Overcoming the Past:
An Overview of Memorial’s Transitional Justice Jurisprudence in Russia
Table of contents

Introduction ...................................................................................................................3

The Right to Return Home: How Memorial is Fighting for Compensation of Housing for ‘Children of the GULAG’ ..................................................................................................5
  1. Judicial Process at the Constitutional Court .........................................................6
  2. Awareness Campaign to Support Implementation of the Constitutional Court’s Ruling .......................................................................................................................11
  3. Class Action Suit against the State Duma ...........................................................15
  4. Legal Aid to “Children of the GULAG” .................................................................19

De-archiving the Past: Challenging Bans on Obtaining Information about Stalinist Repression...................................................................................................................21
  1. Ban on obtaining data about people who were members of Stalin’s troikas ......22
     Why this matters ............................................................................................................22
     Regulatory Framework ................................................................................................23
  2. Access to the minutes of troika meetings ...........................................................24
     Lawsuit in Tula............................................................................................................24
     Lawsuit in Ivanovo ......................................................................................................25
     Lawsuit in Saint Petersburg .......................................................................................25
     Regulatory Framework ................................................................................................25
  3. Access to materials of archived criminal cases of unrehabilitated people ......26
     The Case of Shakhet ...................................................................................................26
     Prudovsky’s Case ........................................................................................................28
     Alexander Kotenkov’s Case .....................................................................................29
     Regulatory Framework ..............................................................................................31
  4. Withholding the truth on the pretext of “state secrets” .......................................32
     State practice ..............................................................................................................32
     Regulatory Framework .............................................................................................33

Cover photo: A man holds his father’s portrait near the memorial to the victims of Soviet-era political repression, the Solovky Stone monument, on Lubyanka Square in Moscow, on October 29, 2014. Hundreds of people gathered in central Moscow on October 29 to remember the victims of Soviet-era political repressions at the Solovky Stone monument, a giant slab of stone taken from a Soviet labor camp in the Solovky Islands and brought to Lubyanka Square near the former KGB headquarters. AFP PHOTO/KIRILL KUDRYAVTSEV
**Introduction**

This report is a follow-up to the 2021 report “Russia: Crimes Against History,” published by the International Federation for Human Rights with the active assistance of the Russian civil-society organization, International Memorial.

As the report titled “Russia: Crimes Against History” noted, “in recent years, the Russian government has been busy creating and implementing an official historical narrative focused on glorifying achievements of the Soviet era, first and foremost, victory in World War II. In addition, mass crimes committed by the Soviet regime, including Stalin’s Great Terror, are being downplayed or justified. State authorities are currently pursuing an aggressive policy with respect to historical memory that not only marginalizes alternative viewpoints, but also exposes all independent historians, journalists, civil society activists and NGOs working on the subject of historical memory to serious risks.”

In the year and a half since the publication of the report, the situation with fundamental human rights inside Russia and in international relations has drastically deteriorated.

On 1 July 2021, a law came into force that prohibits likening the roles of the USSR to that of Nazi Germany in World War II.

On 8 November 2021, the General Prosecutor’s Office filed a lawsuit to shut down International Memorial for non-compliance with legislation on foreign agents.

On 28 December 2021, the Supreme Court officially shut down International Memorial, and representatives of the prosecutor’s office in the court flat out accused the organization of falsifying history.

On 24 February 2022, Russia started a new bloody stage in the war in Ukraine, justifying its claims with a ‘historical narrative.’ The authorities are actively using historical memory to justify its aggression against Ukraine, likening Europe’s liberation from Nazism during World War II to the so-called ‘denazification of Ukraine.’

On 9 November 2022, the President of the Russian Federation signed an essentially ideological program, in which “historical memory and the legacy of generations” are attributed to so-called ‘cultural values.’

Against the backdrop of the ongoing lawlessness, it may seem senseless to be fighting for the right to historical truth and the right to redress for harm caused by events that took place 80-90 years ago.

However, we believe that one of the reasons for this catastrophe was precisely a lack of respect for its own history and the refusal of the Russian Federation at the state level to recognize, condemn and atone for its “inconvenient past”: namely, the massive and systematic violations of human rights and international humanitarian law committed during the Soviet period.

As we have already written in our previous report, “the right to the truth is recognized under international law, both in its individual and collective dimensions. 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 and systematic violations, to the perpetration of those crimes.” The UN General Assembly has recognized the importance of respecting and guaranteeing the right to the truth so as to contribute to ending impunity and to promote and protect human rights.

Despite everything that is happening in Russia, International Memorial’s historians and lawyers have continued to press the state for the right to truth and the right to reparations, namely by consistently and persistently filing lawsuits in the courts, incriminating the state for failing to enforce its own laws.

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This report on overcoming the past through transitional justice mechanisms in Russia comprises two parts. In the first, we describe how lawyers and historians have sought redress for “children of the GULAG,” those who were born in “places not so remote” where their persecuted parents were exiled by the Soviet state as enemies of the people. Already back in 1991, Russia had recognized the rights of such people to receive social housing in the city from which they were exiled. Yet, only a few have so far been able to take advantage of this opportunity, and officials cynically suggest that “children of the Gulag” join the general housing waiting list, knowing full well that people who are 70-90 years old will simply not live long enough to obtain that housing. Thus, while the state is formally recognizing the need for redress, it is shirking this obligation through all possible means. In the case of the children of the Gulag, the Constitutional Court sided with the victims, stating that a special procedure to provide housing must be established for victims of repression. Nevertheless, the State Duma was in no hurry to pass a law that would make this possible. Then, Memorial lawyers filed Russia’s first-ever class action lawsuit against the Duma, demanding that it execute the Constitutional Court’s decision.

In Part 2 titled “De-archiving the Past,” we explain how International Memorial’s historians and lawyers are pushing the state for access to NKVD archives, what excuses the state is using to cover up the shameful pages of its inconvenient past, and how it is sabotaging the right to the truth by denying researchers and relatives the right to know the names of executioners. This work was carried out as part of the International Memorial’s programme “Providing access to archival documents on Soviet state terror”.

In December 2019, Russian President Vladimir Putin warned against unfettered access to archives at a meeting with HRC members: “We know how the NKVD operated in the 1930s, and it may not always be pleasant for relatives to discover the files of their ancestors.” One thing is sure: no matter what the president would like to believe, no one has cancelled the right to the truth. And the truth is all the more important these days.

In Russia, those whom the European Court of Human Rights calls “agents of the state” are now fully confident of their total impunity. They also see that the state has encouraged impunity in the past by hiding the names of executioners. That way, they do not have to fear that their names will be made public, and they are not even afraid of being judged by history. Yet, the right to truth needs protection to prevail. Not only here and now, but also in the past and in the future. That is why lawyers, with the support of FIDH, will continue to work to open up access to state archives to historians, researchers, and descendants of victims and executioners.

2. The FSB does not reveal its own people, Kommersant newspaper, 29.02.2020. URL: https://www.kommersant.ru/doc/4274249
The Right to Return Home:
How Memorial is Fighting for Compensation of Housing for ‘Children of the GULAG’

Many victims of Soviet terror are still today, for all intents and purposes, living in exile; sometimes, they are literally living there where they served their prison term or where they were banished. The GULAG lives on for them.

Since 1991, Russian law has guaranteed victims of repression the right to return to live in those areas or settlements where they had lived up until they suffered political repression. According to the law, that right also applies to members of their families and other relatives who had been living with those who suffered political repression prior to their exile, as well as to children born in places of confinement, in exile, in banishment or in a special prison settlement. Most of those who are still alive today belong predominantly to the latter category and are referred to as ‘children of the GULAG.’ They are also recognized as victims of repression and are issued a certificate of rehabilitation.

In order for victims to be able to exercise that right of return, Article 13 of the Law on Rehabilitation grants victims of political repression the right to receive social (free) housing from the State at their former place of residence. However, in the thirty years of its existence, the law has not been fully applied. In the 1990s, only a handful was actually provided housing due to a lack of financing. Then, in the 2000s, the law was significantly watered down: the instruction to grant priority housing to victims of political repression was removed, and the power to grant them housing was devolved to the regional authorities, after which the requirements tied to this right became impossible to meet in most regions (for instance, in order for victims of repression to be able to exercise the right of return in Moscow, they had to have lived there for 10 years before applying to be registered for housing). Without the housing compensation, ‘children of the GULAG’ have nowhere to go. According to various estimates, the number of people claiming the right to housing throughout the country ranges from 500 to 1600. That number is shrinking fast as victims of political repression are dying, not ever having made it back home.

Since 2019, Memorial has been striving to ensure that victims of Soviet terror can exercise their right to return. Together with the Moscow Institute of Law and Public Policy, International Memorial is running a special project dedicated precisely to this cause titled “The Right to Return Home.” Since its inception, the special project’s key components have been:

- Judicial process at the Constitutional Court;
- Organization of a public campaign supporting implementation of the ruling of the Constitutional Court in favor of the ‘children of the GULAG’;
- The first class action suit in Russia’s history against the State Duma for non-execution of a decision of the Constitutional Court;
- Preparation and publication of step-by-step instructions for ‘children of the GULAG’ on how to exercise their right of return;
- Providing advice to ‘children of the GULAG’ who turn to Memorial for help to obtain housing and representing their interests in lawsuits against local authorities.

Despite the fact that International Memorial was shut down in 2021 following the State’s action against it in court, Memorial’s lawyers continue running the special project and fighting for the right of ‘children of the GULAG’ to return home.

The special project’s site (backhome.memo.ru) publishes current news and contains step-by-step instructions for ‘children of the GULAG.’ You can write to Memorial’s lawyers at the following email address: backhome@memo.ru.

