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UKRAINE: Two new conscientious objector jail terms

By Felix Corley, Forum 18 (<https://www.forum18.org>)

In late March a Lviv Region court sentenced Protestant conscientious objector Serhy Stadnitsky to a 3-year jail term for refusing mobilisation on grounds of conscience. "I don't want to kill people," he told Forum 18, adding that "of course" he would be willing to perform alternative civilian service. Two days later, a Sumy Region court handed a Jehovah's Witness a similar sentence. Both are due to go to prison if their appeals fail. The one known prisoner, Dmytro Zelinsky, awaits a Supreme Court appeal on 13 June.

In separate cases in late March, courts handed two conscientious objectors to mobilisation 3-year jail terms. Both men have lodged appeals, Protestant conscientious objector Serhy Stadnitsky to Lviv Appeal Court, the other – a Jehovah's Witness - to Sumy Appeal Court. Both are due to go to prison if their appeals fail. The one conscientious objector known to be already in prison serving a 3-year term, Seventh-day Adventist Dmytro Zelinsky, is awaiting a cassational appeal at the Supreme Court in Kyiv on 13 June.

"I don't want to kill people," Stadnitsky told Forum 18. He said that "of course" he would be willing to perform an alternative civilian service. "In our church we have been helping people already, such as drug addicts and alcoholics, even before the war" (see below).

Jehovah's Witnesses note that the March sentence is the first prison term handed down to any Jehovah's Witness for refusing mobilisation on grounds of conscience. They point out that this case was initiated and the first-instance court handed down a sentence within about five weeks (see below)

In all, 24 conscientious objectors are known to have been brought to criminal trial for refusing mobilisation since Russia launched its fullscale invasion of Ukraine in February 2022. As well as the 3 jail terms, 11 conscientious objectors are serving suspended sentences on probation. Prosecutors are appealing against 3 acquittals. A total of 7 criminal prosecutions are in court (see below).

All 24 men expressed a willingness to perform alternative civilian service. However, the authorities insist this option is not available under martial law (see below).

The government claimed to three United Nations special rapporteurs in January 2024 that bringing the alternative service law into line with the Constitutional right to alternative service is "under the close attention" of the Parliamentary Human Rights Commissioner. It said the Commissioner "considers it necessary" to amend the current law or "adopt a new version". It added: "The possibility for citizens to perform alternative (non-military) service for the period of martial law is also in the focus of the Government" (see below).

Baptist conscientious objectors Ernest Pavlenko and Ilya Nikolenko were forcibly taken to a military unit in Zhytomyr Region. "Appropriate measures will be taken against them," an official of the regional department of the Military Law-Enforcement Service told Forum 18. "Whether they will face criminal prosecution depends on how they behave." Asked why they cannot be released and allowed to do an alternative civilian service as they have requested, the official responded: "Because there's a war" (see below).

No alternative civilian service in wartime despite Constitutional guarantees

After Russia's renewed invasion of Ukraine began in February 2022, Ukraine declared a state of martial law. All men between the ages of 18 and 60 were deemed eligible for call-up in a general mobilisation and were banned from leaving the country. Ukraine's Defence Ministry insists that even the limited alternative service allowed in peacetime does not exist during wartime (https://www.forum18.org/archive.php?article_id=2830).

Under a 10 November 1999 Cabinet of Ministers Decree, only men who belonged to 10 specified religious communities that the state regards as pacifist (https://www.forum18.org/archive.php?article_id=2810) were allowed to opt for alternative civilian service. Men who were not members of any of these 10 communities were not eligible to apply for alternative service.

In practice, conscientious objectors to military service have long faced obstacles to doing alternative civilian service (<https://ebco-beoc.org/ukraine>). The United Nations (UN) Human Rights Committee in its 9 February 2022 Concluding

Observations on Ukraine (CCPR/C/UKR/CO/8 (<https://undocs.org/CCPR/C/UKR/CO/8%20CCPR/C/UKR/CO/8>)) stressed that "alternatives to military service should be available to all conscientious objectors without discrimination as to the nature of their beliefs justifying the objection (be they religious beliefs or non-religious beliefs grounded in conscience)".

