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INTERNATIONAL FEDERATION
FOR HUMAN RIGHTS

**Crimes Against History: restriction of
historical speech, persecution of
human rights defenders and NGOs, and
violation of the right to truth in the
Russian Federation**

**Submission to the United Nations Human Rights
Council for the Universal Periodic Review of
Russian Federation**

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PART I: Introduction & Summary

This submission has been prepared for the fourth cycle review of Russia in the framework of the Universal Periodic Review (UPR) by the Eastern Europe and Central Asia Desk of the International Federation for Human Rights (Fédération Internationale des Droits Humains, FIDH).

FIDH is an international human rights NGO federating 188 organisations from 116 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration of Human Rights.

The submission aims to present an up to date account as to the various violations by the State of freedom of expression with respect to historical speech, persecution of NGOs and human rights defenders, including activists, journalists and historians working on historical memory of the Soviet past, restrictions of access to archives and other forms of denial of the right to truth, all of which comprising what we refer to as “crimes against history” in the Russian Federation. The submission details the restrictive laws and practices related to crimes against history, and concludes that they amount to violations of the right to freedom of expression, freedom of assembly, freedom of association, the right to be free from arbitrary detention, the right to work, the right to an effective remedy and the right to truth.

We also draw attention to the link between internal repression and external aggression against Ukraine, namely how historical revisionism feeds into Russia’s propaganda of Ukraine’s so-called “denazification.” Lastly, we make key recommendations for action by the government of the Russian Federation to better address these areas of concern.

Part II contains 3 sections, section 1. contains information concerning Russia’s memory laws that restrict historical speech and further a historical narrative that underpins propaganda of Russia’s aggression against Ukraine, as well as examples of the use of such laws to target opposition leaders and activists; section 2. highlights state persecution of human rights defenders and NGOs working to commemorate Soviet-era repressions through the use of “foreign agent” legislation, as well as other forms of judicial attacks, arrests, threats and intimidation; section 3. concerns denial of access to archives relating to the Soviet past.

Part III contains recommendations to be made to the Russian authorities.

PART II: Russia: Crimes Against History

FIDH has identified a systematic policy of persecution of human rights defenders and NGOs working on historical memory of the Soviet past in Russia. The overarching aim of this policy is to protect the prevalent historical narrative of the Soviet past pursued by the current regime, which glorifies the Soviet Union’s victory in the Second World War, and marginalizes or relativizes Soviet-era atrocities. The

repressive acts include the design and implementation of laws that restrict historical speech, i.e. memory laws, and obstruct the work of civil society, such as the infamous “Foreign Agents” law; denial of access to archives; failure to provide effective remedies to victims of Soviet-era crimes; and malicious prosecutions of historians and human rights defenders, such as those linked to “Memorial”. We have identified violations of freedom of expression, freedom of association, and freedom of assembly, the right to truth, the right to work, the right to liberty, the right to a fair trial, and the right to an effective remedy.¹

1. Exoneration of Nazism and other new memory laws

Russia’s crackdown on freedom of expression has particularly targeted historical speech. Since the previous UPR cycle, the authorities have adopted at least seven “memory laws” restricting public expression of certain interpretations of historical events, particularly surrounding the Soviet period and the Second World War – known in Russia as the 1941–1945 “Great Patriotic War.”² In addition to stifling scholarly debate on important historical issues, and promoting historical revisionism, these laws have been used to stifle historical debate and persecute human rights defenders working on commemorating victims of Soviet-era atrocities, as well as to foment propaganda justifying Russia’s aggression and other international crimes committed in Ukraine under the guise of “denazification.”

Russia’s most notorious “memory law” is Article 354.1 of the Criminal Code, which, at the time of its adoption in 2014, prohibited among others the approval or denial of Nazi crimes, as established by the Nuremberg Tribunal, and the “dissemination of knowingly false information about the activities of the USSR during the Second World War.”

This law has been expanded after the adoption of the 2020 amendments to the Constitution, which cemented the official historical narrative of the Soviet past, namely that the Russian Federation is the “successor” of the Soviet Union, that it “honours the memory of defenders of the Homeland” — an obvious reference to the Great Patriotic War — and “protects historical truth”. The Constitution also prohibited “diminishing the significance of the people’s heroism in defending the Homeland.”³

The first amendment to Article 354.1 criminalized “the public dissemination of knowingly false information regarding the veterans of the Great Patriotic War,” “dissemination of manifestly disrespectful information about the dates of military glory and memorable dates of Russia relating to the defence of the Homeland as well as desecration of symbols of Russia’s military glory,” and insults of the “memory of the defenders of the Homeland or degrading the honor and dignity of the veterans of

¹ FIDH Report: “Russia: Crimes Against History”, June 2021.

² “Russia: Crimes Against History”, pp. 9 - 34.

³ Article 67.1 (3) of the Constitution of the Russian Federation.

the Great Patriotic War.”⁴ Another law, adopted just after Russia’s re-invasion of Ukraine, on 16 April 2022, prohibited the public comparisons of the “goals, decisions and actions” of the leadership of the USSR with those of Nazi Germany, as well as the denial of the “decisive role of the Soviet people in the defeat of Nazi Germany and the humanitarian mission of the USSR during the liberation of European countries.”⁵

Russia’s “memory laws” serve no legitimate public purpose and are therefore contrary to international human rights law. Their primary purpose, gleaned from their application, is to suppress historical expression related to the Soviet past that undermines the state-sponsored historical narrative. The amendments to the “exoneration of Nazism” law have practically outlawed any discussion of crimes committed by the Soviet Union during the Second World War and allowed the State to prosecute those who disclose the truth about or question these policies. Their enforcement has impeded the work of local NGOs and activists that advance justice and reparations for victims of Stalinist and other Soviet-era atrocities, and political dissidents.

To date, 125 cases have been initiated under Article 354.1 of the Criminal Code, most of which have resulted in convictions, including for historically accurate statements regarding the Soviet Union’s period of collaboration with Nazi Germany during the Second World War.

In 2022, politician Leonid Gozman served 30 days of administrative arrest in total under this article, for his Facebook posts from 2020 and 2013, in violation of the prohibition of non-retroactive application of the law. First post contained the phrase: “Hitler is absolute evil, but Stalin is even worse. The SS are criminals, but the NKVD is even worse, because the Chekists killed their own,” another one was equating the Soviet and Nazi power structure.⁶

Previously, the authorities charged activists for defamation of veterans of WW2. Although in Russia, defamation cases are “private prosecution” initiated only at the request of the harmed person. Not many WW2 veterans are still alive however, so the state has enabled itself to prosecute individuals on the basis of “insults of memory,” even in the absence of a living victim. Therefore, three days after the guilty verdict against politician Alexei Navalny for slandering war veteran Ignat Artemenko State Duma introduced the amendments which add a new offense to the prohibition on “exoneration of Nazism”— defamation of veterans of the so-called Great Patriotic War, punishable by up to five years in prison.

In March 2023, Russia’s Investigative Committee opened a criminal investigation against former employees of liquidated International Memorial, an

⁴ Federal Law of 05.04.2021 No. 59-FZ “On Amendments to the Article 354.1 of the Criminal Code of the Russian Federation.”

⁵ Federal Law of 16.04.2022 No. 103-FZ “On Amendments to the Code of Administrative Offences of the Russian Federation.”

⁶ *Politician Leonid Gozman leaves detention centre after 30 days of arrest*, article in *Novaya Gazeta*, 28 September 2022.

NGO that works to commemorate victims of Soviet-era repressions, on the basis of this Article 354.1, for the fact that three alleged Nazi criminals were included in the database of victims of Stalinist repression, which the organization compiles and which contains more than three million names. The offices of Memorial and the homes of all Memorial staff remaining in Russia were searched, without court authorisation, in connection with the case.⁷

Internationally, these laws, and the rhetoric they help to amplify, have also facilitated Russia's aggression by perpetuating a false rhetorical equivalency between the war Russia now wages in Ukraine and the Soviet Union's drive to liberate European territories occupied by Nazi Germany.⁸

2. *Persecution of civil society actors*

In recent years, the authorities have engaged in targeted persecution of independent civil society actors working on issues relating to Soviet-era State terror. This includes a crackdown on independent NGOs and arbitrary arrests of historians and activists researching this period or working on commemorating victims of Soviet-era crimes, and particularly cracking down on anyone drawing parallels with the methods of the current regime or identifying past and present perpetrators.

A full-scale assault against independent NGOs began in 2012, with the adoption of the "Foreign Agents" law, which introduced burdensome regulatory requirements, inspections, searches, and fines for NGO's receiving foreign funding and engaging in political activities, all with the ultimate goal of paralyzing their work and/or forcing them to close.⁹

The most prominent example of state persecution of an NGO working on overcoming the legacy of Soviet-era crimes by using the "Foreign Agents" law is the assault against International Memorial, a non-governmental organization that investigates political repression in the former Soviet Republics and promotes reparations for victims of repressions. On October 4, 2016 International Memorial was declared a "foreign agent". During 2019-2020, the organisation had to pay large fines for failing to comply with the legislation. On 28 December 2021, the organisation was liquidated by the Supreme Court, formally for repeated violations of the "Foreign Agents" law. But the prosecutor gave the real reason for the liquidation during the course of the trial: "It is obvious that Memorial, by speculating on the theme of political repression in the 20th century, is creating a false image of the Soviet Union as a terrorist state, whitewashing and rehabilitating Nazi criminals,

⁷ The Observatory for the Protection of Human Rights Defenders, Urgent Appeal, "Russia: Home raids and criminal proceedings against seven members of International Memorial and Oleg Orlov."

⁸ Ilya Nuzov Legislating Propaganda: Russia's Memory Laws Justify Aggression Against Ukraine *Journal of International Criminal Justice*, Volume 20, Issue 4, September 2022, pages 805–818, p. 808.

⁹ Federal Law dated 20 July 2012 No. 121-FZ "On Introducing Amendments to Certain Legislative Acts of the Russian Federation Concerning Regulation of Activities of Non-Commercial Organizations that Perform Functions of a Foreign Agent."

who had the blood of Soviet citizens on their hands.”¹⁰

The case of Yuri Dmitriev is another emblematic case of Russia’s campaign to remove anyone that impedes its historical revisionism. Dmitriev was the Head of Memorial’s Karelia branch who worked tirelessly since the 1990’s to locate and identify the remains of victims of Stalinist Great Terror, to commemorate the victims and to identify the perpetrators. In 2016, he was arrested on fabricated charges of sexual misconduct and production of child pornography (under Articles 135 and 242.2 of the Criminal Code) based on several private photos of his adoptive daughter that he made to monitor her health.¹¹ In July 2020, he was convicted to 3.5 years in prison; the sentence was increased to 13 years after the prosecution appealed. A media investigation has traced the motive for his prosecution to a disgruntled former head of the Karelia FSB, an adviser to Vladimir Putin, whose relatives served in the Soviet security services.¹² Dmitriev, a political prisoner, is in increasingly frail health and will likely spend the rest of his life in jail.

3. Denial of access to archives and the “right to truth”

While simultaneously creating an official historical narrative focusing on the glorification of the achievements of the Soviet era and punishing anyone who stood in the way, Russia began the process of concealing the mass crimes committed by the Soviet regime as far as possible.