1. Judicial Process at the Constitutional Court

In March of 2019, three victims of political repression among the ‘children of the GULAG’ filed a claim with the Constitutional Court: 68-year Alissa Meissner from the Kirov Oblast, 71-year-old Yelizaveta Mikhailova from the Vladimir Oblast and 68-year-old Yevgenia Shasheva from the Komi Republic.

Their parents lived in Moscow, but they suffered political repression and were banished in the 1930s-1940s. The applicants should have been born and lived in Moscow. Instead, they were born in special GULAG prison settlements or past the “One hundred and first kilometer mark,” there where their Muscovite parents had been banished. They have been living in exile their entire lives, but for many years they have been attempting to return to Moscow. In the Soviet years, the propiska regime created an obstacle. In the early nineties, restrictions were lifted, yet the applicants could not afford to acquire housing in Moscow. For example, Alissa Meissner would have only been able to acquire one and a half square meters of housing in Moscow in exchange for her apartment in Vyatka Village situated 20 kilometers from the former special GULAG prisoner settlement.

Alissa Meissner was born on 18 September 1950 in the village Ozhmegova, Verkhnebarksky District of the Kirov Oblast, where her mother who suffered political repression lived in a special GULAG prison settlement. And now Alissa Meissner still lives in Rudnichny Village, Verkhnebarksky District, Kirov Oblast.
Alissa Meissner’s mother, Anna Meissner, was related to the famous pre-revolutionary pharmacist Vladimir Ferrein, who owned Drugstore № 1 on Nikolskaya Street in Moscow. In 1941, Anna Meissner was exiled as an ethnic German from Moscow to a special prison settlement in the Karaganda Oblast of Kazakhstan in the U.S.S.R. In 1943, she was made to work in the lumber industry in the Kirov Oblast. In 1945, Anna Meissner was registered in a special prison settlement where Alissa Meissner was born in 1950. She lived in Ozhmegova until the late 1980s, was deprived of the opportunity to get an education and worked in a logging camp.

In 1993, Anna Meissner was posthumously rehabilitated. In 1996, Alissa Meissner received a certificate of rehabilitation as having been born in a special prison settlement and as the daughter of Anna Meissner.

In 2017-2018, the applicants went to the Moscow Department of Municipal Property to register on the basis of Article 13 of the Law on Rehabilitation. The department rejected all three applicants because they had not been officially living in Moscow for ten years in total.5

Yevgenia Shasheva’s family in exile. Yevgenia’s father was arrested in 1937. After the sentence he could not return to Moscow. She was born in 1951 in exile in Komi ASSR. © from the personal archive of Evgenia Shasheva

The applicants contested the rejection of their applications to register for housing, but the courts, all the way up to the Supreme Court, refused to recognize the department’s order as unlawful, referring to provisions of the Moscow housing law.

In their appeals to the Constitutional Court, Alissa Meissner, Yelizaveta Mikhailova and Yevgenia Shasheva disputed Article 13 of the Law on Rehabilitation and a number of provisions in the Moscow law of 14 June 2006 № 29 given that these interconnected legislative provisions prevented them from returning to live in the place where their parents had lived before suffering repression. Lawyers from the Institute of Law and Public Policy represented them at the Constitutional Court.

5. Paragraph 3 of Article 7 of the Law on the city of Moscow of 14 June 2006 № 29, Guaranteeing Residents of Moscow the Right to Housing.
The applicants contested the federal and Moscow laws on the following grounds:

» Article 13 of the Law on Rehabilitation required applicants to return on their own to the former place of residence. Pursuant to Article 13, rehabilitated individuals have the right to be registered for and provided housing “if they return to their former place of residence.” In practice, that meant that they had to return on their own to the relevant area or settlement, get registered where they were residing, and only later their right to be registered for housing would be recognized. Yet, the applicants had lost their housing in Moscow as a result of repression and could not go and live in Moscow to reside there permanently if the authorities did not first provide them housing. In their appeals, the applicants asserted that with such an interpretation, Article 13 of the Law on Rehabilitation “contradicts the very essence of the right of return and obstructs enjoyment of that right;”

» Article 13 of the Law on Rehabilitation enabled regional authorities to establish any additional restrictions regarding registration of victims of repression for housing. The overwhelming majority of Russian regions imposed various requirements upon victims of repression that obstructed their right to return home. All these requirements were borrowed from housing legislation. For instance, in order to be registered for housing in Moscow, a person has to have lived there officially for no less than 10 years pursuant to the Law of the city of Moscow of 14 June 2006 № 29 (paragraph 3 Article 7), be indigent (paragraph 5 Article 7), not have housing with a surface area of more than 10 square meters per person (paragraph 1, Part 1, Article 8), and not own living quarters with the right to independent use or the right of ownership (Part 2, Article 8). It was absurd to apply these conditions to former Muscovites who were victims of repression, banished from Moscow during the years of repression. For example, the requirement of residing in Moscow no less than 10 years was impossible to fulfill from the get-go and created a vicious circle: to exercise one's right to return to Moscow, those rehabilitated first had to return there and reside in that city for 10 years;

» Article 13 of the Law on Rehabilitation did not enable applicants to be granted top priority for housing. The applicants pointed out that if they were to sign up on the waiting list for housing, they would only obtain housing once they were over 100 years of age given the pace of progress on the list. Even if one of them were to live to that age, “the move to Moscow by that time would no longer make any sense.”
In April 2019, Memorial sent the Constitutional Court an expert conclusion in support of the appeal. The conclusion contains a historical analysis of the practice of banishment as an integral part of Soviet terror:

“Banishments in the USSR were an integral part of political repression. They were used both as a separate type of collective repression (deportation of ethnic and national groups, exiling of "socially foreign elements") and as an integral part of individual repression. Families of those who suffered repression were ousted from their apartments and, as a rule, either exiled to remote areas or banished with a restricted right to residency in the regime’s special prison settlement areas. Confiscated apartments frequently went to civil servants of the repressive bodies. In Moscow, in the period stretching from 17 August 1937 to 1 October 1938, out of the 6887 rooms sealed in residential homes of the district councils, 6053 were transferred to the NKVD and only 258 were placed under the authority of the Moscow City Council.”

Memorial also drew the Court’s attention to the fact that during the Soviet period “In and of themselves, rehabilitation and removal of restrictions on where people could reside did not make it possible to return to their former place of residence because of the propiska regime that existed in the USSR." And despite the passing of the Law on Rehabilitation in 1991, the problem of returning victims of repression to their former places of residence has still not been resolved:

“Memorial has encountered this problem time and again as it has been providing advice to victims of political repression since 1989. Attempts to resolve the issue in courts, just as in the cases of the applicants, ended in refusals to register the victims for housing. Although the number of requests is diminishing with each year that passes due to death of the victims of repression and their children, complaints about the impossibility of returning to one's place of residence comprise a substantial part of the requests.”

In December 2019, the Constitutional Court ruled in favor of the applicants. The Court deemed the interrelated provisions of Article 13 of the Law on Rehabilitation, paragraphs 3 and 5 of Article 7, paragraph 1 of Part 1 and Part 2 of Article 8 of the Moscow Municipal Law dated 14 June 2006 № 29 unconstitutional to the extent that the regulatory environment in effect and the way the provisions are applied "impede compensation for harm to those who suffered political repression".

The Constitutional Court enjoined the federal legislator to "immediately <...> introduce the necessary amendments to the regulatory framework in effect". A similar obligation was imposed upon regional legislators. The Court also ruled that henceforth and up until amendments are introduced into legislation, victims of political repression returning to their former place of residence must be registered for housing “without having to fulfill the requirements established by housing legislation applicable to other categories of citizens”. The cases of Alissa Meissner, Yelizaveta Mikhailova and Yevgenia Shasheva have been submitted for review.

The Constitutional Court held that providing housing to victims of repression returning to their former place of residence was a matter that must be governed by federal law given that such legal relations as a whole are relevant on the territory of several regions and their regulatory environment cannot be confined to separate entities of the Russian Federation. Moreover, the Constitutional Court noted that it is precisely the federal legislator that is obligated to govern the rights of people who have been victims of political repression such that, throughout Russia’s territory, equal conditions for the exercising of the right of return can be guaranteed.
the Court compelled the legislator to bring back the old regulation that had existed until 2004 where providing housing to victims of repression was an obligation of the federal, and not regional, authorities.

The Constitutional Court reached the conclusion that there must be a special procedure to provide housing for victims of repression: the Court acknowledged the need to establish a “special regulatory framework to guarantee the rights of rehabilitated persons and members of their family to return to those areas or settlements where they had resided before suffering political repression”.\textsuperscript{14} Furthermore, the Constitutional Court, for the first time ever, found that the Russian Federation was obligated “to strive for the fullest possible redress <…> for such harm” done to the victims of repression “through the greatest possible use of available means and financial and economic potential” (paragraph 2 of the preambular part of the ruling). Thus, the Court significantly developed the provision of the preamble to the Law on Rehabilitation where it declares only such provision of compensation for harm “commensurate within one’s capacity.”

The ruling of the Constitutional Court on the case of the ‘children of the GULAG’ was dubbed “the most significant and dramatic event in Russian constitutional justice in 2019.”\textsuperscript{15}

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Yelizaveta Mikhailova, Alissa Meissner, Yevgenia Shasheva and lawyer Grigory Vaypan at the Russian Constitutional Court. © Alexandre Koryakov
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\textsuperscript{14} Paragraph 4 of the preambular part of the ruling.

\textsuperscript{15} People who suffered repression were assisted with housing//CC recognized their right to be granted apartments. URL: https://www.kommersant.ru/doc/4188818.
2. Awareness Campaign to Support Implementation of the Constitutional Court’s Ruling

In July of 2020, Russia’s government introduced Bill № 988493-7 “On the introduction of amendments to Article 13 of the Law of the Russian Federation on the Rehabilitation of victims of political repression” into the State Duma. In an explanatory note annexed to the bill, it was indicated that it had been drafted in implementation of Ruling № 39-P of the Constitutional Court of 10 December 2019.

