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RUSSIA: First jail term for religious-based opposition to war

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

On 30 March, a Moscow court jailed 63-year-old Orthodox Christian Mikhail Simonov for 7 years for disseminating "false information" about the Russian armed forces on the basis of "political hatred". He had made two short social media posts condemning Russia's war against Ukraine, including: "We, Russia, have become godless. Forgive us, Lord!" The Investigative Committee and Prosecutor's Office did not respond on why they sought a long jail term for Simonov, who suffers from health problems. A Krasnodar Region court fined 86-year-old independent Orthodox Archbishop Viktor Pivovarov two months' average pension for a sermon.

A 63-year-old Russian Orthodox Christian has become the first person to be sentenced to imprisonment for expressing his opposition to Russia's war in Ukraine in religious terms. Investigators accused Mikhail Simonov of disseminating "false information" about the Russian armed forces on the basis of "political hatred", because of two social media posts in which he condemned Russian attacks on the Ukrainian cities of Kyiv and Mariupol.

"Killing children and women, on Channel One [television] we sing songs. We, Russia, have become godless [bezbozhniki]. Forgive us, Lord!" Simonov wrote on social media in a March 2022 post which would form the basis for his prosecution (see below)

On 30 March 2023, a Moscow court handed Simonov a 7-year prison term, to be followed by a 4-year ban on specific activities related to internet use. At present, he remains in custody at a Moscow detention centre awaiting a possible appeal (see below).

Simonov was prosecuted under Criminal Code Article 207.3, which President Vladimir Putin signed into law in March 2022, shortly after the Russian invasion of Ukraine. On 28 March 2023, amendments to the Criminal Code increased maximum penalties under this Article and under Article 280.3 (repeat "discreditation" of the Russian armed forces, adopted at the same time) (see below).

Forum 18 asked the Federal Investigative Committee and its Moscow branch, as well as Moscow City Prosecutor's Office, in what way Simonov's comments could be construed as motivated by hatred of a political or social group, and why it was necessary to have a 63-year-old man with health problems placed in detention. Forum 18 also asked Moscow City Prosecutor's Office why prosecutors had requested such a long prison sentence. Forum 18 received no reply from any of these agencies (see below).

Simonov has been in Investigation Prison No. 5 in Moscow since November 2022. He told the court that he has suffered from sharply fluctuating blood pressure and headaches, and has lost consciousness on several occasions during his time in detention. According to his lawyer, Simonov is suffering from coronary heart disease and hypertension. Forum 18 asked the Investigation Prison whether it is keeping him under medical supervision and whether he had access to all necessary medications. Forum 18 received no reply (see below).

Two other individuals – both Orthodox Christians – are on trial for their religious-based opposition to Russia's renewed war against Ukraine (see below).

Russians who object to the war – including small numbers who do so on religious grounds or who express their opposition in religious terms – also continue to face prosecution under Administrative Code Article 20.3.3 (https://www.forum18.org/archive.php?article_id=2817) ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation").

Recently, these have included 86-year-old Viktor Pivovarov, an Archbishop in an independent Orthodox church not affiliated with the Moscow Patriarchate. A court in Krasnodar Region fined him one month's average local wage or more than two months' average local pension on 24 March for an anti-war sermon in his church (see below).

Forum 18 asked the Krasnodar Region branch of the Interior Ministry and the joint court press service for Krasnodar Region to clarify which statements of Pivovarov's could be considered "discreditation" of the Russian armed forces and why. The Interior Ministry press office refused to answer Forum 18's questions as "the case is with the court". Forum 18 received no reply from the court (see below).

Two criminal trials continue

Two other people are currently on trial on criminal charges for opposing the war from a religious perspective, both Orthodox Christians:

- Father Ioann Kurmoyarov is in custody at St Petersburg's Kresty-2 prison. He belongs to a branch of the Russian Orthodox Church Outside Russia which is not in communion with the Moscow Patriarchate, and has also been charged under Article 207.3 – his next hearing is due to take place on 10 April (https://www.forum18.org/archive.php?article_id=2819) at the city's Kalinin District Court;

- Musician and teacher Anna Chagina's trial under Article 280.3 is due to resume on 11 April (https://www.forum18.org/archive.php?article_id=2819) at Soviet District Court in Tomsk. Chagina's first (administrative) conviction was for displaying a poster reading "Blessed are the peacemakers (Matthew 5:9)" at an anti-war protest in Tomsk in March 2022, just two days after the new offence of "discreditation" came into force. "Many times after [the arrest for the poster], I inwardly turned to these words of Christ and realised that peacemaking begins with what is in a person's heart," Chagina told Forum 18. "Happiness is when you become one who can reconcile those who are warring. One who has come to terms with oneself, with people, with Life. When you carry light and joy in yourself, which spread to other people" Chagina remains at home under specific restrictions, including a night-time curfew, and must wear an electronic tag.

