



# Commentary on the EUAA Query Response on the Russian Federation:

Treatment of military deserters by state authorities  
since the February 2022 invasion of Ukraine

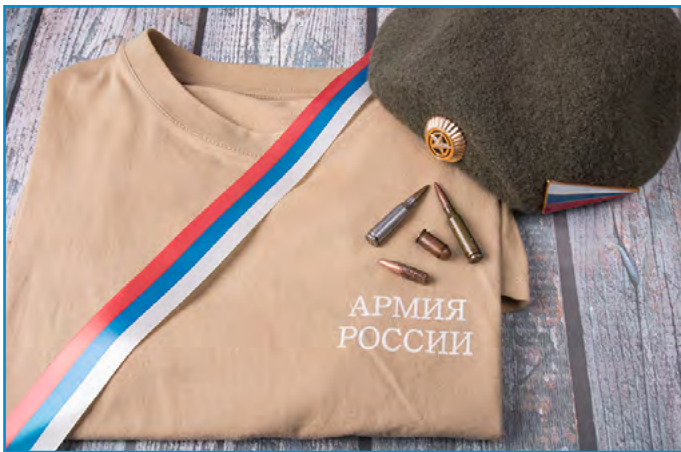
December, 2022





## Commentary on the EUAA Query Response on the Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine

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We would like to express particular gratitude to Alessandro Bartolini for the analysis of Russian and Ukrainian language sources, and to Stephanie Huber, for support and advice in developing this report.

# Introductory remarks

Asylos and the Dutch Council for Refugees (DCR) welcome the continued publication of the European Union Agency for Asylum (EUAA) Country of Origin Information (COI) Queries on a variety of topics and countries.

Following the Russian Federation's invasion of Ukraine in February 2022, EU+ countries and the UK have seen a considerable uptick in asylum applications from Russian nationals compared to 2021.<sup>1</sup>

Over 2022, the EUAA produced two COI Queries addressing how the Russian authorities treat protesters, journalists, human rights defenders or citizens who criticise the war, and military deserters, respectively. With no clear end to the invasion of Ukraine in sight, it is likely that citizens who face targeting by the Russian authorities for opposition to the war, or for desertion, refusal or evasion of military, will continue to seek asylum abroad.

Marking the first collaboration between Asylos and the DCR, we chose to analyse the two aforementioned Query Responses given the likelihood that decision-makers will need accurate and timely COI on these issues on an ongoing basis. Our analyses of the two COI Queries are presented in two separate but complementary commentaries.

The following commentary focuses on the EUAA Query Response covering the treatment of military deserters by the Russian authorities since the Ukraine invasion:

- **EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022** (henceforth referred to as the Military Deserters Query, or Query)

Our analysis of the COI Query on the treatment of protesters, journalists and human rights defenders by the Russian authorities since the Ukraine invasion can be accessed on **Asylos' website**.

Our comments are intended as constructive feedback for the EUAA and the authors of this COI Query including the observations on the methodology outlined in the first section, as well as comments on specific content issues considered relevant for the respective COI Query.

This commentary is also intended as a guide for legal practitioners and decision-makers in respect of observed gaps and omissions in the *Military Deserters Query*, as well as providing additional relevant COI to the issues identified. The commentary should be used as a tool to help identify relevant COI and the COI referred to can be considered by decision-makers in assessing asylum applications and appeals.

## DISCLAIMER

This document should not be submitted in isolation as evidence to national Refugee Status Determination bodies, the judiciary or other decision-makers in asylum applications or appeals. However, legal practitioners are welcome to submit the COI referred to in this document to decision-makers (including judges) to assist in the accurate determination of an asylum claim or appeal.

The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.