The bill maintains the operative provision of Article 13 of the Law on Rehabilitation, according to which rehabilitated persons and members of their families are registered for housing and provided housing as stipulated by legislation pertaining to the entities of the Russian Federation. The meaning of the bill boils down to a mere removal of restrictions for victims of repression on being included in the waiting list for housing: they will be registered for housing “irrespective of how long they have been residing in the area or settlement, to which they are returning (intend to return), what property they own and whether they have any justification proving that they require housing.” As such, the bill contravenes the ruling of the Constitutional Court and does not enable rehabilitated persons to exercise their right of return to the former place of residence. This constitutes sabotage of the Court’s ruling.

First of all, the bill leaves the matter of providing housing to victims of repression at the regional level, although repression was carried out on behalf of Soviet State as a whole, and not of separate territorial units, and the Constitutional Court ruled that the matter had to be governed exclusively through federal legislation. Disparity in socio-economic opportunities among Russian regions would inevitably lead to inequality among the victims of repression depending where they are exercising their right of return.

Secondly, the bill does not provide for clear timeframes as to when housing will be provided. It maintains the status quo, where victims of repression will end up at the very bottom of the waiting list for housing, which would take 25-30 years to obtain. Victims of repression who managed to register for housing subsequent to the ruling of the Constitutional Court had already found themselves in that situation: for example, in Moscow, the applicants who filed a submission with the Constitutional Court, Alissa Meissner and Yevgenia Shasheva, were assigned the numbers 54 967 and 54 846, respectively. So, they faced a waiting list of almost 55 thousand families. Victims of repression who have the right to return to their former place of residence will simply never live to see the housing guaranteed to them.

In response, Memorial launched an awareness campaign demanding that the Constitutional Court’s ruling be implemented and finally enable ‘children of the GULAG’ to exercise their to return home.

The Ombudsman for the Russian Federation, the Presidential Council for the Development of Civil Society and Human Rights, the Presidential Commission for Rehabilitation of Victims of Political Repression, the governmental Institute of Legislation and Comparative Law, as well as dozens of civil-society organizations voiced their opposition to the governmental bill.

110 public Russian figures and over 100 Moscow city and municipal councilors signed open letters demanding full implementation of the Constitutional Court’s ruling. Among the signatories figured

18. Members of Parliament had ethical choice to make//The government left the decision up to them, are victims of persecution worthy of free apartments. URL: https://www.kommersant.ru/doc/4508935.
22. Over 100 Moscow councillors demanded that the State Duma provide housing to the children of persecuted Muscovites. URL: https://meduza.io/news/2020/10/30/bolee-100-moskovskikh-deputatov-potrebovali-ot-gosdumy-obespechit-zhiliem-detey-repressirovannyh-moskvich.”
journalists Dmitry Muratov, Leonid Parfyonov, Katerina Gordeeva, Nikolai Svanidnze; actress and philanthropist Chulpan Khamatova; writer Lyudmila Ulitskaya; founder of the Vera Foundation Nyuta Fedemesser; political scientist Ekaterina Schulmann; sociologist and director of the Levada-Center Lev Gudkov; film director Alexander Sokurov; musicians Andrey Makarevich and Ilya Lagutenko; Director of the GULAG History Museum Roman Romanov; President of the Fund for Persecuted Persons and wife of Alexander Solzhenitsyn, Natalia Solzhenitsyna. One of the letters states:

“Barely any ‘children of the GULAG’ are still alive. At some point in time, the State destroyed their families and condemned them to a life in exile. They are a living reminder that the consequences of the Soviet repression are still being felt. <…> A society that has not atoned for its past crimes has no future.”

In an op-ed column for Rossiyskaya Gazeta, Natalia Solzhenitsyna called upon the Government to revise the bill:

“Half a century ago, Alexander Issayevich Solzhenitsyn, our children and I were banished from the country and stripped of our citizenship. And, although living standards in the West were much better than in our motherland, not to mention for those who were born in special prison settlements, we still felt during the years of exile the bitterness of injustice burning like a flame inside and we never lost hope of returning. The people on whose behalf I write are not many; only a few hundred remain. If the bill is not improved and the governments passes it in its current form, in 10-15 years, there will be no one left to return.”

In August 2020, the Civil Chamber of the Russian Federation held a public debate on the bill. In the run-up to a meeting, federal ministries endeavored to justify the concept of the bill stating the need to guarantee the rights of “other categories of citizens who also need housing.”

Chairman of the ‘Children of the GULAG’ and lawyer in the special project the “Right to Return Home,” Grigory Vaypan, explained why that is perverse reasoning:

“It is fundamentally wrong to equate victims of persecution with indigent citizens, large families and other “persons entitled to benefits.” Providing persecuted persons with housing is not a benefit, nor assistance. It is compensation for what was unlawfully taken from them. The State has an obligation to compensate these people for the harm done to them, and that obligation must be fulfilled. <…> Even with respect to [the reasoning about priority], victims of persecution obviously have greater priority because their families were deprived of their housing as far back as in the 1930s-1940s. Almost 30 years after the passing of the Law on Rehabilitation in 1991, these people still await the housing promised to them by the State. Now, officials essentially want to set the counter back to zero: they are suggesting that these elderly people be placed at the bottom of the list and wait another 30 years.”

As a result of the public debate, the Civil Chamber of the Russian Federation reached a negative conclusion on the governmental bill, stating that it would not be in compliance with the ruling of the Constitutional Court and demanded that it be substantially revised.

In September 2020, within the framework of the special project, the Right to Return Home, an online petition on the Change.org platform was launched addressing the State Duma and titled,...

25. Victims of the GULAG were placed at the bottom of the waiting list for an apartment//Ministry of Construction, Housing and Utilities considers that compensating persecuted people would violate WWII veterans’ rights. URL: https://www.kommersant.ru/doc/4432935.
"Pass the law, pursuant to which ‘children of the GULAG’ can finally return home from exile." On 10 December 2020, the first anniversary of the ruling of the Constitutional Court, representatives of Memorial and ‘children of the GULAG’ officially submitted a petition with over 80 thousand signatures at the reception of the State Duma. And, the people continue signing the petition on the site Change.org. As of October 2022, 130 thousand people had signed it.

In November 2020, two special rapporteurs for the UN Human Rights Council sent the Russian authorities a joint request on the case of the ‘children of the GULAG’. It had been prepared in connection with the submission of the lawyers from the special project, the Right to Return Home. UN Special Rapporteur on the right to adequate housing Balakrishban Rajagopal and UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence Fabian Salvioli sent the request. The special rapporteurs welcomed the ruling of the Constitutional Court, however they pointed out that the right of rehabilitated persons to housing still remains without guarantee. They indicated that urgent measures needed to be taken to guarantee the victims of persecution affordable housing in their place of residence. The special rapporteurs have called upon Russia to provide those returning ‘children of the GULAG’ with housing within a period of two years:

> "We would like to recall that States bear an obligation to provide those whose rights have been violated with adequate, effective and prompt remedy," states the request. "Prompt reparation means in this context that the State is obliged to ensure that the victims can access affordable housing at their former place of residence in a reasonable time and that the victims are still able to benefit from the reparation during their life. Having to waiting for more than two years before being able to return or access social housing cannot be considered as prompt and is therefore not compatible with international human rights standards." The Special rapporteurs added that if this is not possible, then the State must pay compensation to enable victims of repression "to return to their former place of residence and rent at this location decent housing that would allow for a life in dignity."

A lawyer from the special project The Right to Return Home prepared an alternative bill. It calls for ‘children of the GULAG’ to be paid one-off monetary compensation out of the federal budget to build
or acquire housing at their former place of residence. According to the bill, such payments must be made within one year from the date when the application was submitted. Russian legislation already provides for similar payments for victims of Chernobyl, veterans of the Great Patriotic War, settlers from the Far North and displaced persons. In September 2020, MPs Sergey Mironov and Galina Khovanskaya (faction, a Just Russia) introduced this bill into the State Duma.\footnote{30. Federal bill № 1024052-7. URL: https://sozd.duma.gov.ru/bill/1024052-7.}

In November 2020, the State Duma considered at a first reading two competing bills on the case of the ‘children of the GULAG’: a governmental one and the alternative. The governmental bill (№ 988493-7) was passed at the first reading, with 280 votes from the pro-governmental faction United Russia “in favor” and 20 “against.” No other parliamentary factions supported the governmental bill, but rather supported the alternative. When the alternative bill (№ 1024052-7) was put to a vote, 99 MPs voted in favor of it, two abstained and no one voted “against” it. The governmental bill garnered a greater number of votes and moved on to a second reading. The alternative bill was thus defeated.\footnote{31. State Duma considered the bill on ‘children of the GULAG’ at its first reading URL: https://www.memo.ru/ru-ru/projects/pravo-vernutsya-domoj/news/494.}

At a plenary session of the State Duma, Deputy Minister of Construction, Housing and Utilities, Nikita Stassishin, reported that only 1628 victims of repression are claiming the (right to) return from exile. Moreover, there are no longer any people remaining in this category in 15 regions of Russia.\footnote{32. Idem.} “We strictly and unambiguously implemented the ruling of the Constitutional Court as we interpret it,” stated one official.\footnote{33. "Booty is never given back." Why children of the GULAG still cannot leave exile. URL: https://www.bbc.com/russian/media-55059776.} MP Galina Khovanskaya criticized the position of the Government from the parliamentary rostrum: “The cynicism of the representatives of the Government really make one wonder. Would these people pass a test of humanity or of empathy?”

Earlier, during the preliminary examination of the bill in the relevant State Duma committee, an MP from United Russia, Mikhail Terentiev said that “those [children of the GULAG] who have filed a case with the Constitutional Court, will have the right to file another case [with that court],” if the governmental bill, from their point of view, does not comply with the position of the Court.\footnote{34. Idem.} Moreover, many of them have been striving to obtain housing since the early nineties when the Law on Rehabilitation was passed; that is, for thirty years now.

