



COI QUERY

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Main subject	Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022)
Question(s)	<ol style="list-style-type: none">1. Context2. Overview of military service in Russian Federation3. Legislation4. Russian censorship of war reporting and limits on information5. Evidence of desertion in Ukraine6. Reports of arrests and prosecutions under the Criminal Code7. Rosgvardiya
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The information provided in this response has been researched, evaluated and processed with utmost care within a limited time frame. All sources used are referenced. A quality review has been performed in line with the above mentioned methodology. This document does not claim to be exhaustive neither conclusive as to the merit of any particular claim to international protection. If a certain event, person or organisation is not mentioned in the report, this does not mean that the event has not taken place or that the person or organisation does not exist. Terminology used should not be regarded as indicative of a particular legal position.

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The target audience is caseworkers, COI researchers, policy makers, and decision-making authorities. The answer was finalised on 5 April 2022. Any event taking place after this date is not included in this answer.



COI QUERY RESPONSE

Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine; punishments under the law; information on incidents reported in the media involving deserters in Russia; situation and treatment of returnee deserters to the Russian Federation (1 February 2022 - 4 April 2022)

1. Context

On 24 February 2022, military forces of the Russian Federation invaded Ukrainian territory in an act deemed by the UN General Assembly to be an act of aggression,¹ creating the largest refugee crisis in Europe since World War Two,² with over 4.2 million having fled as of 2 April 2022.³ There have been reports of desertion or refusal to follow orders by some members of Russian forces during the course of the invasion,⁴ reportedly increasingly in March 2022, according to Ukrainian military sources.⁵

Information on the situation and treatment of Russian military deserters was scarce amongst the sources consulted by EUAA within the time constraints of this response.

Information on the treatment of deserters who returned to the Russian Federation after deserting or evading service could not be found among the sources consulted by the EUAA during the time constraints of this query.

2. Overview of military service in the Russian Federation

All Russian males between 18 and 27 years old must serve for one year in the military, and recruitment campaigns are held annually in spring and fall. Evading conscription is punishable by fines and imprisonment.⁶ The Institute for the Study of War (ISW) published an explanatory document about Russian conscription, reserve forces, and mobilization on 5 March 2022, which explains:

The Russian military is a hybrid format combining a traditional cadre-and-reserve conscript system and a contract-professional system. While the Russian Army has made efforts to professionalize its ranks, particularly in the last 15 years, it remains reliant on conscripts, both for its active-duty force and for its reserve forces in the event of general mobilization. Most combat units must be filled out by conscripts or

¹ Al Jazeera, UN Resolution against Ukraine invasion: full text, 3 March 2022, [url](#)

² New York Times (The), Putin knows what he's doing with Ukraine's refugees, 1 April 2022, [url](#)

³ UNHCR, Ukraine Refugee Situation [as of 2 April 2022], n.d., [url](#)

⁴ BBC, Ukraine war: Putin being misled by fearful advisers, US says, 1 April 2022, [url](#); ISW, Russian Offensive Campaign Assessment, 12 March 2022, [url](#), p. 3; Times (The), Russian forces retreating and deserting, Ukraine claims, 23 March 2022, Factiva

⁵ ISW, Russian Offensive Campaign Assessment, 12 March 2022, [url](#), p. 3; ISW, Russian Offensive Campaign Assessment, 17 March 2022, [url](#), p. 1

⁶ Washington Post (The), As Russia drafts young men, some fear ending up on Ukraine's front line, 2 April 2022, Factiva



mobilized reservists in order to be combat-capable. Contract soldiers are concentrated in the cadre and elite units, especially the airborne units. (...) The Russians have already used many cadre-and-reserve units in Ukraine, and they have not performed well against the Ukrainians, with some units suffering heavy losses.

The Russian Armed Forces conscript men semi-annually, with the fall draft lasting from October 1 until December 31 and the spring draft running from April 1 until July 15. In 2022, the Kremlin announced the spring draft early on February 18. The draft affects all men aged 18 to 27 years old, though some conscripts can be as young as 16 years old. Russian conscripts typically serve one year. The annual conscription pool of all Russian military-aged men is approximately 1.2 million people, though only about half are compelled to present themselves at their local military commissariat (voenkomat). The Russian General Staff reported conscripting 127,000 people for the fall 2021 draft and 134,000 people in spring 2021 out of 672,000 summoned men. The number of conscripts is relatively consistent year on year, with 263,000 in 2020 and 267,000 in 2019. Approximately 261,000 conscripts from 2021 are currently serving across Russian units, with the fall 2021 conscripts entering their third month of training.

