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RUSSIA: Four now jailed for refusing to fight in Ukraine on religious grounds

By Victoria Arnold, Forum 18 (<https://www.forum18.org>)

Military courts have now jailed four men for refusing on religious grounds to go to fight in Ukraine. In Vladivostok, Baptist Vyacheslav Reznichenko entered the prison colony-settlement on 18 September to start his 2 year, 6 month term. In Murmansk, a court handed long-serving contract soldier Maksim Makushin, a Pentecostal Christian, a term of 2 years and 8 months "for refusing to kill Ukrainians". He is awaiting his appeal. Neither courts nor prosecutors answered Forum 18's questions why they were not allowed to do alternative civilian service.

Courts have sentenced two more Russian Protestants to terms of imprisonment because they refused on religious grounds to go to fight in Ukraine. Soldiers – whether regular or mobilised – have virtually no legal means to avoid deployment to Ukraine on grounds of conscience, leaving them facing criminal charges for refusing to obey orders.

In Vladivostok, Baptist Vyacheslav Reznichenko, a reservist who was called up on the first day of the "partial mobilisation" in September 2022, twice told his commanders that he would not fight in Ukraine as he belongs to a denomination which forbids the use of weapons. On 15 June 2023, a Vladivostok court sentenced him to 2 years and 6 months' imprisonment under wartime legislation introduced to punish the non-fulfilment of orders in a period of combat operations (see below).

Military prosecutors claimed Reznichenko had refused call-up out of cowardice. In his verdict, however, the Judge noted that Reznichenko had in fact been motivated by his religious beliefs (see below).

Forum 18 wrote to Vladivostok Garrison Military Court and the Military Prosecutor's Office of the Pacific Fleet and Vladivostok Garrison asking why Reznichenko had not been allowed to do alternative civilian service or take up an unarmed role in the army, given that using weapons was contrary to his religious beliefs and the Constitution guarantees the right to alternative civilian service. Forum 18 has received no response (see below).

In Murmansk, a court handed long-serving contract soldier Maksim Makushin, a Pentecostal Christian, a term of 2 years and 8 months' imprisonment "for refusing to kill Ukrainians", according to an acquaintance following the case from outside Russia. Makushin is now awaiting appeal and is seeking to leave the army (see below).

Forum 18 wrote to Murmansk Garrison Military Court asking why it had not upheld Makushin's constitutional right to alternative civilian service, given that the Constitution should take priority over other laws. Forum 18 has received no response (see below).

These sentences bring to 4 the number of men sentenced to imprisonment under Criminal Code Article 332, Part 2.1 for refusing mobilisation on grounds of religion:

- Dmitry Vasilets, Murmansk Region, 2 years and 2 months, 7 April 2023, in colony-settlement;
- Vyacheslav Reznichenko, Vladivostok, 2 years and 6 months, 15 June 2023, in colony-settlement;
- Andrey Kapatsyna, Vladivostok, 2 years and 10 months, 29 June 2023, in colony-settlement;
- Maksim Makushin, Murmansk Region, 2 years and 8 months, 28 September 2023, awaiting appeal.

Others, including Vitaly Veselov, remain in the army after unsuccessfully challenging in court their mobilisation on grounds of religion (see below).

Despite the constitutional right of all Russians to carry out alternative civilian service (ACS) instead of military service if the latter goes against their beliefs, the mobilisation order of 21 September 2022 and associated legislative changes make no mention of provision for reservists who are conscientious objectors. President Vladimir Putin's order also made all army contracts indefinite,

thus preventing those already serving from resigning (see below).

(Contract soldiers have never had any explicit option of transferring to any form of alternative service, although some soldiers' rights groups argue that the constitutional right to ACS should also apply to them.)

In the absence of any clear legal mechanism for requesting alternative civilian service under conditions of mobilisation, the fate of reservists who object to using weapons or serving in the armed forces depends on individual military recruitment offices or on the courts (see below).

Although President Putin has still not signed a decree formally ending mobilisation – which means that it could be accelerated again at any time – no large-scale second wave of call-ups has yet occurred. The military authorities' focus now appears to be on encouraging men to sign contracts "voluntarily", or in some cases – such as those of Central Asian migrants – putting pressure on them to do so (<https://www.rferl.org/a/russia-central-asia-migrants-military-recruitment-ukraine/32567862.html>).