Article 35 of Ukraine's Constitution includes the provision: "If the performance of military duty contradicts the religious beliefs of a citizen, the performance of this duty shall be replaced by alternative (non-military) service."

Those who refuse mobilisation on grounds of conscience face prosecution under Criminal Code Article 336 ("Refusing call-up for military service during mobilisation or in a special period, and for military service during call-up of reservists in a special period"). The punishment is a jail term of three to five years.

UN Special Rapporteurs' concerns

On 8 November 2023, three United Nations Special Rapporteurs - on the rights to freedom of peaceful assembly and of association, Clement Nyaletsossi Voule; on minority issues, Nicolas Levrat; and on freedom of religion or belief, Nazila Ghanea - wrote to the Ukrainian government (AL UKR 1/2023 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28562>)).

Among the concerns the rapporteurs raised was the suspension during martial law of even the limited access to alternative service. They asked how this "is compatible with the right to conscientious objection to military service derived from article 18 of the ICCPR".

"We are also concerned about the prosecution of persons who refuse to perform the compulsory military service based on reasons of conscientious objections, including those who are involved in advocating the right to conscientious objection to military service," the rapporteurs wrote. In the cases of Andrii Vyshnevetsky and Vitaly Alekseenko, they asked what measures are being taken to ensure that their right to freedom of religion or belief is being respected.

In its 22 January 2024 response (<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38094>) to the UN special rapporteurs, the Ukrainian government noted that "the right to alternative (non-military) service provided for by Ukrainian legislation is not currently being exercised, as martial law has been introduced throughout Ukraine".

The government claimed that bringing the alternative service law (which does not operate during martial law) into line with the Constitutional right to alternative service is "under the close attention" of the Parliamentary Human Rights Commissioner (Ombudsperson) Dmytro Lubinets. It claimed that the Commissioner "considers it necessary" to amend the current law or "adopt a new version".

The government insisted: "The possibility for citizens to perform alternative (non-military) service for the period of martial law is also in the focus of the Government". Prime Minister Denys Shmyhal "instructed ministries and departments to work on the possibility of regulating the performance of military duty under martial law and replacing it with alternative (non-military) service," the response maintained. "This issue is currently under consideration."

On the morning of 30 April, Forum 18 asked Viktor Yelensky, head of the State Service for Ethnic Policy and Freedom of Conscience:

- why jail terms and trials continue for those who cannot serve in the military on grounds of conscience and who have expressed willingness to perform alternative civilian service;

- and what progress there has been on introducing an alternative civilian service where individuals can, for example, work in a hospital.

Forum 18 had received no response by the end of the working day in Kyiv of 30 April. Yelensky has been pushing for all conscientious objectors to be allowed to do alternative civilian service (see below).

On the morning of 30 April, Forum 18 asked the office of Parliamentary Human Rights Commissioner Lubinets:

- what the Commissioner has done or is doing to protect the rights of conscientious objectors who are subject to criminal prosecution;

- and what the Commissioner has done or is doing to help introduce an alternative civilian service during martial law in line with Article 35 of the Constitution.

Forum 18 had received no response by the end of the working day in Kyiv of 30 April.

Conscientious objection "a non-derogable right"

The UN Office of the High Commissioner for Human Rights (OHCHR) has noted that conscientious objection to military service comes under ICCPR Article 18 ("Freedom of thought, conscience and religion") and has recognised (<https://www.ohchr.org/en/conscientious-objection>) "the right of everyone to have conscientious objection to military service as a legitimate exercise of the right to freedom of thought, conscience and religion".

The OHCHR has also noted in its Conscientious Objection to Military Service guide (<https://www.ohchr.org/en/publications/special-issue-publications/conscientious-objection-military-service>) that Article 18 is "a non-derogable right .. even during times of a public emergency threatening the life of the nation".

In 2022 the UN Working Group on Arbitrary Detention stated (WGAD-HRC50 (<https://www.ohchr.org/sites/default/files/2022-05/WGAD-HRC50.pdf>)) that "the right to conscientious objection to military service is part of the absolutely protected right to hold a belief under article 18 (1) of the Covenant, which cannot be restricted by States". The Working Group also stated that "States should refrain from imprisoning individuals solely on the basis of their conscientious objection to military service, and should release those that have been so imprisoned."