In December 2020, MP Galina Khovanskaya (faction A Just Russia), Nikolai Gonchar (United Russia faction), Sergey Shargunov (CPRF faction) and a member of the Council of the Federation, Vladimir Lukin, introduced amendments to the second reading of the governmental bill.\footnote{35. An amendment was introduced into the Duma concerning the provision of housing to victims of repression at the expense of the federal budget. URL: https://tass.ru/obschestvo/10277533.} Those amendments were based on provisions of the defeated alternative bill and correct the shortcomings of the governmental bill. According to them, ‘children of the GULAG’ must receive federal payments so they can either build or acquire housing.

“On our side, we have people who understand what it means for a person not to receive compensation. For, it is not about improving their standard of living, but rather about compensation for harm done to a child who was taken from the Arbat to a settlement without any basic amenities” — stated MP Galina Khovanskaya.\footnote{36. Members of Parliament proposed providing victims of repression housing at the expense of the Federation//There remain only 500 families who need housing. URL: https://www.vedomosti.ru/politics/articles/2020/12/16/851275-deputati-predlozhili.} In January 2021, the relevant State Duma committee recommended that the State Duma examine the governmental bill at its second reading and reject the amendments introduced. However, due to widespread criticism of the bill, it was not put for a second reading. That became the interim outcome of the awareness campaign. To date, the deadline for the second reading has not been set. Since January 2021, the bill and proposed amendments thereto have remained stranded in the State Duma.
3. Class Action Suit against the State Duma

In October 2021, Memorial filed a class action suit with the Supreme Court against the State Duma on behalf of the ‘children of the GULAG.’ The suit contained the demand that the Parliament’s inaction be found unlawful given that Parliament has not implemented the ruling of the Constitutional Court.37

23 people filed a petition with the Supreme Court against the State Duma. © Daria Krotova

23 people acted as claimants among the children of those who suffered repression. The oldest claimant was 89, the youngest 64. The types of political repression, to which their parents were subjected, included criminal prosecution following decisions of courts, "special councils of the NKVD" and "troikas," ethnic deportation, de-kulakization, and banishment of members of families of ‘enemies of the people.’ All claimants had the status of rehabilitated victims of political repression, inasmuch as they had been banished with their parents or were born in camps or in exile. The claimants seek to return to Moscow, Saint Petersburg, Krasnodar Krai, Crimea, Orlov Oblast, Rostov Oblast and Stavropol Krai. Another 74-year-old claimant died not long before the complaint was filed.

The children of the GULAG’s claim became one of the first class action suits in Russia’s history regarding the non-implementation of a Constitution Court ruling. Class action suits have existed in Russian administrative legal proceedings since 2015. No less than 20 claimants are required to file a class action suit. Once that requirement is met, they can speak on behalf of all those who have encountered similar problems. So, in this case, the claimants filed a suit in defense of all victims of repression who have the right to return home.

The class action suit was filed in conjunction with three important dates. First of all, the 30th of October is the annual celebration of the Day of Remembrance of Victims of Political Repression. Secondly, October 2021 marked 30 years of the passing of the Law on Rehabilitation. Thirdly, the Constitutional Court turned 30 in October 2021. The claim of the ‘children of the GULAG’ brought

37. A class action suit has been filed against the State Duma regarding the right to return home. URL: https://www.memo.ru/ru-ru/projects/pravo-vernutsya-domoj/news/616.
to a head in recent years the problems of non-implementation of the rulings of the Constitutional Court. According to the Court's information, the legislator has not implemented 35 of its rulings. Yet, the Court acknowledges that it does not have the power to guarantee implementation of its own decisions.38

The representative of the claimants and Memorial lawyer Grigory Vaypan, explained that there is no functioning mechanism in Russia to ensure implementation of a ruling of a superior court such as the Constitutional Court. The only judicial proceedings accessible to citizens in this situation is to contest the inaction of the State Duma at the Supreme Court:39

The main thing that will result from a Supreme Court ruling will be the State Duma’s violation of its obligation as established by a court. It is important that this be documented. Without that, parliamentarians and the leadership of the relevant committee, in essence, continue denying the fact that the State Duma is not fulfilling its obligations. MPs say that they are not inactive, but rather that “work is ongoing.” Yet, we know nothing about it! The work has to be conducted as stipulated in the rules of procedures of the State Duma: committee meetings, the creation of working groups, the holding of parliamentary hearings. None of that is happening.

Memorial lawyer Grigory Vaypan filed a class action lawsuit against the State Duma by the children of the Gulag. © Daria Krotova


39. “The main thing that will result from the ruling of the Supreme Court is the violation of the obligation by the State Duma // Interview with Grigory Vaypan on the case of the “children of the GULAG.” URL: https://zakon.ru/discussion/2022/02/16/glavnoe_chto_budet_sledovat_iz_resheniya_verhovnogo_suda__narushenie_obyazannosti_so_storony_gosduma.
The class action suit of the ‘children of the GULAG’ led to a public outcry. It made the headlines in the Russian media. In the evening following the filing of the suit, it became public knowledge that the Chairman of the State Duma, Vyacheslav Volodin, had tasked his First Deputy, Alexander Zhukov, along side the Government, with discussing the preparation of a governmental bill for the second reading in order “to hear out and examine all the arguments.”

Memorial lawyer Grigory Vaypan addressed a request to the chairman of the State Duma to hold a public discussion and to fine-tune the bill. He emphasized that the process of fine-tuning the bill must be done publicly with the use of official procedures stipulated by the State Duma’s rules of procedures. Those procedures include creating a working group based on the relevant committee as well as conducting parliamentary hearings, round tables and meetings in that relevant committee. The Memorial lawyer especially pointed out that ‘children of the GULAG,’ their representatives as well as representatives of the affiliated structures, which previously had sent conclusions and feedback about the bill, had to be involved in the discussion.

A few days later, a Supreme Court Justice dismissed the class action suit. The ‘children of the GULAG’ contested that dismissal.

The Supreme Court Justice alluded to the notion that the passing of laws falls exclusively within the jurisdiction of the Parliament and that courts do not have the right to evaluate its actions or inaction in lawmaking. However, as the ‘children of the GULAG’ pointed out in their appeal of the dismissal of the claim, with respect to cases examined by the Constitutional Court, that is not so: Parliament’s refusal to amend a law pursuant to a ruling of the Constitutional Court constitutes a violation of the Constitution and the Law on the Constitutional Court; so it follows that courts do have the right to deem the inaction of Parliament unlawful.

The Supreme Court Justice also justified the dismissal of the claim by saying that the ruling of the Constitutional Court has a direct effect and does not require confirmation by other bodies or officials, and that the Supreme Court does not have the right to interfere in the jurisdiction of the Constitutional Court. Yet, as indicated by the ‘children of the GULAG,’ the Constitutional Court does not have the power to monitor implementation of its own decisions. So, the only judicial mechanism they have to seek implementation of the Constitutional Court’s ruling is filing a claim with the Supreme Court against the State Duma.

“We will contest [the dismissal] at all levels all the way up to the Constitutional Court. Otherwise, it would mean that people have no way of ensuring implementation of a Constitutional Court ruling that is in their favor.” said Memorial lawyer Grigory Vaypan. The ‘children of the GULAG’s’ claim is the first case where one of the most aggrieved categories of citizens, people who are quite elderly, have decided to take implementation of a Constitutional Court into their own hands.

In late November 2021, the Appellate Chamber of the Supreme Court confirmed that it declined to examine the class action suit of the ‘children of the GULAG.’ In March 2022, the claimants’ supervisory appeal to the Presidium of the Supreme Court was also dismissed. Given the results

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40. Volodin instructed work to resume on a bill concerning housing for the children of victims of repression. URL: https://tass.ru/nedvizhimost/12782683.
41. The ‘Children of the GULAG’ asked the Speaker of the State Duma to ensure a public finetuning of the bill on compensation of housing. URL: https://backhome.memo.ru/news/300.
42. The Supreme Court of the RF dismissed the claim of the ‘children of the GULAG’ against the State Duma. URL: https://www.interfax.ru/russia/800955.
43. The ‘Children of the GULAG’ contested the refusal by the Supreme Court to examine their claim against the State Duma. URL: https://backhome.memo.ru/news/346.
44. The Supreme Court dismissed the ‘children of the GULAG’s’ class action suit. URL: https://backhome.memo.ru/news/301.
45. The Appellate Chamber of the Supreme Court confirmed that it declined to examine the ‘children of the GULAG’s’ class action suit. URL: https://backhome.memo.ru/news/347.
46. URL: https://vsrf.ru/lk/practice/appeals/11370814.
of the class action suit, Memorial’s lawyers lodged the ‘children of the GULAG’s’ complaint to the Constitutional Court concerning the total lack of a mechanism for enforcement of its rulings.

In April 2022, an information and analytical report was published on the site of the Constitutional Court concerning enforcement of its decisions in 2021.47 The report states that the ruling of the Constitutional Court of 10 December 2019 № 39-P has not yet been executed; “since January 2021, bill № 988493-7 has remained motionless in the State Duma” and belongs to a list of bills, for which there has not been any new information for a lengthy period (over one year).48

One of the 23 claimants, Alexey Matikainen died in April 2022 at the age of 80. He passed away one day after receiving a letter from the administration of Saint Petersburg refusing to grant him a subsidy for the purchase of an apartment. “That news did him in,” his son told journalists.48

48. “There are fewer of them with each day that passes.” Children of the GULAG have nowhere to return from exile. URL: https://www.bbc.com/russian/features-61300776.
4. Legal Aid to “Children of the GULAG”

Besides fighting for the passing of a law on execution of the ruling of the Constitutional Court, the special project, The Right to Return Home also provides individual legal assistance to ‘children of the GULAG.’

