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OCCUPIED UKRAINE: First known "discreditation" case in Russian-annexed territory

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

In the first known case in parts of Ukraine Russia illegally claimed to have annexed in 2022, Fr Feognost (Timofei Pushkov) is facing prosecution under Russia's Administrative Code for "discrediting" Russia's armed forces. Russia's FSB security service appear to have notified colleagues in Luhansk about Fr Feognost's YouTube video discussing how his views on patriotism based on Christian principles differed from those of three other Orthodox priests. Markivka District Court is due to hear the case on 30 May. Judge Roman Shulga was unavailable when Forum 18 called the court.

In the first known case in parts of Ukraine Russia illegally claimed to have annexed in 2022, Fr Feognost (secular name Timofei Pushkov) is facing prosecution in the occupied Luhansk Region under Russia's Administrative Code for "discreditation" of Russia's armed forces. Since the claimed annexation, Russia has imposed punishments under its Criminal and Administrative Codes in the occupied territories in courts which it controls.

Police handed Fr Feognost's case to the Russian-controlled Markivka District Court on 16 May. Judge Roman Shulga is due to hear the case on 30 May at 9:30 am. If convicted Fr Feognost faces a fine of up to more than two months' average local wages (see below).

The 43-year-old Fr Feognost is a priest of the Luhansk Diocese of the Ukrainian Orthodox Church affiliated with the Moscow Patriarchate. He serves at the parish of St Nikolai in the village of Kuryachivka in Markivka District of Ukraine's Luhansk Region, 25 kms (15 miles) from the border with Russia (see below).

In Russia itself, Moscow Patriarchate priests have come under pressure from both the Patriarchate and the government (https://www.forum18.org/archive.php?article_id=2763) to support the war, and have been punished if they oppose it.

Fr Feognost is being prosecuted for a 28-minute video he posted on YouTube on 12 May 2022 discussing how his views on patriotism based on Christian principles differed from those of three other Orthodox priests (see below).

Fr Feognost says the Russian Federal Security Service (FSB) in Moscow alerted the FSB in Russian-occupied Luhansk, which then sought a "psycholinguistic expert analysis" from an employee of a university in Luhansk. The "expert examination" was "carried out according to the most loyal of formulas" and found that he "discredited, worked for the enemy" (see below).

The Russian Markivka District Prosecutor then handed the materials against Fr Feognost to the police on 26 April 2023. Markivka District Police chief Lieutenant-Colonel Aleksandr Mulyar launched the case and handed it to court (see below).

The duty officer at Markivka District Police put the phone down when Forum 18 asked to speak to Lieutenant-Colonel Mulyar. Forum 18 was unable to reach Markivka District Prosecutor (see below).

Fr Feognost insisted that he had "no complaints" about the local police. He added that the police know and understand the local situation and "they honestly said that although they know my position, they ask me to voice it less". Police indicated to him that when they handed the case to court, they would ask for a minimum punishment: "issue an official warning" (see below).

In May 2022, three Luhansk People's Republic security officers visited Fr Feognost. They offered him three options: to end his criticism of the Russian armed forces, deportation to "Western Ukraine", or arrest. He told his readers on his Telegram channel that while he considered "what had happened" (Russia's renewed invasion) illegal, he was unable to continue to speak out so critically. "It is very bitter that we found ourselves in conditions of lack of freedom!" (see below).

Illegal Russian punishments for "discrediting" Russia's armed forces

Following Russia's renewed invasion of Ukraine from February 2022, Russian President Vladimir Putin signed into law on 4 March

2022 new punishments for criticising Russia's actions in its war against Ukraine.

Since 2022, Russia has in Crimea - which it illegally claims to have annexed in 2014 - handed to courts more than 200 cases under Russian Administrative Code Article 20.3.3 for "discreditation" of Russia's armed forces, the Crimean Human Rights Group noted on 13 March 2023 (<https://crimeahrg.org/ru/zhitelya-alushty-oshtrafovali-za-diskreditaciyu-rossijskoj-armii/>).

The four other occupied or partially-occupied regions of Ukraine – Kherson, Zaporizhzhia, Donetsk and Luhansk (where Fr Feognost is facing prosecution), which Russia illegally claimed to have annexed (<https://news.un.org/en/story/2022/10/1129492>) in 2022 – began imposing punishments under Russia's Criminal and Administrative Codes in late 2022 in courts which Russia controls.

As the territories are occupied, this is illegal under international law (<https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-64/commentary/1958?activeTab=undefined>) as Russia is required to leave Ukrainian law in force.

Russian Administrative Code Article 20.3.3, Part 1 (https://www.forum18.org/archive.php?article_id=2737) punishes "Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation in order to protect the interests of the Russian Federation and its citizens, [and] maintain international peace and security, including public calls to prevent the use of the Armed Forces of the Russian Federation for these purposes, or equally, aimed at discrediting the exercise by state bodies of the Russian Federation of their powers outside the territory of the Russian Federation for these purposes, if these actions do not contain signs of a criminal offence."