New conscripts undergo a one- to two-month basic training, followed by three-to-six months of advanced training before arriving at their assigned units. Current law precludes conscripts from deploying to combat with less than four months of training; however, martial law or general mobilization could supersede the current policy, allowing for the immediate employment of new conscripts or mobilized reservists. Some of the fall 2021 conscripts are likely already serving in units fighting in Ukraine.⁷

The Russian government denied sending conscripts to fight in Ukraine and there have been allegations that some were forced to sign military contracts allowing them to be sent into combat.⁸ The Kremlin later admitted conscripts were being used.⁹

On 2 April, the Kremlin launched its annual spring draft campaign, aiming to recruit 134 500 new recruits and sparking fears of new conscripts being sent to Ukraine, despite statements by the government that they would not be sent into combat, with many reaching out to NGOs for legal support to avoid service.¹⁰

ISW stated that in addition to conscripts, Russia claimed to have over two million former conscripts and contracted servicemen, but that ‘few are actively trained or prepared for war’, while there is ‘limited information on how many reservists have returned to military service.’¹¹

⁷ ISW, Explainer on Russian Conscription, Reserve, and Mobilization, 5 March 2022, [url](#)

⁸ AP, Ukraine war fuels fears among draft-age Russian youths, 1 April 2022, [url](#); Politico, What the use Russian conscripts tells us about the war in Ukraine, 17 March 2022, [url](#); Washington Post (The), As Russia drafts young men, some fear ending up on Ukraine’s front line, 2 April 2022, Factiva

⁹ Politico, What the use Russian conscripts tells us about the war in Ukraine, 17 March 2022, [url](#); Washington Post (The), As Russia drafts young men, some fear ending up on Ukraine’s front line, 2 April 2022, Factiva

¹⁰ Washington Post (The), As Russia drafts young men, some fear ending up on Ukraine’s front line, 2 April 2022, Factiva

¹¹ ISW, Explainer on Russian Conscription, Reserve, and Mobilization, 5 March 2022, [url](#)



Russia has so far not declared martial law or made a call for general mobilisation of forces, as reporting available for this query up to 3 April 2022.¹² Such a declaration would enable Russia to call upon reserve forces more easily and force Russian men to fight through mass mobilisation and conscription,¹³ which has reportedly sparked fears among Russians fearing conscription due to mobilisation.¹⁴ Associated Press (AP) reported that requests for civilian alternatives to military service are frequently turned down.¹⁵

3. Legislation

The Criminal Code in force in Russia at the time of this query response is the Criminal Code of the Russian Federation No. 63-Fz of June 13, 1996 (amended).¹⁶ According to the Russian government's official website, pravo.gov.ru, the latest amendments to the Criminal Code were signed by President Putin and introduced on 9 March 2022.¹⁷

An English language version of the updated Criminal Code with all amendments up to March 2022 was not available among the sources consulted. For the purposes of this query, EUAA used the English language version of the Criminal Code (1996/amended 2012)¹⁸ which was compared with the Russian version, available on the website of the Government of the Russian Federation (pravo.gov.ru)¹⁹ to check for differences relating to Articles on military service. Upon comparison, Articles relevant for information on military service are the same in both the English 1996 (amended 2012) version cited in this query and the Russian version available on Pravo.gov.ru. For full information on the criminal offences under the Criminal Code of Russia that may be relevant for desertion, please see the original footnoted legislation.

3.1 Crimes Against Military Service under the Criminal Code

The 1996 Criminal Code outlines 'Crimes Against Military Service' under Chapter 33, Articles 331-352. Please refer to the original legislation footnoted in this query for the full text of the applicable articles. This Chapter applies to the following:

¹² ISW, Explainer on Russian Conscription, Reserve, and Mobilization, 5 March 2022, [url](#); AP, Ukraine war fuels fears among draft-age Russian youths, 1 April 2022, [url](#)

¹³ AP, Ukraine war fuels fears among draft-age Russian youths, 1 April 2022, [url](#); ISW, Ukraine Conflict Update, 6 March 2022, [url](#)

¹⁴ AP, Ukraine war fuels fears among draft-age Russian youths, 1 April 2022, [url](#)

¹⁵ AP, Ukraine war fuels fears among draft-age Russian youths, 1 April 2022, [url](#)

¹⁶ The English translation of the Criminal Code (1996) used for this query was available from LegislationOnline a database of the Organisation for Security Cooperation in Europe (OSCE) that also provides a list of criminal codes of its participant states and which lists the 1996 Criminal Code (amended 2012) for Russia (LegislationOnline, Homepage, n.d., <https://www.legislationonline.org/>)