5 jail terms (one in force), 11 suspended sentences, 3 acquittals and 7 cases in court

At least 24 conscientious objectors have faced criminal cases that have reached court (https://www.forum18.org/archive.php?article_id=2836) since February 2022. Others are under investigation.

Courts are known to have handed down 5 jail terms, of which 1 is in force and 2 are awaiting appeal:

- 15 September 2022, Vitaly Alekseenko, Ivano-Frankivsk, one-year jail term (overturned by Supreme Court and sent for new trial – see below);
- 6 April 2023, Mykhailo Yavorsky, Ivano-Frankivsk, one-year jail term (changed to suspended sentence on appeal – see below);
- 28 August 2023, Dmytro Zelinsky, Ternopil, three-year jail term (currently imprisoned – see below);
- 26 March 2024, Serhy Stadnitsky, Chervonohrad, three-year jail term (at home awaiting appeal – see below);
- 28 March 2024, S.I., Bilopilnya, three-year jail term (at home awaiting appeal – see below).

Courts are known to have handed 11 conscientious objectors suspended prison sentences and terms of probation:

- 18 May 2022, Andrii Kucher, Mukachevo, suspended 4-year jail term;
- 21 June 2022, Dmytro Kucherov, Oleksandriia (Kirovohrad Region), suspended 3-year jail term;
- 17 August 2022, Oleksandr Korobko, Mukachevo, suspended 3-year jail term;
- 22 August 2022, Maryan Kapats, Mukachevo, suspended 3-year jail term;
- 2 December 2022, Andrii Martiniuk, Snyatin (Ivano-Frankivsk Region), suspended 3-year jail term;
- 3 February 2023, Hennady Tomniuk, Ivano-Frankivsk, suspended 3-year jail term (which the prosecutor failed to turn into a prison sentence on appeal);
- 5 September 2023, Roman Vengerov, Tulchyn (Vinnitsa Region), suspended 3-year jail term;
- 2 October 2023, Mykhailo Yavorsky, Ivano-Frankivsk, suspended 3-year jail term (https://www.forum18.org/archive.php?article_id=2871) (changed from one-year jail term)
- 19 October 2023, Artyom Kravtsov, Pervomaisk District (Mykolaiv Region), suspended 4-year jail term (https://www.forum18.org/archive.php?article_id=2871);
- 24 October 2023, Volodymyr Ukhal, Tyachiv, suspended 4-year jail term (which the prosecutor is appealing against – see below);
- 13 December 2023, Vitaly Alekseenko, Ivano-Frankivsk, suspended 3-year jail term (second trial after jail term overturned – see below).

Courts are known to have handed down 3 acquittals, which prosecutors are appealing against:

- 20 March 2023, V.S., Tyachiv (see below);
- 24 May 2023, P.R., Tyachiv (see below);
- 10 January 2024, S.T., Boryspil (see below).

Courts are known to be hearing 7 cases:

- Chortkiv (Ternopil Region), V.M. (see below);
- Poltava, A.N. (see below);
- Boryspil (Kyiv Region), I.S. (see below);
- Chuhuiv (Kharkiv Region), V.P. (see below);
- Ivanitsi, O.T. (see below);
- Synelnykove (Dnipropetrovsk Region), D.Sh. (see below);
- Sakhnovshchina (Kharkiv Region), Kostyantyn Chovgan (see below).

Supreme Court rejects suit for alternative service during martial law

In April 2023, conscientious objector Andrii Vyshnevetsky (who had been forcibly mobilised) asked the Supreme Court in Kyiv (https://www.forum18.org/archive.php?article_id=2836) to order President Volodymyr Zelensky to determine a procedure to allow individuals to exercise the right to conscientious objection to military service in line with Article 35 ("Freedom of beliefs and religion") of the Constitution, Article 18 (<https://www.refworld.org/docid/453883fb22.html>) ("Freedom of Thought, Conscience or Religion") of the International Covenant on Civil and Political Rights (ICCPR), and Article 9 (https://www.echr.coe.int/documents/guide_art_9_eng.pdf) ("Freedom of thought, conscience and religion") of the European Convention on Human Rights.