Part 1 carries these possible fines:

- for individuals – 30,000 to 50,000 Russian Roubles;
- for people in official positions – 100,000 to 200,000 Russian Roubles;
- for legal entities – 300,000 to 500,000 Russian Roubles.

A fine of 50,000 Russian Roubles represents more than two months' average local wages for those in work, or nearly 13 weeks' average state retirement pension.

Russian Administrative Code Article 20.3.3, Part 2 (https://www.forum18.org/archive.php?article_id=2737) covers the same actions, if they are: "accompanied by calls to hold unauthorised public events, or create a threat of harm to the life and/or health of citizens [or] property, a threat of mass disruption of public order and (or) public safety, or a threat of interfering with or stopping the functioning of objects of life support, transport or social infrastructure, credit organisations, energy facilities, industry or communications."

Part 2 carries possible fines:

- for individuals – 50,000 to 100,000 Russian Roubles;
- for people in official positions – 200,000 to 300,000 Russian Roubles;
- for legal entities – 500,000 to 1 million Russian Roubles.

Those who violate Russian Administrative Code Article 20.3.3 more than once within a year can face criminal punishment.

Warned to end criticism of the Russian armed forces

The 43-year-old Fr Feognost (secular name Timofei Pushkov) is a priest of the Luhansk Diocese of the Ukrainian Orthodox Church affiliated with the Moscow Patriarchate (https://www.forum18.org/archive.php?article_id=2784). He serves at the parish of St Nikolai in the village of Kuryachivka in Markivka District in Ukraine's Luhansk Region, 25 kms (15 miles) from the border with Russia. The record of his offence notes that Fr Feognost had been born in Crimea but describes him as a Russian citizen.

On 30 May 2022, three security officers of the Russian-controlled Luhansk People's Republic (LPR) visited Fr Feognost, he noted on his Telegram channel the same day. They talked to him on the street without entering his home and checked his phone. They promised to visit his church on Holy Trinity Sunday, which fell on 12 June 2022.

The LPR security officers then offered Fr Feognost three options: to end his criticism of the Russian armed forces, deportation to "Western Ukraine", or arrest. He told his readers on Telegram that while he considered "what had happened" (Russia's renewed invasion) illegal, he was unable to continue to speak out so critically. "It is very bitter that we found ourselves in conditions of lack of freedom!"

The following day, Fr Feognost decided to stop praying (https://www.forum18.org/archive.php?article_id=2784) for "God-protected Ukraine, its authorities and armies," as he feared that the rebel Luhansk authorities might interpret this as "separatism."

Fr Feognost explained on Telegram that "as I do not accept the LPR juridically," and thought praying for an undetermined "our country" unacceptable, he chose instead to pray for "God-protected Luhansk lands" and peace instead. "My prayer is demilitarised to the limit and should not cause any criticism if our church is visited by those who, on the contrary, are militarised to the limit."

Fr Feognost continued to post frequently on his Telegram and YouTube channels, about Orthodox liturgy and history, as well as about current events in the Orthodox Church and more broadly.

First known "discreditation" case in newly-annexed territory

The Russian Markivka District Prosecutor in the occupied Luhansk People's Republic handed materials it had collected against Fr Feognost to the police on 26 April 2023 over "public actions directed at discrediting the use of the Armed Forces of the Russian Federation with the aims of the defence of the interests of the Russian Federation and its citizens and in support of international peace and security", according to the police's notification of the opening of a case, seen by Forum 18.

Forum 18 was unable to reach Markivka District Prosecutor's Office on 22 May.

On 2 May, Lieutenant-Colonel Aleksandr Mulyar, head of the Russian-controlled Markivka District Police, handed Fr Feognost the notification of the opening of a case under Russian Administrative Code Article 20.3.3, Part 1 (https://www.forum18.org/archive.php?article_id=2737) ("Public actions aimed at discrediting the use of the Armed Forces of the Russian Federation").

The notification of the opening of a case did not specify what actions prosecutors and police considered to be "discreditation" of the Russian armed forces.

"They didn't give me any document showing me what they were doing me for," Fr Feognost noted on his Telegram channel the same day. "The police officers conducted themselves correctly (I have no complaint against them). But they indicated that the most likely outcome is a FINE. I can guess who might have set this up .."

Forum 18 was unable to reach Lieutenant-Colonel Mulyar at Markivka District Police. When Forum 18 asked to speak to him on 22 May, the duty officer put the phone down.

Summoned to the police

Markivka District Police summoned Fr Feognost again on 16 May. Officers finally showed him the case materials. "Oh-hohoh, not a case file, but a whole volume of War and Peace," he wrote on Telegram later in the day.

"It turns out that this is not a complaint from locals (and there is such a thing, but they didn't summon me on that). From the main office of the FSB of the Russian Federation (Lubyanka) they leaked to the FSB of the LPR a link to my video 'on patriotism: a response to the priests Ostrovsky, Lobov and Velikanov' with a whole series of 'execution' articles (including 'a message through the media to foreign unfriendly forces of information compromising the Russian Federation', 'discrediting the army of the Russian Federation')."

