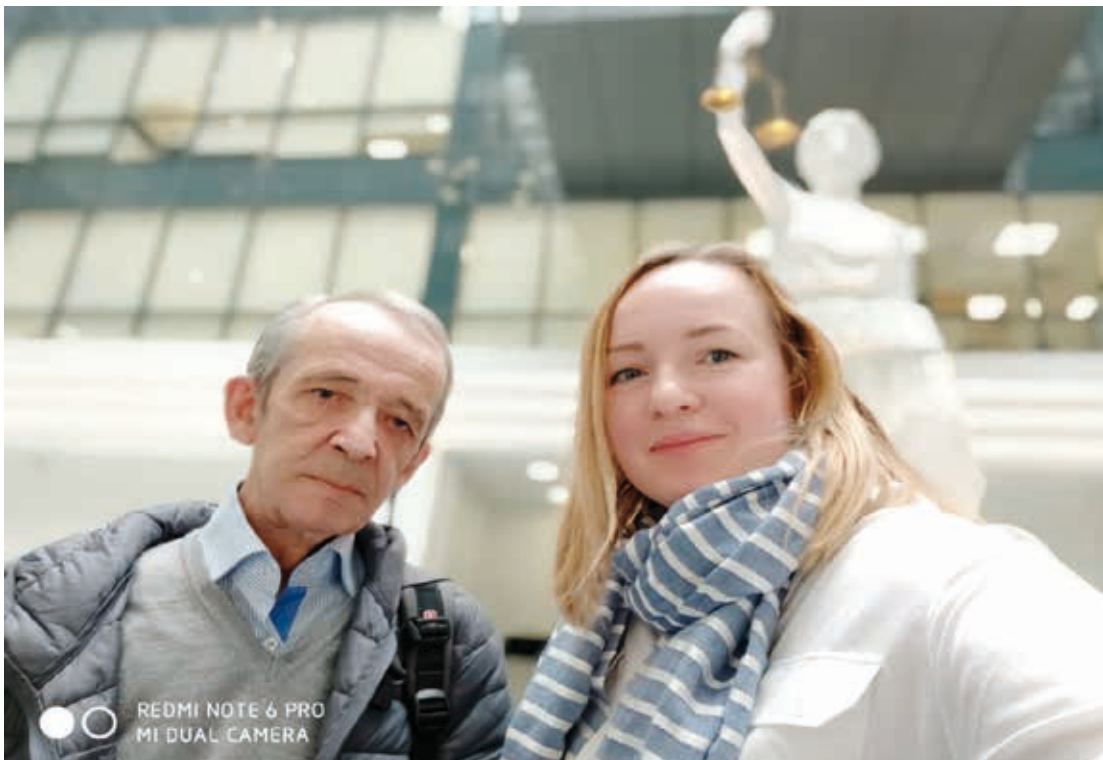
119. Supreme Court of the Russian Federation, judgment of 26 January 2011, No. GKPI10-1510, URL: http://vsrf.ru/stor_pdf.php?id=422414.

120. *The case of Arkhangelsk historians: the Law on Access to State Information is Not Working* [Дело архангельских историков: Закон о доступе к госинформации не работает], DW, 23.11.2010.

56. By now, the 75-year period has already expired for the case files of the Great Terror period (1937-1938). However, the authorities have begun coming up with new grounds to restrict the access of historians to those case files. In 2020, the Moscow directorate of the FSB denied Sergey Prudovsky, a historian doing research on the NKVD's 1937-1938 operation against former personnel of the Chinese Eastern Railway, access to the minutes of "troika" meetings from that case in order to compile the list of victims. The officials said that the document contained "confidential information," specifically the names of "troika" members. The FSB representative said that disclosure of their names "could harm both the living relatives of those officials and the objective assessment of the 1937-1938 historical period." Prudovsky commented that the names of "troika" members were in the public domain already, and that the FSB argument was a pretext invoked in order to frustrate his work to identify the victims. He challenged the FSB decision in court and lost at trial, but his case is still ongoing.¹²¹

3.3. Access to files of non-rehabilitated persons

57. Prior to 2019, settled practice did not grant access to their case files to "non-rehabilitated persons" or their relatives, meaning all those who had been convicted between 1917 and 1991 without a demonstrated motive for persecution. In 2019, the Supreme Court reversed that approach in the case of Georgiy Shakhnet, holding that all citizens have the right of access 75 years after the initiation of the criminal case, and relatives of non-rehabilitated individuals have a right of access to their case files without any time restrictions.¹²² Nonetheless, lower courts persist in dismissing similar lawsuits.¹²³ Moreover, in 2020, the FSB denied Sergey Prudovsky access to the case files against former NKVD officers who themselves had been convicted during Stalin-era purges, and had been denied victim status in the post-Soviet era. Prudovsky told FIDH that the files might provide valuable historical information, such as the officers' testimonies about the internal affairs and methods of the NKVD at the time.¹²⁴ This case is also currently being litigated.¹²⁵



Researcher Sergei Prudovsky and lawyer Marina Agaltsova in court on April, 2021. By Marian Agaltsova / www.memo.ru

121. Anastasia Kurilova, *Special Troika under the cover of the FSB* [Особая тройка под прикрытием ФСБ], in *Kommersant*, 14 March 2019, URL: <https://www.kommersant.ru/doc/3909489>; FIDH interview with Sergey Prudovsky.
122. Supreme Court of the Russian Federation, cassation decision of 5 July 2019, No. 5-KA19-20, URL: http://vsrf.ru/stor_pdf.php?id=1788816.
123. Memorial, *In Barnaul, Court's decision on access to the case of an unrehabilitated person has been cancelled* [В Барнауле отменено решение суда о доступе к делу нереабилитированного], 29 December 2020, URL: <https://www.memo.ru/ru-ru/memorial/departments/intermemorial/news/519>.
124. FIDH interview with Prudovsky
125. Anastasia Kurilova, *FSB has handed over its members to the archives* [ФСБ своих сдала в архив], in *Kommersant*, 22 June 2020, URL: <https://www.kommersant.ru/doc/4389314>.

4. Restrictions on public events

58. Russia has stringent rules concerning public assembly. Every outdoor public assembly requires prior approval by the authorities, who enjoy wide discretion in deciding whether to grant it.¹²⁶ Any public assembly not approved by the authorities is deemed *ipso facto* unlawful, and its organizers and participants are subject to hefty fines of up to 300,000 rubles for individuals (about EUR 3,350).¹²⁷ Repeat violations may result in criminal prosecution, followed by up to five years' imprisonment.¹²⁸ In the spring of 2020, the authorities imposed blanket bans on any public events due to the Covid-19 pandemic, but have since been very reluctant to lift or soften restrictions on public assemblies, while allowing other mass events to proceed, including the parade to commemorate the 75th anniversary of the Soviet victory in the Second World War.¹²⁹
59. The authorities often hinder or interfere with memorial events honouring the victims of Soviet-era State terror. Since 2007, International Memorial has been holding an annual commemoration event called "Return of the Names" near the Solovetsky Stone monument at Lubyanskaya Square in Moscow, across from the FSB headquarters (and the former headquarters of the KGB). The event is traditionally held on October 29, the eve of the Day of Remembrance of the Victims of Political Repression. Attendees read aloud the names of those who were killed by the Soviet regime. In 2018, the Moscow authorities suddenly withdrew their permission to hold the event, just two weeks before its scheduled date, citing unforeseen construction work on the site.¹³⁰ The event was on the verge of cancellation but, following a public outcry, the authorities allowed the event to proceed. The human rights community believed that the authorities have been trying to drive the event out of Lubyanskaya Square, and "kettle" it at Sakharov Avenue, the location of a more recent State-sponsored monument, the Wall of Grief.¹³¹
60. In 2018, local officials harassed the participants of the October 30 Day of Remembrance event in Novokuznetsk.¹³² One of them was later arrested by the police, and then convicted and fined by a court.¹³³ Arrests also took place at commemoration events in Krasnoyarsk¹³⁴ and Saint Petersburg.¹³⁵ In Cheboksary, seven police officers confronted and arrested a seventh-grade student who was holding a sign with the name of a local citizen killed by the Soviet State in 1938. He was later released after his mother arrived to pick him up at the police station. The police said he had been arrested "because of an obscure poster."¹³⁶
61. In October 2019, the Moscow authorities declined twice to approve the "Immortal GULAG" memorial march. Organizers had to hold individual pickets instead.¹³⁷ In October 2020, the

126. Natalia Smirnova, Denis Shedov, *The Art of the Ban*, in *OVD-Info*, 18 December 2018, URL: <https://ovdinfo.org/reports/art-ban>.

127. Article 20.2 of the Code of Administrative Offences.

128. Article 212.1 of the Criminal Code.

129. The Moscow Times, *Russia to Quarantine Troops Rehearsing for Postponed WWII Parade on Coronavirus Concerns*, 20 April 2020, URL: <https://www.themoscowtimes.com/2020/04/20/russia-to-quarantine-troops-rehearsing-for-postponed-wwii-parade-on-coronavirus-concerns-a70045>.

130. FIDH interview with Elena Zhemkova.

131. Anastasia Kurilova, *Solovetsky stone closed for repair [Соловецкий камень закрыли на ремонт]*, in *Kommersant*, 20 October 2018, URL: <https://www.kommersant.ru/doc/3777335>.

132. OVD-Info, *In Novokuznetsk, an activist was threatened for picketing on the Day of Remembrance of the Victims of Political Repression [В Новокузнецке активисту угрожали из-за пикета в день памяти жертв политических репрессий]*, 30 October 2018, URL: <https://ovdinfo.org/express-news/2018/10/30/v-novokuznecke-aktivistu-ugrozhal-i-z-za-piketa-v-den-pamyati-zhertv>.

133. OVD-Info, *Coordinator of the "Protesting Kuzbass" movement detained in Novokuznetsk [В Новокузнецке задержали координатора движения «Протестный Кузбасс»]*, 22 November 2018, URL: <https://ovdinfo.org/express-news/2018/11/22/v-novokuznecke-zaderzhali-koordinatora-dvizheniya-protestnyy-kuzbass>.

134. OVD-Info, *In Krasnoyarsk, an employee of Navalny's headquarters was arrested at the rally "Immortal Gulag" [В Красноярске сотрудника штаба Навального задержали на акции «Бессмертный ГУЛАГ»]*, 30 October 2020, URL: <https://ovdinfo.org/express-news/2020/10/30/v-krasnoyarske-sotrudnika-shtaba-navalnogo-zaderzhali-na-akcii-bessmertnyy>.

135. *Ibid.*

136. Idel.Realii, *In Cheboksary, the police arrested a seventh-grade participant in the action "Immortal Gulag" [В Чебоксарах полиция задержала семиклассника – участника акции «Бессмертный ГУЛАГ»]*, 31 October 2018, URL: <https://www.idelreal.org/a/29574902.html>.

137. Elizaveta Mikhalchenko, *The Gulag turned out to be immortal [ГУЛАГ оказался бессмертным]*, in *Kommersant*, 7 October 2019, URL: <https://www.kommersant.ru/doc/4117284>; OVD-Info, *In Moscow, the Mayor's Office refused for the second time to allow the "Immortal Gulag" procession [В Москве мэрия во второй раз отказалась согласовать шествие «Бессмертный ГУЛАГ»]*, 3 October 2019, URL: <https://ovdinfo.org/express-news/2019/10/03/v-moskve-meriya-vo-vtoroy-raz-otkazalas-soglasovat-shestvie-bessmertnyy>.

authorities in Ekaterinburg refused to allow Ural Memorial, a local NGO, to hold the annual October 30 commemoration event in front of the former Soviet security services building, citing public health reasons, although only 30 people were planning to attend, and the organizers pledged to follow the health safety protocol. Ural Memorial said that the real reasons behind the refusal were “ideological.”¹³⁸

62. In the Perm Region, the local authorities have been instrumental in shutting down “Pilorama,” an annual international civic forum held by the Perm-36 Museum next to the site of Perm-36, a former GULAG camp. Between 2005 and 2012, “Pilorama” included exhibitions, theatrical performances, film screenings, and panel discussions. It attracted government officials, representatives of international organizations, politicians, civil society leaders, journalists, musicians, and many others. In 2013, a group of conservative pro-Government activists petitioned the Governor and demanded that the event be cancelled, arguing that the forum “was a shame for Perm Region”, too influential (large scale) and politically dangerous. The regional government first unsuccessfully tried to censor the event program, and then, one month before the start of the forum, refused half of the funding it had originally committed to the event. When the organizers managed to find substitute funding, officials said they would be unable to ensure the safety of attendees. The forum thus had to be cancelled at the last minute, and has never returned.¹³⁹ In 2015, when local activists managed to crowdfund the “Post-Pilorama” festival, they faced obstruction from the authorities, who did not allow them to hold the commemoration event near the former Soviet security services’ prison, and closed the Perm-36 museum (which at that time was already turned into a state museum) for the days of the festival, without explanation. That was the last annual GULAG-related civic forum in Perm.¹⁴⁰
63. Historians and activists working on historical memory, including Elena Zhemkova, Irina Flige, and Robert Latypov, say that State-owned cultural institutions, such as museums and libraries, face pressure from the authorities to avoid cooperation with independent civil society actors like Memorial.¹⁴¹ In 2014, eight out of ten museums dropped out of the scheduled nationwide exhibition tour “Polish Sites of Memory in Russia,” organized by Memorial with the support of the Embassy of Poland, all citing reasons that appeared pretextual, such as sudden construction works or utility accidents.¹⁴²
64. Collaboration by Russian historians with their foreign partners has become increasingly difficult, especially if the latter come from the Baltic States, Poland, or Ukraine. Independent associations of historians, like “Historians Without Borders,” which used to hold joint conferences with their Ukrainian counterparts, are no longer able to openly collaborate in this way.¹⁴³

5. Persecution of civil society actors

65. In recent years, the authorities have engaged in targeted persecution of independent civil society actors working on issues relating to Soviet-era State terror. This includes a crackdown on independent NGOs; the expulsion of independent historians from public institutions; malicious prosecutions; and condoning intimidation and violence by pro-Government non-State actors.

138. Anna Pastukhova, *In Yekaterinburg, “Memorial” not allowed to hold action in memory of the repressed ones* [В Екатеринбургe «Мемориалу» не разрешили провести акцию памяти репрессированных], in *Znak*, 23 October 2020, URL: https://www.znak.com/2020-10-23/v_ekaterinburge_memorialu_ne_razreshili_provesti_aksiyu_pamyati_repressirovannyh.

139. FIDH interview with Tatiana Kursina.

140. Ilya Izotov, *No money for the “Pilorama-2013” forum* [На форум “Пилорама-2013” не нашли денег], in *Rossiyskaya Gazeta*, 7 July 2013, URL: <https://rg.ru/2013/07/07/reg-pfo/perm-pilorama.html>; Ivan Kozlov, *“The flow of denunciations was unprecedented”* [«Поток доносов был беспрецедентным»], in *Meduza*, 10 November 2014, URL: <https://meduza.io/news/2014/11/10/potok-donosov-by-l-bespretsedentnym>; Lyubov Sokolova, *Organisers of the festival “Post-Pilorama” confronted to obstacles* [Организаторы фестиваля «После Пилорамы» столкнулись с препятствиями], cit., URL: <https://www.asi.org.ru/news/2015/07/06/organizatory-festivalya-posle-piloramy-stolknulis-s-prepyatstviyami>; FIDH interview with Tatiana Kursina.

141. FIDH interviews with Elena Zhemkova, Irina Flige, and Robert Latypov.

142. FIDH interview with Irina Flige.

143. FIDH interview with a historian of the Russian Academy of Sciences.

5.1. Crackdown on independent NGOs

66. A full-scale assault against independent NGOs began in 2012, with the adoption of the “Foreign Agents” law. Since then, the authorities have been adopting new repressive laws and abusing existing ones to harass independent NGOs with burdensome regulatory requirements, inspections, searches, and fines, all with the ultimate goal of paralyzing their work and/or forcing them to close.
67. The “Foreign Agents” law was a series of 2012 amendments to the Federal Law titled “On Non-Governmental Organizations.”¹⁴⁴ It required every Russian NGO that received foreign funding and engaged in “political activity” to register as a “Foreign Agent.” Since the Soviet era, this term has carried a strong negative connotation in Russia, essentially meaning that a person or entity is acting against the interests of the homeland—i.e. is a “spy.” The law required such NGOs to label all of their publications with the words “Foreign Agent.” It also introduced extra reporting requirements for such NGOs, including keeping separate records of income or expenses obtained from foreign sources, submitting frequent reports on their activities and the composition of their management bodies, and auditing. Failure to register as a “Foreign Agent,” or to label publications, was subject to fines of 300,000 rubles (approximately EUR 3,350) (since raised to 500,000 rubles (approximately EUR 5,600)) under Article 19.34 of the Code of Administrative Offenses. Repeated violations were subject to criminal liability with penalties of up to two years’ imprisonment (Article 330.1 of the Criminal Code), while NGOs could be forcibly dissolved by a court order (Article 44 of the law titled “On Public Associations”). In 2014, the Constitutional Court upheld the “Foreign Agents” law.¹⁴⁵
68. The authorities claimed the “Foreign Agents” regime was meant to “ensur[e] the needed openness and transparency” of Russian NGOs, and that it did not affect their activities.¹⁴⁶ In fact, however, the underlying reason behind the move was the Government’s desire to limit “foreign influence” on Russian society.¹⁴⁷ Enforcement of the law specifically targets civil society organizations working in the fields of human rights, democracy, and the rule of law. NGOs branded “Foreign Agents” face the choice of operating under a derogatory label, leaving Russia, or refusing international support. Unspoken official policies exclude “Foreign Agent” NGOs from government grants. Indeed, of all the NGOs surveyed by FIDH, only one reported having received a government grant since 2014.¹⁴⁸ State-owned or State-controlled institutions and public officials will not cooperate with such NGOs.¹⁴⁹ Since 2012, many “Foreign Agent” NGOs, such as Perm-36, which administered the Memorial Museum of the History of Political Repression, had to dissolve.¹⁵⁰ Others face heavy fines, and teeter on the edge of survival.
69. The Venice Commission of the Council of Europe has found that Russia’s “Foreign Agents” law “stigmatiz[es] the [NGOs] to which it is applied, tarnishing their reputation and seriously hampering their activities.”¹⁵¹ It has said the law “reinforce[s] the chilling effect on the exercise on freedom of expression along with freedom of association.”¹⁵² In 2017, the ECtHR communicated to the Russian authorities 67 applications that had been brought by Russian civil society actors on this

144. Federal Law dated 20 July 2012 No. 121-FZ “On Introducing Amendments to Certain Legislative Acts of the Russian Federation Concerning Regulation of Activities of Non-Commercial Organizations that Perform Functions of a Foreign Agent.”

145. Constitutional Court of the Russian Federation, judgment of 8 April 2014, No. 10-P, URL: <http://doc.krsf.ru/decision/KSRFDecision158063.pdf>.

146. Explanatory note to Bill No. 102766-6 on Amending Separate Legislative Acts of the Russian Federation on the Regulation of the Activities of Non-Profit Organisations Performing the Functions of a Foreign Agent, URL: <https://sozd.duma.gov.ru/download/5B8075B6-D82E-4BC7-AEF8-59F27321FDAE>.

147. E.g.: United Russia, *Law does not prohibit but requires disclosure. Registration of “Foreign Agents” – a logical step for every sovereign country* [Закон не запрещает, а обязывает информировать. Регистрация «иностранцев» – логичный шаг для любой суверенной страны], comment by Dmitry Vyatkin, 21 November 2012, URL: <http://er.ru/news/93621>; RAPS, *Russia NGO Law and Its American “Counterpart”* [Российский закон об НКО и его американский “двойник”], comment by Valentina Matvienko, 27 July 2012, URL: http://rapsinews.ru/international_publication/20120727/263951867.html.

148. FIDH interview with Robert Latypov.

149. FIDH interviews with Irina Flige, Robert Latypov, Sergey Parkhomenko, and Elena Zhemkova.

150. Among NGOs working on historical memory, see also, e.g., the case of Perm Youth Memorial: Regnum, *In Perm, the Youth “Memorial” announced its closure* [В Перми молодежный «Мемориал» заявил о своем закрытии], 26 February 2016, URL: <https://regnum.ru/news/society/2087509.html>.

151. Venice Commission, opinions of 27 June 2014, no. 716-717/2013. CDL-AD(2014)025, URL: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad\(2014\)025-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2014)025-e).