On 22 February 2024, the Grand Chamber of the Supreme Court rejected Vyshnevetsky's suit. It ruled that the actions of the President within the powers exercised by the executive are not subject to judicial oversight, according to the decision seen by Forum 18.

Vyshnevetsky is still working in a military kitchen. "Of course I'm not happy that I am here," he told Forum 18 on 30 April.

Official attempts to widen alternative service to all conscientious objectors

Viktor Yelensky, head of the State Service for Ethnic Policy and Freedom of Conscience, has told Forum 18 that he has been pushing for all conscientious objectors to be allowed to do alternative civilian service. "All my efforts have been rejected," he told Forum 18 from Kyiv on 3 May 2023 (https://www.forum18.org/archive.php?article_id=2830). "It is really not easy to reach this goal when we have such heavy losses in battle."

Yelensky said he was going to talk to the Parliamentary Human Rights Commissioner (Ombudsperson) Dmytro Lubinets to press for the right to conscientious objection to be extended to the mobilisation period.

Yelensky also noted that he has been unable to have the right to alternative civilian service in peacetime to be extended to all conscientious objectors, rather than just to members of 10 specified religious communities (https://www.forum18.org/archive.php?article_id=2810). "But I can't convince law-makers and military people."

Yelensky - then a member of parliament - was among the co-sponsors of a draft law submitted in June 2017 which would have made alternative service easier to access during wartime mobilisation. Ukraine's Permanent Mission to the United Nations in Geneva told the UN High Commissioner for Human Rights on 7 December 2018 (<https://www.ohchr.org/sites/default/files/Documents/Issues/RuleOfLaw/ConscientiousObjection/2019/Ukraine.pdf>) that the draft law "widens possibilities for exercising rights to freedom of thought, conscience and religion by determining the procedure for citizens' participation in alternative service during the mobilization and recruitment of Ukrainian citizens for regular military service in a special period".

However, parliament never considered the 2017 draft law (https://www.forum18.org/archive.php?article_id=2810) and it was

automatically dropped when elections were called in 2019.

Stadnitsky: Appeal against 3-year jail term

Protestant conscientious objector Serhy Igorovych Stadnitsky (born 1990) is due to go to prison for three years if his appeal to Lviv Appeal Court fails. On 26 March, Judge Andry Zhurakovsky of Chervonohrad Town Court found him guilty under Criminal Code Article 336 for refusing mobilisation on grounds of conscience. The Judge handed down a 3-year jail term, according to the decision seen by Forum 18. The verdict enters into force only after any appeal has been heard.

Officials at Chervonohrad Area Prosecutor's Office – which brought the case to court – did not answer the phone on 30 April.

On 23 April, Stadnitsky's state-appointed lawyer lodged an appeal to Lviv Appeal Court, Stadnitsky told Forum 18 on 24 April.

Stadnitsky has since 2018 been a member of a small Protestant church led by Pastor Stepan Feshchenko which meets in the village of Korchyn in Lviv Region in western Ukraine. He was baptised in 2023. Pastor Feshchenko's church retains friendly links with Agapa Pentecostal Church in Lviv, which is led by Pastor Andry Mikitishin.

"I don't want to kill people," Stadnitsky told Forum 18. "When I was baptised I formed a covenant with Christ to conduct myself like Christ." He said that "of course" he would be willing to perform an alternative civilian service. "In our church we have been helping people already, such as drug addicts and alcoholics, even before the war."

Stadnitsky passed the medical examination on 17 August 2023 and the Recruitment Office ordered him to arrive the following morning to be taken to a military unit. He did not attend.

Investigators opened a criminal case against Stadnitsky on 6 December 2023. Police investigators searched Stadnitsky's home on 28 December 2023. Chervonohrad Area Prosecutor's Office handed the criminal case to court on 2 January 2024.

Two Recruitment Office officials claimed in court that Stadnitsky had not applied for alternative service. "I wanted to submit a written application for alternative service, but they didn't even listen when I spoke about this verbally," Stadnitsky told Forum 18. "Instead they tried to intimidate me and said they would send me to the worst unit."

Stadnitsky feared that had he submitted a written application for alternative civilian service, Recruitment Office officials might have taken him immediately to a military unit.