The first person to be criminally convicted for opposing the war on religious grounds was Fr Nikandr Pinchuk (a member of the same branch of ROCOR as Fr Ioann Kurmoyarov). A Sverdlovsk Region court found him guilty in October 2022 (https://www.forum18.org/archive.php?article_id=2783) under Article 280.3 for a social media post from March 2022 which described Russian troops as "the horde of the Antichrist", and Ukrainians as "the Christian army which .. will not allow it to capture the south of Ukraine", while praising the defenders who had been "holding the city of Mary, Mariupol, for more than a month". The court fined him 100,000 Roubles, two months' average local wage.

"False information" and "discreditation": Increased punishments from 28 March

On 28 March 2023, a series of amendments to the Criminal Code came into legal force, increasing penalties for disseminating "false information" about and repeatedly "discrediting" the Russian Armed Forces (Criminal Code Articles 207.3 and 280.3). The amendments also widen the definition of these offences (and of Administrative Code Article 20.3.3) to include criticism of "volunteer formations, organisations and individuals who assist in the fulfilment of tasks assigned to the Armed Forces of the Russian Federation" (that is, private mercenary units such as Wagner).

Under Criminal Code Article 280.3 (https://www.forum18.org/archive.php?article_id=2737) ("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"), Part 1, the maximum prison sentence was raised from 3 years to 5 years – under Part 2 (the same offence if resulting in "death by negligence", harm to health or property, or mass public disorder), from 5 years to 7 years.

Under Criminal Code Article 207.3 (https://www.forum18.org/archive.php?article_id=2737) ("Public dissemination, under the guise of credible statements, of knowingly false information on the use of the Armed Forces of the Russian Federation"), Part 1, the maximum prison sentence was raised from 3 years to 5 years (Part 2 remains unchanged).

Specific penalties for criticising Russia's actions in its war against Ukraine came into force on 4 March 2022. These include Administrative Code Article 20.3.3 (https://www.forum18.org/archive.php?article_id=2737) ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation"), which is used against apparently any form of anti-war statement either in public spaces or online, and Criminal Code Article 207.3 ("Public dissemination, under the guise of credible statements, of knowingly false information on the use of the Armed Forces of the Russian Federation").

If individuals commit an offence covered by Administrative Code Article 20.3.3 more than once within a year, they may be prosecuted under Criminal Code Article 280.3 ("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").

As of 23 March 2023, there had been 146 prosecutions under Criminal Code Article 207.3, and 61 prosecutions under Criminal Code Article 280.3, according to human rights group OVD-Info (<https://data.ovdinfo.org/svodka-antivoennyh-repressiy-1>). This is out of a total of 487 criminal prosecutions for anti-war activities.

Police and other investigative agencies also use other Criminal Code Articles against people protesting against the war – such as Article 213 ("Hooliganism"), Article 214 ("Vandalism"), and Article 318 ("Violence against the authorities") – but are not yet known to have done so to punish anyone protesting from a religious perspective.

Also as of 23 March 2023, police had initiated 6,296 cases under Administrative Code Article 20.3.3, according to OVD-Info, citing figures from independent Russian media outlet Mediazona.

Between 24 February 2022 and 23 March 2023, OVD-Info recorded 19,644 detentions of people protesting against the invasion of Ukraine and latterly against the "partial mobilisation" (announced on 21 September 2022).

Religious opposition to the war

The first person to be charged for opposition to the war based on faith under Criminal Code Article 280.3 (https://www.forum18.org/archive.php?article_id=2737) ("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"), was Fr Nikandr Pinchuk. He was fined in October 2022 (https://www.forum18.org/archive.php?article_id=2783) for a social media post condemning the "horde of the Antichrist" attacking Ukraine.