Jailed for protesting against the war from a religious perspective

So far, courts have sentenced two people to imprisonment for opposing the war in Ukraine on religious grounds:

– on 31 August 2023, Kalinin District Court in St Petersburg sentenced Fr Ioann Valeryevich Kurmoyarov to a 3-year prison term (https://www.forum18.org/archive.php?article_id=2857) under Criminal Code Article 207.3, Part 2 ("Public dissemination, under the guise of credible statements, of knowingly false information on the use of the Armed Forces of the Russian Federation"), Paragraph G ("for selfish motives) and Paragraph D ("based on political, ideological, racial, national, or religious hatred or enmity, or based on hatred or enmity against any social group");

– on 30 March 2023, Timiryazevsky District Court in Moscow sentenced Mikhail Yuryevich Simonov to 7 years' imprisonment (https://www.forum18.org/archive.php?article_id=2822) under Criminal Code Article 207.3, Part 2, Paragraph D.

Two others have received criminal convictions and fines:

– on 7 August 2023, Soviet District Court in Tomsk fined Anna Sergeyevna Chagina 100,000 Roubles (https://www.forum18.org/archive.php?article_id=2852) under Criminal Code Article 280.3, Part 1 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens, [and] maintain international peace and security, including public calls to prevent the use of the Armed Forces of the Russian Federation for these purposes, or equally, aimed at discrediting the exercise by state bodies of the Russian Federation of their powers outside the territory of the Russian Federation for these purposes", when these actions are committed more than once in one year);

– on 17 October 2022, Verkhoturys District Court (Sverdlovsk Region) fined Fr Nikandr Igoryevich Pinchuk (of the same branch of ROCOR as Fr Ioann) 100,000 Roubles (https://www.forum18.org/archive.php?article_id=2783), also under Criminal Code Article 280.3, Part 1.

Several more have been fined under the lesser Administrative Code Article 20.3.3 (https://www.forum18.org/archive.php?article_id=2835), which punishes an initial offence of "discrediting" the Russian Armed Forces.

Gap in Russian law: No alternative service for reservists

Lawyers and human rights defenders agree that Russian federal legislation does not provide for alternative civilian service (ACS) for reservists during mobilisation. They insist, however, that the Constitution guarantees the right to ACS in any case, and that men who object to fighting on religious or other conscientious grounds should therefore lodge applications for ACS (https://www.forum18.org/archive.php?article_id=2797) and go to court when they are refused.

The gap in the law has led to military recruitment offices turning down conscientious objectors' requests for alternative civilian service on the grounds that there is no provision for ACS during mobilisation and/or that ACS is only for conscripts, despite this being contrary to the Constitution.

It appears, however, that applying for alternative service, even though there is no mechanism for it to be carried out, can sometimes be an effective way for conscientious objectors to avoid mobilisation, though in the absence of any regulations, this depends on military recruitment offices themselves (https://www.forum18.org/archive.php?article_id=2798).

In March 2023, Leningrad Regional Court upheld Pavel Mushumansky's request to have his mobilisation order cancelled (https://www.forum18.org/archive.php?article_id=2819). He had stated in his application for alternative service that based on his Christian beliefs he could not "carry out orders aimed at the destruction and utter defeat of living people".

Independent Russian media outlet Verstka noted in September 2023 that a total of 761 people had gone to court to challenge their call-up notice (<https://verstka.media/kak-rossiyane-sudiatsia-iz-za-svoey-mobilizacii-i-vyigryvayut>) in the 11 months since mobilisation was announced (mostly, it appears, for family or health reasons, or because of their jobs). Only 52 have been successful, primarily those who managed to gain exemptions through their work.

Contract soldiers have never had an explicit right to transfer to any kind of alternative service. Before 21 September 2022, they could leave the army at the end of their contract periods, and had the right to seek early discharge for family reasons, and for other personal reasons if a military commission deemed them valid. Upon the announcement of mobilisation, however, all contracts were made indefinite, and a soldier may now leave the army only for health reasons or if he reaches the upper age limit.

Some soldiers' rights groups maintain, however, that the right to ACS technically does apply to contract troops (<https://netprizyvu.ru/kak-rastorgnut-kontrakt-vo-vremya-mobilizacii>), because Article 59, Part 3 of the Constitution does not distinguish between different categories of personnel, and the Constitution takes priority over other legislation.