Pastor Feshchenko spoke at Stadnitsky's trial in his defence. "We support Serhy in the decision that he has taken and his rights under Article 35 of our Constitution," he told Forum 18 from Korchyn on 18 April. "We are not against helping our country, but in accordance with our convictions, anywhere except in the army." He pointed out that Stadnitsky expressed his willingness to perform an alternative, civilian service.

Pastor Mikitishin also supports Stadnitsky, who occasionally came to Agapa Church in Lviv. "Our church position is that everyone must help [during the war], but in a way that is in accordance with their faith," he told Forum 18 from Lviv on 17 April. He noted that some church members were fighting in the army, while others have sought an alternative civilian service. "But there is no opportunity, no law to do so."

First Jehovah's Witness conviction and 3-year jail term

Jehovah's Witness conscientious objector S.I. is due to go to prison for three years if his appeal to Sumy Appeal Court fails. On 22 February, police initiated proceedings against him under Criminal Code Article 336. On 1 March, prosecutors handed the case to Bilopilnya District Court, with Prosecutor Ruslan Tyutchenko leading the case at trial. On 28 March, Judge Anna Zamchenko convicted him and handed down a 3-year jail term, according to the verdict seen by Forum 18.

Officials at Bilopilnya Prosecutor's Office did not answer the phone on 30 April.

The decision enters legal force only after any appeal has been heard and S.I. has not been taken into custody. His lawyer has filed an appeal. No hearing at Sumy Appeal Court has yet been scheduled, Jehovah's Witnesses told Forum 18.

The Recruitment Office summoned S.I. on 6 February. A medical commission found him fit for service. On 14 February, the Recruitment Office ordered him to appear on 24 February to be sent to a military unit. On 14 February, he wrote to the head of the Recruitment Office explaining that he could not perform military service on grounds of conscience and asking to be assigned to an alternative civilian service, according to the verdict.

The individual was "warned of criminal liability for evading military service and it was explained to him that the current legislation does not provide for alternative service during mobilisation," the verdict cites a Recruitment Office official as having told S.I. "In

addition, the witness added that the fact that the accused became a member of a religious organisation after the introduction of martial law in Ukraine suggests that he did it on purpose."

S.I. began studying with Jehovah's Witnesses in 2020 and was baptised in November 2023.

Jehovah's Witnesses note that this is the first prison term handed down to any Jehovah's Witness for refusing mobilisation on grounds of conscience. They point out that this case was initiated and the first-instance court handed down a sentence within about five weeks.

Jehovah's Witnesses stress that their young men are prepared to perform an alternative civilian service. They also note that Jehovah's Witnesses in neighbouring Russia (where the community has been banned as "extremist" (https://www.forum18.org/archive.php?article_id=2897)) do not participate on grounds of conscience in Russia's war against Ukraine.

Ukhal: Prosecutor appeals against suspended sentence

The suspended sentence imposed on Orthodox conscientious objector Volodymyr Volodymyrovich Ukhal (born 1992) could be overturned on appeal and a harsher sentence imposed. On 24 October 2023, Tyachiv District Court found him guilty under Criminal Code Article 336. The Judge handed him a four-year jail term suspended for three years (https://www.forum18.org/archive.php?article_id=2871).

However, Tyachiv District Prosecutor's Office appealed against the verdict. Transcarpathia Appeal Court accepted the prosecutor's appeal on 30 November 2023, according to the decision seen by Forum 18. The Court later set the appeal hearing for the morning of 5 June 2024, according to court records. The panel of three judges is due to be headed by Judge Ivan Feer.

Prosecutors appeal against 3 acquittals

On 4 March 2022, police initiated proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector V.S. On 20 March 2023, Tyachiv District Court acquitted him (https://www.forum18.org/archive.php?article_id=2836). The prosecutor filed an appeal (https://www.forum18.org/archive.php?article_id=2871). Transcarpathia Appeal Court is due to hold the next hearing on 20 May 2024.

On 4 March 2022, police initiated proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector P.R. On 24 May 2023, Tyachiv District Court acquitted him (https://www.forum18.org/archive.php?article_id=2836). The prosecutor filed an appeal (https://www.forum18.org/archive.php?article_id=2871). Transcarpathia Appeal Court is due to hold the next hearing on 24 July 2024.