Current news is published on the special project’s site (backhome.memo.ru) along with step-by-step instructions where victims of repression can learn of the steps to take to return from exile now. The instructions help ‘children of the GULAG’ and their loved ones navigate their way through documents and judicial procedures related to exercising the right of return. Answers to frequently asked questions can be found in a special section of the site. Memorial lawyers offer consultations to victims of repression with respect to questions on exercising the right to return at the email address: backhome@memo.ru.

“We are in an alliance with Institute for Law and Public Policy and we have created a site that explains what people have a right to and what they should do going forward,” says Elena Zhemkova, Executive Director of International Memorial. “Moreover, we have drafted instructions about what people should do prior to the law coming fully into effect; for it’s best to do many things ahead of time to prepare a complete file of all requisite documents confirming that the family was a victim of repression and that they lived elsewhere, etc. for the time when the law will be passed.”

Even after changes were introduced into Article 13 of the Law on Rehabilitation, “children of the GULAG” will still have to be registered for housing. And that means that it is important to start acting now.

Memorial’s lawyers also help “children of the GULAG contest refusals by local authorities to register them for housing. The Constitutional Court’s ruling directly stipulates that, henceforth and until the introduction of changes to legislation, victims of repression returning to their former place of residence must be registered for housing “without having to meet any requirements established by housing legislation for other categories of citizens” (paragraph 3 of the operative part of the ruling). In some regions (for example, Moscow and Saint Petersburg), since 2020 “children of the GULAG” have been registered for housing without any restrictions whatsoever. However, in many regions, local authorities ignore the prescription of the Constitutional Court and continue applying regional laws that obstruct the enjoyment of the right to return. In such cases, these refusals must be contested in court.

In February 2022, a court in the Stavropol Krai ruled in favor of one the ‘children of the GULAG,’ 71-year-old Nikolai Mitkin. With assistance from Memorial’s lawyers, he contested the municipality’s refusal to register him for housing.

Frida Keller, Nikolai Mitkin’s mother and an ethnic German was banished in 1941 from a currently no longer existing village Nikolaevka that was located on the territory of what is now the Stavropol Krai. She was sent to the Akmolin Oblast in Kazakhstan. From there, Frida Keller was made to work in a labor camp and sent to Usollag in the Molotov Oblast. Today, this is in the Perm Krai. In 1946, she was transferred to a special prison settlement without the right to return to her former place of residence. Nikolai Mitkin was born in 1951 in the special prison settlement in a village called Ust-Yazva, 300 kilometers from Perm and still lives there today. He was rehabilitated in 2007 as a child of the GULAG.

In September 2021, Nikolai Mitkin sent a request to the Administration of the Petrov Municipal County of the Stavropol Krai to be registered for housing as someone who needs a place to live in order to exercise his right to return home. The administration refused his request, stating that

49. Going home 70 years on. URL: https://s-t-o-l.com/material/54147-domoy-spustya-70-let.
50. A court, for the first time, deemed refusal by a local administration to register a ‘child of the GULAG’ for housing to be unlawful. URL: https://backhome.memo.ru/news/396.
the applicant was not registered as residing on the territory of the Stavropol Krai. That refusal contravened by the Law on Rehabilitation and the Constitutional Court’s ruling.

The applicant contested the decision in court and the Petrov District Court of the Stavropol Krai found the refusal to register him for housing unlawful. The court’s decision came into effect and in May 2022, the local administration registered Nikolai Mitkin for housing.51

That is the first known decision of a district court that rendered binding implementation of the ruling of the Constitutional Court recognizing the right of “children of the GULAG” to return home.

International Memorial’s lawyers will continue to challenge the state by all available legal means in order to ensure the right to reparations of “children of the GULAG” is fulfilled in line with Russia’s own legislation, decisions of its highest judicial bodies, and international law.

51. The Right of Children of the GULAG to Housing. URL: https://equinox-snowboard-e9c.notion.site/5dbc8d63cc1a4199808a19b46d1e4b4c.
De-archiving the Past: Challenging Bans on Obtaining Information about Stalinist Repression

In recent years, the Russian state has been busy creating and implementing an official historical narrative focused on glorifying achievements of the Soviet era, first and foremost, victory in World War II. In addition, mass crimes committed by the Soviet regime, including Stalin’s Great Terror, are being downplayed or justified.

To this end, the Federal Security Service began, on various pretexts, restricting access by researchers and relatives of victims of the Stalinist terror to the archives of one of its predecessors, the People’s Commissariat for Internal Affairs (NKVD).

A huge part of the archival documents on the repressions of the era of the Great Terror are kept in the archives of the FSB. In the early nineties, they were open to users; one could even go to the archives with one’s own photocopier and freely copy as many archival pages as needed. However, in the mid-90s, the FSB archives began to close and by the 2020s, they had turned into a sitting hen, keeping the truth about Soviet repression under wraps.

This is so despite the fact that there is great public interest in information about the work of, in particular, the NKVD ‘troikas,’ which were extrajudicial bodies carrying out “mass persecution of their people; something incompatible with the idea of law and justice.” The refusal to provide information simply because it makes it possible to identify members of troikas forever hides from society information about the persons who carried out mass political repression. This not only makes it easier to question the credibility of data regarding the nature and the scale of Soviet repression, but also encourages future generations of perpetrators because their predecessors did not only escape punishment during their lifetime, but their identities were also hidden after their death.

There have been many problems with access to archival documents, and we chose several cases to handle them strategically in Russian courts hoping to change the situation through judicial proceedings. We challenged the bans on obtaining:

- Data on the people who were members of Stalin’s troikas
- Minutes of Stalin’s troikas
- Materials of archived criminal cases of unrehabilitated persons
- Information about people who participated in State terror.

In 2019, we successfully challenged one type of prohibition, namely the ban on obtaining materials of an archival criminal case against a persecuted relative. Nevertheless, this success seems to have been nothing more than a deviation from standard practice. We did not manage to build on our success and subsequently lost similar cases in court.

In 2020-2022, despite the absurdity of the other bans, attempts to challenge them in the courts were unsuccessful. We did, nonetheless, obtain an explanation from the state as to why it believes that data on executioners must not be declassified. According to the courts’ rationale, which aligned perfectly with the State authorities, data on Stalin’s executioners, if they had been carrying out their functions on behalf of the state, should remain classified forever on two grounds: either the data constitute (the concept of) “privacy” or their declassification (more than 80 years after the events!) would lead to incitement to discord and hatred on religious, social and national grounds.

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1. Ban on obtaining data about people who were members of Stalin’s troikas

Why this matters

States have used courts to administer justice since the time of the pharaohs. In modern states, at the very least independence (from other branches of government), fairness, lawfulness and professionalism are required of the courts. However, when the goal is to get rid of a colossal number of people under the guise of an expeditious purification of society from undesirable elements, States create extra-judicial punitive bodies.

In the USSR, troikas served as such bodies. They were created on 31 July 1937 on the basis of the operative order of the People’s Commissar of Internal Affairs of the USSR No. 00447 “On the Operation to Persecute Former Kulaks, Criminals and Other Anti-Soviet Elements.” This order defined the task of wiping out “anti-Soviet elements” and the composition of “operational troikas” that were to examine such cases. The troikas consisted of officers of the NKVD, the All-Union Communist Party (of Bolsheviks) and the Prosecutor’s Office. According to official information, from 1 October 1936 to 1 November 1938 the agencies of the NKVD of the USSR arrested 1 565 041 persons, including 702 656 persons arrested under NKVD order No. 00447. Out of those arrested, 1 336 863 persons were convicted, of which 668 305 persons (about 50 %) were sentenced to execution. The troikas examined up to 500 cases a day.

Since troikas acted as a conveyor belt sending people to firing squads or correctional labor camps without any analysis of the validity of the evidence and the actual guilt of the person, participation in troikas is a bloody stain on the reputation of both persons who took part in them and the State agency involved. Present-day state agencies (including the prosecutor’s office and the FSB) include the Soviet period when speaking of the duration of their structure although there is no formal succession between the Soviet authorities and the present-day Russian ones. However, during the Soviet period, the work of the Prosecutor’s Office and the security bodies make for dark chapters that are no source of pride; hence, their preference for glossing over the period of repression and minimizing involvement of these agencies and their employees in state terror.

It is, of course, possible that in popular memory information about such and such a person having participated in state terror remains. However, in the absence of written evidence (which is usually found in state archives or the archives of state agencies), a public statement of participation can lead to criminal prosecution. This, for example, is what happened to historian Nikolai Yegorov. He wrote a post about Yefim Ossipenko, who died in 1981, an honorary citizen of the town of Sukhinichi (Kaluga Oblast) and veteran of the Great Patriotic War. In the post, Yegorov said that Ossipenko had been a member of a troika and had taken part in the political terror of 1937-38. Yet, he was not able to access archival documents, and as a result, Yegorov was convicted of slander and sentenced to a fine of 700 000 rubles (12 000 euros).

International Memorial, along with the Russian State Archive of Social and Political History, the State Archive of the Russian Federation, and the Central Archive of the FSB, put together a reference book that included biographies of all the individuals who were part of the troikas during the period of the Great Terror. Two volumes, on Party members and NKVD officers, were published. There were no problems when compiling them.

However, researchers lacked information to complete the reference book on some of the employees of the prosecutor’s office who took part in the troikas and participated in executions. On 12 July 2019, Memorial asked the Prosecutor General’s Office for information on 11 employees of the Office of the Prosecutor who were members of the troikas in 1937-1938.

On 22 August 2019, the Office of the Prosecutor General responded that “in accordance with the requirements of Article 7 and Part 7 of Article 9 of the Federal Law of 27.07.2006 № 152-FZ ‘On...
Personal Data,’ it is forbidden to disclose personal data of an individual to third parties without their consent or the consent of their heirs (in the case of death). Memorial’s lawyers contested the Prosecutor General’s Office’s refusal at the Tverskoi District Court of Moscow.