Criminal punishments for military-related offences

In late September 2022, after President Putin issued his decree on "partial mobilisation", legislators made a number of amendments to the Criminal Code's Chapter 33 on "Crimes against military service". They added new and harsher punishments for existing offences if committed "during a period of mobilisation or martial law, in wartime or in conditions of armed conflict or combat operations". These offences included desertion, opposing a superior, and going absent without leave. A new crime of "voluntary surrender" was also added.

In November 2022, there was also an attempt to criminalise the evasion of mobilisation (as opposed to evasion of conscription, already covered by Criminal Code Article 328); the government gave a positive response to this draft law in August 2023, but the lower chamber of parliament, the Duma, has as yet made no relevant amendments.

A study by independent Russian media outlet Mediazona found 3,414 "mobilisation-related" trials (<https://en.zona.media/article/2023/09/21/awolornotawol>) in courts throughout the country in the year since mobilisation was announced (including in Russian-annexed Crimea and Sevastopol). The most common offence was going AWOL (Criminal Code Article 337) which accounted for 3,049 trials.

There are also, however, soldiers who directly refuse to be deployed to Ukraine, including on grounds of conscience, and who do not abscond. They are prosecuted under Criminal Code Article 332's new Part 2.1, adopted on 24 September 2022. This punishes "Non-fulfilment by a subordinate of an order of a superior given in accordance with the established procedure, during a period of martial law, in wartime or in conditions of armed conflict or combat operations, as well as refusal to participate in military or combat operations" with 2 to 3 years' imprisonment.

Mediazona found that there had been 225 trials for refusing to obey orders in the first year of mobilisation, and noted that criminal prosecutions of soldiers under Article 332 appear to be particularly prevalent in the border regions of Kaliningrad, Murmansk, Primorye, Kamchatka, Rostov, and Krasnodar.

Primorye Region: Baptist reservist prosecuted for refusing mobilisation

On 15 June 2023, Vladivostok Garrison Military Court found Vyacheslav Yuryevich Reznichenko (born 23 October 1998) guilty of refusing to carry out orders to go and fight in Ukraine. Judge Viktor Frantsuz sentenced him to 2 years and 6 months in a prison colony-settlement (koloniya poseleniye) under Criminal Code Article 332, Part 2.1 ("Non-fulfilment by a subordinate of an order of a superior given in accordance with the established procedure, during a period of martial law, in wartime or in conditions of armed conflict or combat operations, as well as refusal to participate in military or combat operations").

Reznichenko is a member of a Council of Churches Baptist congregation. Following his call up on 22 September 2022, the first day of mobilisation, he twice told his commanders that he would not participate in combat operations because he belonged to a faith which forbade the use of weapons, according to the written verdict, seen by Forum 18.

Reznichenko appealed unsuccessfully against his conviction at the Pacific Fleet Military Court on 21 August 2023. He entered the colony-settlement in Vladivostok to begin his term on 18 September 2023.

Reznichenko had not been detained before or during his trial, but had been placed under an obligation to appear when summoned by investigators. His wife Yelena and their four-month-old son are living with her family in the town of Artyom, some 40 kms north of the city, a Council of Churches Baptist Telegram channel noted on 26 September (<https://t.me/dasistfurgebiet/378>).

Forum 18 wrote to Vladivostok Garrison Military Court and the Military Prosecutor's Office of the Pacific Fleet and Vladivostok Garrison before the start of the Far Eastern working day of 4 October. It asked why Reznichenko had not been allowed to do alternative civilian service or take up an unarmed role in the army, given that using weapons was contrary to his religious beliefs and

the Constitution guarantees the right to ACS. Forum 18 had received no response by the end of the working day of 9 October.

Reznichenko grew up in large Baptist family, but did military service as a conscript "while not yet converted", the Baptist Telegram channel stated in its outline of the case on 26 September. "However, after his return from the army, he sincerely repented of his sins and in October 2018 entered into a covenant with the Lord." He was subsequently involved in preaching, charitable work, and the construction of the community's place of worship.

Primorye Region: Reznichenko refuses call-up – because of cowardice?

Reznichenko received his call-up papers at 4 am on the first day of the "partial mobilisation", 22 September 2022. When he went to the military recruitment office, he told officials there of his religious beliefs and that he refused to participate in military operations. Officials nevertheless sent him to join Military Unit 30926 as a private soldier, "despite the fact that he had signed no documents and had not entered into any contract", according to the Baptist Telegram channel.

(Another conscientious objector – Pentecostal Christian Andrey Kapatsyna from Magadan – was posted to the same unit at the same time, and received and refused his orders to go to Ukraine on the same dates as Reznichenko, Forum 18 notes - see below.)