¹⁷ Russia, Ugolovny kodeks Rossiyskoy Federacii [Criminal Code of the Russian Federation], 1996 (amended on 9 March 2022), [url](#)

¹⁸ Russia, The Criminal Code of the Russian Federation, No. 63-FZ of June 13, 1996, amended 1 March 2012, [url](#)

¹⁹ Russia, Oficialny internet-portal pravovoy informacii [Official Internet Portal of Legal Information], Ugolovny kodeks Rossiyskoy Federacii [Criminal Code of the Russian Federation], 1996 (amended on 9 March 2022) [url](#)



Article 331. Concept of Crimes Against Military Service

1. Crimes against the established order of military service, covered by the present chapter and committed by servicemen who have been drafted or enlisted under a contract in the Armed Forces of the Russian Federation in troops and military formations of the Russian Federation, and also by reservists during training assemblies, shall be deemed to be crimes against military service.
2. Abrogated
3. Criminal responsibility for crimes against military service, committed in wartime or in a military situation, shall be determined by the wartime laws of the Russian Federation.²⁰

Article 332. Failure to Execute an Order

1. Failure to execute a superior's lawful order by a subordinate, if it has caused substantial harm to the interests of military service, shall be punishable by restriction in military service for a term of up to two years or by arrest, for a term of up to six months, or by custody in a disciplinary military unit for a term of up to two years.
2. The same deed, committed by a group of persons, a group of persons in a preliminary conspiracy, or by an organized group, and also entailing severe consequences, shall be punishable by deprivation of liberty for a term of up to five years.
3. Failure to execute an order, due to a careless or dishonest attitude to military service, if it has involved serious consequences, shall be punishable by restriction in military service for a term of up to one year, or by arrest for a term of up to six months, or by custody in a disciplinary military unit for a term of up to two years.

Article 333. Resistance to a Superior or Compulsion of Another to Violate His Duties of Military Service

1. Resistance to a superior, and also to another person who discharges the duties of military service, or compulsion of him to violate these duties, attended by violence or by threats to use it, shall be punishable by restraint in military service for a term of up to two years, or by deprivation of liberty for a term of up to five years.
2. The same deeds committed: a) by a group of persons, a group in a preliminary conspiracy, or by an organized group; b) with the use of arms; c) with the infliction of grave injury or injury of average gravity to human health, or of other serious

²⁰ Russia, The Criminal Code of the Russian Federation, No. 63-FZ of June 13, 1996, amended 1 March 2012, [url](#)



consequences, shall be punishable by deprivation of liberty for a term of up to eight years.

Article 337. Unauthorized Abandonment of a Military Unit or a Place of Military Service

1. Unauthorized abandonment of a military unit or a place of military service, and likewise failure to appear for service without valid reasons in case of discharge from a unit, appointment, or transfer, and also in case of absence for a business trip, annual leave, or from a medical establishment for a term of more than two days, and not more than ten days, if this deed has been committed by a serviceman undergoing military service after being drafted, shall be punishable by arrest for a term of up to six months, or by custody in a disciplinary military unit for a term of up to one year.
2. The same deeds committed by a serviceman who is serving punishment in a disciplinary military unit, shall be punishable by deprivation of liberty for a term of up to two years.
3. Unauthorized abandonment of a military unit or a place of military service, and likewise failure to appear for service on the due date without valid reasons for more than ten days, but not for more than one month, if this deed has been committed by a serviceman undergoing military service after being drafted, or under contract, shall be punishable by restriction in military service for a term of up to two years, or by custody in a disciplinary military unit for a term of up to two years, or by deprivation of liberty for a term of up to three years.
4. Deeds stipulated in the third part of this Article, and having a duration of over one month, shall be punishable by deprivation of liberty for a term of up to five years.

Note: A servicemen who has committed deeds stipulated in this Article may be relieved from criminal responsibility, if unauthorized abandonment of his military unit has been necessitated by exceptional circumstances.

Article 338. Desertion

1. Desertion, that is, the unauthorized abandonment of a military unit or a place of military service for the purpose of evading military service, and likewise failure to appear for service for the same purposes, shall be punishable by deprivation of liberty for a term of up to seven years.
2. Desertion with arms entrusted in the military service, and likewise desertion committed by a group of persons in a preliminary conspiracy, or by an organized group, shall be punishable by deprivation of liberty for a term of up to ten years.



Note: A serviceman who has for the first time committed desertion, as stipulated by the first part of this Article, may be released from criminal responsibility, if desertion has been necessitated by exceptional circumstances.