Three individuals have also faced prosecution under the February 2022 Criminal Code Article 207.3 (https://www.forum18.org/archive.php?article_id=2737) ("Public dissemination, under the guise of credible statements, of knowingly false information on the use of the Armed Forces of the Russian Federation") for opposition to the war based on their faith:

- ROCOR priest Fr Ioann Kurmoyarov is currently detained and on trial in St Petersburg (https://www.forum18.org/archive.php?article_id=2819) for posting a video criticising the war from a Christian perspective;
- Moscow Patriarchate priest Fr Aleksandr Dombrovsky, who had repeatedly preached against the war in Ukraine in his sermons and who has left Russia (https://www.forum18.org/archive.php?article_id=2809);
- Nina Belyayeva, a Communist municipal deputy and Baptist, who based on her Christian faith called Russia's invasion a war crime (https://www.forum18.org/archive.php?article_id=2737) during a District Council meeting, and who has also left Russia.

There have also been prosecutions under Administrative Code Article 20.3.3 (https://www.forum18.org/archive.php?article_id=2737) ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation"), which is used against apparently any form of public or online protest, of individuals for opposing the war based on their religious beliefs (https://www.forum18.org/archive.php?article_id=2737). The first such prosecution was of Fr Ioann Burdin of the Moscow Patriarchate's Kostroma Diocese, who was on 10 March 2022 fined for posting an anti-war statement on the website of his parish in Karabanovo and for giving a Sunday sermon in church condemning Russia's invasion of Ukraine (https://www.forum18.org/archive.php?article_id=2725). In the sermon, he stressed the importance of the 6th commandment, "Thou shalt not kill". The court decision is "a ban not only on expressing one's opinion but also even on professing one's religious beliefs", Fr Ioann told Forum 18.

Moscow: 7-year jail term

On 30 March, Judge Sergey Galkin of Moscow's Timiryazevsky District Court sentenced Mikhail Yuryevich Simonov (born 27 January 1960) to 7 years' imprisonment for condemning Russian attacks on Ukrainian cities. This is the punishment the prosecutor had demanded. Simonov stood in handcuffs to hear the judge read the verdict.

Judge Galkin found Simonov guilty 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 D ("based on political, ideological, racial, national, or religious hatred or enmity, or based on hatred or enmity against any social group").

(Possible punishments for this offence include prison terms from 5 to 10 years – followed by bans on particular activities or occupations for up to 5 years – and fines from 3 million to 5 million Roubles.)

The judge also ruled that after his release (should his conviction come into force), Simonov will also be subject to a 4-year ban on some internet activities, though it is unclear what exactly this will cover.

Simonov can appeal to Moscow City Court. He has 15 days to appeal from the day he receives the written verdict (the appeal period was extended from 10 days in December 2022).

Moscow: "Forgive us, Lord!" leads to criminal case

Mikhail Simonov posted two messages on the social media site VKontakte, on 19 and 20 March 2022, which would later form the basis of the prosecution case: "Killing children and women, on Channel One [television] we sing songs. We, Russia, have become godless [bezbozhniki]. Forgive us, Lord!"; and "Russian pilots are bombing children".

Simonov's posts came to investigators' attention when two VKontakte users allegedly saw his posts in their feeds "by chance", then separately called an Interior Ministry hotline to report him. They later acted as prosecution witnesses in court, one of them stating that she had been angry at the "solid lump of liberalism" on Simonov's page and that she did not believe the Russian army had committed any crimes, Mediazona noted on 29 March 2023.

In August and September 2022, an Investigative Committee lieutenant twice decided not to open a criminal case against Simonov, having concluded that he had not committed an offence. Her superiors overruled her on both occasions, and another investigator eventually initiated the case in early November 2022, according to Mediazona's account of proceedings on 30 March 2023.

Simonov is a restaurant car manager on long-distance trains, and spends most of his time off in Belarus, where his wife lives. He arrived in Moscow on 9 November 2022 after two to three months at work, and was detained the same day at a friend's home in the city. On 10 November, Moscow's Gagarin District Court ordered him placed in pre-trial detention.

The Investigative Committee concluded that Simonov had "a dismissive, unfriendly and aggressively hostile attitude towards the Russian authorities", the Net Freedoms Project said on its Telegram channel on 23 January 2023. It also concluded that he had "misled readers about the legality of the actions of the Russian armed forces during the special military operation, and also undermined their authority and discredited them, since according to the Russian Defence Ministry, information about the alleged killing of civilians by Russian military personnel in Kiev and Mariupol does not correspond to reality".