152. *Ibid.*

matter since 2013, yet all those cases are still pending.¹⁵³ In the meantime, the authorities have recently extended the “Foreign Agent” regime to unincorporated associations and individuals.¹⁵⁴ The labelling requirement now applies not only to the NGO itself but also to its founders, leaders, individual members, and employees.¹⁵⁵ Moreover, another bill, adopted by the Duma in March 2021, would require “Foreign Agent” NGOs to submit all their programs to the authorities for prior approval, or face forcible dissolution.¹⁵⁶

70. Notably, among the targets of the “Foreign Agents” law’s enforcement were independent NGOs working in the field of historical memory with the support of international and foreign donors. Currently, the list of “Foreign Agents” includes seven such NGOs of the Memorial network: International Memorial, Human Rights Center Memorial, Memo.ru, IEC Memorial (Yekaterinburg), Yekaterinburg Memorial, Ryazan Memorial, and SIC Memorial (Saint Petersburg).¹⁵⁷ Between 2015 and 2016, the list also included Perm-36. The Ministry of Justice placed all these organizations on the list without their consent. The Ministry concluded that their humanitarian work constituted “political activity.” For example, International Memorial was branded a “Foreign Agent” for “fighting against totalitarian stereotypes; restoring historical truth; and remembering the victims of political repression.”¹⁵⁸ IEC Memorial (Yekaterinburg) was put on the “foreign agents” list for “organizing an event to remember the victims of political repression” that included “placing posters on Stalinism near the main stage and reading out information about the victims of repression and the State bodies which had convicted them.”¹⁵⁹ Perm-36 was charged with, *inter alia*, “promoting the development of museums of conscience and educational projects,” “organizing mobile exhibitions on Stalin’s labour camps,” and “addressing the Governor of Perm Region with regard to the creation of a State museum of conscience.”¹⁶⁰
71. In recent years, Memorial has been harassed with numerous searches and inspections. In 2008, the Investigative Committee searched the Saint Petersburg office of Memorial as part of an anti-extremist investigation, and seized archival documents and computer equipment; a court subsequently found the search unlawful.¹⁶¹ In 2013, International Memorial and Human Rights Center Memorial were subjected to raids by prosecutors, the Ministry of Justice, the Interior Ministry, and the Federal Tax Service. The Constitutional Court subsequently sided with Memorial, and found that those inspections were arbitrary, yet local courts refused to grant Memorial any relief.¹⁶² In 2020, prosecutors inspected the office of the Human Rights Center Memorial.¹⁶³ In Perm, the local Anti-Extremism Center of the Interior Ministry has been gathering information about Perm Memorial, and has summoned its leader for questioning.¹⁶⁴
72. In 2014, the Ministry of Justice requested that the Supreme Court dissolve International Memorial over various alleged paperwork errors. The move caused an outcry, with the Federal

153. European Court of Human Rights, application of 22 March 2017, no. 9988/13, *Ecodefence v. Russia and 48 other applications*, URL: <http://hudoc.echr.coe.int/eng?i=001-173049>; European Court of Human Rights, application of 19 June 2018, no. 16094/17, *Levada Centre v. Russia and 14 other applications*, URL: <http://hudoc.echr.coe.int/eng?i=001-184685>; European Court of Human Rights, application of 7 September 2018, no. 7995/18, *Rudomakha and North Caucasus Environmental Watch v. Russia*, URL: <http://hudoc.echr.coe.int/eng?i=001-186589>; European Court of Human Rights, applications of 1 April 2020, nos. 19154/19 and 42416/19, *Man and Law v. Russia and Soglasije v. Russia*, URL: <http://hudoc.echr.coe.int/eng?i=001-202645>.

154. Federal Law dated 30 December 2020 No. 481-FZ.

155. *Ibid.*; Federal Law dated 24 February 2021 No. 14-FZ.

156. Bill No. 1052523-7 on Amending the Federal Law “On Non-Commercial Organisations,” URL: <https://sozd.duma.gov.ru/bill/1052523-7>.

157. Ministry of Justice of the Russian Federation, *On the Activities of Non-Commercial Organisations*, URL: <http://unro.minjust.ru/NKOForeignAgent.aspx>.

158. *Ecodefence v. Russia and 48 other applications*, cit., URL: <http://hudoc.echr.coe.int/eng?i=001-173049>.

159. *Ibid.*

160. *Ibid.*

161. Vladimir Shishlin, *Gulag history to be returned to “Memorial”?* [“Мемориалу” вернут историю ГУЛАГа ?], in *Interfax*, 20 January 2009, URL: <https://www.interfax.ru/russia/58106>.

162. Constitutional Court of Russia, judgment of 17 February 2015, No. 2-P, URL: <http://doc.ksrf.ru/decision/KSRFDecision187870.pdf>; Olga Osipova, *“Memorial” subject to Prosecutor’s inspection* [Прокурорская проверка прошла в «Мемориале»], ASI, 22 March 2013, URL: <https://www.asi.org.ru/news/2013/03/22/prokurorskaya-proverka-proshla-v-memoriale>; Interfax, *The court in Moscow did not reconsider the complaints of human rights defenders against the prosecutor’s inspections* [Суд в Москве не стал пересматривать жалобы правозащитников на прокурорские проверки], 22 July 2015, URL: <https://www.interfax.ru/russia/455292>.

163. Kommersant, *Prosecutor’s inspection began in Moscow “Memorial” office* [В московском «Мемориале» началась прокурорская проверка], 3 December 2020, URL: <https://www.kommersant.ru/doc/4595824>.

164. FIDH interview with Robert Latypov.

Ombudsperson, the Presidential Human Rights Council, and many others voicing their support for Memorial. In January 2015, the Court eventually dismissed the lawsuit.¹⁶⁵

73. Since 2019, courts have fined NGOs in the Memorial network a total of more than 6.1 million rubles (about EUR 67,900) in 32 cases concerning non-compliance with the labelling requirement.¹⁶⁶ The vast majority of those cases concerned International Memorial. The wording of the law is ambiguous, and the scope of the duty it imposes is unclear. For example, during a notorious incident at the Moscow International Book Fair in September 2020, prosecutors charged Memorial for failing to mark all its books with a “Foreign Agent” stamp, even those that had been printed before the passing of the “Foreign Agent” law in 2012. Memorial argued that the law could not be applied retroactively, yet courts sided with the prosecutors. Following the incident, the organizers of the book fair marked the Memorial stand with no fewer than four signs announcing that Memorial was a “Foreign Agent.”¹⁶⁷ While Memorial has so far managed to crowdfund the payment of the fines, its existence remains under threat.
74. In 2014, the authorities of the Perm Region undertook a hostile takeover of Perm-36, an independent GULAG museum with the only complex of actual GULAG buildings remaining, in their entirety, in Russia. The museum was founded in the 1990s by a group of local activists. Between 2005 and 2012, the museum hosted “Pilorama,” an annual international civic forum.¹⁶⁸ The museum’s former co-director, Tatyana Kursina, told FIDH that in 2012, the museum was about to be vetted by experts for inclusion of the site in the UNESCO World Heritage list. However, after a new governor came to power, the authorities rejected the idea and decided to get rid of the independent museum. They created a parallel legal entity and drove Perm-36, the managing NGO, out of the museum.¹⁶⁹ The takeover was accompanied by a campaign of harassment against the NGO, fuelled by local pro-Government activists, communists, and former prison guards. Harassment included a “stream” of government inspections, withdrawal of government subsidies, and a smear campaign.¹⁷⁰ As Tatyana Kursina remarked in her interview with FIDH, “the government had done everything to ensure that the NGO would be unable to carry out its mission.”¹⁷¹ The regional minister of culture accused Perm-36 of “imposing [its] understanding of how we should look at [historic] events.”¹⁷² Following the takeover, the authorities revised the museum’s exhibitions to downplay the theme of political prisoners in general and, in particular, Soviet dissidents who served their sentences there in the 1970s and 80s. The State “is destroying the memory of those who fought for freedom and human dignity,” a civil society leader explained of the changes at Perm-36.¹⁷³ Eventually, the Perm-36 NGO was labelled a “Foreign Agent” and chose to dissolve in 2016.

5.2. Expulsion of independent historians

75. In March 2014, the Moscow State Institute of International Relations, a leading Russian State university, terminated the tenure of Professor Andrey Zubov. This happened three weeks after Zubov, a renowned historian, published an op-ed in which he compared Russia’s annexation of

165. Interfax, *The Supreme Court of the Russian Federation rejects the request to dissolve “Memorial”* [Верховный суд РФ отклонил иск о ликвидации “Мемориала”], 28 January 2015, URL: <https://www.interfax.ru/russia/420613>.

166. That number is constantly increasing and might not reflect the amount by the time of the publication of this report. Novaya Gazeta, *The court fined “Memorial” half a million rubles for not marking “foreign agent” on books about the Gulag* [Суд оштрафовал «Мемориал» на полмиллиона рублей за отсутствие маркировки «иноагента» на книгах о ГУЛАГе], 26 November 2020, URL: <https://novayagazeta.ru/news/2020/11/26/166017-sud-oshtrafoval-memorial-na-polmilliona-rubley-za-otsutstvie-markirovki-inoagenta-na-knigah-o-gulage>.

167. Sergey Lebedenko, *Operational censorship* [Цензура оперативного назначения], in *Novaya Gazeta*, 5 September 2020, URL: <https://novayagazeta.ru/articles/2020/09/05/86974-tsenzura-operativnogo-naznacheniya>.

168. See more on Pilorama at § 62 above.

169. FIDH interview with Tatyana Kursina

170. Ivan Kozlov, *The flow of denunciations was unprecedented* [«Поток доносов был беспрецедентным»], cit., URL: <https://meduza.io/news/2014/11/10/potok-donosov-by-l-bespretsedentnym>.

171. FIDH interview with Tatyana Kursina.

172. *Ibid.*

173. Elena Shukaeva, *“State House” or “Museum of Resistance”?* [«Казенный дом» или «Музей сопротивления?»], in *Novaya Gazeta*, 16 March 2020, URL: <https://novayagazeta.ru/articles/2020/03/16/84336-kazenny-dom-ili-muzey-soprotivleniya>.

Crimea with the *Anschluss* of Austria with Nazi Germany in 1938.¹⁷⁴ The university fired Zubov for an “immoral act,” saying his opinions “went against the foreign policy of Russia, subjected the deeds of the State to reckless and irresponsible criticism, and harmed the process of education and upbringing.”¹⁷⁵ Zubov alleged that the university had acted “at the Kremlin’s orders.”¹⁷⁶ Following an outcry, the university vacated its own termination decision on a technicality.¹⁷⁷ In June 2014, however, Zubov’s tenure expired and was not renewed. In 2016, Alexey Petrov, professor of national history at Irkutsk State University, who among other things has organized “Walking Tours of Historical Irkutsk,” was fired from his post due to overly liberal, “unpatriotic” views.¹⁷⁸

76. In December 2019, Irina Flige, an historian and the director of Saint Petersburg Memorial, was excluded¹⁷⁹ from the Presidential Working Group on Commemoration of Victims of Political Repression, just one year after her appointment.¹⁸⁰ Flige is certain that this happened because of her professional work.¹⁸¹ In June 1997, she took part in the expedition of the St. Petersburg “Memorial” that uncovered the Sandarmokh mass graves in Karelia. Her colleague and current political prisoner Yuri Dmitriev also participated in this expedition.¹⁸² Recently, she opposed the excavations at Sandarmokh by the RMHS, which desecrated the graves of victims of Stalinist terror, while looking for the alleged burial places of Red Army prisoners of war.¹⁸³



Searchers from the Russian Military Historical Society complete excavations in the Sandarmokh tract, the site of mass shootings during the “Big Terror.”
Photo by Sergei Markelov, late August 2018

174. Andrey Zubov, *It happened before* [Это уже было], in *Vedomosti*, 1 March 2014, URL: <https://www.vedomosti.ru/opinion/articles/2014/03/01/andrey-zubov-eto-uzhe-bylo>.
175. MGIMO, *About A. B. Zubov* [О Зубове А.Б.], 24 March 2014, URL: https://mgimo.ru/about/news/departments/249761/?sphrase_id=34932735.
176. BBC News, *Historian Zubov: I was fired from MGIMO by order of the Kremlin* [Историк Зубов: меня уволили из МГИМО по приказу Кремля], 24 March 2014, URL: https://www.bbc.com/russian/russia/2014/03/140324_russia_mgimo_zubov_sacking.
177. MGIMO, *About A. B. Zubov* [О Зубове А.Б.], 11 April 2014, URL: https://mgimo.ru/about/news/departments/250373/?sphrase_id=34932735.
178. Moscow Helsinki Group, *Historian Alexei Petrov dismissed from university in Irkutsk* [В Иркутске из университета уволен историк Алексей Петров], 17 November 2016, URL: <https://mhg.ru/news/v-irkutske-iz-universiteta-uvolen-istorik-aleksey-petrov>.
179. Order of the President of the Russian Federation No. 435-rp of 23 December 2019, URL: <http://publication.pravo.gov.ru/Document/View/0001201912230052>.
180. Order of the President of the Russian Federation No. 365-rp of 6 December 2018, URL: <http://publication.pravo.gov.ru/Document/View/0001201812060049>.
181. FIDH interview with Irina Flige.
182. See more on Yuri Dmitriev at §§ 80-82 below.
183. See more on the Russian Military Historical Society and the Sandarmokh excavations at § 95 below.

77. These are just some¹⁸⁴ of the illustrative cases. In his interview with FIDH, historian Nikolai Kopusov remarked that universities employ more subtle means of pressure to “choke out” professors and researchers who are “too liberal.” This can be done by increasing pressure on them to self-censor their work, including by making “suggestions” to change the topic or angle of their research, presentations, or reports—the topic of the Second World War having become particularly sensitive.¹⁸⁵ Kopusov, who was Founding Dean of Smolny College of Liberal Arts and Sciences, a joint venture of Saint Petersburg State University and Bard College (New York), is just one of dozens of historians forced to work and live abroad due to the deteriorating climate for independent scholars whose views of the Soviet past do not correspond to those of the current regime.

5.3. Malicious prosecutions

78. Numerous historians, activists, researchers, and professors have been prosecuted for their work. In its 2018 report, Agora International identified 17 prosecutions for undesirable comments or findings regarding the Second World War.¹⁸⁶ As already noted above, at § 55, in 2009-2011, historian Mikhail Suprun was persecuted for his archival work.¹⁸⁷ In 2007-2008, he had processed archival records concerning German deportees from the 1940s in the State archives, for a memorial book. The project was a partnership between a local university, a regional police department, the German Red Cross, and the Historic Research Society of Germans from Russia. In 2009, at the FSB's initiative, Suprun was prosecuted for “unlawful collection of personal and family secrets” of the victims of Soviet repression without their consent (Article 137 of the Criminal Code). In 2011, the court found Suprun guilty, but exempted him from criminal penalties due to the expiry of the statute of limitations. The Constitutional Court declined to consider Suprun's application.¹⁸⁸ His case is now pending before the ECtHR. In 2014, the ECtHR communicated his application to the Russian authorities, asking whether the domestic law on “personal and family secrets” had been foreseeable, and whether Suprun's freedom of expression had been violated, “taking into account the scholarly nature of his research.”¹⁸⁹
79. In 2015, Yuri Pivovarov, an historian, political scientist, member of the Russian Academy of Sciences, and then-director of the Institute of Scholarly Information on Social Sciences, was charged with negligence after a catastrophic fire destroyed a significant portion of the Institute's renowned library.¹⁹⁰ Subsequently, four expert reports determined that Pivovarov was not at fault.¹⁹¹ However, in 2017, the authorities opened another criminal case against Pivovarov, this time alleging fraud.¹⁹² Russian historians and civil society leaders considered both criminal cases against Pivovarov to be politically motivated. They linked Pivovarov's prosecution to his studies of Russia's political system and his frequent public appearances.¹⁹³ Professor Pivovarov currently resides outside of Russia.¹⁹⁴

184. Numerous liberal scholars have been fired from the Higher School of Economics, all for political motives. See, e.g.: *Елизавета Антонова, HSE did not renew contracts with 4 more opposition teachers [ВШЭ не стала продлевать контракты еще с 4 оппозиционными преподавателями]*, RBK, 11 April 2020, URL: <https://www.rbc.ru/politics/11/08/2020/5f326a669a79472db1f306b9>.

185. FIDH interview with Nikolai Kopusov.

186. *Supra*, n. 55.

187. See more on access to archives in Russia at §§ 50-57 above.

188. Constitutional Court of the Russian Federation, decision of 28 June 2012, No. 1253-O., URL: <http://doc.ksrf.ru/decision/KSRFDecision105722.pdf>.

189. *Suprun v. Russia*, cit., URL: <http://hudoc.echr.coe.int/eng?i=001-140706>.

190. Investigative Committee of the Russian Federation, *Former director of FGBUN RAN “INION RAN” charged with negligence [Бывшему директору ФГБУН РАН «ИНИОН РАН» предъявлено обвинение в халатности]*, 30 April 2015, URL: <https://sledcom.ru/news/item/921252>.

191. Free Historical Society, *Council Statement on the situation around INION [Заявление Совета о ситуации вокруг ИНИОН]*, 18 February 2015, URL: <https://volistob.ru/statements/zayavlenie-soveta-o-situacii-vokrug-inion>.

192. TASS, *A new criminal case initiated against the academician Pivovarov, ex-director of INION RAS [В отношении экс-директора ИНИОН РАН академика Пивоварова возбуждено новое уголовное дело]*, 31 March 2017, URL: <https://tass.ru/proisshestviya/4143174>.

193. URL: <https://komitetgi.ru/news/news/3190>.

194. This information was confirmed to FIDH by the historian's colleagues in their interviews.

80. Since 2016, the persecution of Yuri Dmitriev has become a hallmark of the Russian State policy towards independent historians. Since the 1990s, Dmitriev, head of a local Memorial office in Karelia, northwest Russia, has worked to uncover mass graves from Stalin's Great Terror, and to identify individual victims. The discovery of Sandarmokh, an execution site dating from 1937-1938, where over 9,000 people of more than 58 nationalities were buried, brought him international recognition. Dmitriev was in charge of an annual day of remembrance at Sandarmokh, on August 5, which garnered significant domestic and foreign attention.
81. In 2016, Dmitriev was arrested on charges of sexual misconduct and production of child pornography (under Articles 135 and 242.2 of the Criminal Code), based on several private photos of his adoptive daughter that he made to monitor her health, made fragile by years in an orphanage.¹⁹⁵ He was remanded into custody pending trial, despite his age, health, and the dearth of evidence against him. In July 2017, Human Rights Center Memorial concluded that the criminal case against Dmitriev was fabricated, and recognised him as a political prisoner.¹⁹⁶
82. Dmitriev was acquitted in April 2018, only to be rearrested in June 2018 on charges of sexual abuse, which could send him to prison for 12 to 20 years.¹⁹⁷ In the spring of 2020, judges refused to release him pending trial despite a Covid-19 outbreak in his prison, disregarding the fact that Dmitriev, who turned 65 in 2021, would have had a high risk of complications in case of illness.¹⁹⁸ In July 2020, Dmitriev was sentenced to 3.5 years in prison, a sentence one quarter the length of that recommended by the Criminal Code.¹⁹⁹ However, in September 2020, following an appeal by the prosecution, and in the absence of his lawyer, the appellate court increased his sentence to a draconian 13 years. For Dmitriev, whose health is increasingly frail, this verdict is essentially a life sentence. The particularly harsh sentence against Yuri Dmitriev was strongly condemned both domestically²⁰⁰ and internationally.²⁰¹ A media investigation has traced Dmitriev's persecution to an adviser to Vladimir Putin, who is also the former head of the Karelia FSB, and whose relatives had served in the Soviet security services.²⁰² Dmitriev's associates believe that the "FSB got afraid of Dmitriev's work," since "he had worked to identify not only the victims but also the hangmen."²⁰³

195. FIDH, *Russia must quash wrongful accusations against historian and human rights defender Yuri Dmitriev*, URL: <https://www.fidh.org/en/issues/human-rights-defenders/russia-must-quash-wrongful-accusations-against-historian-and-human>.

196. Memorial, *On the Yury Dmitriev Affair*, 20 January 2020, URL: <https://www.memo.ru/en-us/memorial/departments/intermemorial/news/342>.

197. More specifically, with "violent acts of a sexual nature in relation to a person who has not reached the age of fourteen" (Article 132, paragraph 4(b), of the Criminal Code). FIDH, *Russia: ongoing judicial harassment against Yuri Dmitriyev*, URL: <https://www.fidh.org/en/issues/human-rights-defenders/russia-ongoing-judicial-harassment-against-yuri-dmitriyev>.

198. Novaya Gazeta, *"The risk of fatal complications is extremely high" [«Риск смертельных осложнений чрезвычайно велик»]*, 6 March 2020, URL: <https://novayagazeta.ru/articles/2020/05/06/85258-risk-smertelnyh-oslozhneniy-chrezvychno-velik>.

199. Memorial, *The case of Yuri Dmitriev. Timeline 2016-2020*, URL: <https://www.memo.ru/en-us/texts/case-yuri-dmitriev-timeline-2016-2020>.

200. Novaya Gazeta, *More than 600 human rights defenders, historians and public figures signed a statement in support of historian Yuri Dmitriev* [Более 600 правозащитников, историков и общественных деятелей подписали заявление в поддержку историка Юрия Дмитриева], 5 October 2020, URL: <https://novayagazeta.ru/news/2020/10/05/164698-bolee-pravozaschitnikov-istorikov-i-obschestvennyh-deyateley-podpisali-zayavlenie-v-podderzhku-istorika-yuriya-dmitrieva>.