Article 339. Evasion of Military Service Duties by Pretending to Be Ill, or by Any Other Method

1. Evasion by a serviceman of his military service duties, by pretending to be ill or by inflicting injury on himself (maiming himself), or by forging documents, or by some other fraud, shall be punishable by restriction in military service for a term of up to one year, or by arrest for a term of up to six months, or by custody in a disciplinary military unit for a term of up to one year.
2. The same act, committed for the purpose of obtaining a full release from the discharge of military service duties, shall be punishable by deprivation of liberty for a term of up to seven years.²¹

4. Russian censorship of war reporting and limitations on information about desertion cases in Ukraine

On 24 February 2022, the day when the Russian Federation started its self-titled ‘military operation’ in the Donbas region in eastern Ukraine²², the Federal Service for Supervision of Communications, Information Technology and Mass Media of the Russian Federation, Roskomnadzor, urged Russian media outlets to use solely information from official Russian sources for their reporting on the ‘operation’ in Ukraine.²³ On 4 March 2022, the Federal Assembly of the Russian Federation introduced amendments to the Code of Administrative Offences and the Criminal Code to punish the spreading of ‘false information’ about Russian military operations and discrediting the Russian Armed Forces,²⁴ stipulating ‘extortionate fines’ [amounting up to 1.5 million rubles, approximately 12 989 EUR in the beginning of March 2022²⁵] or a prison sentence of up to 15 years for being engaged in the dissemination of such information.²⁶ Amnesty International reported that in the days following the changes, 140 people had been detained under the law.²⁷ The further toughening of the ‘fake news’

²¹ Russia, The Criminal Code of the Russian Federation, No. 63-FZ of June 13, 1996, amended 1 March 2012, [url](#)

²² BBC, Ukraine conflict: what we know about the invasion, 24 February 2022, [url](#)

²³ OSCE, Media Freedom Representative strongly denounces Russian authorities’ restriction on freedom of the media and freedom of information, 24 February 2022, [url](#); Russia, Roskomnadzor, Вниманию средств массовой информации и иных информационных ресурсов [To the attention of the media and other information resources], 24 February 2022, [url](#)

²⁴ TASS, Federal Council approves law on liability for fakes about Russian Armed Forces, 4 March 2022, [url](#); HRW, Russia Criminalizes Independent War Reporting, Anti-War Protests, 7 March 2022, [url](#); Reuters, Russia fights back in information war with jail warning, 4 March 2022, [url](#); Interfax, Duma approves Criminal Code amendments penalizing fake news about military operations, discrediting of Russian Armed Forces, calls for sanctions, 4 March 2022, [url](#)

²⁵ TASS, Federal Council approves law on liability for fakes about Russian Armed Forces, 4 March 2022, [url](#)

²⁶ AI, Russia: Kremlin’s ruthless crackdown stifles independent journalism and anti-war movement, 10 March 2022, [url](#)

²⁷ AI, Russia: Kremlin’s ruthless crackdown stifles independent journalism and anti-war movement, 10 March 2022, [url](#)



legislation on 22 March 2022 affected reporting on the National Guard (Rosgvardiya) as well as ‘Russian embassies, the Prosecutor’s office and other state, military, and law enforcement and judicial bodies.’²⁸ In the result of the legislation, Russian domestic media outlets either lost their licenses or suspended their activities,²⁹ while foreign outlets had also to stop reporting from the country.³⁰

In correspondence with EUAA on 26 March 2022, Huseyn Aliyev, a researcher focusing on security situation developments in Central and Eastern Europe³¹, noted that ‘as it could be expected from a war-time censorship, it is exceptionally difficult to obtain any reliable information at the moment. The topic of desertion is fairly sensitive for the Russian armed forces, and they are not likely to reveal that any desertion is taking place.’³² EUAA contacted a human rights defender for this query, who is based in Russia and works on cases of human rights violations in the country and who wished to remain anonymous for security reasons. In the correspondence with EUAA on 19 March 2022, the source noted that the information about desertion from the Armed Forces of the Russian Federation ‘is very sensitive to the authorities in Russia.’ The source reported that there was neither official data on the topic nor reporting on it by the state-controlled media, while the independent media found itself under ‘severe pressure’ and in a situation, in which ‘journalists are frightened of being criminally prosecuted for “fakes” about the Russian army’ and, therefore, refraining from publishing such information.’³³