Simonov did not deny making the comments on VKontakte, nor posts from before the war criticising Putin and Belarusian leader Aleksandr Lukashenko, but after discussion with his lawyer, insisted he was innocent of the prosecution's accusations.

Forum 18 wrote to the Federal Investigative Committee and its Moscow branch before the start of the working day of 24 March, asking in what way Simonov's comments could be construed as motivated by hatred of a political or social group, and why it was necessary to have a 63-year-old man with health problems placed in detention.

Forum 18 put the same questions to Moscow City Prosecutor's Office before the start of the working day of 30 March, also asking why prosecutors had requested such a long prison sentence.

Forum 18 had received no reply from any of these agencies as of the end of the Moscow working day of 5 April.

Moscow: "I treat all living things in a Christian way"

On 30 November 2022, prosecutors lodged Mikhail Simonov's case at Moscow's Timiryazevsky District Court, which assigned it to Judge Sergey Galkin. The trial began on 21 December. Simonov's two posts on VKontakte on 19 and 20 March 2022 formed the basis of the prosecution case: "Killing children and women, on Channel One [television] we sing songs. We, Russia, have become godless [bezbozhniki]. Forgive us, Lord!"; and "Russian pilots are bombing children".

At his second hearing in January, Simonov explained that his mother had baptised him in childhood, "And somehow that has stayed with me for the rest of my life. I am a person who treats all living things in a Christian way," the Net Freedoms Project reported on its Telegram channel on 23 January.

In court on 29 March, the prosecutor argued that "The actions of the fifth column are especially dangerous". The actions of people like Simonov are "a stab in the back", she added, "and servicemen, risking their lives daily, defending the sovereignty of the state, deserve unconditionally strong [and] reliable support from the rear and the public".

During the final defence and prosecution speeches to the court on 29 March, Simonov's lawyer Aleksandr Aldayev argued that Simonov is "a believer" who had "simply expressed a pacifist position". In his own final statement (transcribed by Mediazona), Simonov said that he had posted his comments "on impulse" after reading Euronews articles about the Russian bombardments of the Ukrainian cities of Kyiv and Mariupol.

"What impulse was it?" Simonov said in court. "The impulse was that people were dying. I have always believed and still believe that human life has unconditional value, which should be a priority, although in our country they do not think so. That's how I was raised."

Simonov added that he had used his VKontakte page – which is openly accessible, with around 100 friends and two subscribers – as "a repository of my photos" and "like a diary", where he did not have conversations with anyone and from which he generally deleted posts after a time.

While the trial was underway, Simonov expressed to a fellow detainee his fear of a long prison sentence. "When he heard how many years they had requested for me, he said that such a term would be a life sentence for him," Dmitry Ivanov, who was sentenced by the same court to 8 years and 6 months' imprisonment on similar charges, commented on Telegram on 8 March. Ivanov has used his public profile as a well-known student leader at Moscow State University to rally support for Simonov, whom he met in detention.

Moscow: Is Simonov receiving appropriate medical attention in Investigation Prison?

Simonov is currently in detention at Investigation Prison No. 5 in Moscow, where he has already spent almost five months since his November 2022 arrest.

According to his lawyer, Aleksandr Aldayev, Simonov has coronary heart disease and hypertension. Simonov himself told the court on 29 March that he has suffered from sharply fluctuating blood pressure and headaches, and has lost consciousness on several occasions during his time in detention, the SOTA Project reported on its Telegram channel the same day.

A prison doctor noted in Simonov's medical record that his chronic conditions had worsened, but the detention centre did not issue a certificate to this effect for the court, Mediazona noted on 30 March.

The United Nations (UN) Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules, A/C.3/70/L.3 (https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) state in Rule 27 that: "All prisons shall ensure prompt access to medical attention in urgent cases." It adds: "Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff."

Rule 33 declares: "The physician shall report to the prison director whenever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment."

Forum 18 wrote to Investigation Prison No. 5 before the start of the working day of 24 March, asking whether it was keeping Simonov under medical supervision and whether he had access to all necessary medications. Forum 18 had received no reply as of the end of the Moscow working day of 5 April.