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<sup>1</sup> See European Union Agency for Asylum, **Latest Asylum Trends**, September 2022, and UK Home Office, **How many people do we grant asylum or protection to?**, last updated 23 September 2022, see the downloadable table: **Asylum applications, initial decisions and resettlement – Asy\_D02**

# Contents

<b>Recommendations</b>	<b>5</b>
<b>Comments on methodology</b>	<b>6</b>
Research time frame .....	6
Selection of Query Response themes and research topics or questions .....	6
Translation of sources .....	7
Oral sources .....	7
Peer review.....	7
<b>Comments on the Military Deserters Query Response</b>	<b>8</b>
Key observations .....	8
Comments on section 1. <i>Context</i> .....	8
Comments on 2. <i>Overview of military service in the Russian Federation</i> .....	9
Comments on 3. <i>Legislation</i> .....	9
Comments on 5. <i>Evidence of desertion occurring in Ukraine</i> .....	10
Comments on 6. <i>Reports of arrest and prosecution under the Criminal Code for desertion or evasion of military service</i> .....	12

## Recommendations

- In general, European Union Agency for Asylum Queries should include a more detailed methodology, which:
  - details the time frame during which the COI research was undertaken
  - clarifies the meaning of 'reference period'
  - clarifies who drafted research questions/topics
  - clarifies the meaning of 'informal translation' and which entity interpreted/ translated foreign language sources
  - provides adequate detail regarding the expertise of anonymous sources
  - details the peer review process for the COI Query.
  
- The *Military Deserters Query* would have specifically benefitted from:
  - greater clarity regarding the scope of the Query, as the title indicates that it is concerned with 'military deserters', yet the Query also includes information about those who remain in the military (i.e., do not abandon their post) but refuse orders, and briefly mentions draft evasion. While these concepts are closely related, they are distinct,<sup>2</sup> and therefore it would have been helpful for the title to include precise terminology reflecting the profiles covered and the scope of the Query
  - a sub-section covering conditions in prisons and penal colonies, given that 'deprivation of liberty' is among the punishments outlined in Chapter 33 of the Russian 1996 Criminal Code relating to 'Crimes Against Military Service'.

<sup>2</sup> See UNHCR, **Guidelines on International Protection No. 10: Claims to Refugee Status related to Military Service within the context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees**, 12 November 2014, II. Terminology



## Comments on methodology

The COI Query includes a *Disclaimer* section, which references some aspects of the methodological approach taken, however no specific section on methodology is included in this Query:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] Disclaimer

This response to a COI query has been elaborated according to the EASO COI Report Methodology and EASO Writing and Referencing Guide.

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.

The information in the response does not necessarily reflect the opinion of EUAA and makes no political statement whatsoever.

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.

### RESEARCH TIME FRAME

The COI Query helpfully includes a date of completion on the cover page. However, it is not clear whether this was the last date that COI research was undertaken or the last date that the Query was worked on. In the interests of transparency, and to enable researchers to undertake future research updates, it would be helpful to indicate the last date on which the COI sources were searched.

The Query includes a 'Reference Period'. In the case of the *Military Deserters Query*, this appears to be 1 February – 4 April 2022. It would be helpful for the COI Query to clarify the meaning of 'reference period', and in particular, whether it relates to the period of time in which the search of events is focused on, or the time frame during which (most) sources referenced were published.

This COI Query was published on 5 April 2022, just over a month after the Russian Federation's invasion of Ukraine on 24 February 2022. In light of the fact that the Query focuses on a very recent, and fast developing situation, it would have been beneficial to emphasise in the *Disclaimer* and *Context* sections that the Query is time sensitive, and presents preliminary available information about military desertion in the Russian Armed Forces. It would also have been helpful to emphasise in the *Disclaimer* and *Context* sections that due to increasing censorship related to the conflict context there are significant constraints on the flow of information, and as noted by one of the oral sources used in section 4. *Russian censorship of war reporting and limitations on information about desertion cases in Ukraine*, " [...] 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" (see page 8 of the Query).

### SELECTION OF QUERY RESPONSE THEMES AND RESEARCH TOPICS OR QUESTIONS

It is unclear whether the research questions/topics listed in the COI Query closely reflect the research questions that a Member State authority has put to the EUAA COI researchers, or whether the EUAA COI researchers are able to exercise some discretion in determining the scope of the issues covered, wording of research questions, and how to present their research findings under research questions/topics. The Query Response would benefit from providing a brief explanation in relation to these points.