5. Evidence of desertion occurring in Ukraine

Russia-based NGO Agora and Project ‘Network Freedoms’ [in Russian: Setevye Svobody] stated in a joint report published in March 2022³⁴ that the first evidence of desertion of Russian servicemen from military units stationed in Ukraine was reported by the media – which particularly reported on violence committed towards the servicemen by officers – at the end of March 2022.³⁵ The statement is based on an article published by the Russian news portal Meduza on 23 March 2022, according to which, a 25-year-old contract soldier deserted on from his military unit at the Russia-Ukraine border in the Belgorod region because of an act of beatings by a senior officer. After issuing a hospital report on the beatings on 20 March 2022, the person filled in a resignation report, in which he explained that he had abandoned

²⁸ Politico, Russia expands laws criminalizing ‘fake news,’ 22 March 2022, [url](#)

²⁹ Politico, Last major Russian independent news outlet suspends operations, 28 March 2022, [url](#)

³⁰ Forbes, Bloomberg, The BBC, CNN, and More Stop Reporting from Russia Over Putin’s ‘Fake News’ Law, 4 March 2022, [url](#)

³¹ University of Glasgow, Dr. Huseyn Aliyev, n.d., [url](#)

³² Aliyev, H., email, 26 March 2022. Dr. H. Aliyev is Lecturer and Research Fellow in Security Studies at Central & Eastern European Studies (CEES) at the University of Glasgow.

³³ A human rights defender in Russia, email, 19 March 2022

³⁴ Meduza, В России фактически введено военное положение. Ограничены свобода слова, собраний и передвижения, Главное из доклада «Агоры» и «Сетевых свобод» [Martial law is effectively imposed in Russia. Freedom of speech, assembly, and movement are restricted, The main from the report by Agora and Network Freedoms], 25 March 2022, [url](#)

³⁵ Agora and Network Freedoms, Россия: права человека на военном положении [Russia: Human Rights under the Martial Law: The first month of the armed conflict in Ukraine], March 2022, [url](#), p. 15



his military unit due to fear for his life and health and because he did not want to participate in the fighting in Ukraine, as it contradicted his personal convictions.³⁶

In correspondence with EUAA on 23 March 2022, researcher Dr. Huseyn Aliyev, noted that the Russian Federation was releasing ‘almost no official information on casualties, prisoners of war, or deserters.’³⁷ According to the source, the Ukrainian media was the only available media source for the information on deserters from the Russian Armed Forces in Ukraine. He also noted that Telegram channels, particularly in Ukrainian, posted ‘numerous details’ of such instances; however, he underlined that he considered ‘these sources unofficial and unverified.’³⁸ The human rights defender interviewed by EUAA noted that there were ‘a lot of [deserters] in Ukraine, [according to available public] information.’³⁹

The following information about instances of desertion by the Armed Forces of the Russian Federation in Ukraine were found among Ukrainian sources published in the period between 24 February 2022–31 March 2022, though they are uncorroborated:

- On 26 February 2022, Ukrainian news outlet Obozrevatel reported that around 5 000 contract servicemen in the Belgorod region of Russia who were to be transferred to Ukraine refused going to war, appealing to the fact that this was not stipulated in their contracts.⁴⁰ In correspondence with EUAA, a human rights defender in Russia reported similarly on this occurrence, but could not confirm the number of servicemen involved in the case.⁴¹
- On 28 February 2022, Odessa-based media outlet Dumskaya.net claimed to have contacted relatives of several Russian marines of 810th brigade of the Russian Federation stationed in the Crimea, who stated that the conscripts had refused to obey [a commander’s] order and to conduct an assault on Odessa.⁴² Further information on this could not be found.
- On 7 March 2022, the Security Service of Ukraine reported on large-scale desertion among Russian army men, based on testimonies of ‘a captured Russian technician,’ who had allegedly stated that servicemen were ‘threatened with 7 years in prison’.⁴³

³⁶ Meduza, «Никто не понимал, что происходит. Мы думали — учения». «Медуза» рассказывает историю Альберта Сахибгареева — российского контрактника, который дезертировал с войны в Украине [“No one understood what was happening. We thought it were drills.” Meduza tells a story of Albert Sakhibgareev, a Russian contract soldier who deserted from the war in Ukraine], 23 March 2022, [url](#)

³⁷ Aliyev, H., email, 23 March 2022

³⁸ Aliyev, H., email, 26 March 2022. Such of these sources can be found at: [url](#)

³⁹ A human rights defender in Russia, email, 19 March 2022

⁴⁰ Obozrevatel, У Білгороді 5 тис. контрактників влаштували бунт та відмовилися їхати воювати з Україною. Ексклюзив [In Belgorod, 5 000 contractors staged a riot and refused going to war with Ukraine. Exclusive], 26 February 2022, [url](#)