201. Commissioner for Human Rights, *The Russian authorities should end continuous judicial harassment of human rights defenders*, 30 September 2020, URL: <https://www.coe.int/en/web/commissioner/-/the-russian-authorities-should-end-continuous-judicial-harassment-of-human-rights-defenders>; European External Action Service, *Russia: Statement by the Spokesperson on the sentencing of Yuri Dmitriev*, 30 September 2020, URL: https://eeas.europa.eu/headquarters/headquarters-homepage/86092/russia-statement-spokesperson-sentencing-yuri-dmitriev_en.

202. Svetlana Osipova, *A very gray cardinal*. [Очень серый кардинал.], in *Proekt*, 16 February 2021, URL: <https://www.proekt.media/portrait/anatoliy-seryshev>.

203. *Ibid.*



Yuri Dmitriev during his acquittal on April 5, 2018 at the Petrozavodsk court in Karelia. By Olga Maltseva / AFP

83. In 2018, Sergey Koltyrin, head of a local Karelian museum and the keeper of Sandarmokh, publicly criticized the excavations of mass graves at Sandarmokh by the RMHS.²⁰⁴ Koltyrin called the RMHS hypothesis that soldiers of the Red Army had been executed and buried there “crazy.”²⁰⁵ Soon after, he was arrested, convicted on charges of paedophilia, and sentenced to nine years in prison.²⁰⁶ Koltyrin’s acquaintances believe his prosecution was “retaliation” for his views.²⁰⁷ In March 2020, a local court ordered his early release due to a terminal illness. However, the prosecutor appealed against that decision, and Koltyrin died in a prison hospital in April 2020.²⁰⁸
84. In 2018, Andrey Zhukov, an expert on military history, was convicted of high treason (Article 275 of the Criminal Code) and sentenced to 12.5 years of imprisonment. The trial was held *in camera* and the judgment was classified, so the exact charges remain unknown. According to media reports, Zhukov was an expert on the history of Russian military units, and might have shared the results of his research about the names and locations of certain units in online chats with military historians.²⁰⁹ The 2012 amendment to Article 275 of the Criminal Code dramatically expanded the definition of high treason, so that now it covers any “assistance” to a foreign State or an international body that is deemed to be “directed against Russia’s security.” The Venice Commission has strongly criticized the amendment, saying that it impermissibly puts researchers at risk, and that “due to its vague and broad wording [...] it might permit the authorities to brand inconvenient figures as traitors.”²¹⁰ Zhukov’s colleagues say that “any one of [them] could be next under Article 275,” and that the Zhukov case might have arisen out of the Government’s wish “to make sure that only officially sanctioned historians remain legit.”²¹¹

204. See more on the Russian Military Historical Society and the Sandarmokh excavations at § 95 below.

205. Current Time, *Historian Sergey Koltyrin, associate of the head of the Karelian “Memorial” Office Dmitriev, condemned to 9 years of prison for pedophilia* [Историк Сергей Колтырин, соратник главы карельского “Мемориала” Дмитриева, получил 9 лет колонии за педофилию], 27 May 2019, URL: <https://www.currenttime.tv/a/29965610.html>.

206. *Ibid.*

207. Sergey Markelov, “Well, if he laundered money, I would still believe” [«Ладно бы он деньги отмывал – я бы еще поверил»], in *Meduza*, 4 October 2018, URL: <https://meduza.io/feature/2018/10/04/ladno-by-on-dengi-otmyval-ya-by-esche-poveril>.

208. OVD-Info, *Karelian historian Sergey Koltyrin, released from punishment due to illness, died in prison hospital* [В тюремной больнице умер карельский историк Сергей Колтырин, освобожденный от наказания по болезни], 2 April 2020, URL: <https://ovdinfo.org/express-news/2020/04/02/v-tyuremnoy-bolnice-umer-karelskiy-istorik-sergey-koltyrin-osvobozhdenny-ot>.

209. Alexey Nikolsky, Maxim Ivanov, *Military historian amateur Andrei Zhukov sentenced to 12.5 years in prison* [Военный историк-любитель Андрей Жуков приговорен к 12,5 года лишения свободы], in *Vedomosti*, 8 September 2020, URL: <https://www.vedomosti.ru/politics/articles/2020/09/08/839235-andrei-zhukov>.

210. Venice Commission, opinions of 27 June 2014, no. 716-717/2013. CDL-AD(2014)025, URL: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad\(2014\)025-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2014)025-e). §§ 110, 118, 131.

211. Taisiya Bekbulatova, *Whoever gives the correct answer will receive 10 years* [Кто даст правильный ответ, тот получит 10 лет], in *Meduza*, 2 August 2018, URL: <https://meduza.io/feature/2018/08/02/kto-dast-pravilnyy-otvet-tot-poluchit-10-let>.

85. In August 2019, the authorities opened a criminal case against Perm Memorial activists for their volunteer clean-up work at a cemetery in Galyashor, an abandoned GULAG settlement. The authorities accused them of “illegal logging,” and of violating immigration rules by hosting international volunteers from Lithuania and Italy.²¹² The activists denied any wrongdoing. The FSB took a lead role in the investigation,²¹³ which included searches at the office of Perm Memorial and the home of its head Robert Latypov, as well as the seizure of electronic devices.²¹⁴ The searches took place on October 31, just one day after the Day of Remembrance of the Victims of Political Repression. Latypov told FIDH that he had to leave Russia for several months following the search, fearing arrest on possible new fabricated charges.²¹⁵ The immigration case ended with an acquittal in January 2020. The so-called “illegal logging” case, however, remains open. In his interview, Robert Latypov also told FIDH that the annual search expeditions called “On the Memory Rivers,” which explore the sites of Soviet terror, faced FSB pressure and fines in 2019 because their organisers “violated two taboos”: they invited Lithuanian volunteers, and they cleaned up burial sites of Lithuanian GULAG victims.
86. In a striking coincidence, around the same time in August 2019, the authorities in the Irkutsk Region prosecuted the local branch of the Russian Association of Unlawful Political Repression Victims for their restoration work at a cemetery in Tsentralnyy Khazan that hosts the remains of deportees from Soviet-occupied Lithuania. The project was an international partnership funded by the Lithuanian government. The regional Ministry of Forest Resources fined the NGO 200,000 rubles (about EUR 2,200) for “unauthorized use of a forest area” (Article 7.9 of the Code of Administrative Offences). It also ordered the Irkutsk branch of the Association to demolish the newly erected gravestones. After the NGO failed to do so, a local court fined it another 10,000 rubles (about EUR 113) for non-compliance (Article 19.5 of the Code of Administrative Offences), and the Ministry brought a separate lawsuit asking the court to authorize the demolition. In March 2021, the court dismissed the case for the Ministry’s failure to appear, but the latter remains free to re-introduce the lawsuit. The Irkutsk branch of the Association, meanwhile, is planning to shut down due to persistent government pressure.²¹⁶

5.4. *Condoning intimidation and violence by non-State actors*

87. In addition to its own repressive actions, the State has condoned intimidation and violence by non-State actors against independent civil society actors working on issues of historical memory, and other history producers. For instance, in November 2012, unknown individuals vandalized the façade of the International Memorial office building, spray-painting the words “Foreign Agent! ♥ USA,” and putting up labels with the same description next to the front door. The incident took place the night before the “Foreign Agents” law came into force.²¹⁷ The police took no action.

212. Alexander Chernykh, Dmitry Astakhov, *Violations found for search engines [Поисковикам нашли нарушения]*, in *Kommersant*, 16 August 2019, URL: <https://www.kommersant.ru/doc/4061606>.

213. FIDH interview with Robert Latypov.

214. Arina Galashova, *Searches conducted in Perm “Memorial” office and at Robert Latypov’s house [В офисе пермского «Мемориала» и дома у Роберта Латыпова прошли обыски]*, ASI, 1 November 2011, URL: <https://www.asi.org.ru/news/2019/11/01/perm-memorial-latypov>.

215. FIDH interview with Robert Latypov.

216. Case documents and correspondence with local activists are on file with FIDH.

217. See more on “foreign agents” law at §§ 67-70 above.



The spray-painted words "Foreign Agent! ♥USA" on the façade of the International Memorial office building. Photo from the author's personal archive.

88. In 2013, the regional authorities in Perm sabotaged "Pilorama," an annual international civic forum, by saying they would be unable to ensure the safety of attendees.²¹⁸ The year before, "Pilorama" had been besieged by a group of increasingly intolerant pro-Government activists, who had even set up an "Anti-Pilorama" camp on the forum grounds.²¹⁹ The organizers had to cancel the 2013 forum, and it has never returned.
89. In 2016, members of the radical National Liberation Movement (NOD) attacked the participants and jury attending the awards ceremony of "A Person in History. Russia – Twentieth Century" («Человек в истории. Россия – XX век»), the International Memorial's all-Russia annual historical school essay competition.²²⁰ The attackers verbally abused the attendees and assaulted some of them with eggs and a green antiseptic dye ("zelyonka"), including the head of the jury, prominent Russian novelist Lyudmila Ulitskaya.²²¹ The police were present on the spot, but did not intervene. Memorial demanded the opening of a criminal case against the attackers, and an inquiry against the police officers.²²² Instead, one attacker was merely fined 500 rubles for "minor disorder" (about EUR 6).²²³ After that, NOD systematically picketed Memorial's seminars for schoolteachers, and tried to disrupt Memorial's book presentation at the 2016 Non-Fiction

218. See more on Pilorama at § 62 above.

219. PRO Perm, *Opponents of "Pilorama" will set up a tent camp at the location of the forum* [Противники «Пилорамы» разобьют палаточный лагерь на территории форума], 26 July 2012, URL: <https://properm.ru/news/society/44827>.

220. FIDH interview with Elena Zhemkova, one of the event organizers.

221. OVD-Info, *Participants of the historical competition of Memorial organisation were attacked in Moscow* [В Москве напали на участников исторического конкурса организации «Мемориал»], 28 April 2016, URL: <https://ovdinfo.org/express-news/2016/04/28/v-moskve-napali-na-uchastnikov-istoricheskogo-konkursa-organizacii-memorial>.

222. Interfax, *"Memorial" demanded from the Ministry of Internal Affairs to open a case over the attack on schoolchildren* ["Мемориал" потребовал от МВД завести дело из-за нападения на школьников], 29 April 2016, URL: <https://www.interfax.ru/russia/506369>.

223. Interfax, *The attacker of the participants of "Memorial" school competition has been arrested* [Задержан напавший на участников школьного конкурса "Мемориала"], 28 April 2016, URL: <https://www.interfax.ru/moscow/506159>.

Book Fair.²²⁴ In their interviews with FIDH, Elena Zhemkova, Executive Director of International Memorial, and Nikita Sokolov, Deputy Director of the Yeltsin Museum, also reported occasional attacks by members of NOD and, to a lesser extent, those of The Russian Liberation Movement (SERB), aimed at disrupting events organized by their respective organizations.²²⁵

90. In January 2021, activists of the nationalist Pro-Truth movement, affiliated with the controversial writer Zakhar Prilepin, announced a march on International Memorial's office to "ask" its staff "whether the time has come for them to leave our country."²²⁶ Upon arrival, they tried to get into the office which, however, was closed due to the Covid-19 pandemic.²²⁷ No police presence or other police action was reported.

6. State propaganda

91. The Russian State not only creates and enforces the legal framework for the discussion and preservation of history. It also actively imposes its own, official narrative of Russia's history, while at the same time repressing alternative viewpoints advanced by independent historians, civil society, and private commemorative initiatives. State propaganda manifests itself through State, quasi-State, or State-affiliated institutions specifically designed to further the State's historical narrative; the inculcation of official history at schools; and smear campaigns against independent historians and NGOs, led by Government-controlled media. These actions create a climate of fear and intimidation for history producers working on sensitive topics. During a recent International Memorial event, retired judge of Russia's Constitutional Court Tamara Morschshakova stated that independent "historians always feel the danger if they don't carry out their research according to the State-sanctioned wisdom."²²⁸

6.1. Setting the official narrative

92. In 2009, then-President Dmitry Medvedev created the Presidential Commission for Countering Attempts to Falsify History to the Detriment of Russia's Interests (the History Commission).²²⁹ This was the State's first institutional attempt at monopolizing history. The special status of the History Commission as an arm of the President underscored its significance. The Commission was mandated to "summarize and analyse information about falsification of historical facts and events meant to undermine the international prestige of the Russian Federation," and ensure "coordination" between Government bodies and organizations in order to counter such attempts. Members of the History Commission included officials of the President's Staff, the Ministry of Justice, the Ministry of Culture, the Ministry of Foreign Affairs, the Foreign Intelligence Service, and the FSB, as well as the director of VGTRK, Russia's leading State-owned media company.²³⁰ There were almost no historians on the Commission.
93. At one of the History Commission's meetings, its head Sergey Naryshkin, then the President's Chief of Staff and now the chief of the Foreign Intelligence Service, stated that the Commission was supposed in particular to counter "the revision of the Second World War history" and of its "geopolitical outcome."²³¹ In July 2009, citing the mandate of the History Commission, the History

224. Anna Makeeva, "Parents were told that children in Moscow would be made extremists" [«Родителям говорили, что детей в Москве сделают экстремистами»], in *Kommersant*, 23 April 2017, URL: <https://www.kommersant.ru/doc/3280548>.

225. FIDH interview with Nikita Sokolov.

226. SOVA Center for Information and Analysis, *Supporters of the movement "For the Truth" of Zakhar Prilepin came to the Memorial office* [Сторонники движения "За правду" Захара Прилепина пришли к офису "Мемориала"], 11 January 2021, URL: <https://www.sova-center.ru/racism-xenophobia/news/racism-nationalism/2021/01/d43482>.

227. *Ibid.*

228. Tamara Morshchakova, *supra* n. 4.

229. Decree of the President of Russia No. 549 of 15 May 2009, URL: <http://archives.gov.ru/documents/decree/ukaz549.shtml>.

230. Federal Archival Agency of Russia, *Composition of the Commission under the President of the Russian Federation to counter attempts to falsify history to the detriment of Russia's interests*, 11 April 2010, URL: https://archives.gov.ru/documents/decree/ukaz549_sostav.shtml.

231. URL: <http://kremlin.ru/events/administration/page/79>.

and Philology Department of the Russian Academy of Sciences created a special working group and directed its divisions to submit, within three days, “a list of historical and cultural falsifications,” as well as a list of the “individuals or organizations responsible for their dissemination.”²³² The letter was leaked to the press, causing an outcry. Nonetheless, the Academy leadership sought to justify the move, saying the “list of falsifiers and falsifications [...] would be a very useful source of reference [...] for scholars and government bodies.”²³³ In February 2012, the History Commission ceased to exist.

94. Shortly after, in December 2012, President Vladimir Putin decreed the creation of the Russian Military Historical Society (RMHS), a “State-civic organization.”²³⁴ The RMHS was to be funded from the budgets of the Ministry of Culture and the Ministry of Defence, as well as by private contributions from major businesses. For example, in 2014, the Ministry of Culture provided a 285 million rubles (approximately EUR 3.2 million) subsidy to the RMHS, and another 325 million rubles (approximately EUR 3.6 million) subsidy in 2015.²³⁵ In 2013, Vladimir Medinsky, then Culture Minister and now Vladimir Putin’s assistant, was elected President of the RMHS, and retains this position to the present day. According to its declared objectives, the RMHS seeks, *inter alia*, to “consolidate the efforts of the State and the society in studying Russia’s military history,” to “counter attempts to distort it,” and to “inculcate patriotism.”²³⁶ RMHS activities include military commemoration events, museum exhibitions, and the erection of war monuments.
95. In 2018, the RMHS announced that it would undertake excavations of mass graves at Sandarmokh, a 1937-1938 execution site from Stalin’s Great Terror, based on a hypothesis that among the dead were “thousands” of Soviet prisoners of war shot by invading Finns in 1941-44.²³⁷ There is a consensus among historians that this claim is untrue, and international actors such as the European External Action Service call the RMHS hypothesis an instance of “pro-Kremlin disinformation.”²³⁸ Descendants of victims of the Great Terror publicly opposed the excavations, to no avail.²³⁹ Immediately after the excavations, an RMHS representative announced that they had found the remains of Soviet POWs, although the expert assessment results had not yet been released.²⁴⁰ In 2019, the RMHS excavations at Sandarmokh continued. In an internal letter uncovered by the media, regional officials justified the excavations by the fact that the memory of Stalinist repression victims “was being actively used by a number of countries in their destructive propaganda actions,” while “speculations around the events at [Sandarmokh] [...] harm the international image of Russia” and consolidate “anti-Government forces.”²⁴¹ Saint Petersburg Memorial called the excavations an act of vandalism and desecration of a cultural heritage site,

232. Vladimir Tolts, *Falsification: lists of the suspects and suspecting ones* [Фальсификации: списки подозреваемых и подозревающих], Radio Svoboda, 1 July 2009, URL: <https://www.svoboda.org/a/1766749.html>.

233. A.E. Petrov, *About the agitation regarding the letter of the Department of Historical and Philological Sciences of the Russian Academy of Sciences “on falsification of history”* [Об агитации вокруг письма Отделения историко-филологических наук РАН «о фальсификациях истории»], Polit.ru, 3 July 2009, URL: <https://polit.ru/article/2009/07/03/petrov>.

234. Decree of the President of Russia No. 1710 of 29 December 2012, URL: <http://static.kremlin.ru/media/acts/files/0001201301040034.pdf>.

235. Svetlana Reiter, Ivan Golunov, *RBC investigation: why Medinsky needs the Military Historical Society* [Расследование РБК: зачем Мединскому Военно-историческое общество], RBC, 13 July 2015, URL: <https://www.rbc.ru/society/13/07/2015/559e8f459a7947860ab1f73a>.

236. Russian Military Historical Society, *Charter of the Russian Military Historical Society* [Устав Российского военно-исторического общества], URL: <https://rvio.histrf.ru/officially/ustav-rvio>.

237. Russian Military Historical Society, *A search expedition to the battle sites of the Great Patriotic War starts in Karelia* [Поисковая экспедиция на места боёв Великой Отечественной стартует в Карелии], 24 August 2018, URL: <https://rvio.histrf.ru/activities/news/item-5352>; Victor Sokirko, *The second truth of the Sandarmokh concentration camp: how the Finns tortured thousands of our soldiers* [Вторая правда концлагеря Сандармох: как финны замучили тысячи наших солдат], Zvezda, 4 August 2016, URL: <https://tvzvezda.ru/news/qhistory/content/201608040821-ge82.htm>.

238. EU vs Disinfo, *Disinfo: Finns organised mass shootings of Soviet soldiers in Sandarmokh, Karelia*, 7 September 2018, URL: <https://euvsdisinfo.eu/report/finns-organised-mass-shootings-of-soviet-soldiers-in-sandarmokh-carelia>.

239. Novaya Gazeta, *“Don’t disturb the graves.” Open letter* [«Не тревожьте могилы». Открытое письмо], 24 August 2018, URL: <https://novayagazeta.ru/articles/2018/08/24/77592-ne-trevozhhte-mogily-otkrytoe-pismo>.

240. Anastasia Platonova, *The excavations ended in Sandarmokh, where thousands of people were shot during the years of the Great Terror: what is important to know about it* [Закончились раскопки в Сандармохе, где расстреляли тысячи людей в годы Большого террора: что важно об этом знать], in Takie Dela, 12 September 2018, URL: <https://takiedela.ru/news/2018/09/12/neyasno-neponyatno>.

241. Irina Tumakova, [Ума – лопата], in Novaya Gazeta, 22 August 2019, URL: <https://novayagazeta.ru/articles/2019/08/22/81693-uma-lopata>.

but local prosecutors and courts refused to halt them.²⁴² The RMHS project coincided with the persecution of Yuri Dmitriev, who discovered Sandarmokh,²⁴³ and its findings were seized upon by the Government-controlled media to portray Memorial as a group of history falsifiers.²⁴⁴

96. In November 2020, the RMHS held a conference to deny the responsibility of the Soviet Union for the Katyń massacre. According to the final document of the conference, the historical consensus around Katyń “should be considered as one element of a more general propaganda campaign to declare the USSR responsible for starting the Second World War.”²⁴⁵ Reacting to the announcement of the conference, Alexander Guryanov, an historian and the head of the Polish Program at International Memorial, wrote a letter to conference organizers expressing his view about the responsibility of the Soviet Union for the war crimes at Katyń, and identifying the underlying political nature of the RMHS’ conclusions. In response, conference delegates threatened him with Article 354.1 prosecution.²⁴⁶
97. In June 2012, major State universities, State academic institutions, State museums, and media companies such as the Government-owned VGTRK, established the Russian Historical Society (RHS). From the outset, RHS has been chaired by Sergey Naryshkin, the chief of the Foreign Intelligence Service and former head of the 2008-2012 History Commission. At the inaugural meeting of RHS, Naryshkin outlined its mission, stating that “great achievements and victories are only possible if we unite around the enduring values of patriotism, civic consciousness, and high moral service to the State.”²⁴⁷ RHS priorities include commemoration of Russia’s military history events and the history of Government institutions, such as, notably, the Foreign Intelligence Service.²⁴⁸
98. One of RHS’s projects, entitled “Soviet Atomic Project History,” praises the leading role of Lavrentiy Beria, the head of the Soviet security services between 1938 and 1953, and one of the key organizers of Soviet State terror.²⁴⁹ Recently, a RMHS publication had also praised Beria as the “chief atomic marshal of the USSR.”²⁵⁰ In January 2021, the media reported that Rosatom, Russia’s atomic energy agency, had ordered a statue of Beria for its exhibition pavilion in Moscow.²⁵¹
99. The Government’s effort to cement the official historical narrative culminated in a 2020 series of amendments to the Constitution of Russia. They declare the Russian Federation the “successor” of the Soviet Union (Article 67.1 § 1); proclaim that the Russian Federation “honours the memory of defenders of the Homeland” and “protects historical truth” (Article 67.1 § 3); warn that “diminishing the significance of the people’s heroism in defending the Homeland is not permitted” (Article 67.1 § 3); and direct the Government to “inculcate patriotism” in children (Article 67.1 § 4).²⁵² Russian historians have voiced serious concerns about the impact of the amendments. In his interview with FIDH, a historian at the Russian Academy of Sciences said that it would be problematic and even impossible to provide a proper legal definition of “historical truth,” since it is fluid and subjective. He thus feared that the amendments could reinforce a “chilling effect” on academic freedom, and would further restrict the space for history studies.