## TRANSLATION OF SOURCES

The COI Query is drafted in English, but helpfully draws on numerous Russian and Ukrainian language sources. The *Military Deserters Query* indicates the use of ‘informal translation’ once, relating to a source title in the bibliography section (see page 18), but otherwise, it is unclear how Russian and Ukrainian sources were interpreted and translated. To enhance transparency with regard to the methodology, it would have been helpful to outline how the COI Query managed Russian and Ukrainian language sources overall, both in terms of understanding and summarising the content and, where applicable, translating it, and in particular, whether these processes were carried out by the EUAA or another entity.

## ORAL SOURCES

The *Military Deserters Query* uses a number of oral sources, one of whom is referred to as ‘A human rights defender in Russia’. The ‘Sources Used’ list includes the following information about this source:

**EUAA, COI Query Russian Federation:  
Treatment of military deserters by state  
authorities since the February 2022  
invasion of Ukraine (1 February 2022 – 4  
April 2022) [Q24-2022], 5 April 2022**

[...] Oral Sources [...]

A human rights defender in Russia, email with EUAA, 19, 25, 26 March 2022. The source is based in Russia and has first-hand information on instances of human rights violations. The contact wishes to remain anonymous for security reasons.

The EUAA Query demonstrates good practice in seeking to protect the security of the source by providing anonymity. However, transparency could have been enhanced by including additional information about how the source is qualified to provide information on the specific issues covered in the *Military Deserters Query*, in particular legislation related to ‘Crimes Against Military Service’, and up to date information on its past and current implementation.

For example, the 2019 *EASO Country of Origin Information (COI) Report Methodology* recommends the following information be provided, to the extent possible, when a source wishes to remain anonymous: ‘[i]f a source wishes to be referred to anonymously this can be done by describing to the extent possible the type and background of the source, e.g., its position/role/title, mandate, reputation and experience, methodologies used, and operational presence/reporting capacity’.<sup>3</sup>

## PEER REVIEW

While the *Disclaimer* section notes that a peer review has been undertaken in line with *EASO COI Report Methodology* and the *EASO Writing and Referencing Guide*,<sup>4</sup> it would be helpful for the COI Query to briefly specify which entities have been involved in the review process, as the *EASO COI Report Methodology* indicates that COI researchers from EU+ countries, the EUAA COI researchers and external experts may be involved.<sup>5</sup>

<sup>3</sup> European Asylum Support Office [now European Union Agency for Asylum], **EASO Country of Origin Information Report Methodology**, June 2019, p.14

<sup>4</sup> See European Asylum Support Office [now European Union Agency for Asylum], **EASO Country of Origin Information Report Methodology**, June 2019 and European Asylum Support Office [now European Union Agency for Asylum], **EASO Writing and Referencing Guide for EASO Country of Origin Information (COI) Reports**, June 2019

<sup>5</sup> European Asylum Support Office [now European Union Agency for Asylum], **EASO Country of Origin Information Report Methodology**, June 2019, p.23

# Comments on the Military Deserters Query Response

## KEY OBSERVATIONS

This section contains key findings from our review, which cut across various sections of the COI Query. A list of more detailed observations in order of appearance in the COI Query follows.

- The title of the COI Query indicates that it is concerned with 'military deserters', however the content of the Query also addresses those who remain in the military (i.e., do not abandon their post) but refuse orders, and briefly mentions draft evasion. While these concepts are closely related, they are distinct,<sup>6</sup> and therefore it would have been helpful for the title to include precise terminology reflecting the profiles covered and the scope of the Query.
- Given that 'deprivation of liberty' and 'custody in a military disciplinary unit' are among the punishments outlined in Chapter 33 of the Russian 1996 Criminal Code relating to 'Crimes Against Military Service', it would have been useful to include relevant information about conditions in settings where someone who has contravened the law may be detained.