According to the court verdict, seen by Forum 18, political officer Captain A.V. Sviridenko issued Reznichenko with orders to deploy to Ukraine on the parade ground on 20 October 2022: "Not wishing to take part in combat operations, Reznichenko openly verbally refused to fulfil [them]" and explained this "by [reference to] his belonging to a religious confession which forbids the use of weapons".

On 1 November 2022 in the unit's office, Captain Sviridenko again gave him the acting commander's deployment order, offering him "the opportunity to read it for himself": "However, Reznichenko again refused to go to the zone of the special military operation."

Reznichenko's refusal to obey orders "caused substantial harm to the interests of the service", Sviridenko noted in court, "in the form of a decline in the level of military discipline and the moral-psychological condition of the troops of Military Unit 30926, [and] the undermining of the authority of the commanders of this unit, as well as the violation of the fundamental principle of unity of command and an increase in the workload of other soldiers".

Military prosecutors charged Reznichenko under Criminal Code Article 332, Part 2.1 ("Non-fulfilment by a subordinate of an order of a superior given in accordance with the established procedure, during a period of martial law, in wartime or in conditions of armed conflict or combat operations, as well as refusal to participate in military or combat operations") – specifically, on grounds of cowardice. In his verdict, however, Judge Viktor Frantsuz noted that Reznichenko had in fact been motivated by his religious beliefs.

In court, Reznichenko pleaded not guilty, stating that he had the right to alternative civilian service, given that participation in military actions goes against his religious beliefs. His lawyers argued that he had not committed a crime as he had stated from the start that he could not take up weapons because of his religious beliefs, and that he had a right to ACS.

Judge Frantsuz, however, found this to be "without validity", as Reznichenko had had no legal grounds for a deferral of mobilisation, and the replacement of military service with ACS on grounds of conscience is possible only for conscripts, not mobilised reservists. The judge also noted that the court had in an earlier ruling found Reznichenko's mobilisation to be "lawful and justified".

(Reznichenko – like other reservists seeking to avoid being deployed to Ukraine – attempted to challenge his call-up by lodging an administrative lawsuit against the military authorities on 2 December 2022. On 23 December 2022, Vladivostok Garrison Military Court refused to uphold his request to have the mobilisation order ruled unlawful. Reznichenko appealed unsuccessfully at the Pacific Fleet Military Court on 24 May 2023, according to court records.)

As a mitigating factor, the judge noted only the existence of Reznichenko's underage child. The fact that he "committed the offence during a period of mobilisation" was taken as an exacerbating factor.

Primorye Region: Reznichenko enters prison colony-settlement

After receiving instructions from the Primorye Region branch of the Federal Penitentiary Service (FSIN), Reznichenko made his own way to Colony-Settlement No. 49 in Vladivostok. His sentence will be calculated from the date of his arrival on 18 September.

Colony-settlements house first-time offenders convicted of minor and some medium-severity crimes and crimes of negligence, as well as inmates transferred with good references from general-regime and strict-regime prison camps. They have the lightest regime of all FSIN institutions – prisoners are allowed to wear civilian clothes, use money, go home for weekends (subject to official approval), and find jobs outside the settlement, and communication with and visits from relatives are unlimited. Living conditions

nevertheless vary widely between settlements.

Reznichenko's prison address is: 690074 g. Vladivostok, ul. Vyselkovaya 48, Koloniya-poseleniye ?49 GUFSSIN Rossii po Primorskomy krayu

Murmansk: Pentecostal prosecuted for refusing deployment

On 28 September, Murmansk Garrison Military Court found Maksim Vladimirovich Makushin guilty under Criminal Code Article 332, Part 2.1. Judge Vladimir Titarenko sentenced Makushin, a Pentecostal Christian and a contract soldier who has served 12 years in the Arctic port city, to 2 years and 8 months in a prison colony-settlement.

Military prosecutors charged him with "Non-fulfilment by a subordinate of an order of a superior given in accordance with the established procedure, during a period of martial law, in wartime or in conditions of armed conflict or combat operations, as well as refusal to participate in military or combat operations", because he had "refused to kill Ukrainians", an acquaintance of Makushin's, who has been following the case from outside the country, wrote on social media on 29 September.