They insisted that, firstly, the Personal Data Law does not apply to archival documents. Secondly, the ban on the publication of personal data cannot exceed the 75-year restriction of access to archival documents that constitute personal and family secrets. Thirdly, access to the information about the prosecutors who were in the NKVD troika cannot be restricted, because the State cannot conceal information on mass human rights violations, and Article 18 of the Law “On Rehabilitation of Victims of Political Repression” expressly provides for publication of information on the persons involved in political repression. Fourthly, in any case, the applicant needs the information for scholarly activities, which fall under the exceptions established in the Personal Data Law that do not require consent of the person concerned.

On 24 July 2020, the Tverskoi District Court of Moscow dismissed Memorial’s administrative claim. Courts at three other levels (all the way up to the Supreme Court of the Russian Federation) upheld the initial court’s decision. According to the courts, the requested data belong to the category of family secrets and personal data, and thus cannot be disclosed, even though more than 80 years have passed since the documents were drawn up. Specifically, the initial court’s decision from 24 July 2020 states that the requested information refers to “the private life, personal and family secrets of the persons whose names and positions figure in the documents.” The court also concluded that there was no societally significant purpose for publishing the data on prosecutors, because “the fact of being a member of an illegal extrajudicial body, which pronounced sentences in absentia, including the death penalty,” is not indisputable evidence of crimes against justice.

In the ruling on appeal of 4 March 2021, the judicial panel for administrative cases of the Moscow City Court agreed with the arguments of the initial court, stating that:

“The decision to refuse access to the archival materials in relation to employees of the Office of the Prosecutor stems from the presence in the requested documents of information relating to the private life, personal and family secrets of the persons whose names and positions figure in the documents.”

The Court of Cassation agreed with the lower courts. Memorial unsuccessfully challenged the decisions of the three courts at the Supreme Court. Following the Supreme Court’s denial of their appeal, Memorial filed a complaint with the European Court of Human Rights.

In their complaint, Memorial lawyers insist that the refusal to provide data on the prosecutors who were members of NKVD troikas in 1937-1938 violates the right of access to information, since withholding information about the perpetrators of repression is not based on law, does not pursue a legitimate aim, and disproportionately limits the rights of the researchers, since they cannot provide complete and reliable data about political repression and its perpetrators in their historical work.

An appeal to the Russian Constitutional Court had also initially been planned for the autumn of 2022, but once Memorial was shut down, it was no longer possible to file it.

Regulatory Framework

In accordance with Article 7 and Part 7 of Article 9 of the Federal Law of 27.07.2006 No. 152-FЗ “On Personal Data,” it is forbidden to disclose to third parties personal data about a person without the consent of said person or the consent of their heirs (in the case of death).

56. https://mos-gorsud.ru/ims/services/cases/appeal-admin/details/8bacfdd0-7a73-11eb-bd77-4ff1f13b8aa1?participants=%D0%9C%D0%B5%D0%B6%D0%B4%D1%83%D0%BD%D0%B0%1D%D0%B0%D0%BE%D0%B4%D0%BD%D0%1%8B%D0%9C%0%5D%0%6%D0%8%D0%80%0%0%B
Pursuant to Part 2 of Article 1 of the Federal Law “On Personal Data,” this law does not apply to relations arising in the “organization of storage, acquisition, accounting and use of documents containing personal data of the Archive Fund of the Russian Federation and other archival documents in accordance with legislation on archival affairs in the Russian Federation”.

In accordance with paragraph 3 of Article 3 of the Federal Law “On Archival Affairs in the Russian Federation”, personnel records documenting labor relations of the employee and the employer are archival records.

Pursuant to Part 3 of Article 25 of the Federal Law “On Archival Affairs,” a restriction of access to archival documents containing information about the personal and family secrets of citizens, their private lives and also information posing threat to their safety, is established for a period of 75 years from the date said documents are drawn up. Thus, after the expiration of the 75-year period, the documents become publicly available.

2. Access to the minutes of troika meetings

Researcher Sergei Prudovsky tried to ascertain where the minutes of NKVD special troika meetings are kept, whether they are declassified and whether it would be possible to obtain and to study them. The minutes are historical documents that record the results of criminal proceedings by an extrajudicial body. They contain factual data: essential elements of the case under investigation, the data about the defendant, the charges against that person, the evidence in the case and the outcome of the case (the verdict, including the sentence).

As it turns out, in twelve regions these documents have not yet been declassified, despite the presidential decree of 23 June 1992 making that mandatory. Different agencies gave different information about the number of persons prosecuted within their structures. According to the certificate of the First Special Department of the NKVD, there were 8524 people, yet according to other answers received by historian Sergey Prudovsky, there were 9237 people. In order to establish the exact number of persons prosecuted, historians sought access to all minutes. As they did not want to start litigation in 12 regions simultaneously, they decided to start with two of them: the Tula and Ivanovo Oblasts.

In order to establish the exact number of persons persecuted, historians wanted access to all minutes. As they did not want to start litigation in 12 regions simultaneously, they decided to start with two of them: the Tula and Ivanovo Oblasts.

To the lawsuits in these oblasts was added a lawsuit in St. Petersburg because it turned out that, although the troika minutes were declassified there in 1993, access to them was denied in 2021. Through the lawsuit, they sought to understand why access was being restricted.

In the Tula and the Ivanovo Oblasts, the FSB Directorates began the declassification procedure only after the researcher’s requests. However, Sergei Prudovsky was never able to obtain the documents. The FSB Directorates argued that access to the minutes of the special troika meetings was restricted because information contained in the minutes could incite to hatred on religious, social, and national grounds. The FSB Directorates also consider that it contains confidential information.

Lawsuit in Tula

At the court hearing, the FSBD stated that “even though the data in the responses to S.B. Prudovsky’s inquiries concerning specific individuals do not constitute a threat of war propaganda or incitement to national, racial or religious hatred and enmity... the aggregate of the information figuring in the Minutes itself contains threats, as stipulated by Part 6, Article 10 of the Federal Law “On Information.”

61. “On the removal of restrictive label from legislative and other acts that served as the basis for mass repression and infringement on human rights.”

62. Dissemination of information aimed at war propaganda, inciting national, racial or religious hatred and enmity, as well as other information whose dissemination can lead to criminal or administrative liability, is prohibited.
On 20 January 2022, the Tula Oblast Court dismissed the lawsuit. The entire reasoning of the court's decision boils down to stating that "the grounds for the administrative respondent's contested decision were confirmed during the consideration of the case." The court cannot agree with a different interpretation of the current legislation and assessment of the actual circumstances as provided by S.B. Prudovsky and his representative and, therefore, "the argument of the administrative claimant that the Minutes do not contain information covered in paragraph 6 of Art. 10 ‘On Information, Information Technologies and Information Protection’ is without merit."

An appeal was filed against the decision, which the appellate court upheld on May 26, 2022.

**Lawsuit in Ivanovo**

In the trial court, the FSB Directorate (FSBD) stated that "an expert commission on documents of the Ivanovo Oblast FSB found, when considering the matter of declassification of Special Troika meeting minutes of the Ivanovo Oblast UNKVD for the period from 17 September to 15 November 1938, that these documentary materials contain information whose the publication may lead to incitement to national, racial or religious hatred or enmity."

The Trial Court of 29 March 2022 stated that:

"In order to implement security functions, upon detection of circumstances posing a threat to the security of the state, the foundations of constitutional order, morality, rights and legitimate interests of others, including the conditions established by paragraph 6 of Article 10 of the Law on Information, agencies of the Federal Security Service (FSB) have the right to restrict access to archival documents in compliance with the procedure in effect at the time."

On 4 August 2022, the court of appeals agreed with the trial court's decision.

**Lawsuit in Saint Petersburg**

On 4 July 2022, the Dzerzhinsky District Court of St. Petersburg dismissed the lawsuit, effectively refusing to examine the merits of the FSBD's refusal to:

"The administrative claimant’s disagreement with the decision taken by the Directorate is not in and of itself a basis for recognizing the actions of the respondent as unlawful, since the Directorate independently determines the procedure for using archival documents in security agencies...

The court does not verify the appropriateness of contested decisions, actions (inaction) of public authorities ... taken by them within their discretion in keeping with the jurisdiction granted by law."

On 29 July 2022, that decision was contested.

**Regulatory Framework**

According to Part 1 of Article 9 of the Law on Information, restrictions on access to information are established by federal laws to protect the foundations of constitutional order, morality, health, rights and lawful interests of other people, national defense and state security. Part 2 of Article 9 states that confidentiality of information, whose access is restricted by federal laws, must be respected. Parts 3 to 9 of Article 9 specify the provisions in Parts 1 and 2 about access to information that may be limited by federal law.

Paragraph 6 of Article 10 of the Law on Information prohibits the dissemination of information aimed at war propaganda, inciting national, racial or religious hatred and enmity, as well as other information the dissemination of which entails criminal or administrative liability.

Paragraph 7 of the Decree of the President of the Russian Federation from 06.03.1997 No. 188 “On approval of the List of information of a confidential nature” deems confidential any information contained in personal files of convicted persons, as well as information about the enforcement of judicial acts, acts of other agencies and officials, with the exception of information that is public pursuant to Federal Law of 2 October 2007 N 229-FZ “On Enforcement Proceedings.”

3. Access to materials of archived criminal cases of unrehabilitated people

Relatives of those prosecuted often know that their father, grandmother, or uncle was shot or served time in the camps, but do not know why. Many of them doubt that the prosecuted relatives may indeed have committed a crime, so it is important for them to know what evidence of guilt there was in the archival case file in order to have a complete picture of the deceased relative.