## COMMENTS ON SECTION 1. CONTEXT

The Query summarises the following regarding the state of the Russian Armed Forces since the invasion of Ukraine:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**  
[...] 1. Context [...]

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.<sup>5</sup>

<sup>4</sup> 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

<sup>5</sup> ISW, Russian Offensive Campaign Assessment, 12 March 2022, url, p. 3; ISW, Russian Offensive Campaign Assessment, 17 March 2022, url, p. 1

To enhance transparency with regard to the original source of information, it would have been helpful to clarify that the 'reports' referred to in the source originate from British intelligence. The BBC article also includes further useful information that could have been included regarding the situation of the Russian Armed Forces since the invasion, especially the quote by the head of the UK's cyber-intelligence agency GCHQ that morale and weapons have been in short supply, and Russian troops have sabotaged their own equipment:

**BBC News, Ukraine war: Putin being misled by fearful advisers, US says, 1 April 2022**

[...] Meanwhile, British intelligence says Russian troops in Ukraine are demoralised, short of equipment and refusing to carry out orders [...] Jeremy Fleming, the head of the UK's cyber-intelligence agency GCHQ, said [...] "We've seen Russian soldiers - short of weapons and morale - refusing to carry out orders, sabotaging their own equipment and even accidentally shooting down their own aircraft," [...]

<sup>6</sup> See **Oxford Dictionary** definition of 'dissident': 'a person who strongly disagrees with and criticizes their government, especially in a country where this kind of action is dangerous'.



## COMMENTS ON 2. OVERVIEW OF MILITARY SERVICE IN THE RUSSIAN FEDERATION

1. The Query states the following:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] 2. Overview of military service in the Russian Federation [...]

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 [...]

The Query would have benefitted from also including information found in a number of sources that it referenced, indicating that some soldiers were not made aware before being deployed in Ukraine, of the task they were being sent to carry out:

**AP, Ukraine war fuels fears among draft-age Russian youths, 1 April 2022**

[...] Some of the captured soldiers said they were told by their commanding officers that they were going to a military exercise but suddenly found themselves fighting in Ukraine [...]

**Politico, What the use Russian conscripts tells us about the war in Ukraine, 17 March 2022**

[...] while information out of Ukraine is hard to decipher, text messages to mothers and recordings of soldiers crying on the front lines have surfaced. Videos of Russian prisoners of war suggest that at least some did not know they were going to fight in Ukraine [...]

2. The Query further states that:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] 2. Overview of military service in the Russian Federation [...]

[...] Associated Press (AP) reported that requests for civilian alternatives to military service are frequently turned down [...]

It may have been beneficial to extract further contextual information from the following source, which the EUAA cited, regarding the difficulty of obtaining exemptions, particularly the suggestion that it is common for medical panels to admit people for military service who should be exempt:

**AP, Ukraine war fuels fears among draft-age Russian youths, 1 April 2022**

[...] Alexei Tabalov, a lawyer who advises conscripts, said medical panels at recruitment offices often admit youths who should be exempt from service because of illness [...]

## COMMENTS ON 3. LEGISLATION

1. The hyperlinks in footnotes 17 and 19, which should have linked to the source below, did not appear to work:

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

The following alternative link does work:

[https://online.zakon.kz/Document/?doc\\_id=30397073](https://online.zakon.kz/Document/?doc_id=30397073)

2. The Query states with regard to the Russian Criminal Code:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] 3. Legislation [...]

[...] 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)<sup>18</sup> which was compared with the Russian version, available on the website of the Government of the Russian Federation (pravo.gov.ru)<sup>19</sup> 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 [...]

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

It would have been helpful for the Query to indicate how the English language version of the 1996 version of the Russian Criminal Code (amended in 2012), had been checked against the Russian language version of the Russian Criminal Code updated in 2022, since based on Asylos' review of the Russian language source, there appears to be at least one divergence between the two versions.

In particular, the Query quotes the following relevant Article of the 1996 version of the Russian Criminal Code:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] 3. Legislation [...]