In the 28-minute video, which Fr Feognost appears to have filmed in his kitchen and posted on YouTube on 12 May 2022, he discussed how his views on patriotism based on Christian principles differed from those of three other Russia-based Orthodox priests, Fr Pavel Ostrovsky who appears frequently in the Russian media and social media, as well as Fr Dionisy Lobov and Fr Pavel Velikanov.

The three priests had just taken part at a service at the Cathedral of the Armed Forces near Moscow. Fr Feognost accused them of barbarism, confusion and servility.

(Within Russia itself, Orthodox priest Fr Ioann Kurmoyarov is being criminally prosecuted for anti-war statements he posted on YouTube (https://www.forum18.org/archive.php?article_id=2756).)

Fr Feognost said the Luhansk FSB sent the video to the Dahl Eastern Ukrainian University in Luhansk for a psycholinguistic examination "which was carried out according to the most loyal of formulas". The "expert examination" found that he "discredited, worked for the enemy".

"With these 'conclusions', the case was 'leaked' (accompanied by comments from the Justice Department of the LPR) to the prosecutor's office of the Markovsky district, and from there to the regional police department," Fr Feognost added.

Fr Feognost insisted that he had "no complaints" about the local police. "Our conversation was most adequate, with understanding, respect, there was no psychological violence, threats or anything like that. The police chief treated me to tea and asked about the situation on the spot." Fr Feognost said he has "a good attitude towards him and his employees".

Fr Feognost added that the police know and understand the local situation and "they honestly said that although they know my position, they ask me to voice it less". Police indicated to him that when they handed the case to court, they would ask for a minimum punishment: "issue an official warning".

Officers then handed Fr Feognost the official record of an offence. The document, seen by Forum 18, notes that "an official" (unnamed) of the Luhansk FSB detected his YouTube video which he had posted "under the pseudonym of archimandrite Feognost Pushkov". The document claimed the video discredited the Russian armed forces. However, it gave no indication as to which particular remarks Fr Feognost had made had led to this conclusion.

Court hearing due on 30 May

Police handed Fr Feognost's case to the Russian-controlled Markivka District Court. Court officials phoned him on 19 May, telling him that the case would be heard on 30 May at 9:30 am. If convicted he faces a fine of up to more than two months' average local wages.

A court official – who did not give her name - told Forum 18 on 22 May that Judge Roman Shulga would hear the case against Fr Feognost. Both the Judge and his assistant were in a hearing and unavailable when Forum 18 called.

Repression extended to newly-occupied territories

Pro-Russian rebels occupied parts of Ukraine's Donetsk and Luhansk Regions in April 2014 and proclaimed what they called the Donetsk People's Republic (DPR) and the Luhansk People's Republic (LPR). Heavy fighting ensued. Until the February 2022 renewed Russian invasion of Ukraine, the Russian-controlled rebel administrations controlled about half of Ukraine's Donetsk and Luhansk Regions. Russia illegally annexed the DPR and LPR as Russian federal subjects in October 2022, retaining the DPR and LPR names.

Freedom of religion and belief is with other human rights also severely restricted within the Ukrainian territory of Crimea, which Russia illegally occupied and annexed (<https://www.nhc.no/en/qa-breaches-of-international-law-and-human-rights-issues-2/>) in 2014. Freedom of religion and belief violations in Russian-occupied Crimea (https://www.forum18.org/archive.php?article_id=2774) include: forced imposition of Russian laws and restrictions on exercising human rights, including freedom of religion or belief; jailing Muslim and Jehovah's Witness Crimean prisoners of conscience; forcible closure of places of worship; and fining people for leading meetings for worship without Russian state permission.

Since 2014, the internationally unrecognised authorities of the Luhansk People's Republic (https://www.forum18.org/archive.php?article_id=2721) and the Donetsk People's Republic (<https://www.forum18.org/archive.php?country=87>) have also imposed severe restrictions on all exercise of the right to freedom of religion or belief, and other human rights.

Following Russia's renewed 2022 invasion of Ukraine, restrictions on the exercise of the right to freedom of religion or belief and other human rights were extended to the newly-occupied parts of the Luhansk People's Republic and the Donetsk People's Republic, as well as other Ukrainian territory Russia has occupied. On 19 October 2022 Russia imposed martial law (<https://www.rferl.org/a/ukraine-russia-drone-attacks/32090900.html>) on the parts of the Ukrainian regions of Donetsk, Luhansk, Kherson, and Zaporizhzhia which it has illegally occupied and annexed.

Recent Russian violations of freedom of religion or belief in occupied parts of Ukraine (https://www.forum18.org/archive.php?article_id=2832) include: seizing and disappearing clergy (including two Ukrainian Greek Catholic priests from Berdyansk), seizing and confiscating places of worship, and threatening religious communities not to meet for worship. (END)

Full reports on freedom of thought, conscience and belief in Occupied Ukraine (<https://www.forum18.org/archive.php?query=&religion=all&country=17>)

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