242. Valentina Putresha, *The Court found no violations of the prosecutor’s office in the case of excavations in Sandarmokh* [Суд не нашёл нарушений прокуратуры в деле о раскопках в Сандармохе], in *Kommersant*, 3 October 2019, URL: <https://www.kommersant.ru/doc/4112465>.

243. See more on Yuri Dmitriev at §§ 80-82 above.

244. See more on smear campaigns at §§ 104-106 below.

245. Alexander Guryanov, Konstantin Konoplyanko, *Military historical unconsciousness* [Военно-историческое беспамьятство], in *Novaya Gazeta*, 10 December 2020, URL: <https://novyagazeta.ru/articles/2020/12/10/88317-voenno-istoricheskoe-bespamyatstvo>.

246. FIDH interview with Alexander Guryanov. See more on Article 354.1 of the Criminal Code at Section 1.1 above.

247. Russian Historical Society, *About the Russian Historical Society* [О Российском историческом обществе], URL: <https://historyrussia.org/ob-obshchestve/o-nas.html>.

248. Russian Historical Society, *Our Priorities* [Наши приоритеты], URL: <https://historyrussia.org/2015-07-31-07-38-09/nashi-prioritety.html>.

249. Vera Marunova, *Russia’s strategic priority for 70 years* [Стратегический приоритет России на протяжении 70 лет], Russian Historical Society, 17 September 2019, URL: <https://historyrussia.org/sobytiya/strategicheskij-prioritet-rossii-na-protiyazhenii-70-let.html>.

250. Anton Trofimov, *Lavrenty Beria. Chief Atomic Marshal of the USSR* [Лаврентий Берия. Главный атомный маршал СССР], *Istoria*. RF, 8 April 2021, URL: <https://histrf.ru/biblioteka/b/lavrientii-bierii-a-glavnyi-atomnyi-marshal-sssr>.

251. RBK, *Rosatom ordered the installation of Beria’s figure in the exposition at VDNKh* [«Росатом» заказал установку фигуры Берии в экспозиции на ВДНХ], 19 January 2021, URL: <https://www.rbc.ru/rbcfreenews/600700ed9a79473a3f512ce6>.

252. The Constitution of the Russian Federation, URL: <http://publication.pravo.gov.ru/Document/View/0001202007040001>.

100. In March 2021, a group of Russian senators and other top Government officials held a round-table discussion at the Federation Council, the upper house of Russia's parliament. Its participants said that Russian history must become a key weapon in a "mental war," or "memory war," against the West. They called for enhanced "censorship, [State] ideology, and propaganda."²⁵³ Vladimir Medinsky proposed the adoption of the official State History Policy.²⁵⁴

6.2. Indoctrination at schools

101. The RHS plays a critical role in the monopolization of history education by the State. In 2013, Vladimir Putin declared that it was not normal to have as many as 65 approved history textbooks, adding that school textbooks must reflect "a single perspective and an official viewpoint."²⁵⁵ The RHS thus began working on a unified history textbook. The RHS Presidium created a task force that came up with official interpretations of the most controversial points in Russia's history.²⁵⁶ Its members said that those interpretations should "correspond to Russia's geopolitical interests."²⁵⁷ In 2014, based on the task force results, the RHS adopted the Unified Historical and Cultural Standard (UHCS), and announced a competition among scholars for new, UHCS-compliant history textbooks. A group of historians called for a boycott of the competition, saying that its aim was "to create a falsified but 'ideologically correct' version of Russia's history."²⁵⁸ They argued that the UHCS imposed official views and contained many blind spots, inaccuracies, and omissions. For example, the UHCS stated that the Soviet Union entered into the Second World War in June 1941, thereby precluding any discussion of the Soviet-German wartime collaboration of 1939-1941.²⁵⁹ Nonetheless, starting in 2016, Russian schools switched to three newly approved history textbooks.
102. At the same time, education officials harassed and intimidated students who participated in International Memorial's Russia-wide annual historical school essay competition. In 2017, school officials across Russia pressured competition laureates so that they would not travel to Moscow for the awards ceremony.²⁶⁰ The list of the laureates was not public at the time, making Memorial suspect unauthorized access to its email account.²⁶¹ In 2019, competition laureates and/or their teachers were interrogated by school principals, local officials, and/or FSB operatives who demanded that they stop participating in Memorial's programs.²⁶² The same year, a letter was circulated among the participating schools calling on history teachers not to take part in the competition, or otherwise engage with International Memorial.²⁶³
103. In July 2020, shortly after the approval of the amendments to the Constitution, Russia's Parliament adopted President Putin's bill on the inculcation of patriotism. The new version of the Federal law titled "On Education" mandates that educational institutions inculcate in their students, "the sense of patriotism and civil consciousness, respect towards the memory of the Homeland's defenders and courageous acts of the Homeland's heroes."²⁶⁴ Seen in the context of recent developments, this law completes the picture, and gives an aura of legitimacy to the State's history propaganda in Russian schools.

253. Maria Litvinova, Alexander Chernykh, *Historians go into battle [В бой идут одни историки]*, in *Kommersant*, 31 March 2021, URL: <https://www.kommersant.ru/doc/4751929>.

254. TASS, *Medinsky proposed to create a document on the state historical policy of Russia [Мединский предложил создать документ по государственной исторической политике России]*, 30 March 2021, URL: <https://tass.ru/obschestvo/11028607>.

255. Rossiyskaya Gazeta, *The President: History textbooks should have a single conception [Президент: Учебники истории должны иметь единую концепцию]*, 25 April 2013, URL: <https://rg.ru/2013/04/25/uchebnik-anons.html>.

256. Svetlana Bocharova, *Experts are rewriting Russian history [Эксперты переписывают историю России]*, in *Vedomosti*, 11 June 2013, URL: https://www.vedomosti.ru/politics/articles/2013/06/11/istoriya_po_naryshkinu.

257. *Ibid.*

258. Gefter, *An appeal to historians - authors of school textbooks [Обращение к историкам – авторам школьных учебников]*, 21 May 2014, URL: <http://gefter.ru/archive/12317>.

259. *Ibid.*

260. Meduza, *"Memorial": attempts to ban the winners of the school history competition from going to the awards ceremony in Moscow [«Мемориал»: победителям школьного исторического конкурса пытаются запретить ехать на церемонию награждения в Москву]*, 22 April 2017, URL: <https://meduza.io/news/2017/04/22/memorial-pobeditelyam-shkolnogo-istoricheskogo-konkursa-pytayutsya-zapretit-ehat-na-tseremoniyu-nagrazhdeniya-v-moskvu>.

261. FIDH interview with Irina Shcherbakova.

262. Memorial, *About the school competition "Man in History. Russia - XX century" [О школьном конкурсе «Человек в истории. Россия – XX век»]*, 4 June 2019, URL: <https://www.memo.ru/ru-ru/projects/men-in-history/news/267>.

263. FIDH interview with Irina Shcherbakova.

264. Article 2 of the Federal Law "On Education" as amended by the Federal Law dated 31 July 2020 No. 304-FZ.

6.3. Smear campaigns by Government-controlled media

104. In the past decade, smear campaigns by Government-controlled media have become an indispensable feature of State policy towards independent historians and NGOs. Usually, those campaigns involve a series of reports by national television channels (Rossiya, NTV, Ren-TV, and the like) framed as sensational investigations. Smear reports accompanied, *inter alia*, the raids at Memorial offices in Moscow in 2013,²⁶⁵ the takeover of Perm-36 in 2014,²⁶⁶ the attack on International Memorial's school competition in 2016,²⁶⁷ the prosecution of Yuri Dmitriev,²⁶⁸ RMHS' Sandarmokh excavations in 2018-2019,²⁶⁹ and the raids on Perm Memorial in 2019.²⁷⁰
105. In the current Russian political environment, a smear campaign usually means that reporters are acting in concert with the authorities. For example, following the NTV crew's visit to Perm-36, a pro-Government activist boasted on social media that "it had been negotiated to be a fatal blow to the pseudo-museum."²⁷¹ Often, reporters will arrive together with law enforcement officials for searches and raids, or will get access to classified materials. For example, in September 2020, the Rossiya television channel broadcast a strongly worded news report about the upcoming appeal judgment in the case of Yuri Dmitriev. The channel blasted the trial court for giving Dmitriev too lenient a sentence. The channel broadcast classified photos of Dmitriev's adoptive daughter from the case file, meaning they had been leaked to the reporters by the authorities. Several days later, the appellate court increased Dmitriev's sentence from 3.5 to 13 years' imprisonment.
106. In 2016, an independent ethics board associated with Russia's Union of Journalists concluded that the Ren-TV reports covering International Memorial's school competition did not comply with media ethics standards, and were "pure propaganda purposely discrediting Memorial."²⁷²

7. Destruction of memorials

107. Recent years have seen alarming cases where the authorities either participated in the destruction of memorials to Soviet-era victims, or tolerated such destruction. In addition, while the State has adopted the Policy for the Memorialization of Victims of Political Repression, has sponsored the construction of the new GULAG museum in Moscow, and has erected new memorials such as the Wall of Grief, it has also obstructed the establishment of certain memorial locations by independent actors.
108. In May 2020, at the demand of the authorities, a local state university in Tver dismantled two plaques commemorating the victims of the Great Terror and the Katyń massacre. The plaques had been installed in the early 1990s at the former Soviet security service building where mass executions of local residents, as well as Polish prisoners of war, had taken place in the 1930s and 1940s. At the time, Tver city authorities had approved the installation. However, in 2019, almost three decades later, a local prosecutor demanded that the plaques be removed, saying they had

265. NTV, "Memorial" hides proceeds from the Prosecutor's office [«Мемориал» прячет доходы от прокуратуры], 21 March 2013, URL: <https://www.ntv.ru/video/499400>. See more at § 71 above.

266. URL: https://www.youtube.com/watch?v=W99Y9aZ6C_o. See more at § 74 above.

267. Mediazona, "Memorial" filed a lawsuit to protect its reputation against REN TV [«Мемориал» подал иск о защите деловой репутации против телеканала РЕН ТВ], 1 February 2017, URL: https://zona.media/news/2017/01/02/memo_vs_ren. See more at § 89 above.

268. URL: <https://www.youtube.com/watch?v=458tWi0GRZE>. See more at §§ 80-82 above.

269. URL: https://www.youtube.com/watch?v=17_5gEe0Peo. See more at § 95 above.

270. REN TV, *The head of Perm "Memorial" office suspected of paedophilia [Руководителя пермского "Мемориала" заподозрили в педофилии]*, 24 November 2019, URL: <https://ren.tv/news/kriminal/625052-rukovoditelja-permskogo-memoriala-zapodozrili-v-pedofilii>. See more at § 85 above.

271. Ivan Kozlov, "The flow of denunciations was unprecedented" [«Поток доносов был беспрецедентным»], cit., URL: <https://meduza.io/news/2014/11/10/potok-donosov-by-l-bespretsedentnym>.

272. Public Collegium on Press Complaints, *The Collegium took a decision on the complaint of the human rights society "Memorial" [Коллегия приняла решение по жалобе правозащитного общества "Мемориал"]*, URL: <https://presscouncil.ru/novosti/novosti-kollegii/5550-reportazhi-ren-tv-ob-oblitii-zelenkoj-ulitskoj-chistaya-propaganda-tselenapravlenno-diskreditiruyushchaya-memorial>.

been installed unlawfully and without any historical proof.²⁷³ Local chapters of the Communists of Russia Party, and of the NOD movement, had lobbied for the decision. They argued that the plaques were an example of the “falsification and vilification of our country’s history,” and “had a negative, anti-patriotic influence on the youth.”²⁷⁴ Notably, the dismantling of the plaques took place on May 7, just two days before the annual Victory Day celebrations. A NOD member praised the destruction of the memorial, saying “a historic event took place here today, on the eve of the seventy-fifth anniversary of the [Soviet Union’s] Victory [in the Second World War].”²⁷⁵ Local Government-owned media promptly reported that the removal of the plaques was “a step towards restoring historical truth,”²⁷⁶ and went so far as to deny Soviet responsibility for the Katyń massacre.²⁷⁷

109. The dismantling of the plaques in Tver caused an international outcry. International Memorial and 13 individual plaintiffs, descendants of the victims, filed a lawsuit demanding restoration of the memorial. In February 2021, the trial court dismissed the lawsuit, but the case is still ongoing.²⁷⁸ Alexander Guryanov, head of the Polish Program at International Memorial, believes that the destruction of the memorial was a reaction to the publication of a commemorative book by International Memorial in 2019, which included the names and biographies of all identified individual victims of the massacre. Guryanov told FIDH that “local authorities sympathize with the denialists very much.” He is confident that “the removal of the plaques was either ordered or condoned by the governor and other local officials.”²⁷⁹



The dismantling of the plaques commemorating the victims of the Great Terror and the Katyń massacre in Tver, May 2020. By International Memorial.

273. FIDH interview with Marina Agaltsova.

274. Alexander Chernykh, Galina Dudina, Alexander Tikhonov, “A frank memory of those who were killed” [«Откровенное глумление над памятью убитых»], in *Kommersant*, 8 May 2020, URL: <https://www.kommersant.ru/doc/4340794>.

275. *Ibid.*

276. *Ibid.*

277. See more on the Katyń denial at § 119 below.

278. Memorial, *The Court in the case on dismantling memorial plaques in Tver. Session 6* [Суд по делу о демонтаже мемориальных досок в Твери. Заседание 6], 26 February 2021, URL: <https://www.memo.ru/ru-ru/projects/kniga-pamyati-ubity-v-kalinine-zahoroneny-v-mednom/news/535>.

279. FIDH interview with Alexander Guryanov.

110. On several occasions, the authorities have condoned vandalism against the Last Address Memorial Project commemorative signs, or have tried to obstruct the installation of these signs. Last Address is a civil society initiative to install small signs at residential buildings, each in memory of one resident arrested and killed by the Soviet State. Launched in 2013 by journalist Sergei Parkhomenko and a group of historians, Last Address has already installed more than 1,100 signs in more than 50 cities and towns across Russia.²⁸⁰ According to Parkhomenko, the legal framework governing the installation of the plaques is porous: project managers only need to get permission from building owners, not the authorities. In Saint Petersburg²⁸¹ and Barnaul,²⁸² however, local officials at some point declared Last Address signs to be unlawful. Cases of the removal or theft of plaques have been reported in Taganrog,²⁸³ Tver,²⁸⁴ Barnaul,²⁸⁵ Arkhangelsk,²⁸⁶ Yekaterinburg,²⁸⁷ and Saint Petersburg.²⁸⁸ Yet the authorities have never brought those responsible to justice. In 2020, for instance, the Yekaterinburg police refused to open a criminal case of vandalism.²⁸⁹ And in Arkhangelsk, the authorities instead fined an activist who had installed a plaque on a decrepit house, saying he had damaged a cultural heritage site.²⁹⁰ In addition, some municipalities have refused to meet with project managers due to pressure from the authorities.²⁹¹
111. In 2013²⁹² and 2020,²⁹³ unknown individuals vandalized the graves at a cemetery in Tsentralnyy Khazan, Irkutsk Region, that hosted the remains of deportees from Soviet-occupied Lithuania. The police never reported bringing anyone to justice. In 2019, the regional Ministry of Forest Resources fined local activists for installing new gravestones at that cemetery, and ordered their demolition.²⁹⁴
112. Since the 2000s, Moscow city authorities have obstructed the civil society effort to establish a museum at the so-called Shooting House, a building in downtown Moscow that from 1935 to 1950 housed the Military Collegium of the USSR Supreme Court. That body sentenced to death more than thirty thousand victims of Stalinist persecution, many of whom were executed in the basement of this same building. The building is private property, and has been designated as a cultural heritage site. Yet, over the years, the authorities have approved various reconstruction projects that would demolish the building or, alternatively, turn it into a perfume boutique or

280. FIDH interview with Sergei Parkhomenko.

281. Lenta, *St-Peterburg authorities want to penalise the installation of "last address" plates* [Власти Петербурга захотели наказывать за установку табличек «Последнего адреса»], 6 December 2018, URL: <https://lenta.ru/news/2018/12/06/adress>.

282. Last Address, *The Barnaul administration refused to assist in the development of the "Last Address" project in the city* [Администрация Барнаула отказалась содействовать развитию в городе проекта «Последний адрес»], 14 August 2014, URL: <https://www.poslednyadres.ru/news/administration-barnaul-refused-to-promote-the-project-in-the-last-address.htm>.

283. Delovoy Kvartal, *A plaque in memory of a victim of repressions in Soviet times unscrewed in Taganrog* [В Таганроге свинтили табличку в память о жертве репрессий в советское время], 3 June 2015, URL: <https://rostov.dk.ru/news/v-taganroge-svintili-tablichku-v-pamyat-o-zhertve-repressiy-v-sovetskoe-vremya-236948717>.

284. Tverigrad, *A plaque of the project "Last Address" removed in the centre of Tver* [В центре Твери сорвали табличку проекта «Последний адрес»], 14 February 2016, URL: <https://tverigrad.ru/publication/v-centre-tveri-sorvali-tablichku-proekta-poslednij-adres>.

285. Sergey Parkhomenko, *We were told to take it off: we are filming instead* [«Нам сказали снять – мы и снимаем»], in *Meduza*, 25 February 2016, URL: <https://meduza.io/feature/2016/02/25/nam-skazali-snyat-my-i-snimaem>.

286. Marina Ledyeva, *In Arkhangelsk, unidentified persons removed "Last Address" plaque from a house* [В Архангельске неизвестные сняли с дома табличку «Последнего адреса»], Last Address, 20 November 2017, URL: https://www.poslednyadres.ru/articles/region29_bessonov_snyali.htm.

287. Kommersant, *Academicians of the Russian Academy of Sciences demanded to find the people who stole memorial plaques about the victims of repression in Yekaterinburg* [Академики РАН потребовали найти людей, укравших памятные таблички о репрессированных в Екатеринбурге], 11 June 2020, URL: <https://www.kommersant.ru/doc/4377804>.

288. Oleg Dilimbetov, *Rubinsteyn Street gets rid of the victims of repressions* [Улицу Рубинштейна избавляют от репрессированных], in *Kommersant*, 19 October 2020, URL: <https://www.kommersant.ru/doc/4539171>.

289. Anton Guskov, *Who started the "memory war" in Yekaterinburg - the version of Memorial collaborators (VIDEO)* [Кто начал «войну памяти» в Екатеринбурге - версия сотрудников «Мемориала» (ВИДЕО)], in *EAN*, 10 June 2020, URL: https://eanews.ru/news/kto-nachal-voynu-pamyati-v-yekaterinburge-versiya-sotrudnikov-memoriala-video_10-06-2020.

290. Maria Eismont, *Penalty for "Last Address" [Штраф за «Последний адрес»]*, in *Vedomosti*, 17 August 2017, URL: <https://www.vedomosti.ru/opinion/columns/2017/08/17/729825-shtraf-poslednij-adres>.

291. FIDH interview with Sergei Parkhomenko.

292. RIA News, *Vandals damaged about 200 graves in a rural cemetery near Irkutsk* [Вандалы повредили около 200 могил на сельском кладбище под Иркутском], 26 April 2013, URL: <https://ria.ru/20130426/934719240.html>.

293. Oblastnaya Gazeta, *In Zima, vandals destroyed dozens of graves in the old cemetery* [В Зиме вандалы разрушили несколько десятков могил на старом кладбище], 21 May 2020, URL: <https://www.ogirk.ru/2020/5/21/v-zime-vandaly-razrushili-neskolko-desjatkov-mogil-na-starom-kladbishhe>.