Simonov's current address in Investigation Prison:

125130, g. Moskva

ul. Vyborgskaya 20

FKU Sledstvenniy izolyator No. 5 UFSIN Rossii po g. Moskve "Vodnik"

"A holy war": Another "discreditation" case

On 24 March, Archbishop Viktor Ivanovich Pivovarov (born 8 February 1937) was fined 40,000 Roubles – one month's average local wage or more than two months' average local pension - for an anti-war sermon he had given just over a month earlier at the Holy Intercession Tikhonite Church in the town of Slavyansk-na-Kubani in Krasnodar Region.

Although police ultimately charged him under Administrative Code Article 20.3.3 ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation"), Part 1, the written verdict from Slavyansk City Court, seen by Forum 18, notes that criminal prosecution had been considered.

Though it remains unclear exactly what the Archbishop said, according to a post on the church's website on 31 March, the sermon "touched on gloomy topics about what happened a century ago, what is happening now and what awaits us in the future". Judge Nikolay Mironenko interpreted this as "public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in the Donetsk and Lugansk People's Republics in order to protect the interests of the Russian Federation and its citizens".

Viktor Pivovarov was ordained a priest in the Russian Orthodox Church Outside Russia (ROCOR), which opened parishes inside Russia in the early 1990s, and in 2006 became an Archbishop in the Russian [Rossiyskaya] Orthodox Church (RosPTs), which was founded after a series of splits within ROCOR. He now leads a rival branch of RosPTs which he established in 2009 after a further split. It is not in communion with either other parts of ROCOR or the Moscow Patriarchate.

Police opened the case after someone in the congregation at Archbishop Viktor's Sunday service on 19 February "went to write a statement [against Pivovarov] for criticising the actions of her beloved leader [presumably Putin]", according to Hieromonk Iona Sigida, writing on the church's eshatologia.org website on 31 March. The Archbishop was then prosecuted "under a newly invented Article, invented out of fear and hatred of dissent from those who do not believe the television".

Archbishop Viktor said in court that "There is a holy war, and it's an aggressive one", he told Radio Free Europe's Kavkaz.Realii on 27 March. "If tanks are under our windows, then we have been attacked and we need to defend ourselves. If our tanks are under their windows, then this is a lawless damned war."

Archbishop Viktor pleaded guilty and intends to pay the fine without appealing, he told Caucasian Knot on 29 March: "I really did

say what was said in court, and I did it during a sermon in the cathedral – where one should speak the truth and only the truth."

Forum 18 wrote to the Krasnodar Region branch of the Interior Ministry and the joint court press service for Krasnodar Region in the afternoon of 3 April, asking them to clarify which statements of Pivovarov's could be considered "discreditation" of the Russian armed forces and why. The Interior Ministry press office responded the same day, refusing to answer Forum 18's questions as "the case is with the court".

Forum 18 had received no reply from the court as of the end of the Krasnodar working day of 5 April.

Russia's government has used a range of tactics to pressure religious leaders (https://www.forum18.org/archive.php?article_id=2763) into supporting the renewed invasion of Ukraine from 24 February 2022. These tactics include warnings to senior and local religious leaders (https://www.forum18.org/archive.php?article_id=2741), and prosecuting and fining religious believers and clergy who have publicly opposed the war. It is unclear what effect this has had on religious believers who may have considered making a public protest against the war. Similar warnings and prosecutions have been used against many Russians who express opposition to the war for any reason.

On 27 January 2023, the Justice Ministry named Telo Tulku Rinpoche (Erdni-Basan Ombadykov), the Dalai Lama's representative in Russia, as a "foreign agent" – the first religious leader to be added (https://www.forum18.org/archive.php?article_id=2763) to the "foreign agents" register (https://www.forum18.org/archive.php?article_id=2707). The following day, Rinpoche – who had left the country some months earlier – stood down from his position as president (Supreme Lama) of the Association of Buddhists of Kalmykiya.

"I wish that the people of Kalmykiya and all followers of Buddhism in these difficult times maintain courage, steadfastness, and adherence to the ideals of compassion, love and non-violence, on which is based the Teaching of the Buddha that we profess," Rinpoche said in a statement on 28 January on the website of the Central Khuruk of Kalmykiya. "In my thoughts, deeds, and prayers, I remain with the Kalmyk people and Buddhists of all Russia, to whose service I dedicated my life." (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 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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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY