

## Russia's Supreme Court approves liquidation of International Memorial

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On February 28, 2022, the Appeal Board of Russia's Supreme Court reviewed International Memorial's appeal against the decision of the Supreme Court of December 28, 2021 to liquidate the organisation following the suit of the Russian Prosecutor General's Office. The appeal was dismissed and the decision was left unchanged.

Judges Galina Manokhina, Vladimir Zaitsev and Oleg Nefedov presided over the decision.

Representatives of International Memorial: chairman of the board of directors Yan Rachinsky, executive director Elena Zhemkova, lawyers Anastasia Garina, Tatiana Glushkova, Tamilla Imanova, Natalia Morozova, Natalia Sekretaryova, defence attorneys Henry Reznik and Maria Eismont.

Victoria Maslova and Natalia Gashunina represented the Prosecutor General's Office, Olga Spitsyna and Alla Kharlamova represented the Ministry of Justice, and Anna Kurmaeva represented Roskomnadzor.

### *Brief summary of the hearing:*

Tatyana Glushkova's motion to suspend the proceedings in connection with the ECHR's position was rejected. Maria Eismont's request to question witnesses who could speak about the public importance of the work of International Memorial was also rejected.

Elena Zhemkova used her statement to comment on the words of Prosecutor Alexei Zhafyarov at the December hearing (that Memorial makes the victors [of the Second World War] repent), which she sees as the real reason for the liquidation of the organisation. Memorial speaks of responsibility and preserves memory, including the memory of state crimes, and the liquidation of an organisation that helps society to avoid repeating the crimes of the past and not make mistakes today, is harmful to all people living in Russia, Zhemkova added.

Natalia Sekretaryova and Natalia Morozova's statements were focused on the fact that the decision of the court of first instance went beyond the lawsuit, that the decision to liquidate International Memorial was in direct conflict with the international obligations of the Russian Federation, and that International Memorial did not violate the right to truthful information. The attorneys also spoke on the history of International Memorial's «foreign agent» labels in the absence of clear legal requirements for the content of the label.

Representatives of the Prosecutor General's Office and the Ministry of Justice replied by stating that International Memorial did not agree with the current legislation, repeating arguments about the organisation being fined for not adding a «foreign agent» label to its print materials and posts online. A Roskomnadzor representative stated that Memorial had

to reproduce the «foreign agent» label exactly as prescribed by the law – any change to it, in Roskomnadzor’s opinion, is treated as a violation.

The following speakers took part in the debate:

Yan Rachinsky spoke on the international status of the organisation and its branches, in addition to its work with countries unaffiliated with International Memorial.

Natalia Secretaryova spoke about double standards and substitution of concepts among the various arms of the Russian state. The Ministry of Justice has had information about Memorial’s branches and chapters since 2016, while claiming that it learned about them in court. The Prosecutor General's Office claims that appealing decisions to the ECHR indicates unwillingness to comply with Russian law, while that is merely a legal procedure. Roskomnadzor claims that there is a strictly established form of the «foreign agent» marker, although the agency’s response to a similar request in 2019 replied that there is none.

Maria Eismont’s statement addressed the disproportionality of the punishment and the court's disregard for evidence highlighting the public importance of International Memorial.

Henry Reznik spoke on the overcrowding of the case with value judgments (such as «gross» violations, «substantial» consequences, «real» harm), and added that the judges’ decision was based not only on their professionalism and experience, but also their world view, , meaning that the task of delivering a fair and just decision had not been fulfilled and the principle of non bis in idem («not twice in the same thing») was not respected. Reznik added that the liquidation of International Memorial would contribute to forgetting everything negative about history and the state could «slip into a second edition of the Soviet Union».

Representatives of the Prosecutor General's Office, the Ministry of Justice and Roskomnadzor said that the defendant had not made any substantive arguments to overturn the trial court's decision.