An official from the Prosecutor's Office – who did not give his name – refused to discuss with Forum 18 in November 2023 (https://www.forum18.org/archive.php?article_id=2871) why it had appealed against the acquittals. Prosecutor Yaroslav Nitka – who lodged one of the appeals - likewise refused to say. "The court is going to make the decision and I cannot discuss the case," he told Forum 18.

On 14 June 2023, police in Boryspil in Kyiv Region initiated proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector S.T. On 10 January 2024, Judge Serhy Voznyuk of Boryspil Town and District Court acquitted him, according to the verdict seen by Forum 18.

S.T. had argued that Article 35 of the Constitution protected his right to apply for alternative civilian service and that Jehovah's Witnesses are among the 10 communities recognised as being a pacifist community whose members were allowed to apply for alternative civilian service (https://www.forum18.org/archive.php?article_id=2810).

The prosecutor has filed an appeal. Kyiv Region Appeal Court is due to hold the next hearing on 8 May 2024, Jehovah's Witnesses told Forum 18.

S.T. had performed military service between 1993 and 1994, but became a baptised Jehovah's Witness in 1998. He told the Recruitment Office that he was ready to perform an alternative civilian service.

Six trials of Jehovah's Witnesses underway

On 13 December 2022, police in Poltava initiated criminal proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector A.N. The trial is in progress with the next hearing scheduled for 27 June 2024.

On 5 April 2023, police in Chuhuiv in Kharkiv Region initiated criminal proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector V.P. The trial is in progress with the next hearing scheduled for 26 June 2024.

On 13 April 2023, police in Chortkiv initiated criminal proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector V.M. The trial is in progress with the next hearing scheduled for 27 June 2024.

On July 25, 2023, the police in Boryspil in Kyiv Region initiated criminal proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector I.S. The trial is in progress with the next hearing scheduled for 14 May 2024.

On 5 January 2024, the police in Ivanitsi initiated criminal proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector O.T. The trial is in progress with the next hearing scheduled for 2 May 2024.

On 9 February 2024, the court in Synelnykove in Dnipropetrovsk Region started criminal proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector D.Sh. The next hearing is scheduled for 31 July 2024.

Chovgan: Trial due to begin on 24 May

Council of Churches Baptist conscientious objector Kostyantyn Volodymyrovych Chovgan (born 23 June 1971) is awaiting trial under Criminal Code Article 336 for refusing mobilisation on grounds of conscience. Judge Oleksandr Zimovsky of Sakhnovshchina District Court in Kharkiv Region is due to begin hearing his case on 24 May, according to court records.

Since 2022, Chovgan has been a member of the Council of Churches Baptist church in the town of Pervomaisk.

Sakhnovshchina Recruitment Office summoned Chovgan on 17 November 2023, despite the fact that his wife is a second-category disabled person for whom he is the carer. The Recruitment Office refused to accept his explanation of his conscientious objection to serving in the military and request to defer his recruitment because of his caring role. He and his lawyer had to submit the request by post.

"Representatives of the Recruitment Office ignored his request for a postponement from mobilisation based on religious beliefs," local Baptists noted on 26 December 2023, "and referred his case to investigative bodies."

Officials launched a criminal case against Chovgan under Article 336, even though on 30 December 2023 they granted a deferment of his mobilisation for one year. In February 2024, officials notified Chovgan of the criminal case against him, he told Forum 18 on 26 April. He tried unsuccessfully to challenge the criminal case in court.

"I didn't hide – I'm a Baptist," Chovgan told Forum 18. He said he reminded officials of his right to an alternative civilian service under the Constitution's Article 35, "but they look at you as though you're just making it up".

Zelinsky: Cassational Appeal at Supreme Court

Seventh-day Adventist conscientious objector Dmytro Bronislavovich Zelinsky (born 16 March 1978) is serving a three-year jail term (https://www.forum18.org/archive.php?article_id=2871) under Criminal Code Article 336.