To this end, the Federal Security Service (FSB) 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). Most of the archival documents on the repression of the Great Terror era are kept in the archives of the FSB. In the early nineties, they were open to users, in the mid-90s, the FSB archives began to close and by the 2020s, they have become inaccessible to researchers. FSB has denied access to data concerning, among others:

- Persons who were members of Stalinist troikas;
- Minutes of Stalin’s troikas;
- Materials of archived criminal cases of unrehabilitated persons; and
- Information about people who otherwise participated in the State terror.

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.”¹³ The refusal to provide information enabling the identification of members of troikas conceals from society information about the persons who carried

¹⁰ FIDH Report : Chronicle of a Death Foretold: the Liquidation of Legendary Human Rights Organisations in Russia, July, 2022.

¹¹ “Russia: Crimes Against History”, p. 29.

¹² *Ibid.*

¹³ Preamble of the Law of the Russian Federation “On the Rehabilitation of Victims of Political Repression.”

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.

Restrictions are justified by several domestic laws, primarily the “Law on State Secrets” and the “Law on Personal Data”, although Federal law exempts access to archives concerning human rights abuses from any restrictions for state security purposes and the latter law does not apply to archival documents.¹⁴

Memorial’s attempts to challenge the bans on access to archives in courts have been unsuccessful.¹⁵ According to the courts’ rationale, which aligned perfectly with the , 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 constitutes “family secrets and personal data” or the declassification of records (more than 80 years after the events!) would lead to incitement to discord and hatred on religious, social and national grounds.¹⁶

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.¹⁷

Russia’s legal framework and official policies regarding access to archives are not fully in line with international legal standards. The right of access to archives is part of freedom of expression. Article 19 of the ICCPR provides for the right to seek information, and the UN Human Rights Committee has recognized that it embraces a right of access to information held by public bodies; such information includes records held by a public body, regardless of the form in which the information is stored, its source, and the date of production.¹⁸ The European Court has found that access to original documentary sources for legitimate historical research is an element of the right to freedom of expression.¹⁹ Russia’s classification of archival documents concerning the identity of perpetrators or the circumstances of violations of human rights constitutes a disproportionate impediment to historical and human rights work, in light of the significant societal importance of the information sought, and is therefore incompatible with freedom of expression.

Moreover, the Russian authorities’ failure to fully disclose or facilitate access to information about crimes committed by the Soviet regime constitutes a violation of the collective right to know the full truth regarding past events characterized by

¹⁴ Federal Law of 27.07.2006 No. 152-FZ “On Personal Data.”

¹⁵ See, e.g. FIDH Report “Russia: No truth or reparations for victims of Soviet-era repressions,” December 2022, pp. 21 - 34.

¹⁶ *Ibid.* p. 23.

¹⁷ *Ibid.*

¹⁸ Venice Commission, opinions of 27 June 2014, no. 716-717/2013. CDL-AD(2014)025, para. 18.

¹⁹ European Court of Human Rights, judgment of 26 May 2009, app. no. 31475/05, *Kenedi v. Hungary*, para. 43

the perpetration of heinous crimes, which is by now firmly enshrined in international law.²⁰

PART III: Recommendations

In the light of the foregoing, we invite to make the following recommendations to the Russian Government:

- Amend the Constitution of the Russian Federation to remove references to “historical truth”;
- Repeal the “Exoneration of Nazism” law and other laws that penalize the expression of opinions about historical facts;
- Terminate pending criminal cases concerning expression of opinions about historical facts; review completed criminal cases concerning expression of opinions about historical facts;
- Drop all charges and release Yuri Dmitriev, drop all charges against all former staff of International Memorial, and ensure the end to all acts of persecution against human rights defenders working on historical memory of the Soviet past;
- Discontinue all liquidation proceedings targeting civil society due to alleged violations of the “Foreign Agents” law and repeal the “Foreign Agents” law; and
- Allow access to all archives containing information concerning grave violations of human rights that took place during the Soviet period.

²⁰ See, e.g. United Nations General Assembly, Resolution 68/165. Right to the truth, of 21 January 2014, UN Doc. A/RES/68/165, para. 1.