⁴¹ A human rights defender in Russia, email, 26 March 2022

⁴² Dumskaya.net, Российские морпехи-срочники устроили бунт, когда им приказали высадиться «прямо в Одессу» [Russian Marine conscripts riot when ordered to land “straight to Odessa”], 28 February 2022, [url](#)

⁴³ Security Service of Ukraine, Telegram, 7 March 2022, [url](#); Security Service of Ukraine, Occupiers massively desert – invaders flee army even on way to Ukraine, 7 March 2022, [url](#)



- On 12 March 2022, the General Staff of the Armed Forces of Ukraine, reported on ‘small groups’ of deserters from the Russian Armed Forces ‘moving towards the state border’ during several days prior.⁴⁴
- On 13 March 2022, the General Staff of the Armed Forces of Ukraine claimed that many Russian servicemen refused to cross the border and to take part in the fighting, despite being promised a ‘war veteran’ status, as well as additional daily allowances and higher salaries.⁴⁵

6. Reports of arrest and prosecution under the Criminal Code for desertion or evasion of military service

6.1 During 2019-2021

According to Huseyn Aliyev, Articles 337 and 338 of the Criminal Code of the Russian Federation were ‘widely implemented’ before the start of the war in Ukraine.⁴⁶

Examples of cases found were the following:

- In May 2019, local media reported that the Naro-Fominsk Garrison Military Court sentenced a former conscript, who had abandoned his military unit in July 2006, to 2.5 years in a penal colony.⁴⁷
- In November 2021, the Novosibirsk Garrison Military Court punished a contract serviceman with a one-year restriction from the service and a withholding of 15 % of his salary under Article 337.3 of the Criminal Code, after he had abandoned the place of service without a valid reason.⁴⁸

According to the Washington Post, writing in March 2022, evasion of military service has been rife with corruption for years, with officials being reluctant to allow exemptions, and a network of corrupt officials allowing those who can pay thousands of dollars to avoid military service through bribes and fraud. The same source noted that draft evasion is especially common in larger cities like Moscow or St. Petersburg but is challenging for those with less means in less well-off areas.⁴⁹

⁴⁴ Ukraine, General Staff of the Armed Forces of Ukraine, Facebook, 12 March 2022, [url](#)

⁴⁵ Ukraine, General Staff of the Armed Forces of Ukraine, Facebook, 13 March 2022, [url](#)

⁴⁶ Aliyev, H., email, 26 March 2022.

⁴⁷ NR, В Подмоскowie солдат-дезертир сдался спустя 14 лет после побега [A soldier surrendered in the Moscow region 14 years after flight], 14 May 2019, [url](#); Rossiyskaya Gazeta, Лучше бы отслужил [It would have been better to serve], 14 May 2019, [url](#)

⁴⁸ МК.ru, В Новосибирске солдата-дезертира осудили за побег [In Novosibirsk, a soldier-deserter was convicted of running away], 19 November 2021, [url](#)

⁴⁹ Washington Post (The), As Russia drafts young men, some fear ending up on Ukraine’s front line, 2 April 2022, Factiva



6.2 Following the invasion of Ukraine reported during 24 February – 3 April 2022

Reports and specific cases of arrest and prosecution of military deserters and evaders under the Criminal Code during the reference period could not be found within the time constraints of this query.

In correspondence with EUAA on 22 March 2022, the Program Director for Europe and Central Asia at the International Crisis Group, Olga Olikier, did not have information on arrests or prosecutions of Russian deserters.⁵⁰ A March 2022 report about the human rights situation in Russia since 24 February 2022, produced by Russia-based NGO Agora and the Project ‘Network Freedoms’, stated that they had not documented any cases of military personnel being charged based on Article 338 ‘Desertion’ or Article 332 ‘Failure to Execute an Order’.⁵¹ On 26 March 2022, researcher Huseyn Aliyev noted that he had no direct information about military deserters held or prosecuted in Russia, but that there were some reports in Ukrainian media that Russian servicemen were threatened by Article 338 ‘Desertion,’ stipulating prison terms of up to seven years for desertion, and up to ten years for desertion with a weapon, by their superiors while being in Ukraine.⁵²