294. See more at § 86 above.

a restaurant.²⁹⁵ Each time, a public outcry has halted reconstruction for a while. However, the future of the building remains uncertain.

113. In 2018, Chelyabinsk city authorities denied approval for the installation of a plaque in memory of Stalin-era victims of State terror on the façade of the Interior Ministry building. The building is located on the site of a former Soviet security service office. The authorities said that installing the plaque there would be “a distortion of historical reality,” and would “undermine the authority of the police among city residents.”²⁹⁶

8. Failure to remedy Soviet-era crimes

114. In 1991, the Russian State officially acknowledged that the Soviet era was a period of “decades-long terror and mass persecution of its own people,” when “millions became victims of the totalitarian State’s lawlessness.”²⁹⁷ By adopting the law titled “On Remedies to Victims of Political Repression” (the 1991 Law), it declared its commitment to clear the names of the victims, restore their rights, and provide them with feasible compensation,²⁹⁸ and even envisioned the prosecution of the perpetrators.²⁹⁹ However, as the law approaches its thirtieth anniversary, its promise remains largely unfulfilled. In particular, the authorities have failed to investigate and prosecute the crimes of the previous regime, while at times even denying responsibility for some of the crimes they had earlier acknowledged; they have also failed to adequately commemorate and compensate the victims.

8.1. Failure to investigate and prosecute

115. In the late 1980s and early 1990s, the authorities opened several criminal cases relating to Soviet-era persecution, usually as mass graves were being discovered.³⁰⁰ Those cases remained isolated, however. Even those few investigations stalled in the 1990s, and were subsequently discontinued due to the expiry of the statutes of limitation or the death of the suspects. Russian law does not provide for publication of the decisions to close criminal cases, so these remain unavailable to the public.³⁰¹
116. For instance, in 2004, the investigators of the Chief Military Prosecutor’s Office decided to discontinue the investigation into the Katyń massacre. That decision was classified. The Russian courts dismissed the challenge against the decision that was brought by the victims’ relatives.³⁰² Litigation by Memorial to declassify the decision also proved unsuccessful.³⁰³ However, public comments about the Katyń massacre case by Russian officials revealed that they had characterized the actions of those responsible as crimes of abuse of power (Article 193-17(b) of the 1926 Criminal Code), but not as murder, let alone as war crimes or crimes against humanity,

295. Zoya Eroshok, *Chanel No. 37 [Шанель № 37]*, in *Novaya Gazeta*, 20 July 2018, URL: <https://novayagazeta.ru/articles/2018/07/19/77223-shanel-37>; Arkhnadzor Red Book, URL: <https://redbook.archnadzor.ru/map#/4>.

296. Anna Romanenko, *Chelyabinsk authorities do not allow installing a plaque in memory of the victims of political repression on the building of the Ministry of Internal Affairs [Власти Челябинска не разрешают устанавливать доску в память о жертвах политических репрессий на здании МВД]*, OTR, 31 August 2018, URL: <https://otr-online.ru/ru/news/vlasti-chelyabinska-ne-razreshayut-ustanavlivat-dosku-v-pamyat-o-zhertvah-politicheskikh-repressiy-na-zdanii-mvd-110277.html>.

297. Preamble to the Law dated 18 October 1991 No. 1761-1, “On Remedies to Victims of Political Repression,” URL: http://www.consultant.ru/document/cons_doc_LAW_1619.

298. *Ibid.*

299. Article 18, paragraph 2, of the law, “On Remedies to Victims of Political Repression.”

300. Nikolay Bobrinsky, Stanislav Dmitrievsky, *Between Revenge and Oblivion*, cit., URL: <https://trjustice.ilpp.ru/chapter-6.html>.

301. *Ibid.*

302. European Court of Human Rights (Grand Chamber), judgment of 21 October 2013, app. nos. 55508/07, 29520/09, *Janowiec and others v. Russia*, para.57-60, URL: <http://hudoc.echr.coe.int/fre?i=001-127684>.

303. *Ibid.*, para. 61-65.

to which the statute of limitations would not apply.³⁰⁴ Moreover, it became apparent that the authorities had pursued the Katyń massacre case only against four high-ranking officials of the Soviet security services, not against rank-and-file perpetrators, and not against the six members of the Communist Party Politburo who had authorized the massacre.³⁰⁵ This extremely modest approach contrasts sharply with a recent ongoing extensive effort by Russia's Investigative Committee to investigate and prosecute cases of alleged Nazi genocide against the civilian population of the Soviet Union during the Second World War, a crime that is not subject to the statute of limitations.³⁰⁶

117. Besides a handful of unremarkable cases in regional courts that ended in dismissals, the authorities have never proceeded with a full-fledged investigation into Soviet-era State crimes, never undertaken proper legal action against the perpetrators, and never made their decisions available to the public. A 1990s civil trial in Russia's Constitutional Court challenging President Yeltsin's decree of November 6, 1991 abolishing the Communist Party of the Soviet Union (CPSU) and its Russian branch resulted in important dicta condemning "the central leadership structures of the CPSU" as "initiators, and the local structures often the executors, of the politics of repressions with respect to millions of Soviet people, including those of deported nations." However, despite its condemnatory rhetoric, the Court ultimately failed to tackle the issue of assigning responsibility for crimes committed during Soviet rule.³⁰⁷

8.2. Denial of responsibility

118. Recent years have seen an ominous trend towards the denial of State responsibility for certain Soviet-era crimes that the authorities had earlier acknowledged. These revisionist claims are particularly relevant against the background of new laws that increasingly target those who express views at odds with the official version of the past.³⁰⁸
119. In November 2020, Duma deputy Alexey Chepa proposed³⁰⁹ revoking the 2010 statement by the Duma that had officially recognized the Soviet Union's responsibility for the Katyń massacre,³¹⁰ although that statement had been accompanied by the disclosure of key original Soviet-era documents, and had built on the 1990 admission of responsibility by the Soviet government. Chepa also played a prominent role at the 2020 conference by the Government-funded RMHS that called the historical consensus around Katyń a lie, and an "element of a more general propaganda campaign to declare the USSR responsible for starting the Second World War."³¹¹ In Tver, the 2020 removal of the plaque in memory of Polish prisoners of war executed there in 1940 was accompanied by statements from the local prosecutor and the regional government denying that historical fact.³¹² Meanwhile, the federal authorities have neither rebutted those claims nor rebuked the revisionists.
120. In 2019, top Government officials reinterpreted the 1939 Molotov-Ribbentrop Pact between the Soviet Union and Germany, along with its secret protocol that divided parts of Eastern Europe into their respective "areas of influence," and prompted the Soviet occupation of Poland, Romania, and the Baltic States. Marking the Pact's 80th anniversary, Sergey Naryshkin, the chief of the Foreign

304. Alexander Guryanov, *Katyn 80 years later [Катынь 80 лет спустя]*, in *Vedomosti*, 3 March 2020, URL: <https://www.vedomosti.ru/opinion/articles/2020/03/03/824267-katin-80>; Nikolay Bobrinsky, Stanislav Dmitrievsky, *Between Revenge and Oblivion*, cit., URL: <https://trjustice.ilpp.ru/chapter-6.html>.

305. Alexander Guryanov, *Katyn 80 years later [Катынь 80 лет спустя]*, cit., URL: <https://www.vedomosti.ru/opinion/articles/2020/03/03/824267-katin-80>.

306. Oleg Boldyrev, *Get to the verdict: why does the Investigative Committee need cases of genocide of World War II? [Докопать до вердикта: зачем СК нужны дела о геноциде Второй мировой?]*, BBC News, 12 January 2021, URL: <https://www.bbc.com/russian/features-55486566>.

307. Constitutional Court of the Russian Federation Judgment of November 30, 1992, No. 9-P, at Part IV.

308. See more at §§ 12-29 above.

309. Pobeda, *The State Duma proposed to revise the assessment about Katyn [В Госдуме предложили пересмотреть оценку Катыни]*, 26 November 2020, URL: <https://pobedarf.ru/2020/11/26/39486743lo>.

310. Decision of the State Duma N 4504-5 GD on the statement of the State Duma of the Federal Assembly of the Russian Federation, "On the Katyn tragedy and its victims," 26 November 2010, URL: http://pravo.gov.ru/proxy/ips/?docbody=&link_id=0&nd=102143155.

311. See more at §§ 96; 108; 116 above.

312. Pavel Polyan, *Whose executioner is heard? [Чей палач раздается?]*, in *Novaya Gazeta*, 20 November 2020, URL: <https://novayagazeta.ru/articles/2020/11/20/88046-chey-palach-razdaetsya>. See more at § 108 above.

Intelligence Service and head of the RHS, published an op-ed justifying the Pact, and asserting that “there had been no other way” for the Soviet Union.³¹³ Vladimir Medinsky, President of RMHS and then Culture Minister, went even further, saying that the Soviet Union was “right” to conclude the Pact.³¹⁴ Similarly, in his op-ed published in *The National Interest* in June 2020, President Putin argued that “obviously, there was no alternative,” that the Soviet Union had no choice but to attack Poland in September 1939, and that the Soviet occupation of the Baltic States “was in line with international and state law of that time.”³¹⁵ Those statements directly contradicted the 1989 official statement by the Soviet Parliament that had condemned the secret protocols to the Pact, and called them “legally deficient and invalid.”³¹⁶

8.3. Failure to commemorate the victims

121. In 2015, then-Prime Minister Dmitry Medvedev signed the Policy for the Memorialization of Victims of Political Repression.³¹⁷ In 2016, President Putin established the Working Group mandated to supervise its implementation.³¹⁸ A programmatic document, the Policy sets out the Government’s declared objectives with regard to memorialization of the victims of Soviet-era State terror. Those include the establishment of memorials; support to dedicated museums, libraries, educational, and archival institutions; and investment in research. The Presidential Human Rights Council proposed the Policy, and Memorial played a key role in preparing its original draft.³¹⁹ However, the document was severely abridged during subsequent negotiations.³²⁰ While some of FIDH’s interviewees praised the impact of the Policy on historical memory work in Russia,³²¹ others noted that the Policy was never accompanied by any specific action plan.³²² Notably, since 2015, the Policy has not led to any significant changes in domestic law.³²³ Two blind spots in the Government’s commemoration practices stand out in particular: (i) the lack of effort to account for all of the victims, and (ii) the treatment of burial sites.
122. Since 1991, the Government has never created a complete official database of the victims of Soviet-era persecution. Article 18 of the 1991 Law provides that lists of rehabilitated victims must be periodically published in the press. However, that provision has remained a dead letter. Between 1991 and 2014 alone, the authorities issued rehabilitation certificates for almost four million people.³²⁴ In certain Russian regions, websites of the regional departments of the Interior Ministry and the FSB published lists of victims in the 1990s, but they have since disappeared.³²⁵ Independent historians and civil society groups have taken on the burden of gathering information in the various archives and consolidating the data, but their collections remain incomplete. Thus, Memorial estimates that up to 12 million individuals were subjected to

313. Sergey Naryshkin, *There was no other way out [Иного выхода не было]*, in *Rossiyskaya Gazeta*, 22 August 2019, URL: <https://rg.ru/2019/08/22/reshenie-sssr-zakliuchit-pakt-o-nenapadenii-s-germaniej-osnovyvalos-na-razvedke.html>.

314. Vladimir Medinsky, *The Diplomatic triumph of the USSR [Дипломатический триумф СССР]*, RIA News, 23 August 2018, URL: <https://ria.ru/20190823/1557826932.html>.

315. Vladimir Putin, *The Real Lessons of the 75th Anniversary of World War II*, *The National Interest*, 18 June 2020, URL: <https://nationalinterest.org/feature/vladimir-putin-real-lessons-75th-anniversary-world-war-ii-162982>.

316. Resolution of the Congress of People’s Deputies of the USSR on the Molotov-Ribbentrop Pact of 9 September 1989, URL: <http://doc20vek.ru/node/3261>.

317. Government Order No. 1561-p, Policy for the Memorialization of Victims of Political Repression, 15 August 2015, URL: <http://static.government.ru/media/files/AR59E5d7yB9LddoPH2RSIhQpSCQDERdP.pdf>.

318. Order of the President of the Russian Federation No. 25-rp on the Interdepartmental Working Group for Coordination of Activities Aimed at Implementing the Concept of State Policy to Perpetuate the Memory of Victims of Political Repression, 15 February 2016, URL: <http://publication.pravo.gov.ru/Document/View/0001201602150063>.

319. Olga Churakova, *The government approved the conception of perpetuating the memory of victims of political repression [Правительство утвердило концепцию увековечения памяти жертв политических репрессий]*, in *Vedomosti*, 18 August 2015, URL: <https://www.vedomosti.ru/politics/articles/2015/08/19/605328-pravitelstvo-utverdilo-kontseptsiyu-uvekovecheniya-pamyati-zhertv-politicheskikh-repressii>; interview with Elena Zhemkova.

320. FIDH interview with Elena Zhemkova.

321. FIDH interview with Roman Romanov.

322. FIDH interviews with Tatyana Margolina, Sergei Parkhomenko.

323. The only law stemming from the Policy introduced purely cosmetic changes. See: Federal Law dated 9 March 2016 No. 67-FZ, “On Introducing Amendments to Certain Legislative Acts of the Russian Federation in Connection with Commemoration of Victims of Political Repression.”

324. Government Order No. 1561-p, Policy for the Memorialization of Victims of Political Repression, 15 August 2015, URL: <http://static.government.ru/media/files/AR59E5d7yB9LddoPH2RSIhQpSCQDERdP.pdf>.

325. FIDH interview with Anatoly Razumov.

political repression between 1917 and 1991, but it has so far identified only about four million of the victims.³²⁶ In 2019, Roman Romanov, director of the GULAG History Museum and member of the Presidential Human Rights Council, proposed that the State create a unified database of the victims.³²⁷ Russia's President approved this proposal,³²⁸ but it has yet to be implemented.

123. Article 19 of the 1991 Law established a Commission for Rehabilitation of the Victims of Political Repression, which would have full access to archives, and the capacity to assist in the restoration of rights to the victims of political repression. It would coordinate the work of other agencies in providing for reparations, identifying inconsistencies in the national legislation in terms of providing for rehabilitation, assisting the regional and federal authorities in commemorating victims of political violence, and accepting individual or group complaints lodged by NGOs like International Memorial.³²⁹ The Commission acquired a permanent status on the basis of the Presidential Decree of the Russian Federation of August 25, 2004, and remains in existence.³³⁰ However, according to International Memorial Board member Sergey Krivenko, the Commission is currently dormant; it does not have a dedicated website, and its reports, published once every two years, are not publicly available. While regional rehabilitation commissions remain relatively active, they also lack transparency and receive little federal support.³³¹
124. The Government also fails to systematically account for or maintain the cemeteries and mass graves of the victims of Soviet-era persecution. Article 18.1 of the 1991 Law, introduced in 2016, relegates this task to "organizations and citizens," merely giving the authorities an option to "support" them. Instead, civic efforts often meet resistance by local officials. This is evidenced, *inter alia*, by the 2019 prosecution of volunteers for their clean-up work at a GULAG cemetery in Galyashor, Perm Region,³³² and the 2019 prosecution of activists for their restoration work at a cemetery in Tsentralnyy Khazan, Irkutsk Region.³³³ In 2019, Kirill Kaleda, a member of the Presidential Human Rights Council and archpriest of a cathedral next to the Butovo Shooting Range, a memorial site near Moscow, proposed that the Government grant special status to "mass burial sites" of Soviet-era State terror, and make efforts to identify and protect them.³³⁴ Russia's President approved this proposal,³³⁵ but it likewise awaits implementation. In his interview with FIDH, Anatoly Razumov, head of the Restored Names Centre at the Russian National Library in Saint Petersburg, lamented that there are very few memorials to the victims of Soviet-era persecution, in contrast to the many Second World War memorials across Russia. He also stressed that many mass burial sites still remain unknown to the public, despite the many petitions by victims and their descendants to the Government to disclose them.³³⁶
125. A telling example of the Government's attitude towards the victims is their handling of the Katyń massacre case. In 2004, the authorities discontinued the investigation into the massacre, classified the decision to close the case, refused to recognize the relatives of the victims as injured parties, and would not allow them access to the case file. The investigators undertook only partial exhumations and identification of the remains. The prosecutors refused to rehabilitate the victims under the 1991 Law, saying that it was not possible to determine the specific legal basis for the repression against them. The courts that examined the relatives' appeals against the refusals then stated that there was no reason to assume that the victims had actually been

326. Memorial, *Victims of political terror in USSR [Жертвы политического террора в СССР]*, URL: <https://base.memo.ru>.

327. TASS, *The Director of the Gulag History Museum proposed to create a database of victims of political repression [Директор Музея истории ГУЛАГа предложил создать базу данных жертв политических репрессий]*, 10 December 2019, URL: <https://tass.ru/obschestvo/7314101>; <http://kremlin.ru/events/councils/by-council/18/62285>.

328. Kremlin, *Meeting of the Council for Civil Society and Human Rights [Заседание Совета по развитию гражданского общества и правам человека]*, 10 December 2019, URL: <http://www.president-soviet.ru/presscenter/news/read/6068>.

329. Article 19 ceased to be in force in 1993 with the introduction of the Presidential Decree of 24.12.93 N 2288 *On measures on bringing the legislation of the Russian Federation in conformity with the Constitution [О мерах по приведению законодательства Российской Федерации в соответствие с Конституцией Российской Федерации]*. See: <https://memorial.krsk.ru/zakon/911018.htm>.

330. Presidential Decree of the Russian Federation of August 25, 2004 No., 1113, available at <https://www.prilb.ru/en/node/354156>.

331. FIDH Interview with Sergey Krivenko.

332. See more at § 85 above.

333. See more at § 86 above.

334. Kremlin, *Meeting of the Council for Civil Society and Human Rights [Заседание Совета по развитию гражданского общества и правам человека]*, 10 December 2019, URL: <http://kremlin.ru/events/councils/by-council/18/62285>.

335. Presidential Council for Civil Society and Human Rights, *Council News [Новости Совета]*, URL: <http://www.president-soviet.ru/presscenter/news/read/6068>.

336. FIDH interview with Anatoly Razumov.

killed, referring to the incompleteness of the investigation.³³⁷ The names of several thousand of the 22,000 victims, and the location of their burial sites, remain unknown to this day.³³⁸

8.4. Failure to compensate the victims

126. The 1991 Law includes the following remedies for the victims: (i) compensation for arbitrary deprivation of liberty (Article 15); (ii) restitution of (or compensation for) expropriated property (Article 16.1); (iii) the right to return to their home towns and get access to social housing in place of their lost homes (Article 13); and (iv) certain social benefits (Article 16). However, these remedies have remained largely illusory.
127. Compensation for arbitrary deprivation of liberty consists of an insulting lump-sum payment of 75 rubles (approximately EUR 1) per month of imprisonment, with a laughable cap of 10,000 rubles (approximately EUR 113) for the total amount of time the victim spent in the GULAG. In 2007, the Constitutional Court ruled that the Government had to review this amount, but its decision was ignored.³³⁹
128. Restitution of property is subject to numerous exemptions. Most notably, any property expropriated pursuant to laws in force at the time is not subject to restitution. *Inter alia*, that precludes return of any property taken by the communist regime immediately after the 1917 Revolution. If property is subject to restitution, but was destroyed or currently belongs to private parties, the victim is only entitled to compensation in the amount of up to 4,000 rubles (approximately EUR 45) for movable property, or 10,000 rubles (approximately EUR 113) for all property, including real estate. In 2007-2009, the Constitutional Court ruled several times that the Government had to review those amounts, but its decisions were likewise ignored.³⁴⁰
129. In 2019, the Constitutional Court sided with three elderly petitioners, “children of the GULAG,” and declared Article 13 of the 1991 Law unconstitutional to the extent that this provision, while proclaiming the right of the victims to return home, in fact made it impossible for them to qualify for social housing.³⁴¹ There are 1,500 surviving GULAG deportees in Russia who have so far been unable to return to their original homes. The Constitutional Court instructed the Government to “immediately” amend the law. However, in 2020, the Government came up with a proposal that would place the victims on a general housing waitlist with an average waiting time of 25 to 30 years, meaning they will never get a chance to return.³⁴² The Government said that creating a fast track for the victims of Soviet-era persecution would discriminate against the veterans of the Second World War (although the latter do, in fact, get priority housing).³⁴³ An alternative proposal would make federal housing subsidies available to “children of the GULAG” within one

337. *Janowiec and others v. Russia*, cit., URL: <http://hudoc.echr.coe.int/fre?i=001-127684>.

338. Alexander Guryanov, *Катын 80 years later [Катынь 80 лет спустя]*, cit., URL: <https://www.vedomosti.ru/opinion/articles/2020/03/03/824267-katin-80>.

339. Constitutional Court of the Russian Federation, decision of 15 May 2007, No. 383-O-P, URL: <http://doc.ksrf.ru/decision/KSRFDecision16452.pdf>.