On 5 June 2023, Kremenets District Court acquitted Zelinsky. However, Prosecutor Oleksandr Yanyuk appealed against the acquittal to Ternopil Appeal Court. On 28 August 2023, a panel of three Judges at Ternopil Appeal Court overturned the acquittal and handed down the three-year jail term.

Zelinsky lodged a cassational appeal to the Criminal Division of the Supreme Court in Kyiv in November 2023. After his lawyer corrected mistakes the Supreme Court claimed to find in the appeal, the Court accepted the case on 1 December 2023, according to court records.

A hearing in Zelinsky's appeal is due on the afternoon of 13 June 2024, according to court records. On 8 January, a judge at the Supreme Court ordered the head of Prison No. 41 in Kolomyia in Ivano-Frankivsk Region to ensure he is transferred to Kyiv Pre-trial Detention Centre in time for the hearing.

"Officials 'by chance', 'by mistake', transferred Dmytro to Kyiv earlier this year, taking one and a half months via 4 prisons on the way and 3 on the way back," fellow church member Iryna Zhukova told Forum 18 on 23 April. "He's now back in Prison No. 41 until 5 May."

Yavorsky: Cassational Appeal at Supreme Court

On the afternoon of 2 May, the Supreme Court in Kyiv, with Judge Leonid Loboyko presiding, is due to hear the cassation appeal of Christian conscientious objector Mykhailo Yosypovych Yavorsky (born 3 June 1983). "The hearing must be open. Come watch or at least pray for justice," Yurii Sheliashenko of the Ukrainian Pacifist Movement noted on 30 April, describing it as a "landmark case".

On 6 April 2023, Ivano-Frankivsk City Court handed Yavorsky a one-year jail term for refusing mobilisation on grounds of conscience. Both he and the prosecutor appealed. On 2 October 2023, Ivano-Frankivsk Appeal Court changed the one-year prison term to a three-year prison term suspended for one year (https://www.forum18.org/archive.php?article_id=2871).

Kalenchuk: Criminal case launched

On 16 February, prosecutors launched a criminal investigation into Baptist conscientious objector Volodymyr Viktorovych Kalenchuk (born 29 December 1975) under Criminal Code Article 336. On 13 March, police summoned him, and officers handed him a notice that he was now a suspect. They then took him to the Prosecutor's Office, where prosecutors told him that his case would be sent to Chervonoarmysky District Court in Pulyny, Council of Churches Baptists noted the same day.

Kalenchuk was baptised in September 2015. He is a member of the Council of Churches Baptist congregation in the village of Kurne in Zhytomyr Region.

The Recruitment Office repeatedly summoned Kalenchuk. "Each time he declared that he was a Christian and could not take up arms," Baptists noted on 13 March. "He also repeatedly submitted documents that testify to his religious beliefs and requested that, in accordance with Article 35 of Ukraine's Constitution, he be given the opportunity to fulfil his civic duty performing non-military service, because brother Volodymyr has no intention of evading the fulfilment of his civic duty."

Prosecutors have not yet sent Kalenchuk's case to court, a local Baptist told Forum 18 on 26 April.

Alekseenko: Appeal to overturn suspended sentence fails

Christian conscientious objector Vitaly Vasilovich Alekseenko (https://www.forum18.org/archive.php?article_id=2871) (born 2 December 1976) failed in his attempt to overturn his second conviction for refusing mobilisation on grounds of conscience. On 6 March, a panel of judges headed by Fedir Shigirt of Ivano-Frankivsk Appeal Court rejected his appeal against the 13 December 2023 Ivano-Frankivsk City Court suspended sentence, according to the verdict seen by Forum 18. The verdict also rejected the appeal lodged by Prosecutor Yevhen Zhuravlyov.

Ivano-Frankivsk City Court sentenced Alekseenko to 3 years' imprisonment, to be suspended with a probation period of 18 months, according to the verdict seen by Forum 18. He is living under restrictions for this period and will go to prison only if he fails to report regularly or violates any probation provisions.

Alekseenko is preparing to lodge a further appeal to the Supreme Court in Kyiv, he told Forum 18 on 24 April.

At his first trial, Ivano-Frankivsk City Court handed Alekseenko a one-year jail term (https://www.forum18.org/archive.php?article_id=2803) on 15 September 2022. However, on 25 May 2023 the Supreme Court overturned the conviction (https://www.forum18.org/archive.php?article_id=2836) and sent the case for a new trial.