The Case of Shakhet

Shakhet’s case is that rare case where Memorial successfully challenged a ban on reviewing the criminal case file of an unrehabilitated person.

Pavel Zabotin was shot in 1933 for stealing building materials. Eighty-five years later, his grandson, actor Georgiy Osipovich Shakhet, decided to seek access to his grandfather’s criminal file. Georgiy corresponded with the archives for two years. At first, people from the archives lied to him, saying that the archives contained no information about his grandfather. But Georgiy Shakhet insisted. After two years, he was finally told that there was an archived criminal file, but that it would not be provided on the basis of paragraph 5 of the Triple Regulation, because the grandfather had not been rehabilitated. And it is impossible to get access to the files of the unrehabilitated; all one can obtain is an archive reference. That archive reference contains a very brief description of the case.

64. On the basis of the order of the Ministry of Culture of Russia No. 375, Ministry of Internal Affairs of Russia No. 584, FSB of Russia No. 352 of 25 July 2006 the Statute on access to materials stored in state archives and archives of state bodies of the Russian Federation, criminal and administrative cases of persons who were subjected to political repression, as well as filter-verification cases was approved. The regulation is called the “Triple Provision” because it was adopted by three departments.
over only a page and a half, whereas Georgiy had wanted to analyze the case and understand whether his grandfather really was a criminal. Therefore, he needed access to the entire case file. He filed an appeal with a court to contest the archive’s refusal.65

The Golovinsky District Court of Moscow with its decision of 10 April 2018, followed by the Moscow City Court appellate determination of 4 September 2018, and the Court of Cassation court in a determination of 12 December 2018 agreed with the archives department. Then Shakhet, with the assistance of Memorial’s lawyers, challenged these judicial acts at the Supreme Court of the Russian Federation.

The Supreme Court, in a ruling of 5 July 201966 overturned the judicial decisions of the lower courts. Unfortunately, the Supreme Court did not comment on the courts’ application of the Triple Provision, merely stating that “the administrative respondent had no grounds for refusing to allow G.O. Shakhet to consult the criminal case against his grandfather”. The court also specified that “G.O. Shakhet is a relative, the grandson of convicted P.F. Zabotin, who was convicted under an article governing ordinary crimes. More than 75 years have passed since the creation of the documents that G.O. Shakhet has asked to consult.”

Memorial thought that this decision had opened the way for all archived criminal files to be seen, but was proven wrong.

In September 2019, Shakhet saw the long-awaited case against his grandfather.67 In the file, he hoped to see evidence of Pavel Zabotin’s guilt or innocence. He was provided with two decrepit volumes going as far back as 1932-1933 in the Interior Ministry archives on the joint indictment of 23 people. There was the following evidence on Shakhet’s grandfather:

» His own confession (which, he probably gave under torture)
» Testimony of other people in the case (also probably given under the torture or threat of torture)
» Minutes of confrontations between persons involved in the case, where one says that the interlocutor stole, and the other denies the theft
» Arrest and search warrant in the apartment (no search report was provided)
» Personal file, which does not contain a single page
» A 14-page indictment of all 23 people
» An excerpt from the minutes of the OGPU (Joint State Political Directorate) troika meeting: “Zabotin Pavel Fedorovich is to be executed. Property confiscated.

Pavel Zabotin’s personal belongings were not found in the case file. There was no list of confiscated items either, although everything was confiscated, right down to the children’s things.

65. https://novayagazeta.ru/articles/2019/03/13/79848-kirpichi-istorii
66. https://vsrf.ru/lk/practice/cases?numberExact=true&registerDateExact=off&considerationDateExact=off&keywords=%D0%A8%D0%B0%D1%85%D0%B5%D1%82
After consulting his grandfather’s case, Georgiy Shahet admitted that he felt devastated: "We fought for the case for a year and a half, but somehow the charges against Zabotin have not become much clearer."

**Prudovsky’s Case**

Researcher Sergei Prudovsky spent more than 10 years studying the national operations of the NKVD carried out in keeping with the operational orders of the NKVD of the USSR No. 00485 of 11 August 1937, No. 00593 of 20 September 1937 and others. In 1937-1938, NKVD agencies conducted 11 national operations, which resulted in the repression of more than 365 000 people.
On 4 December 2019, Prudovsky applied to the Central Archives of the Federal Security Service of Russia (CA FSB) for a review of the archived criminal file ("ACF") of Samuel Israelievich Kremnev-Sundukov, born in 1902. He was convicted of negligent performance of his duties during NKVD national operations and was not been rehabilitated.

On 27 January 2020, the CA of the FSB denied Prudovsky access to the ACF, referring to Paragraph 5 of the Triple Provision. Instead of access to the case file, he received an ACF archive reference. He contested the refusal at the Khoroshevsky District Court, citing the fact that the Triple Provision does not apply to the archived criminal case files of those who are unrehabilitated.68

On 20 July 2020, the Khoroshevsky District Court dismissed Prudovsky’s claims.69 The Appellate Determination of the Judicial Board for Administrative Cases of the Moscow City Court upheld decision of the trial court on 14 December 2020; the appeal was dismissed:

“Paragraph 5 of this Provision stipulates that in response to requests from citizens for access to criminal and administrative files where the person under scrutiny has not been rehabilitated, the archives issue certificates of review.

Given that there is no information on K.S.’s rehabilitation, the court came to the rightful conclusion that in this case the administrative claimant’s right to receive information, taking into account existing restrictions, could have been realized by obtaining a corresponding certificate, which was provided to the administrative claimant…

Within the meaning of the provisions in Paragraph 2 of Article 5 of the Federal Law No. 149-FZ of 27 July 2006, the materials of a criminal case that was terminated are considered restricted information, since they contain confidential information about the parties to the proceedings.”

Subsequent courts have supported this reasoning. Thus, the courts in Prudovsky’s case (all the way up to the Supreme Court of the Russian Federation) confirmed that the Triple Provision applies to archival criminal cases. On May 25, 2022, Prudovsky filed a complaint with the Constitutional Court of the Russian Federation. In a determination dated 21 July 2022, the Constitutional Court refused to accept the complaint for examination70 because it considered that

“It does not follow from the materials submitted by S.B. Prudovsky that lack of access to the information he requested objectively prevents him from exercising and protecting his rights and freedoms, and the legal provisions challenged in his complaint cannot be considered as violating his constitutional rights as set forth in the complaint.”

We have observed the extension of the Triple Provision to archival criminal cases from many years ago in other cases as well. For example, in the Kotenkov case, which was also handled by Memorial.

Alexander Kotenkov’s Case

Ivan Abakumovich Gudkov was a smallholder farmer. In March 1930, based on the resolution of the Central Executive Committee and the Council of People’s Commissars of the USSR of 1 February 1930, he was put on the list for dekulakization and eviction with confiscation of property. He did not agree with this decision and took part in the Kulak uprising. It was suppressed and Gudkov was arrested. In April 1930, the Special Troika of the OGPU sentenced him to execution under Article 58-2 of the Criminal Code of the RSFSR,71 and his family was exiled from the Altai Krai to the Tomsk Province.

69. https://mos-gorsud.ru/rs/horoshevskiy/services/cases/kas/details/da0a0e8d-6942-4bec-a304-e32c1bce3e71?participants=%D0%9F%D1%80%D1%83%D0%B4%D0%BE%D0%B2%D1%81%D0%BA%D0%B8%D0%B9+%D0%A1.%D0%91
71. Armed insurrection, any action with the intention of grabbing any part of Soviet territory from the Soviet Union by force or invasion in order to take power.
Alexander Kotenkov, Gudkov's great-grandson, studied the family's history and contacted the Archives of the Federal Security Service (FSB) of the Russian Federation in the Altai Krai in 2017. The FSB of the Altai Krai affirmed that only rehabilitated persons have the right to consult terminated criminal cases, and if they die, their relatives may do so. As Gudkov had not been rehabilitated, his file cannot be consulted. The archive stated no other grounds for the refusal.

After Kotenkov learned that the Supreme Court of the Russian Federation had found that a similar refusal by the archive of the Ministry of Internal Affairs in Shakhet's case was illegal, he resumed his attempts to gain access to his great-grandfather's case. Kotenkov wrote to the Archive of the FSB of the Altai Krai and this time referred to the decision in the Shakhet case.

However, the Altai Krai FSB again denied him access to the information, again citing the fact that only rehabilitated persons or their relatives can consult an archived criminal case. Kotenkov contested the refusal with a higher authority, the Central Archives of the FSB of Russia. The FSB Central Archives found the refusal lawful. At that point, Kotenkov brought the case to court.
The trial court found the refusal to allow him to consult the file illegal, referring to the general norms of Russian law that provide for the right to access criminal records. However, higher courts overturned that decision. On 29 December 2020, an appellate court overturned the decision of the trial court and dismissed A.N. Kotenkov’s claims. The Supreme Court of the Russian Federation in its determination of 21 December 2022 upheld the appellate court’s decision. It referred to the Triple Provision, stating that “the administrative claimant was able to exercise his right to receive information on the criminal case where I.A. Gudkov was not rehabilitated and this was done in the manner prescribed by law. Kotenkov was provided certificates on the results of the review of the archival criminal case and a copy of the decision of the Presidium of the Altai Krai Court of 9 June 1992.” That is, the Supreme Court actually revised the position it had taken in the case of Shakhet.

Perhaps this contradiction can be explained by the fact that the respondent in the Georgiy Shakhet case was the Interior Ministry, while in all other cases the respondent was the Federal Security Service, to whose decisions the “independent” Russian justice system dared not object.

**Regulatory Framework**

Russian law has general norms that govern access to archival materials. And there are norms that provide special access. The general norms include the Federal Law on Archives. Pursuant to Part 1 of Article 24 of the Federal Law on Archives, users of archival documents have the right to freely seek and receive archival documents to study them. Paragraph 2 of Part 1.1 of Article 24 of the Federal Law on Archives stipulates that access to archival documents is guaranteed, inter alia, by providing originals and (or) copies of the documents they need, including in the form of electronic documents.