340. Constitutional Court of the Russian Federation, decision of 16 January 2007, No. 272-O-O, URL: <http://doc.ksrf.ru/decision/KSRFDecision16341.pdf>; Constitutional Court of the Russian Federation, decision of 4 April 2007, No. 273-O-O, URL: <http://doc.ksrf.ru/decision/KSRFDecision16342.pdf>; Constitutional Court of the Russian Federation, decision of 17 July 2007, No. 574-O-O, URL: <http://doc.ksrf.ru/decision/KSRFDecision16643.pdf>; Constitutional Court of the Russian Federation, decision of 15 April 2008, No. 263-O-O, URL: <http://doc.ksrf.ru/decision/KSRFDecision17298.pdf>; Constitutional Court of the Russian Federation, decision of 13 October 2009, No. 1357-O-O, URL: <http://doc.ksrf.ru/decision/KSRFDecision18495.pdf>.

341. Constitutional Court of the Russian Federation, judgment of 10 December 2019, No. 39-P, URL: <http://doc.ksrf.ru/decision/KSRFDecision442846.pdf>.

342. Bill No. 988493-7 on Amending Article 13 of the Law of the Russian Federation “On the Rehabilitation of Victims of Political Repression,” URL: <https://sozd.duma.gov.ru/bill/988493-7>.

343. Alexander Chernykh, *Gulag victims put at the end of the list for apartments [Жертв ГУЛАГа поставили в конец квартирной очереди]*, in *Kommersant*, 27 July 2020, URL: <https://www.kommersant.ru/doc/4432935>.

year.³⁴⁴ Almost 100,000 people have signed a petition in support of the “children of the GULAG.”³⁴⁵ International Memorial and the Institute for Law and Public Policy have launched a joint project, “The Right to Return Home,” featuring a guide for the victims on how to apply for housing.³⁴⁶ In a joint September 2020 communication, the United Nations Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence, and the United Nations Special Rapporteur on adequate housing, said that the Russian authorities should ensure the return of Soviet-era deportees within two years.³⁴⁷ Russia’s parliament has yet to implement the judgment of the Constitutional Court.

344. Meduza, *Propositions in the State Duma to amend the modifications to the law on victims of repression. This will allow the children of victims of repression not to wait for housing from the state for 30 years* [В Госдуме предложили изменить поправки в закон о жертвах репрессий. Это позволит детям репрессированных не ждать жилье от государства по 30 лет], 17 December 2020, URL: <https://meduza.io/news/2020/12/17/v-gosdume-predlozhili-izmenit-popravki-v-zakon-o-zhertvah-repressiy-eto-pozvolit-detyam-repressirovannyh-ne-zhdet-zhilie-ot-gosudarstva-po-30-let>.

345. Change.org, *Adopt the law on enabling the “children of the GULAG” to finally return from exile* [Примите закон, по которому «дети ГУЛАГа» смогут наконец вернуться из ссылки], URL: <https://www.change.org/PravoVernutsyaDomoj>.

346. Memorial, *The Right to go back home* [Право вернуться домой], URL: <https://backhome.memo.ru>.

347. Office of the United Nations High Commissioner for Human Rights, Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 11 September 2020, UN Doc. AL RUS 6/2020, URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25525>.

III. Analysing “Crimes Against History”: The Law

130. This section provides a legal analysis of the patterns of repression against civil society actors working on issues of historical memory, as identified in the previous section. Among all the different forms of repression, the analysis will focus on those violations of fundamental rights guaranteed by international law and by Russia’s Constitution that, in the context of this study, may reach the threshold of “crimes against history.” These rights include freedom of expression, freedom of association, freedom of assembly, the right to work, the right to liberty, the right to a fair trial, the right to be free from torture and other forms of ill-treatment, the right to privacy, and the right to an effective remedy.

1. Freedom of expression

131. Russia has ratified international treaties that protect freedom of expression, most notably the International Covenant on Civil and Political Rights (ICCPR) and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). Article 19 of the ICCPR provides that “everyone shall have the right to hold opinions without interference (paragraph 1) and the right to freedom of expression,” the latter including the “freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or in print, in the form of art, or through any other media of one’s choice” (paragraph 2). Article 10 of the ECHR also recognizes the right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas without interference by public authorities, and regardless of frontiers (paragraph 1). Freedom of expression is not, however, an absolute right. It can be restricted so long as the restriction is “prescribed by law”, pursues a legitimate governmental aim, such as public safety and order, protection of the right to privacy, or the rights of others, and is necessary in a democratic society. Equally, Article 29 of the Constitution of Russia guarantees to everyone freedom of opinion and speech (paragraph 1), as well as the right to freely seek, receive, transmit, produce, and distribute information by any legal means (paragraph 4); it also establishes the freedom of mass media and outlaws censorship (paragraph 5).
132. Freedom of expression includes the right to express opinions about history. The United Nations (UN) Human Rights Committee has included opinions of a historic or scientific nature within the scope of Article 19 of the ICCPR.³⁴⁸ The ECtHR has consistently held, including in *Chauvy and Others v. France* and *Ungváry and Irodalom Kft v. Hungary*, that it is an integral part of freedom of expression to seek historical truth, and that it is not the ECtHR’s role to arbitrate the underlying historical issues, which are part of the continuing debate between historians which shapes opinion as to the events which took place, as well as their interpretation.³⁴⁹ Moreover, as the ECtHR has summarized in *Perinçek v. Switzerland*, statements on historical issues, whether made at public rallies or in media such as books, newspapers, or radio or television programs, are as a rule seen as touching upon matters of public interest, and therefore enjoy strong protection.³⁵⁰
133. Outside the narrow context of Holocaust denial cases,³⁵¹ which fall into a category of so-called self-inculpatory laws, which have the noble goal of protecting victims of international crimes, memory laws are generally regarded as inconsistent with international law. Laws that are self-exculpatory—those that further an historically simplistic narrative, usually in the form of a prohibition of statements accusing a State of certain crimes, such as Article 354.1—are

348. Human Rights Committee, General comment No. 34 of 12 September 2011, UN Doc. CCPR/C/GC/34, para. 9.

349. European Court of Human Rights, judgment of 29 June 2004, app. no. 64915/01, *Chauvy and Others v. France*, para. 69; European Court of Human Rights, judgment of 3 December 2013, app. no. 64520/10, *Ungváry and Irodalom Kft v. Hungary*, para. 63.

350. European Court of Human Rights (Grand Chamber), judgment of 15 October 2015, app. no. 27510/08, *Perinçek v. Switzerland*, para. 230.

351. See, e.g.: European Court of Human Rights, decision of 24 June 2003, app. no. 65831/01, *Garaudy v. France*; Human Rights Committee, communication No. 550/1993 of 16 December 1996, *Robert Faurisson v. France*, UN Doc. CCPR/C/58/D/550/1993.

particularly suspect.³⁵² According to the UN Human Rights Committee, laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the ICCPR imposes on States Parties; the ICCPR does not permit a general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events.³⁵³ The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has reached the same conclusion; he has stated that historical events should be open to discussion, and that by demanding that writers, journalists, and citizens give only a version of events that is approved by the government, States are enabled to subjugate freedom of expression to official versions of events.³⁵⁴ The UN Independent Expert on the promotion of a democratic and equitable international order has recommended that States should repeal legislation that is incompatible with Article 19 of the ICCPR; in particular, memory laws and any laws that hinder open discussion of political and historical events.³⁵⁵ For instance, in *Perinçek v. Switzerland*, the ECtHR found that prosecution of a politician for statements denying the Armenian genocide of 1915 violated Article 10 of the ECHR.³⁵⁶

134. In Russia, recent years have seen the emergence of no fewer than seven memory laws or legislative proposals, all of which establish public liability for the expression of opinions about the Second World War (see §§ 12-29 above).³⁵⁷ The central tenet of this rapidly developing legal framework is Article 354.1 of the Criminal Code (“Exoneration of Nazism”). While its first two clauses prohibit the denial or approval of Nazi crimes, and might therefore fall under the well-established free speech exceptions for prohibitions of speech denying established international crimes, particularly the Holocaust, those specific prohibitions have never been the real focus of either the legislators or of law enforcement. From its inception, the purpose behind Article 354.1 and related laws has been the Government’s desire to proscribe an “assault on the historical memory of the Second World War events” (see § 13 above). This legislative and law enforcement effort has been accompanied by the crystallization of an official historical narrative (see §§ 92-100 above). Over the past years, the Government has sought to prosecute those who offer interpretations of historical facts diverging from its dogma, especially those who accuse the Soviet regime of crimes (see §§ 16-24; 78-86 above). This, however, is not a legitimate aim under international law. Article 354.1 and related laws “open the way to a judicial intervention in historical debate and inevitably shift the respective historical discussions from public forums to courtrooms,” which is precisely what international law seeks to prevent, as the ECtHR has held in *Dzhugashvili v. Russia*.³⁵⁸
135. The Government has also tried to justify its memory laws based on the need to protect the “sentiments” of Russians in general, and war veterans in particular (see § 28 above). This ostensible purpose also underpins the enforcement of anti-extremism laws, and the censorship of books, films, performances, and other materials or productions (see §§ 35-37; 43-49 above). However, it is well established that freedom of expression covers not only information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also extends to those that “offend, shock, or disturb”.³⁵⁹ According to the ECtHR case law, statements that contest, even in virulent terms, the significance of historical events that carry a special sensitivity for a country and touch on its national identity, cannot in themselves be regarded as seriously affecting their addressees.³⁶⁰ Thus, in *Dink v. Turkey*, the ECtHR found that a domestic law against “denigration of Turkishness” was not a legitimate basis to prosecute those who criticize Turkey’s denial of the Armenian genocide.³⁶¹ In *Vajnai v. Hungary*, the ECtHR accepted that the public display of the red star “may create uneasiness among past victims [of communism]

352. See, e.g., Uladzislau Belavusau and Aleksandra Gliszczynska Grabias, *The Remarkable Rise of “Law and Historical Memory” in Europe: Theorizing Trends and Prospects in the Recent Literature*, 2 *Journal of Law and Society*, Vol. 47, June 2020, pp. 325-338.

353. Human Rights Committee, General comment No. 34 of 12 September 2011, UN Doc. CCPR/C/GC/34, para. 49.

354. Office of the United Nations High Commissioner for Human Rights, report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression of 7 September 2012, UN Doc. A/67/357, para. 55.

355. Human Rights Council, report of the Independent Expert on the promotion of a democratic and equitable international order of 17 July 2014, UN Doc. A/HRC/24/38, para. 56(e).

356. *Perinçek v. Switzerland*, cit.

357. See, generally, Kuposov, *Memory Laws, Memory Wars*, *supra* n. 13.

358. European Court of Human Rights, decision of 9 December 2014, app. no. 41123/10, *Dzhugashvili v. Russia*, para. 33.

359. European Court of Human Rights, judgment of 28 August 2018, app. no. 10692/09, *Savva Terentyev v. Russia*, para. 61.

360. *Perinçek v. Switzerland*, cit., para. 253; European Court of Human Rights, judgment of 2 October 2001, app. nos. 29221/95, 29225/95, *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, para. 104-07.

361. European Court of Human Rights, judgment of 14 September 2010, app. nos. 2668/07, 6102/08, 30079/08, 7072/09, 7124/09, *Dink v. Turkey*, para. 132.

and their relatives,” but nonetheless held that “such sentiments [...] cannot alone set the limits of freedom of expression,” and that the latter may not be restricted “in order to satisfy the dictates of public feeling—real or imaginary.”³⁶² Contrary to this well-settled approach, the Russian authorities suppress speech concerning history in order to protect the State-sponsored narrative and some of the audience, like members of the Communist Party, who might find it disrespectful or insulting. Of all the instances of prosecution and censorship surveyed above, the speech at stake either criticized or ridiculed the Soviet regime and its policies or, if directed against specific individuals such as war veterans, touched upon matters of public interest, including international crimes they might have committed in the past, or their public support for the current regime (see §§ 16-25; 45-48; 78-86 above). In such circumstances, the arguably harsh form and tenor of some of the statements, even if mildly offensive to some, could not by itself justify the suppression of the speech.

136. Equally, dismissal or other reprimand against a Russian historian by his or her employer (e.g. a university) for his or her professional statements (see §§ 75-77 above) is subject to the same stringent standards, since freedom of expression also applies in the context of private employment, and the State has a positive obligation to protect that freedom.³⁶³
137. Russia’s legislative prohibition on the use of Nazi symbols and attributes remains overbroad, despite the 2019-2020 amendments (see §§ 30-34 above). In *Nix v. Germany*, the ECtHR did not find a violation of Article 10 of the ECtHR in a case where the applicant had been convicted for publication of a picture featuring a swastika. However, the German law at stake explicitly provided an exemption for expression “meant to serve civil education, [...] to promote art [...], science, research or teaching, to report on current or historical events.”³⁶⁴ By contrast, the current version of Russian laws against Nazi symbols do not provide for any such exemptions. The wording of those laws is ambiguous, such that history studies featuring Nazi symbols might still be subject to prosecution even if they do not contain any elements of Nazi propaganda. The prohibition in Article 354.1.3 of insults to symbols of Russia’s military glory is likewise vague, and subject to arbitrary application by the authorities.
138. The official far-reaching interpretation of Russia’s anti-terrorism law is incompatible with freedom of expression. The UN Human Rights Committee has emphasized that such offences as “encouragement of terrorism,” as well as the offences of “praising,” “glorifying,” or “justifying” terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.³⁶⁵ The 2015 OSCE Joint Declaration on Freedom of Expression and Responses to Conflict Situations provides that criminal responsibility for expression relating to terrorism should be limited to those who incite others to terrorism; conversely, vague concepts such as “glorifying,” “justifying,” or “encouraging” terrorism should not be used.³⁶⁶ Another OSCE document, the 2016 Joint Declaration on Freedom of Expression and Countering Violent Extremism stresses that everyone has the right to comment on and criticize the manner in which States and politicians respond to terrorism.³⁶⁷ Yet Russian journalist Svetlana Prokopyeva was convicted under Article 205.2 of the Criminal Code for her professional analysis of the underlying causes of a terrorist attack, as well as her criticism of the Government (see § 39 above). The UN Human Rights Committee identifies the important role that the media plays in informing the public about acts of terrorism, and stresses that journalists should therefore not be penalized for carrying out their legitimate activities.³⁶⁸ Contrary to international law, Russia’s approach entails a “chilling effect” on free speech, not only for the media but also for all those who conduct research into the history of individuals or groups considered terrorists by the Government.
139. Similarly, Russia’s treason law (Article 275 of the Criminal Code) stifles free expression on issues of history, in violation of international law. Vague and overbroad, it entails a penalty of up to 20 years’ imprisonment for any “assistance” to a foreign State or international body that is deemed

362. European Court of Human Rights, judgment of 8 July 2008, app. no. 33629/06, *Vajnai v. Hungary*, para. 57.

363. European Court of Human Rights, judgment of 5 November 2019, app. no. 11608/15, *Herbai v. Hungary*, para. 37; European Court of Human Rights, judgment of 29 February 2000, app. no. 39293/98, *Fuentes Bobo v. Spain*.

364. European Court of Human Rights, decision of 13 March 2018, app. no. 35285/16, *Nix v. Germany*, para. 29-48.

365. Human Rights Committee, General comment No. 34 of 12 September 2011, UN Doc. CCPR/C/GC/34, para. 46.

366. Joint Declaration on Freedom of Expression and Responses to Conflict Situations of 4 May 2015, para. 3(b), URL: <https://www.osce.org/files/f/documents/a/0/154846.pdf>.

367. Joint Declaration on Freedom of Expression and Countering Violent Extremism of 4 May 2016, para. 1(a), URL: <https://www.osce.org/files/f/documents/e/9/237966.pdf>.

368. Human Rights Committee, General comment No. 34 of 12 September 2011, UN Doc. CCPR/C/GC/34, para. 46.

to be “directed against Russia’s security.” For instance, it has been used against a Russian expert on military history who had allegedly shared the results of his research with military historians online (see § 84 above). As the UN Human Rights Committee has stressed, it is not compatible with Article 19 of the ICCPR to invoke treason laws to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated information of legitimate public interest that does not harm national security.³⁶⁹ It does not appear that in their enforcement of Article 275 of the Criminal Code, the Russian authorities have ever balanced the contribution of the disseminated information to public discourse against any alleged threats to national security caused by their dissemination. The Venice Commission has concluded that the broad restrictions and potentially chilling effect on civil rights of Article 275 of the Criminal Code are excessive, and conflict with the core role played by freedom of expression in a democratic society.³⁷⁰

140. Finally, Russia’s legal framework and official policies regarding access to archives are not fully in line with international legal standards. The right of access to archives is part of freedom of expression. Article 19 of the ICCPR provides for the right to seek information, and the UN Human Rights Committee has recognized that it embraces a right of access to information held by public bodies; such information includes records held by a public body, regardless of the form in which the information is stored, its source, and the date of production.³⁷¹ In *Kenedi v. Hungary*, the ECtHR has found that access to original documentary sources for legitimate historical research is an element of the right to freedom of expression.³⁷² In *Társaság a Szabadságjogokért v. Hungary*³⁷³ and *Magyar Helsinki Bizottság v. Hungary*, it has extended this right beyond academic researchers to, *inter alia*, public interest NGOs and authors of literature on matters of public concern.³⁷⁴ Recommendation R(2000)13 of the Council of Europe’s Committee of Ministers declares that access to public archives is a right, and elaborates that domestic law should provide for either the opening of public archives without particular restriction, or a general closure period.³⁷⁵ Finally, the right of access to historical information, including archives, can also be derived from the right to know the truth about gross human rights violations.³⁷⁶ Indeed, the UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence, has emphasized that freedom of expression, and the corollary right to access information, are essential components of transitional justice, particularly as guarantees of non-recurrence of past abuses. He has called upon States to reform legislation that imposes undue restrictions on freedom of expression, and that criminalizes dissenting and critical opinions.³⁷⁷
141. In Russia, most of the archives of the Soviet security services have been classified as State secrets until at least 2044, with little, if any, justification (see § 52 above). In practice, historians and NGOs working on historical memory are regularly denied access to an entire range of documents on the grounds of secrecy, and no effective judicial review is available to those who wish to challenge State secrecy designations (see § 53 above). This classification constitutes a disproportionate impediment to historical and human rights work, and is incompatible with freedom of expression. According to the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, access to archives may not be denied on grounds of national security unless, in exceptional circumstances, the restriction has been prescribed by law; the government has demonstrated that the restriction is necessary in a democratic society to protect a legitimate national security interest; and the denial is subject to independent judicial review.³⁷⁸

369. *Ibid.*, para. 30.

370. Venice Commission, opinions of 27 June 2014, no. 716-717/2013. CDL-AD(2014)025, para. 118, URL: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad\(2014\)025-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=cdl-ad(2014)025-e).

371. *Ibid.*, para. 18.

372. European Court of Human Rights, judgment of 26 May 2009, app. no. 31475/05, *Kenedi v. Hungary*, para. 43.

373. European Court of Human Rights, judgment of 14 April 2009, app. no. 37374/05, *Társaság a Szabadságjogokért v. Hungary*, para. 27.

374. European Court of Human Rights (Grand Chamber), judgment of 8 November 2016, app. no. 18030/11, *Magyar Helsinki Bizottság v. Hungary*, para. 160, 168.

375. Council of Europe, Recommendation of the Committee of Ministers to member states on a European policy on access to archives of 13 July 2000, No. R(2000)13, para. 5, 7, URL: <https://rm.coe.int/16804cea4f>.

376. See more on the right to the truth at § 173 below.

377. Report of the Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence. U.N. Doc. A/HRC/30/42. § 113(g).

378. Updated Set of principles for the protection and promotion of human rights through action to combat impunity. UN Doc. E/CN.4/2005/102/Add.1. Principle 16.

142. Apart from national security considerations, the Russian authorities seek to justify denial of access to archival documents by the alleged need to protect the personal data of both the victims of Soviet-era persecution, and the State officials who had been involved in such persecution.
143. As for officials, domestic regulation mandates the redaction of their personal data from discontinued criminal and related cases against the victims of Soviet-era persecution (see § 55 above). In addition, the authorities deny historians access to lists of extrajudicial “troika” members (see §§ 54; 56 above). Such policies amount to a disproportionate restriction on the right of access to archival information, given the compelling public interest in the identification of those responsible for grave human rights violations. In any event, there is no proper legal basis under domestic law to restrict access to such personal data after the expiry of a general closure period of 75 years.
144. As for victims, domestic regulation establishes a complete 75-year-long ban on access, by all third parties, to the Soviet-era files of criminal and related cases against the victims of Soviet-era persecution, absent the consent of the victim or his or her relatives. In at least one case, that of Mikhail Suprun, the authorities prosecuted and convicted a Russian historian for processing archival records of Soviet-era deportees for a memorial book (see §§ 55; 78 above). As that case demonstrates, the courts have never balanced the perceived privacy concerns against the public-interest nature of the historian’s work, and the narrowly tailored scope of his research. Absent that balancing inquiry, a blanket ban on access to archival documents is incompatible with international law.