In the correspondence with EUAA on 19 March 2022, a human rights defender based in Russia said they had ‘no information about military deserters held or prosecuted in Russia’. The source further mentioned that the Soldiers’ Mothers’ movement was ‘almost inactive’ at the time of the correspondence; and, while some groups were ‘trying to provide consultations for the conscripts,’ the source was ‘not aware of any legal services provided to the soldiers.’⁵³ In the correspondence with EUAA on 26 March 2022, the source said they had no information on any instance when Articles of the Chapter 33 ‘Crimes against the military order’ of the Criminal Code of the Russian Federation were applied for deserters from the Russian Armed Forces in or on the way to Ukraine.⁵⁴

The following information was found in media sources below relating to threats of prosecution or punishments:

- On 3 March 2022, the media outlet *Nastoyashee Vremya* [Current Times] reported that, according to a mother of a conscript, conscripts in Belgorod region were pressured to sign contracts with the Russian Armed Forces and those who refused to go to Ukraine were ‘threatened by the articles on desertion.’⁵⁵ *The Financial Times*

⁵⁰ Olikier, O., email, 22 March 2022. Olga Olikier is the Program Director for Europe and Central Asia at the International Crisis Group

⁵¹ Agora and Network Freedoms, *Россия: права человека на военном положении* [Russia: Human Rights under the Martial Law: The first month of the armed conflict in Ukraine], March 2022, [url](#), p. 15

⁵² Aliyev, H., email, 26 March 2022

⁵³ A human rights defender in Russia, email, 19 March 2022

⁵⁴ A human rights defender in Russia, email, 26 March 2022

⁵⁵ *Nastoyashee vremya*, “Они не хотят туда ехать, их пугают уголовной статьей о дезертирстве”. *Мать российского военного – об “учениях” и угрозах в армии* [“They don’t want to go there, but they are threatened with a criminal code’s article on desertion.” A mother of a Russian serviceman – about “exercises” and threats in the army], 3 March 2022, [url](#)



also stated in April 2022, without providing details, that there have been reports ‘alleging some conscripts had been compelled to take on contract jobs so that they could be sent to Ukraine’ due to troop shortages.⁵⁶

- On 12 March 2022, Ukrainian media project Grati reported via its Telegram channel that up to 80 Russian marines, including conscripts, refused taking part in the fighting and were sent back to the Crimea, where they filled in refusal reports. Servicemen who had a signed contract with the Armed Forces were reported to have been still sent to Ukraine, while others were reportedly coerced by military prosecutors to withdraw their refusals and threatened with criminal proceedings. According to the source, after the statement by the Russian President of 5 March 2022 that conscripts would not be used in the fighting, they reportedly continued their military service in the Crimea.⁵⁷ Corroborating information could not be found.
- On 12 March, media reported that the Ukrainian intelligence service claimed that a captured Russian soldier ‘spoke about the use of “execution squads”’ to eliminate deserters in the midst of rising unrest in the Russian military,⁵⁸ however no corroborating evidence or further information could be found regarding this.
- An unverified video released by Ukrainian media, received from the Ukrainian Security Service⁵⁹, of a captured Russian soldier showed him stating that soldiers who were misled about the Ukrainian invasion but could not leave because the units behind them would ‘kill deserters’.⁶⁰ Corroborating information could not be found.

7. Rosgvardiya (National Guard of the Russian Federation)

Financial Times (FT) describes Rosgvardiya as a ‘militarized force separate from the army that was established in 2016 to maintain public order and fight crime’ and with responsibilities for acting against organised crime and terrorism. The force is described as Putin’s ‘private army’ and has been accused of using ‘heavy-handed tactics against opposition activists’. Analysts believe they may be in Ukraine to put down protests in Ukrainian cities.⁶¹

⁵⁶ FT, Sacking of Russian guardsmen reveals dissent over going to fight in Ukraine, 2 April 2022, [url](#)

⁵⁷ Grati, Telegram, 12 March 2022, [url](#)

⁵⁸ Interfax-Ukraine, SBU: Riots kick off among Russian military, army leadership uses tactics of ‘firing squads’, 12 March 2022, [url](#)

⁵⁹ Fakti, За нами їдуть ешелони, що вбивають дезертирів: СБУ оприлюднила допит полоненого з РФ [We are followed by echelons that kill deserters: the SBU publicized the discharge of a Russian prisoner], 16 March 2022, [url](#)

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⁶¹ FT, Sacking of Russian guardsmen reveals dissent over going to fight in Ukraine, 2 April 2022, [url](#)



The human rights defender in Russia interviewed by EUAA stated that ‘I know about a couple of cases when the Russian national guard refused to go. Both groups have not been prosecuted, the second decided to quit the service.’ No further specific information was available. The same source said that Chapter 33 of the Russian Criminal Code does not apply to the Rosgvardiya members because the Rosgvardiya are police, and that chapter only applies to members of the military. According to the source, for desertion, Rosgvardiya officers may be charged under the Article 286.1 of the Russian Criminal Code.⁶²