There is a special law titled the Law on Rehabilitation of Victims of Political Repressions, which, as its name implies, governs recognition of a person as a victim of political repression and consequences of such recognition, as well as the legal status of such victims. Article 11 of this law stipulates that rehabilitated persons and, with their consent or in case of their death, their relatives have the right to consult the materials of closed criminal and administrative cases and to receive copies of documents. Other persons may consult such materials in keeping with the procedure established for consulting state archives.

Pursuant to paragraph 5 of the Triple Provision, said provision does not apply to materials of criminal and administrative cases where the persons under scrutiny have not been rehabilitated. However, the same paragraph below states that “the archives issue certificates on the results of the review in response to citizens’ requests for access to materials of criminal and administrative cases where the persons under scrutiny have not been rehabilitated.” Accordingly, the archives issue certificates and deny access.

In 2016, the Triple Provision was challenged as unreasonably restricting access to archival materials. The Supreme Court held that “the effect of the contested normative legal act does not apply to criminal and administrative cases where the persons under scrutiny have not been rehabilitated.”

This determination of the Supreme Court of the Russian Federation and the legal position expressed in it were left unchanged by the determination of the Appellate Division of the Supreme Court of the Russian Federation of 04.10.2016 on case No. AKPI16-423.

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72. https://vsrf.ru/ik/practice/appeals/11213960#11213960
4. Withholding the truth on the pretext of “state secrets”

State practice

Tatyana Yefimovna Kulik was convicted by an extrajudicial body, the Commission of the NKVD and the USSR Prosecutor, on 27 December 1937, in the so-called Harbin case (Minutes No. 189, reference number 26) and was sentenced to execution, which was carried out the following day. Kulik was rehabilitated as a victim of political repression on 15 September 1989 based on the Decree of the Presidium of the Supreme Soviet of the USSR “On additional measures to restore justice to the victims of repression that took place in the thirties, forties and fifties.” Consequently, the state acknowledged that in her case, not only was there a miscarriage of justice (to which, unfortunately, no court is immune), but also that she was a victim of unlawful, planned state terror.

Historian Sergey Prudovsky is studying the Harbin operation, which the NKVD conducted in keeping with the Operational Order of the NKVD of the USSR No. 00593 of 20 September 1937. On 2 November 2018, he requested of the Office of the FSB of Russia for the city of Moscow and the Moscow region a declassification of T.Y. Kulik’s archival criminal file and wished to consult it following the declassification procedure.

On 17 July 2019, the FSB Directorate reported that T.Y. Kulik’s ACF was partially declassified and that the declassified materials were available for consultation. On 19 July 2019, when ACF P-79390 about T.Y. Kulik was consulted, it turned out that in the partially declassified documents (the arrest warrant, the search and interrogation reports, the indictment, etc.), the positions, ranks, names and signatures of NKVD Moscow Oblast employees who drafted, agreed and approved the above documents were considered state secrets of the Russian Federation (had remained classified).

Initially, Prudovsky believed that the problem was in law enforcement and therefore challenged the classification of information about NKVD officers of the USSR as state secrets in the Russian Federation. But the courts at four levels supported the FSBD, referring to Article 5 of the Law on State Secrets, Presidential Decree No. 1203 of 30.11.1995 (paragraphs 84 and 91) and Order No. 0120 of the Federal Security Service of Russia of 20 May 2015 (paragraphs 1.7 and 2.23). That is, the courts believed that information about certain individuals, who had worked for counterintelligence more than 80 years ago and in fact were state executioners, was still a state secret.

Thus, the trial court, in its determination of 4 June 2020, stated that “On the basis of Article 9 of the Law on State Secrets, the List of information classified as a state secret is to be approved by the President of the Russian Federation. In order to execute the above-mentioned legislative provisions, the Presidential Decree № 1203 of 30 November 1995 approved the relevant List, according to which the information that discloses forces, means, sources, methods, plans, results of counterintelligence activities, as well as data on financing of such activities, if such data disclose the listed information and information that reveals individuals as staff of counterintelligence agencies, is classified as state secret (Para. 84, 91 of the List).”

The appellate bench agreed with the trial court, stating: “As a result of the examination of S.B. Prudovsky’s submission, the Expert Commission of the Directorate of the Federal Security Service of Russia for Moscow and the Moscow Oblast found that part of the archival documents contained information mentioning specific individuals as senior staff in security agencies, as well as information disclosing the forces, means, sources, methods, plans, results of counterintelligence activities and operational and investigative activities of security agencies, and therefore was subject to partial declassification.”

74. https://mos-gorsud.ru/mgs/services/cases/first-admin/details/45d56985-7da3-4bd6-be7f-2fedc6c6b4d9?participants=%D0%9F%D1%80%D1%83%D0%B4%D0%BE%D0%B2%D1%81%D0%BA%D0%B8%D0%BA%20 %D0%A1%20%D0%91

FIDH - Overcoming the Past : An Overview of Memorial’s Transitional Justice Jurisprudence in Russia
The Second Court of Cassation, in its determination of 10 September 2020 also referred to the Presidential Decree and the FSB Order, repeating all the arguments of the appellate bench.75

The Supreme Court in its determination of 29 June 2021 agreed with these acts referring to the same paragraphs 84 and 91 of the List of information classified as a state secret, approved by Presidential Decree No. 1203 of 30 November 1995.76

Appealing the Presidential Decree and the Order of the FSB

Sergei Prudovsky also contested paragraphs of the Presidential Decree of 30.11.1995 No. 1203 and the Order of the Federal Security Service of 20 May 2015 No. 0120 “On approval of the list of information subject to classification in the agencies of the FSB” that were applied to his case. He justified his claim by stating that the acts are worded vaguely, which allows them to be extended to employees of agencies that have long ceased to exist, such as the NKVD. This in turn violates Article 7 of the Law on State Secrets, which prohibits classifying as state secret information about the violation of the rule of law and of human rights by state agencies and their employees.

During the court session, Prudovsky had to give up his claim to have the provisions of FSB Order No. 0120 of May 20, 2015 recognized as unlawful, because the order itself is classified and, on that basis, FSB officers demanded that the session be closed to the public.

The trial, appellate and supreme courts dismissed Prudovsky’s claims on the grounds that the contested provisions of the Decree do not directly violate his rights. 77

On 18 July 2022, Prudovsky filed a petition with the Constitutional Court with respect to Article 5 of the Law on State Secrets and paragraphs 84 and 91 of the Presidential Decree. He also filed a petition with the European Court of Human Rights.78

Regulatory Framework

Russia has a Federal Law “On State Secrets.” Article 5 of this law refers to information that constitutes a state secret:

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“information in the field of intelligence, counter-intelligence and surveillance activities, as well as in the field of counter-terrorism and in the field of security of persons for whom a decision has been taken to apply state protection measures:

concerning forces, means, sources, methods, plans and results of intelligence, counter-intelligence, intelligence and counter-terrorism activities, as well as data on the financing of these activities, if these data disclose the listed information.”
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The same law in Art. 7 prohibits classifying as a state secret information about violations of the law by state agencies and their officials, as well as violations of human rights by them. Pursuant to the same law, the period of classification of information that constitutes a state secret must not exceed 30 years; however, in 2014, the Interdepartmental Commission for Protection of State Secrets extended for another 30 years (until 2044) the period of classification of documents created by the VChK-KGB of the USSR in 1917-1991.

Two regulatory acts, Presidential Decree No. 1203 of 30.11.1995 and Order of the Federal Security Service No. 0120 of 20 May 2015 “On Approving the List of Information Subject to Secrecy in the Federal Security Service,” were adopted to develop the provisions of Article 5 of the Law on State

Secrets. Paragraph 84 of the Presidential Decree of 30.11.1995 No. 1203 deems state secrets “Any information disclosing forces, means, sources, methods, plans, results of counter-intelligence activity, as well as data on financing of this activity, if these data disclose the listed information.” Paragraph 91 of the List stipulates that “information disclosing specific individuals as senior officials of counterintelligence agencies” is classified as information constituting a state secret. Paragraphs 1.1 and 2.23 of the FSB Order repeat word-for-word the relevant paragraphs of the Presidential Decree.

Thus, we see that Russia’s courts completely side with the state and block the researchers’ path to the archives and then that same state accuses historians of bias and manipulation of data.

Therefore, lawyers have decided that it makes sense to continue fighting for access to archives through the relatives of those persecuted given that the new ideological program 79 considers historical memory and the legacy of generations to be among the most important traditional values.

Also, in this document, it is written that

9. Problems in the area of preserving and strengthening traditional values should be solved along the following main lines: <...

e) Increasing the effectiveness of scholarly, educational, awareness-raising and cultural organizations to protect the historical truth, preserve historical memory, and counteract falsification of history;

Since gaining access to archival documents is precisely the purpose of preserving historical memory and countering the falsification of history, historians and lawyers at Memorial intend to continue working in this field in order to defend the right of access to information guaranteed to citizens of the Russian Federation by both the Russian Constitution and international treaties.

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79. Decree of the President of the Russian Federation of 09.11.2022 № 800 “On approval of the bases for state policy to preserve and strengthen traditional Russian spiritual and moral values.”
Establishing the facts - Investigative and trial observation missions
Supporting civil society - Training and exchange
Mobilizing the international community - Advocacy before intergovernmental bodies
Informing and reporting - Mobilizing public opinion

For FIDH, transforming societies relies on the work of local actors.
The Worldwide Movement for Human Rights acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organisations who are members of the Movement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organisations and actors of change.
ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate
FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement
FIDH was established in 1922, and today unites 188 member organizations in 117 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organization
Like its member organizations, FIDH is not linked to any party or religion and is independent of all governments.