2. Freedom of association

145. Article 22, paragraph 1, of the ICCPR provides that “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of one’s interests”. An almost identical provision can be found in Article 11, paragraph 1, of the ECHR. The UN Human Rights Committee has observed that Article 22 of the ICCPR encompasses not only the right to form an association, but also the right of such an association freely to carry out its statutory activities.³⁷⁹ This right can only be restricted if the prohibition is prescribed by law, and is necessary and proportionate with respect to a legitimate governmental aim. Equally, Article 30, paragraph 1, of the Constitution of Russia proclaims that everyone has the right to association, and guarantees freedom of activity to public associations. Recently, the Government’s crackdown on Russian independent civil society organizations working on issues relating to Soviet-era State terror has primarily manifested itself in two ways: first, in the introduction and enforcement of the “Foreign Agents” legal regime; and second, in administrative pressure in the form of inspections, penalties, and attempts at the organizations’ forcible dissolution.
146. First, with regard to the “Foreign Agents” legal regime, international law guarantees access to resources for NGOs as an inherent part of their right to freedom of association. It also does not draw any distinction between funding received from foreign, domestic, or international donors.³⁸⁰ The UN Human Rights Council has called upon States to ensure that no law should criminalize or delegitimize activities in defence of human rights on account of the origin of their funding.³⁸¹ The UN Special Representative of the Secretary-General on human rights defenders has noted that governments must allow access by NGOs to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as governments.³⁸² According to Recommendation CM/Rec(2007)14 of the Council of Europe’s Committee of Ministers, NGOs should be free to solicit and receive funding—in cash or in-kind donations—not only from public bodies in their own State, but also from institutional or individual donors, and other State or multilateral agencies, subject only to the laws generally applicable to customs, foreign exchange,

379. Human Rights Committee, Communication No. 1274/2004 of 10 November 2006, *Viktor Korneenko et al. v. Belarus*, UN Doc. CCPR/C/88/D/1274/2004, para. 7.2.

380. Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association of 24 April 2013, UN Doc. A/HRC/23/39, para. 16, 17.

381. Human Rights Council, Protecting Human Rights Defenders, HRC Res. 22/6, U.N. Doc. A/HRC/22/L.13 (2013), para. 9.

382. Report of the Special Representative of the Secretary-General on human rights defenders, Hina Jilani, U.N. Doc. A/59/401 (2004), para. 82(l).

and money laundering, and those concerning the funding of elections and political parties.³⁸³ Guidelines on Legislation Pertaining to the Right to Freedom of Association, adopted jointly by the Venice Commission and the OSCE, provide that associations “shall have the freedom to seek, receive, and use financial, material, and human resources, whether domestic, foreign, or international, for the pursuit of their activities”; in particular, States “shall not restrict or block the access of associations to resources on the grounds of the nationality or the country of origin of their source, nor stigmatize those who receive such resources”.³⁸⁴

147. The Russian “Foreign Agents” law has severely restricted the right of NGOs to receive access to funding. It discourages their reliance on foreign or international financial support by using the derogatory term “Foreign Agent” in respect of independent NGOs which receive such funding, and work in areas deemed “political” (which includes, *inter alia*, the field of historical memory); by providing for the mandatory registration of such NGOs in a special register; and by requiring such NGOs, as well as their founders, leaders, and individual members to label accordingly all materials they issue or distribute. The law also puts additional financial and administrative burdens on “Foreign Agent” NGOs, and subjects them to harsh penalties for failure to comply with the “Foreign Agent” legal regime (see §§ 67-74 above). These restrictions go far beyond legitimate government regulation of NGOs’ funding pertaining to customs, foreign exchange, prevention of money laundering, or elections and political parties.
148. While the purported objective of the “Foreign Agents” law was to limit “foreign influence” on the activities of Russian civil society, or, in other words, to protect national sovereignty (see § 68 above), this is not a legitimate aim under international law. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association points out that protection of a State’s sovereignty or its traditional values against external interference is an impermissible ground for international funding restrictions against NGOs.³⁸⁵ Similarly, OSCE Guidelines on the Protection of Human Rights Defenders stipulate that States should abolish all undue restrictions on foreign sources of funding imposed under the pretext of combating “foreign interference” and defending “national interests.”³⁸⁶ It follows that Russia’s “Foreign Agents” legal regime is inconsistent with international law.
149. Second, with regard to inspections, penalties, and attempts at forcible dissolution, the case law of the ECtHR confirms that any interference with the freedom of association must be proportionate to a legitimate governmental aim.³⁸⁷ Recommendation CM/Rec(2007)14 of the Council of Europe’s Committee of Ministers provides that NGOs can be required to submit their books, records, and activities to inspection by a supervising agency only where there has been a failure to comply with reporting requirements, or where there are reasonable grounds to suspect that serious breaches of the law have occurred or are imminent.³⁸⁸ In *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, the ECtHR found that a mere failure to respect certain legal requirements regarding the internal management of NGOs cannot be considered such serious misconduct as to warrant outright dissolution.³⁸⁹
150. Over recent years, and especially since 2013, independent NGOs working in the field of historical memory in Russia have been subjected to numerous inspections by various Government bodies. In 2015, the Constitutional Court found that those inspections were essentially arbitrary, because the authorities could inspect NGOs without probable cause or formal notice, repeatedly and for an indefinite period of time; could subpoena an unlimited range of documents and materials from an NGO; and could set deadlines at their discretion (see § 71 above). Courts persist in

383. Council of Europe, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, para. 50, URL: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805d534d.

384. OSCE, *Guidelines on Legislation Pertaining to the Right to Freedom of Association*, Principle 7, p. 23, in *Guidelines on Freedom of Association*, 1 January 2015, URL: <http://www.osce.org/odihr/132371?download=true>.

385. Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association of 24 April 2013, UN Doc. A/HRC/23/39, para. 29-34.

386. OSCE, *Section B: Explanatory Report*, para. 212, in *Guidelines on the Protection of Human Rights Defenders*, para. 212, URL: <http://www.osce.org/odihr/guidelines-on-the-protection-of-human-rights-defenders?download=true>.

387. See, e.g.: European Court of Human Rights, judgment of 11 October 2011, app. no. 48848/07, *Association Rhino and Others v. Switzerland*, para. 56, 61.

388. Council of Europe, Recommendation CM/Rec(2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, cit., para. 68.

389. European Court of Human Rights, judgment of 8 October 2009, app. no. 37083/03, *Tebieti Mühafize Cemiyeti and Israfilov v. Azerbaijan*, para. 82.

imposing enormous fines on Memorial for failure to follow “Foreign Agent” labelling formalities, although the law is unclear and the total amount of fines threatens Memorial’s very existence (see § 73 above). In at least one instance, the Ministry of Justice attempted to forcibly dissolve International Memorial for what amounted to mere errors in paperwork (see § 72 above). The administrative burdens and pressures imposed on Russian NGOs in connection with being labelled a “Foreign Agent” are so exorbitant that they cannot be considered as proportionate to any legitimate governmental interest, even if such an interest actually exists. It follows that law enforcement *vis-à-vis* independent NGOs by the Russian authorities has not been compliant with international standards regarding freedom of association.

3. Freedom of assembly

151. Article 21 of the ICCPR and Article 11 of the ECHR recognize the right of peaceful assembly, with permissible restrictions similar to those concerning other fundamental rights. Article 31 of the Constitution of Russia lays down that citizens of the Russian Federation “shall have the right to assemble peacefully, without weapons, and hold rallies, meetings, demonstrations, marches, and pickets”. The ECtHR has held that the freedom of assembly is a fundamental right in a democratic society, and, like the right to freedom of expression, is one of its foundations; thus, it should not be interpreted restrictively. In particular, content-based restrictions on the freedom of assembly are subject to the most serious scrutiny.³⁹⁰ According to the Guidelines on Freedom of Peaceful Assembly, prepared jointly by the OSCE and the Venice Commission, where “the insignia, uniforms, emblems, music, flags, signs, or banners to be played or displayed during an assembly conjure memories of a painful historical past, that should not in itself be reason to interfere with the right to freedom of peaceful assembly”.³⁹¹
152. In *Lashmankin and Others v. Russia* and *Navalnyy v. Russia*, the ECtHR summarized the structural deficiencies of Russia’s excessively restrictive domestic regulatory framework governing peaceful assemblies. Those include the wide discretion exercised by the authorities in deciding what behaviour constitutes a public event; in approving the proposed events; in dispersing events held without approval; in applying law enforcement measures against the organizers and participants of such events, such as arrest, transfer to a police station, pre-trial detention, and sanctions of a criminal nature; and the lack of tolerance towards peaceful public gatherings which do not comply with the procedure, yet are not causing any disorder or nuisance.³⁹² These shortcomings have allowed the Russian authorities to arbitrarily ban or disperse several public events commemorating the victims of Soviet-era persecution (see §§ 58-64 above). The lack of relevant and sufficient reasons adduced by the authorities in those cases suggests that they might have interfered with those events because, in fact, they did not welcome the agenda and/or the organizers. Such an approach is contrary to international law.
153. Moreover, the right of peaceful assembly covers not only public but also private meetings.³⁹³ States must not only refrain from arbitrary interference with that right, but also must safeguard that right, meaning that they have a positive obligation to secure its effective enjoyment. The UN Human Rights Committee has stated that States have a duty to protect event participants against possible abuse by non-State actors, including all forms of discriminatory abuse and attacks.³⁹⁴ In particular, the ECtHR has found that, in cases of counter-demonstrations, event participants must be able to hold the demonstration without having to fear that they will be subjected to physical violence by their opponents; the authorities are therefore bound to take adequate measures

390. European Court of Human Rights, judgment of 12 June 2014, app. no. 17391/06, *Primov v. Russia*, para. 116, 135. See also: Human Rights Committee, General comment No. 34 of 12 September 2011, UN Doc. CCPR/C/GC/34, para. 22.

391. OSCE/ODIHR – Venice Commission Guidelines on Freedom of Peaceful Assembly (2nd edition), 9 July 2010, para. 97, URL: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2010\)020-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2010)020-e).

392. European Court of Human Rights, judgment of 7 February 2017, app. nos. 57818/09 and 14 others, *Lashmankin and Others v. Russia*, para. 410-477; European Court of Human Rights (Grand Chamber), judgment of 15 November 2018, app. nos. 29580/12 and 4 others, *Navalnyy v. Russia*, para. 183-186.

393. Human Rights Committee, General comment No. 37 on the right of peaceful assembly (article 21) of 17 September 2020, UN Doc. CCPR/C/GC/37, § 6; European Court of Human Rights (Grand Chamber), judgment of 15 October 2015, app. no. 37553/05, *Kudrevičius and Others v. Lithuania*, para. 91.

394. Human Rights Committee, General comment No. 34 of 12 September 2011, UN Doc. CCPR/C/GC/34, para. 24, 25.

to prevent violent acts directed against the participants.³⁹⁵ On several occasions, the Russian authorities have failed to discharge that duty when they allowed intolerant pro-Government opponents to obstruct historical memory events held by independent civil society actors, such as International Memorial's all-Russian annual historical school essay competition awards ceremony; refused their assistance to ensure the safety of attendees; or condoned assaults on attendees by the likes of NOD or SERB (see §§ 87-90 above).



Historian Anatoly Razumov is being detained outside the Petrozavodsk court building on September 29, 2020 during the hearings in appeal of the Yuri Dmitriev's sentence to 3.5 years in prison. Razumov was giving an interview to a journalist holding a sign in support of Dmitriev that reads: "Let's not allow a second Sandormoh to happen". Photo by Igor Podgorny.

4. Right to work

154. Under Article 6 of the International Covenant on Economic, Social, and Cultural Rights, the States Parties, including Russia, recognize the right to work—"which includes the right of everyone to the opportunity to earn one's living by work which one freely chooses or accepts"—and will take appropriate steps to safeguard this right. Equally, Article 37, paragraph 1, of the Constitution of Russia provides that everyone shall have the right to freely use one's labour capabilities, and to choose one's occupation and profession. The UN Committee on Economic, Social, and Cultural Rights has further elaborated that the right to work includes the obligation of States Parties to assure individuals their right to freely chosen or accepted work, including the right not to be deprived of work unfairly.³⁹⁶ The State's failure to protect workers against unlawful dismissal amounts to a violation of the State's obligation to protect the right to work.³⁹⁷
155. In recent years, Russian State-controlled universities and other academic institutions have abused domestic labour laws to dismiss historians and other scholars for their views, and, in particular, for expressing their opinions on controversial matters (see §§ 75-77 above). Such

395. European Court of Human Rights, judgment of 21 June 1988, app. no. 10126/82, *Plattform "Ärzte für das Leben" v. Austria*, para. 3; European Court of Human Rights, judgment of 20 October 2005, app. no. 44079/98, *United Macedonian Organisation Ilinden and Ivanov v. Bulgaria*, para. 115.

396. General Comment No. 18: The Right to Work (Art. 6 of the Covenant). UN Doc. E/C.12/GC/186, para. 4

397. *Ibid.*, para. 35.

dismissals targeted particularly renowned intellectuals, like historians Andrey Zubov and Alexey Petrov, and thereby created an enormous silencing effect on all others who continued to work at those institutions. Therefore, such measures not only violated the right to work, but also affected the independence of an entire profession.

5. Right to liberty

156. Article 9 of the ICCPR establishes that everyone has the “right to liberty and security of person”; “no one shall be subjected to arbitrary arrest or detention”; “no one shall be deprived of one’s liberty except on such grounds, and in accordance with such procedures as are established by law”. Similar provisions are laid down in Article 5 of the ECHR and Article 22 of the Constitution of Russia. As for historians and activists pursuing issues of historical memory, the right to liberty has recently come into play in two aspects: (1) arrests at public events, and (2) pre-trial detention in criminal cases.
157. First, the authorities have arrested participants at several events commemorating victims of Soviet-era State terror (see § 60 above), alleging the commission of the administrative offence of participation in an unlawful assembly (Article 20.2 of the Code of Administrative Offenses). Article 5, paragraph 1(c), of the ECHR permits the lawful arrest or detention of a person affected for the purpose of bringing him or her before the competent legal authority on reasonable suspicion of having committed an offense. The ECtHR has repeatedly found a violation of that provision in cases against Russia concerning public events, where the police interrupted peaceful gatherings, arrested the participants, and escorted them to police stations to have administrative offense reports drawn up. In such cases, the ECtHR has determined that no reasons had been given in those cases for not drawing up the reports on the spot, which has led to the finding that the arrest and escort to the police station had constituted an arbitrary and unlawful deprivation of liberty.³⁹⁸
158. Second, the case of historian Yuri Dmitriev has been emblematic of the Russian authorities’ unreasonably harsh pre-trial detention policies in criminal cases. Under Article 5, paragraph 3, of the ECHR, “everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power, and shall be entitled to trial within a reasonable time, or to release pending trial”. According to Recommendation Rec(2006)13 of the Council of Europe’s Committee of Ministers, in “view of both the presumption of innocence and the presumption in favour of liberty, the remand into custody of persons suspected of an offense shall be the exception rather than the norm; in individual cases, remand into custody shall only be used when strictly necessary, and as a measure of last resort; it shall not be used for punitive reasons”.³⁹⁹
159. Under the ECtHR’s case law, the authorities must give relevant and sufficient grounds to justify the detention, such as a risk of flight. The risks must be duly substantiated, and the authorities’ reasoning on those points cannot be abstract, general, or stereotyped.⁴⁰⁰ The ECtHR has repeatedly criticized the Russian courts for operating under the assumption that the gravity of the charges carried such a preponderant weight that no circumstances could have warranted the applicant’s release.⁴⁰¹ It has also found the excessive length of pre-trial detention in Russia to be a structural problem.⁴⁰² In this regard, the UN Human Rights Committee has stated that extremely prolonged pre-trial detention may also jeopardize the presumption of innocence under Article 14, paragraph 2, of the ICCPR; persons who are not released pending trial must be tried as expeditiously as possible, to the extent consistent with their rights of defence.⁴⁰³

398. European Court of Human Rights, judgment of 4 December 2014, app. no. 76204/11, *Navalnyy and Yashin v. Russia*, para. 68, 93-98; European Court of Human Rights (Grand Chamber), judgment of 15 November 2018, app. nos. 29580/12 and 4 others, *Navalnyy v. Russia*, para. 71-72.

399. Council of Europe, Recommendation Rec(2006)13 of the Committee of Ministers to Member States on the use of remand in custody, the conditions in which it takes place, and the provision of safeguards against abuse, para. 3.

400. European Court of Human Rights (Grand Chamber), judgment of November 2017, app. no. 72508/13, *Merabishvili v. Georgia*, para. 222.

401. European Court of Human Rights, judgment of 22 May 2012, app. no. 5826/03, *Idalov v. Russia*, para. 145.

402. European Court of Human Rights, judgment of 24 March 2016, app. no. 51445/09, *Zherebin v. Russia*, para. 74-82.

403. Human Rights Committee, General comment No. 35 of 16 December 2014, UN Doc. CCPR/C/GC/35, para. 37.

160. Yuri Dmitriev was detained on remand between December 2016 and January 2018, and then again between June 2018 and July 2020. In total, he spent more than three years in pre-trial detention, despite his age, health, and the dearth of evidence against him. Apparently, the gravity of the charges brought against him was the decisive factor for the courts in justifying his continued detention. Judges refused to release him pending trial even during a Covid-19 outbreak in his prison, although by that time Dmitriev had already spent more than 1.5 years in pre-trial detention, and would have run a high risk of complications in case of illness (see § 82 above). Taken together, these factors strongly indicate that Dmitriev's right to liberty has been violated.

6. Right to a fair trial

161. As historians and activists working on issues of historical memory are being increasingly targeted by means of criminal prosecution, their right to fair trial assumes greater importance. Article 14 of the ICCPR establishes that in the determination of any criminal charge, the accused "shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law". A similar provision is laid down in Article 6, paragraph 1, of the ECHR. In addition to this overarching requirement, these international treaties also guarantee, to those charged with a criminal offense, certain specific rights, such as to have adequate time and facilities for the preparation of their defence (Article 14, paragraph 3(b), of the ICCPR; Article 6, paragraph 3(b) of the ECHR); to examine or have examined witnesses against them; and to obtain the attendance and examination of witnesses on their behalf, under the same conditions as witnesses against them (Article 14, paragraph 3(e), of the ICCPR; Article 6, paragraph 3(d) of the ECHR).
162. While it is usually difficult to adequately assess the fairness of criminal proceedings without full knowledge of case details, certain aspects of well-publicized cases against Russian historians are instructive. Thus, in September 2020, the case of Yuri Dmitriev was reconsidered on appeal after he had already been acquitted twice on child pornography charges, and been given a lenient sentence on sexual abuse charges (see § 82 above). Dmitriev's own lawyer was absent due to sick leave, but the appellate court nonetheless proceeded with the hearing and assigned Dmitriev a lawyer over Dmitriev's objection. The assigned lawyer was given only three days to acquaint himself with a voluminous case that by then had been going on for almost four years. In addition, the appellate court ordered a new expert assessment, to be completed within four business days. Having received the report, the appellate court immediately handed down its verdict.⁴⁰⁴ It appears that the new expert report played a decisive role in the appellate verdict that reversed Dmitriev's acquittal on child pornography charges, and increased his sentence for sexual abuse almost fourfold. It is evident that on such short notice, while held in custody on remand, and without the assistance of his own lawyer, who possessed a unique and full knowledge of the case, Dmitriev lacked an effective opportunity to challenge that expert report at the appellate hearing.
163. According to the well-settled case law of the ECtHR, in determining whether the criminal proceedings as a whole were fair, regard must be paid to whether the rights of the defence were respected; it must be examined, in particular, whether the defendant was given the opportunity to challenge the authenticity of the evidence and to oppose its use.⁴⁰⁵ Moreover, Article 14, paragraph 3(d), of the ICCPR and Article 6, paragraph 3(c), of the ECtHR expressly guarantee to the accused the right to defend himself through legal assistance "of his own choosing." Where the defendant is denied his chosen lawyer, the ECtHR looks into whether there were relevant and sufficient grounds for overriding or obstructing the defendant's wish. Absent such reasons, the ECtHR proceeds to evaluate the overall fairness of the criminal proceedings, considering a variety of factors, such as the circumstances surrounding the designation of counsel, the existence of opportunities for challenging this designation, and the effectiveness of counsel's assistance.⁴⁰⁶ The above-described circumstances of Dmitriev's appellate hearing, even taken on their own, cast serious doubt on the overall fairness of the criminal proceedings against him. In January 2021, nine independent experts of the UN Human Rights Council raised fair trial concerns over the case

404. Memorial, *The case of Yuri Dmitriev. Chronology 2016–2021* [Дело Юрия Дмитриева. Хронология 2016–2021 гг.], URL: <https://www.memo.ru/ru-ru/biblioteka/delo-yuriya-dmitrieva-hronologiya-20162020-gg>.

405. European Court of Human Rights, judgment of 27 October 2020, app. nos. 29084/07, 1191/08, *Ayetullah Ay v. Turkey*, para. 126.