[...] 3.1 Crimes Against Military Service under the Criminal Code [...]

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.<sup>20</sup>

However, according to the Russian language version of the 2022 amended version of the Russian Criminal Code, Article 331(3) is also abrogated, a difference which should have been reflected in the Query.

## COMMENTS ON 5. EVIDENCE OF DESERTION OCCURRING IN UKRAINE

1. The focus of section 5 is on evidence of desertion in Ukraine, however, it may have been helpful to expand the title's focus to also address any instances of desertion in border areas, since, for example, this section also mentions the situation of a Russian contract soldier who deserted the military while based in Belgorod, which is an area in the Russian Federation, near the border with Ukraine:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] 5. Evidence of desertion occurring in Ukraine [...]

[...] 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 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.

An article published just after this COI Query also reports that paratroopers deployed in Belarus refused to fight in the conflict with Ukraine, further indicating that it may have been helpful for this section to have a wider geographical focus than desertion in Ukraine:

**The Moscow Times, 60 Russian Paratroopers Refuse to Fight in Ukraine, 7 April 2022**

Approximately 60 paratroopers from Russia's Pskov region have refused to be deployed to Ukraine, newspaper Pskovskaya Gubernia has reported. Paratroopers from the area were sent to Belarus days after Russia invaded Ukraine on Feb 24, the outlet wrote Wednesday. They reported that a large number of soldiers were returned to Pskov and fired after refusing to fight — with some also threatened with criminal prosecution for desertion.

## 2. The Query states:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] 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 2022<sup>34</sup> 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.<sup>35</sup>

<sup>34</sup> 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

<sup>35</sup> 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

Footnote 34 links to a Meduza article which states that the Agora report was jointly published with Network Freedoms. It is not clear why the Meduza article, which is a secondary source, is cited here, instead of the primary source, which includes the same information and is referenced at footnote 35. As cautioned in ACCORD's, *Researching Country of Origin Information: Training Manual*,<sup>7</sup> '[i]n many cases, a piece of information can be found in a number of sources. If, however, all these sources obtained the information from the same source, an impression of corroboration may arise where in fact there is none.' To avoid 'false corroboration', the ACCORD manual advises to 'be aware of who or what the primary source is and consult the source that first reported the information whenever possible.'<sup>8</sup>

3. One of the oral sources drawn upon, Dr. Huseyn Aliyev, indicates that Ukrainian media sources are one of the few channels of information about Russian military deserters in Ukraine.

The Query includes a number of examples of desertion by members of the Russian Armed Forces in Ukraine, derived from Ukrainian sources. Further examples published by Ukrinform, a Ukrainian source, within the (assumed) research timeframe, could have also been included in the Query as illustrative cases:

**Ukrinform, Російські військові шукають "українські патрони", щоб ними прострелити собі ноги і потрапити в госпіталь. [Russian soldiers are looking for "Ukrainian bullets" to shoot themselves in the legs and be hospitalized.], 17 March 2022**

The enemies no longer want to fight and set themselves one single task - to survive: "I'll tell you a secret... we wanted to shoot each other in the legs with 7.62 cartridges, Ukrainian ones, you know, and return to the hospital in Budenovsk [...]

Original source: Вороги більше не хочуть воювати і ставлять для себе єдине завдання – вижити: "Я тебе по секрету скажу...мы хотели патронами 7.62, украинскими, короче, другую ноги попрострелить и вернуться в госпиталь в Буденовск [...] (Translated by Asylos)

**Ukrinform, Росіянин втік від служби в армії путіна до Черкас" ["Russian escaped from service in Putin's army to Cherkasy"], 9 March 2022**

Operatives of the Criminal Investigation Department of the National Police in Cherkasy region found a Russian who was hiding from service in Putin's army.