Makushin "spoke openly of his refusal to participate in the war for religious reasons, including before a pro-Orthodox judge who ridiculed his faith", the acquaintance told Forum 18 on 2 October. He added that Makushin is currently at home awaiting his appeal hearing. Any appeal would be heard by the Northern Fleet Military Court.

Forum 18 wrote to Murmansk Garrison Military Court on 4 October, asking why it had not upheld Makushin's constitutional right to alternative civilian service, given that the Constitution should take priority over other laws. Forum 18 had received no response as of the end of the Murmansk working day of 9 October.

Murmansk Region: First sentence for refusal on religious grounds

Another regular soldier from Murmansk Region – Senior Lieutenant Dmitry Vitalyevich Vasilets (born 2 July 1995) – was the first person in Russia to be charged under the new Criminal Code Article 332, Part 2.1, in his case for refusing re-deployment to Ukraine on the basis of Buddhist beliefs he had developed while visiting a dead comrade's family in Buryatia.

Zaozersk Garrison Military Court sentenced Vasilets to 2 years and 5 months' imprisonment in a colony-settlement on 7 April 2023. The Northern Fleet Military Court upheld his conviction on 1 June 2023, but the appeal Judge reduced his sentence to 2 years and 2 months (https://www.forum18.org/archive.php?article_id=2848) to take into account psychological trauma and the fact that Vasilets had been orphaned at a young age.

Vasilets had attempted to resign from the army before the announcement of mobilisation (when contracts were made indefinite). His request was ignored, however, and his subsequent repeated refusals to return to the front lines led to prosecution.

Forum 18 wrote to the Zaozersk Garrison Military Prosecutor's Office to ask why, as he had submitted his request to leave the army before mobilisation was announced, Vasilets had not been permitted to resign, and why he had not been allowed to take on an unarmed role, given that military service went against his religious beliefs.

The Zaozersk Garrison Military Prosecutor, Colonel Maksim Goreyev, replied on 11 August, saying that Forum 18's questions had been "fully and comprehensively studied by Zaozersk Garrison Military Court and the Northern Fleet Military Court during their consideration of D.V. Vasilets administrative suit [in which Vasilets unsuccessfully challenged the army's failure to let him resign] and the criminal case against him under Criminal Code Article 332, Part 2.1".

"The courts of both instances considered the arguments that D.V. Vasilets had beliefs and circumstances preventing him from undertaking military service and carrying out the orders of commanders to be unfounded."

Magadan: Unsuccessful appeal

Andrey Andreyevich Kapatsyna (born 17 January 1995), a Pentecostal Christian from Magadan assigned to the same unit as Vyacheslav Reznichenko, also refused to be deployed to Ukraine in autumn 2022. A Vladivostok court sentenced him on 29 June 2023 to 2 years and 10 months (https://www.forum18.org/archive.php?article_id=2848) in a prison colony-settlement.

Kapatsyna appealed against the length of his sentence (which is towards the upper end of the 2- to 3-year range enshrined in Criminal Code Article 332, Part 2.1), but the Pacific Fleet Military Court upheld the lower court ruling on 17 August, according to court records. Kapatsyna has been able to return to Magadan Region to serve his sentence.

Kapatsyna's prison address is: 685918, selo Splavnaya, Khasynsky rayon, Magadanskaya oblast, FKU Koloniya-poseleniye No. 2 UFSIN Rossii po Magadanskoy oblasti.

Vladimir Region: Unsuccessful appeal

Vitaly Sergeyevich Veselov, a Christian called up in Vladimir Region, unsuccessfully attempted to have his mobilisation order ruled unlawful (https://www.forum18.org/archive.php?article_id=2848) at Vladimir Garrison Military Court in May 2023. He appealed unsuccessfully on 24 August at 2nd Western District Military Court, according to court records. It is unknown where he is currently serving. (END)

More reports on freedom of thought, conscience and belief in Russia (<https://www.forum18.org/archive.php?country=10>)

For background information, see Forum 18's survey of the general state of freedom of religion and belief in Russia (https://www.forum18.org/archive.php?article_id=2246), as well as Forum 18's survey of the dramatic decline in this freedom related to Russia's Extremism Law (https://www.forum18.org/archive.php?article_id=2215)

A personal commentary by the then Director of the SOVA Center for Information and Analysis (<https://www.sova-center.ru>), Alexander Verkhovsky, about the systemic problems of Russian "anti-extremism" laws (https://www.forum18.org/archive.php?article_id=1468)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (https://www.forum18.org/archive.php?article_id=1351)

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