Article 286.1 Failure to Execute an order by a Worker of a Body of Internal Affairs

1. Intentional non-execution by a worker of a body of internal affairs of an order of a chief given in the established procedure and not contrary to the law which has essentially damaged the rights and legitimate interests of citizens or organisations or legally protected interests of society and the state - shall be punishable by compulsory labour for a term of up to two years with deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years or without such, or by an arrest for a term of up to six months, or by deprivation of liberty for a term of up to two years with deprivation of the right to hold specified offices or to engage in specified activities for a term of up to three years or without such.

2. The same action committed by a group of persons, by a group of persons in preliminary collusion or by an organised group, as well as one which has entailed grave consequences, - shall be punishable by compulsory labour for a term of up to five years or by deprivation of liberty for the same term.⁶³

Sources report on the case of 12 national guardsmen who refused to be moved to Ukraine following the invasion.⁶⁴ As reported by RFE/RL’s North Caucasus service Kavkaz.Realii, the 12 guardsmen were from OMON (Special Purpose Mobile Unit) of Rosgvardia in Krasnodar.⁶⁵ According to the NGO Agora, as reported by FT, the direct duties of the Rosgvardiya are limited to Russian territory, however the group of 12 had been deployed to occupied Crimea for military exercises prior to the invasion of Ukraine. On the day after the Ukraine invasion began, 25 February, the men were ordered to go to Ukraine but refused claiming that as a domestic force the order was unlawful as their duties do not extend beyond Russia. They were fired and have filed in court for wrongful dismissal.⁶⁶ FT reported that under ‘huge pressure’ and ‘threats of criminal cases’, 9 of the 12 guardsmen who had filed wrongful dismissal claims withdrew their cases.⁶⁷ Information on whether the 12 have been charged or

⁶² A human rights defender in Russia, email, 19 March 2022

⁶³ Russia, The Criminal Code of the Russian Federation, No. 63-FZ of June 13, 1996, amended 1 March 2012, [url](#)

⁶⁴ FT, Sacking of Russian guardsmen reveals dissent over going to fight in Ukraine, 2 April 2022, [url](#); A human rights defender in Russia, email, 23 March 2022; Kavkaz.Realii, Большинство отказавшихся ехать в Украину росгвардейцев из Краснодара передумали судиться с начальством [Most of the Krasnodar Russian Guard officers who refused to go to Ukraine have changed their minds to sue their superiors], 29 March 2022, [url](#)

⁶⁵ RFE/RL, Kavkaz.Realii, Большинство отказавшихся ехать в Украину росгвардейцев из Краснодара передумали судиться с начальством [Most of the Krasnodar Russian Guard officers who refused to go to Ukraine have changed their minds to sue their superiors], 29 March 2022, [url](#)

⁶⁶ FT, Sacking of Russian guardsmen reveals dissent over going to fight in Ukraine, 2 April 2022, [url](#)

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prosecuted under the Criminal Code could not be found among the sources consulted by the EUAA within the time constraints of this query.

RFE/RL's service Kavkaz.Realii reported on 25 March that after the news about this case became more widely known, the lawyer for the abovementioned group was approached by about 10 other members of Rosgvardiya and the Ministry of Defense from different regions of Russia. Furthermore, he stated that 'if we estimate the number of persons who find themselves in a similar situation, and whose representatives turned to me, there are about two and a half hundred of them. The applicants acted in the interests of entire groups. Appeals came from all over the country.'⁶⁸

An online Russian media source published in Khakassia, Novyr Fokus, reported on a refusal of 11 members of OMON of Rosgvardiya of Khakassia to take part in the 'special operation'. According to the source, they are facing dismissal from the service.⁶⁹

⁶⁸ RFE/RL, Kavkaz.Realii, Сотни военных обратились за помощью после отказа росгвардейцев из Краснодара отправиться в Украину [Hundreds of servicemen appealed for help after the Krasnodar Russian Guard refused to go to Ukraine], 25 March 2022, [url](#)

⁶⁹ Novy Fokus, «Отказники» или почему 11 бойцов ОМОН Росгвардии по Хакасии отказались от участия в «спецоперации» в Украине ["Refuseniks" or why 11 OMON riot policemen of Rosgvardiya in Khakassia refused to participate in a "special operation" in Ukraine], 4 April 2022, [url](#)



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