Two conscientious objectors taken to army

On 9 April, two Council of Churches Baptist conscientious objectors were taken to the Recruitment Office in Odessa Region. Ernest Andreyevich Pavlenko (born 20 March 1993) is a member of the church in Kovel; and Ilya Vitalievich Nikolenko (born 22 November 1997) is a member of the church in Sumy. Both were baptised more than a decade ago.

Officials took Pavlenko and Nikolenko to a military unit in Zhytomyr Region. On 13 April the two men told the military that they could not take up weapons because of their religious convictions. They following day they told them that they could not swear the military oath either because of their religious convictions.

On 15 April, officials told Pavlenko and Nikolenko they were taking them to the police, apparently to prepare cases against them. However, the officials instead pressured the two men to try to force them to change their mind, local Baptists noted.

"The church members announced their religious convictions at the Recruitment Office from the very start," local Baptists noted on 15 April. "But this wasn't taken into account, and each time they were told: 'You can talk about this later.' Pressure is repeatedly being put on them."

Baptists noted on 17 April that after fellow-believers sent petitions to the authorities, officials eased pressure on Pavlenko and Nikolenko. However, they noted that officials have not acceded to the young men's request to be transferred to an alternative civilian service.

Baptists point out that although under martial law the provisions of the Alternative Service Law have been suspended, the rights under Article 35 of the Constitution have not.

Pavlenko and Nikolenko are being held in a military unit in Zhytomyr Region, an official of the regional department of the Military Law-Enforcement Service told Forum 18 on 30 April. "Appropriate measures will be taken against them," he added. "Whether they will face criminal prosecution depends on how they behave."

Asked why Pavlenko and Nikolenko cannot be released and allowed to do an alternative civilian service as they have requested, the official responded: "Because there's a war. They need to defend their country which has been attacked."

Baptists complain of Recruitment Office "pressure"

At least 10 other Council of Churches Baptist conscientious objectors have faced pressure to accept mobilisation since late 2023 after being summoned or forcibly taken to Recruitment Offices. Most have been threatened with cases under Criminal Code Article 336.

Among them, 42-year-old Council of Churches Baptist conscientious objector Oleksandr Borodin from Zaporizhzhia complained that Recruitment Office staff repeatedly summoned him in early 2024. He submitted to the Recruitment Office a written request to be able to perform an alternative civilian service in line with his rights under Article 35 of Ukraine's Constitution. However, the Recruitment Office rejected this on 27 February.

One employee filmed Borodin on 5 March as he answered "tricky" questions as to why he cannot serve in the military on grounds of conscience. Baptists feared that the video could be edited to provide a distorted account of his testimony.

"Oleksandr Borodin has repeatedly stated his religious beliefs that he cannot take up arms and has repeatedly asked to replace military service with non-military service, without refusing or evading his civilian obligations," members of Zaporizhzhia Council of Churches Baptist congregation complained to the Recruitment Office in early March.

"However, he has been and is constantly subjected to unlawful pressure from Berdyansk Recruitment Office staff to sign papers refusing military service. This is discriminatory and violates the constitutional rights of Ukrainian citizens."

No criminal case has yet been launched against Borodin, a Baptist told Forum 18 from Zaporizhzhia on 26 April.

Case dropped, exemption on medical grounds

On 2 September 2022, police in Ternopil initiated proceedings under Criminal Code Article 336 against Jehovah's Witness conscientious objector P.A. On 14 September 2022, the investigative judge imposed house arrest (from 10 pm till 6 am) as a measure of restraint, Jehovah's Witnesses told Forum 18.

On 12 January 2023, the administrative court upheld P.A.'s complaint against the Recruitment Office for drafting him despite his being medically unfit. The Recruitment Office appealed against this decision. On 19 July 2023, the Administrative Court of Appeal reaffirmed it was unlawful to register P.A. for military service because he was medically unfit. In view of the decision, the prosecutor dropped the criminal charges.

On 21 December 2023, Ternopil City and District Court supported the prosecutor's decision and closed the criminal case. The ruling has entered into force. (END)

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