406. European Court of Human Rights (Grand Chamber), judgment of 20 October 2015, app. no. 25703/11, *Dvorski v. Croatia*, para. 78-82.

of Yuri Dmitriev in their joint communication to the Russian authorities, arguing that Dmitriev's conviction in the absence of his own lawyer was "a violation of his right to a fair trial, in ongoing legal proceedings which appear to be aimed at silencing him and delegitimizing his work."⁴⁰⁷ The Council of Europe's Commissioner for Human Rights reached the same conclusion.⁴⁰⁸

7. Right to be free from torture and other forms of ill-treatment

164. Article 7 of the ICCPR establishes that no one shall be subjected to torture, or to cruel, inhuman, or degrading treatment or punishment. Article 3 of the ECHR and Article 21, paragraph 2, of the Constitution of Russia provide for the same right.
165. The ECtHR has held in a number of cases that Article 3 may under certain circumstances require early release of a seriously ill or disabled prisoner, especially when a prisoner suffers from a terminal illness, and it would therefore be inhuman and degrading to not let him die at home.⁴⁰⁹
166. In 2018-2020, Russian historian Sergey Koltyrin served his prison sentence under a verdict that many considered a reprisal against him for his professional views. While imprisoned, he became terminally ill. Russian law (Article 81 of the Criminal Code) provides for the possibility of early release in such cases. In March 2020, a local court ordered Koltyrin's release. However, the prosecutor appealed against that decision, and Koltyrin died in a prison hospital in April 2020 before the decision became final (see § 83 above). It is unclear whether there were any reasonable grounds for an appeal, or why the appellate hearing was not held promptly. In the absence of further information, this incident raises an issue under the right to be free from ill-treatment.

8. Right to privacy

167. Article 17 of the ICCPR establishes that "no one shall be subjected to arbitrary or unlawful interference with one's privacy, family, home, or correspondence, nor to unlawful attacks on one's honour and reputation" (paragraph 1); and that "everyone has the right to the protection of the law against such interference or attacks". Equally, Article 8, paragraph 1, of the ECHR provides that everyone has the right to respect for one's private and family life, one's home, and one's correspondence. Article 23 of the Constitution of Russia also proclaims that everyone shall have the right to the inviolability of private life, personal, and family secrets, the protection of honour and good name (paragraph 1); and that everyone shall have the right to privacy of correspondence, of telephone conversations, postal, telegraph, and other messages (paragraph 2). For historians and civil society actors working on issues of historical memory in Russia, the right to privacy comes into play with respect to: (1) searches and seizures, (2) data gathering by the State security services, (3) intimidation and/or violence by private parties, and (4) smear campaigns by the media.
168. First, searches of residential and business premises, including those that involve the seizure of equipment containing electronic data, amount to an interference with the private life, home, and correspondence of those concerned, and therefore engage Article 8 of the ECHR.⁴¹⁰ According to the case law of the ECtHR, such measures violate the right to privacy where there are no relevant and sufficient reasons to justify them, and no appropriate and sufficient safeguards

407. UN Human Rights Office of the High Commissioner, *Russia: UN experts raise fair trial concerns over case of Gulag historian Yuri Alexeevich Dmitriev*, URL: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26703&LangID=E>.

408. Commissioner for Human Rights, *The Russian authorities should end continuous judicial harassment of human rights defenders*, 30 September 2020, URL: <https://www.coe.int/en/web/commissioner/-/the-russian-authorities-should-end-continuous-judicial-harassment-of-human-rights-defenders>.

409. European Court of Human Rights, judgment of 5 March 2013, app. no. 44084/10, *Gülay Çetin v. Turkey*, para. 100-103; European Court of Human Rights, judgment of 10 November 2005, app. no. 22913/04, *Tekin Yıldız v. Turkey*, para. 72.; European Court of Human Rights, judgment of 11 February, app. no. 7509/08, *Contrada v. Italy (no. 2)*, para. 75-85.

410. European Court of Human Rights, judgment of 19 January 2017, app. no. 63638/14, *Posevini v. Bulgaria*, para. 65.

against abuse.⁴¹¹ Contrary to those requirements, in one exemplary case, the Russian authorities searched the office of Perm Memorial and the home of its head, and seized electronic devices, as part of a criminal investigation into “illegal logging” by volunteers at an abandoned GULAG settlement (see § 85 above). The authorities never explained what evidence they were looking for, or why the seizure of electronic devices was at all relevant to the investigation.

169. Second, the storing by a public authority of information relating to an individual's private life also amounts to an interference with his or her private life, even if such data concerns his or her professional or business activities.⁴¹² The ECtHR has found violations of Article 8 of the ECHR where the security services clandestinely collected and stored information about a person's political activities,⁴¹³ or where the police registered a human rights activist's name in a secret surveillance database and tracked his movements.⁴¹⁴ Likewise, reported information-gathering about Memorial and its activists by the Russian authorities (see §§ 71; 102 above) is *prima facie* unlawful.
170. Third, according to the ECtHR's well-established case law, States have a positive obligation to protect the physical and moral integrity of an individual from other persons; to that end, Article 8 of the ECHR requires domestic authorities to maintain and apply in practice an adequate legal framework affording protection against acts of violence and intimidation by private individuals.⁴¹⁵ In recent years, historical memory activists in Russia have been regularly subjected to attacks or threats by their pro-Government opponents (see §§ 62; 74; 87-90 above). During the notorious 2016 assault on the participants and jury of the International Memorial's all-Russian annual historical school essay competition awards ceremony, the police were present on the spot but did nothing to stop the attackers, nor did the authorities undertake any criminal investigation in the aftermath. Such incidents give rise to violations of the State's duty to protect the victims' right to privacy.
171. Fourth, reputation is protected under international law as part of the right to privacy. The ECtHR considers that an attack on a person's reputation engages Article 8 of the ECHR when it attains a certain level of seriousness, and is made in a manner causing prejudice to personal enjoyment of the right to respect for private life.⁴¹⁶ Depending on their precise content, smear reports by Russian Government-controlled media directed against independent historians and NGO activists (see §§ 104-106 above) may amount to a violation of their right to privacy.

9. Right to an effective remedy

172. This sub-section focuses on the failure of the Russian authorities to properly address grave human rights violations committed during the Soviet era. Under international law, such failure violates the Russian State's duties: (1) to establish the truth about past serious violations of human rights and humanitarian law; (2) to investigate such violations and prosecute those responsible; (3) to preserve memory; and (4) to provide reparation to the victims.
173. First, the right to the truth is a recognized right under international law, in both its individual and collective aspects. According to the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, “every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes, and about the circumstances and reasons that led, through massive or systematic

411. European Court of Human Rights, judgment of 7 June 2007, app. no. 71362/01, *Smirnov v. Russia*, para. 43-49.

412. European Court of Human Rights (Grand Chamber), judgment of 16 February 2000, app. no. 27798/95, *Amman v. Switzerland*, para. 65.

413. European Court of Human Rights, judgment of 4 May 2000, app. no. 28341/95, *Rotaru v. Romania*.

414. European Court of Human Rights, judgment of 21 June 2011, app. no. 30194/09, *Shimovolos v. Russia*.

415. European Court of Human Rights, judgment of 5 March 2009, app. no. 38478/05, *Sandra Janković v. Croatia*, para. 45; European Court of Human Rights, judgment of 11 February 2020, app. no. 56867/15, *Buturugă v. Romania*, para. 74.

416. European Court of Human Rights, (Grand Chamber), judgment of 7 February 2012, *Axel Springer AG v. Germany*, para. 83.

violations, to the perpetration of those crimes".⁴¹⁷ The UN General Assembly has recognized the importance of respecting and ensuring the right to the truth, in contributing to ending impunity, and to promoting and protecting human rights.⁴¹⁸ The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the UN General Assembly Resolution 60/147 (UN Basic Principles), provide that States should ensure verification of the facts, and full and public disclosure of the truth, about such violations.⁴¹⁹ In *Association "21 December 1989" and Others v. Romania and El-Masri v. the former Yugoslav Republic of Macedonia*, the ECtHR has emphasized the importance of the right of individual victims, their families and heirs, and the society at large to know the truth about the circumstances surrounding mass violations of the right to life,⁴²⁰ and of the right to be free from torture.⁴²¹ While the ECtHR has yet to read "the right to the truth" into the right to freedom of expression, the report's authors believe that the right to the truth is also encompassed in the right of access to information under Article 10 ECHR. It is hoped that the pending *Suprun v. Russia* case at the ECtHR, which claims that access to archives is part of Article 10, will expressly address the right to the truth.

174. Contrary to the right to the truth, the Russian authorities have failed to fully disclose or facilitate access to information about crimes committed by the Soviet regime. They have kept most of the security services' archives closed to the public, and have obstructed access of researchers and victims to archival files of Soviet-era persecution cases (see §§ 50-57 above). They have not undertaken a full-fledged investigation into Soviet-era State crimes, have discontinued those few isolated investigations that had initially commenced in the late 1980s and early 1990s, and have never made their findings available to the public. In the Katyń massacre case, they even declared the decision to close the case and some of the case files a State secret (see §§ 53; 116; 125 above). Finally, the authorities have never created a complete database of the victims of Soviet-era persecution, and have failed to establish the fate of many victims (see §§ 121-125 above).
175. Second, States have a duty to investigate and prosecute violations of human rights and humanitarian law which constitute crimes under international law, in particular genocide, war crimes, crimes against humanity, or other gross violations of human rights.⁴²² Statutes of limitations do not apply to such crimes.⁴²³
176. However, the Russian authorities have never investigated most instances of crimes against humanity, like mass arbitrary detentions, deportations, torture, and extrajudicial executions, among other international crimes, that were committed by the Soviet regime. Those scant investigations that did take place were drastically incomplete. Moreover, the authorities severely narrowed the circle of those they deemed responsible, thus excluding the Soviet leadership. They also legally downgraded the atrocities from war crimes or crimes against humanity to ordinary domestic crimes, which resulted in the closure of cases due to expired statutes of limitations (see §§ 115-117 above). As a result, the authorities have completely failed in their duty to investigate and prosecute.
177. Third, international law provides for the duty of States to preserve the memory of past atrocities. According to the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, a people's knowledge of the history of its oppression is part of its heritage, and, as such, must be ensured by appropriate measures in fulfilment of

417. Commission on Human Rights, Updated Set of principles for the protection and promotion of human rights through action to combat impunity of 8 February 2005, UN Doc. E/CN.4/2005/102/Add.1. Principle 2, URL: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G05/109/00/PDF/G0510900.pdf?OpenElement>.

418. United Nations General Assembly, Resolution 68/165. Right to the truth, of 21 January 2014, UN Doc. A/RES/68/165, para. 1.

419. United Nations General Assembly, Resolution 60/147. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law of 16 December 2005, UN Doc. A/RES/60/147, para. 22(b).

420. European Court of Human Rights, judgment of 24 May 2011, app. nos. 33810/07 and 18817/08, *Association "21 December 1989" and Others v. Romania*, para. 144, 194.

421. European Court of Human Rights (Grand Chamber), judgment of 13 December 2012, app. no. 39630/09, *El-Masri v. the former Yugoslav Republic of Macedonia*, para. 191-192.

422. Resolution 60/147, cit., para. 4; Updated Set of principles for the protection and promotion of human rights through action to combat impunity, cit., Principle 19.

423. Resolution 60/147, cit., para. 7; Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, UN Doc. A/RES/2391(XXIII).

the State's duty to preserve archives and other evidence concerning violations of human rights and humanitarian law, and to facilitate knowledge of those violations. Such measures "shall be aimed at preserving the collective memory from extinction and, in particular, at guarding against the development of revisionist and negationist arguments".⁴²⁴ The UN Basic Principles provide for such remedies to the victims as acknowledgement of the facts by the State, acceptance of responsibility, commemorations and tributes to the victims, and inclusion of an accurate account of the violations in educational material at all levels.⁴²⁵

178. Moreover, Article 15 of the International Covenant on Economic, Social, and Cultural Rights guarantees the right of everyone "to take part in cultural life". According to the UN Human Rights Committee, it follows from this provision that "cultural heritage must be preserved, developed, enriched, and transmitted to future generations as a record of human experience and aspirations; such obligations include the care, preservation, and restoration of historical sites, monuments, works of art, and literary works, among others". In particular, States have an absolute obligation of respect for, and protection and preservation of mass graves.⁴²⁶ The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions has emphasized in her most recent report that under no circumstances should the existence of mass graves be denied or covered up; "sites must not be damaged or destroyed, and those searching for or speaking of mass graves must not be imprisoned, threatened, or silenced".⁴²⁷
179. Instead, the Russian authorities and officials have directly or indirectly participated in projects that deny the responsibility of the Soviet regime for some of its crimes (see §§ 92-101; 103; 118-120 above). They have participated in the destruction of memorials to the victims of Soviet-era State terror, tolerated such destruction or desecration, and obstructed the establishment of certain new memorials (see §§ 107-113 above). They fail to disclose the locations of many cemeteries and mass graves of Soviet-era victims, and fail to systematically account for and protect such places; at times they even resist independent activists who do so (see § 124 above). In their January 2021 communication to the Russian authorities, nine independent experts of the UN Human Rights Council juxtaposed the welcome creation of the Government-sponsored Wall of Grief in Moscow in 2017, with the 2018-2019 Government-sanctioned desecration of the Sandarmokh mass graves, and concluded that "symbolic measures lack merit if their purpose is to create a one-sided interpretation of events, or worse still, to give birth to a false memory of the nature and circumstances of past crimes, whatever their scale."⁴²⁸ Finally, the authorities are trying to silence those in the education community who bring up the issue of Soviet-era persecution (see § 77 above).
180. Fourth, international law provides that the victims of gross violations of international human rights law and serious violations of international humanitarian law have a right to adequate, effective, and prompt reparations for harm suffered.⁴²⁹ Reparations include, *inter alia*, restitution and compensation. Depending on the individual circumstances of the victim, restitution might take the form of restoration of liberty, return to one's place of residence, or return of property.⁴³⁰ Compensation is due for any economically assessable damage, and should be proportional to the gravity of the violation.⁴³¹
181. However, reparations for the victims of Soviet-era persecution have remained largely illusory. Restitution of property is subject to numerous exemptions, and has been mostly unavailable. Negligible statutory amounts of compensation for arbitrary deprivation of liberty and expropriated property frustrate their declared purpose, even more so given that the Government has defied several rulings of the Constitutional Court directing it to offer greater compensation (see §§ 126-128 above). The right of Soviet-era deportees to return home and receive social

424. Updated Set of principles for the protection and promotion of human rights through action to combat impunity, cit., Principle 3.

425. Resolution 60/147, cit., para. 22(e)(g)(h).

426. United Nations General Assembly, Report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions of 12 October 2020, UN Doc. A/75/384, para. 61.

427. *Ibid.*

428. Office of the United Nations High Commissioner for Human Rights, Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, 26 January 2021, UN Doc. AL RUS 10/2020, URL: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25804>.

429. *Ibid.*, para. 11(b), 15.

430. *Ibid.*, para. 19.

431. *Ibid.*, para. 20.

housing is arguably the only meaningful reparation prescribed by Russia's domestic law. However, even that remedy has so far remained inaccessible to the victims, with the judgment of the Constitutional Court in their favour still awaiting implementation (see § 129 above).



The memorial in Lubyanka Square, during the recent Return of the Names ceremony?

IV. Countering “Crimes Against History”: Recommendations

182. Violations of the human rights of history producers dealing with the legacy of Soviet-era crimes have become widespread and systematic in Russia. They therefore rise to the level of “crimes against history.” They affect not only historians, publicists, journalists, civil society activists, and other history producers, but also the entire Russian society, as well as the international community at large. In order to reduce infringement of freedom of expression and other human rights in the light of current historical memory policies in Russia, FIDH makes the following recommendations to the Russian authorities and intergovernmental organizations.

183. To the Russian authorities:

Recommendations concerning Freedom of Expression

- (a) Amend the Constitution of the Russian Federation to remove references to “historical truth”;
- (b) Repeal the “Exoneration of Nazism” law, and withdraw other draft laws that penalize the expression of opinions about historical facts;
- (c) Ensure that anti-terrorism and anti-extremism laws are narrowly interpreted in practice, and are not used to prosecute the expression of opinions about historical facts or the interpretation of historical events;
- (d) Amend the laws targeting Nazi symbols and attributes so that their use is proscribed only in cases where it amounts to propaganda of Nazi ideology;
- (e) Amend the treason law and otherwise ensure that it does not apply to researchers, journalists, human rights defenders, or other “public watchdogs” for having disseminated information of legitimate public interest;
- (f) Terminate pending criminal cases concerning expression of opinions about historical facts; review completed criminal cases concerning expression of opinions about historical facts, and drop charges against the accused;
- (g) Declassify all archives of Soviet security services and ensure full public access to them;
- (h) Amend regulations regarding access to the files of criminal and related cases against the victims of Soviet-era persecution, and provide full public access to such files, including information about State officials involved in persecution;

Recommendations concerning Freedom of Association

- (i) Repeal the “Foreign Agent” law, and provide that independent NGOs are free to receive funding from any domestic, foreign, or international sources, subject only to the laws generally applicable to customs, foreign exchange and money laundering, and those concerning the funding of elections and political parties;
- (j) Ensure that independent NGOs are not subjected to arbitrary inspections, penalties, or other forms of administrative pressure;

Recommendations concerning Freedom of Assembly

- (k) Amend laws regarding public assemblies, and ensure that peaceful assemblies surrounding historical memory matters, or otherwise, are not subject to arbitrary bans and dispersals, and that their participants are not arrested and convicted solely for participation in or organization of such assemblies;
- (l) Terminate pending administrative and criminal cases against participants of peaceful assemblies; review completed administrative and criminal cases against participants of peaceful assemblies, and drop charges against the accused;

Recommendations concerning the Right to Fair Trial and the Right to Liberty

- (m) Ensure that pre-trial detention of persons suspected of an offense is only used when strictly necessary and as a measure of last resort, that it shall not be used for punitive reasons, and that its length is not excessive;
- (n) Review criminal cases against independent historians, including Yuri Dmitriev, and civil society activists working on issues of historical memory that raise issues of politically motivated prosecution, and immediately release Dmitriev and other political prisoners;

Recommendations concerning the Right to Work, the Right to an Effective Remedy, and the Right to Truth

- (o) Ensure respect for academic freedom at universities and other academic institutions; refrain from interference into academic matters, including educational curricula;
- (p) Ensure respect for and promote diversity in the teaching of history at schools and universities; repeal the Unified Historical and Cultural Standard;
- (q) Ensure that historians are not dismissed or otherwise reprimanded by their employers for the expression of opinions about historical facts, collaboration with foreign historians, or the interpretation of historical events;
- (r) Ensure a wide representation of independent historians, NGOs, historical memory activists, and representatives of the victims in the Presidential Working Group on Commemoration of Victims of Political Repression and in other official institutions with a historical memory agenda;
- (s) Preserve memorials to the victims of Soviet-era State terror, and protect them from vandalism; restore memorials that have been destroyed, removed, or vandalized, and bring those responsible to justice;
- (t) Undertake effective investigations into all known Soviet-era State crimes, identify all those responsible and, if possible, bring them to justice; review decisions to discontinue investigations into Soviet-era crimes; reopen such investigations, if necessary; declassify and publish the files of such investigations;
- (u) Increase the amounts of compensation due to the victims of Soviet-era persecution for arbitrary deprivation of liberty and expropriation of property; ensure restitution of all property expropriated during the Soviet era currently belonging to the State or State-owned entities; promptly provide federal housing subsidies to Soviet-era deportees wishing to return home;
- (v) Expedite the creation of an official database of all victims of Soviet-era persecution; provide sufficient resources to ensure its operation and further development; and
- (w) Expedite the granting of special status to mass burial sites of Soviet-era State terror; establish a Government-funded project to disclose, identify, and preserve such sites.

184. To intergovernmental organizations:

- (a) Provide financial, logistical, and professional support to independent historians, NGOs, civil society activists, and other history producers working on issues of historical memory in Russia;
- (b) Grant priority to applications, complaints or other submissions to international bodies, including the European Court of Human Rights, the Human Rights Committee, the United Nations Working Group on Arbitrary Detention and other Special Procedures of the United Nations Human Rights Council, lodged by independent historians, NGOs, and other civil society activists working on issues of historical memory in Russia;
- (c) Urge the Russian authorities to respect the rights of independent historians, NGOs, and other and civil society activists working on issues of historical memory;
- (d) Engage in consultations with the Russian authorities with a view to reducing infringement of freedom of expression and other human rights of independent historians, NGOs, and other civil society activists working on issues of historical memory in Russia;
- (e) Reiterate calls on Russian authorities to commemorate victims of communist totalitarianism; to cease the persecution of history producers, the whitewashing of international crimes, revisionism, censure, and other grave abuses of human rights that fall into the definition of “crimes against history”;
- (f) Include historians and history producers in the classification of Human Rights Defenders where pursuing their work is fraught with consequences of the kind detailed in this report; and
- (g) Promote the establishment of a UNESCO “Day of Historians,” and other similar initiatives recognizing the importance of the profession of historians and the search for historical truth.

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