Original source: Оперативники карного розшуку ГУНП в Черкаській області знайшли росіянина, який переховувався від служби в армії путіна. (Translated by Asylos)

<sup>7</sup> Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), *Researching Country of Origin Information: Training Manual*, p.137, October 2013

<sup>8</sup> Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD), *Researching Country of Origin Information: Training Manual*, p.136, October 2013

## COMMENTS ON 6. REPORTS OF ARREST AND PROSECUTION UNDER THE CRIMINAL CODE FOR DESERTION OR EVASION OF MILITARY SERVICE

1. The Query reports on cases of arrest and prosecution for military desertion between 2019 and 2021. An additional illustrative case of prosecution for military draft evasion that occurred in 2019, which was found in a Russian source, but not included in the Query, could have also been included in this section:

**Gazeta Yashkino, В Яшкинском районе осудили уклониста, ["Draft dodger convicted in Yashkino District"], 14 May 2019**

[...] The website of the District Prosecutor's Office reports that the Yashkino District Court sentenced a local resident for evading military service. The crime was discovered during a prosecutor's inspection in February 2019. [...]

Original source: На сайте районной прокуратуры сообщается, что Яшкинский районный суд вынес приговор местному жителю за уклонение от военной службы. Преступление было выявлено в ходе прокурорской проверки в феврале 2019 года. (Translated by Asylos)

2. The Query states the following with regard to prosecutions under Articles 338 and 332:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

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'. [...]

However, the Agora and Network Freedoms report does not appear to mention anything in regards to Article 338 relating to desertion (observation based on Asylos' interpretation of Russian language source).

3. The Query seeks to provide information on specific cases of arrest and prosecution of military deserters and evaders since the invasion of Ukraine in February 2022, and notes that these could not be found within the time constraints. The Query instead provides information on threats of arrest and prosecution.

An additional Ukrainian source, reporting on the location of members of the Russian Armed Forces who refused to participate in hostilities and were allegedly undergoing pre-trial investigation measures in a military camp in Belgorod, could have added relevant information to this section, particularly given the very limited available information:

**Ukrinform, У військовому таборі в Белгороді росіяни допитують дезертирів – Міноборони, [Russians interrogate deserters in military camp in Belgorod - Ministry of Defense], 14 March 2022**

According to available information, a military camp of the Belgorod military commandant's office is located on the territory of the Russian Federation, in Belgorod. The camp hosts Russian servicemen who have been discharged from hospitals after treatment and are waiting to be sent to their units. Moreover, in this camp there are Russian servicemen who refuse to participate in hostilities. They are undergoing pre-trial investigation measures.

Original source: За наявною інформацією, на території РФ в місті Белгород розміщено військовий табір білгородської військової комендатури. У таборі утримуються російські військовослужбовці, які після лікування виписані з шпиталів та чекають відправки у підрозділи. Також у зазначеному таборі перебувають військовослужбовці РФ, що відмовляються від участі в бойових діях. З ними проводять заходи досудового дзнання. (Translated by Asylos)

4. The Query refers to an incident in which Russian marines, including conscripts, refused to take part in the fighting in Ukraine. The Query summarises information from the Telegram channel of media project, Grati, in the following way [emphasis added]:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

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.**<sup>57</sup>

<sup>57</sup> Grati, Telegram, 12 March 2022, url

Based on a review of the Russian source, the sentence in bold appears to be an inaccurate summary. The source actually states that the conscripts who refused to fight after the President's announcement on 5 March 2022 were sent from the Crimea to Russia to continue their military service. A more precise English summary of the source would be as follows:

According to the source, after the statement by the Russian President of 5 March 2022 that conscripts would not be used in the fighting, those who refused to fight were reportedly told that they would be sent from the Crimea to Russia to continue their military service. (Translated by Asylos)

5. While it is acknowledged that there was limited information on cases of arrest and prosecution of military deserters and evaders at the time this Query was being drafted, it may have nevertheless been helpful to include a sub-section covering information on conditions in detention, given that 'deprivation of liberty' features frequently as a possible punishment for the breach of Articles relating to 'Crimes Against Military Service', outlined in the Russian Criminal Code.

Furthermore, the Query also refers to a case in which Russian servicemen in Ukraine who wanted to desert were threatened with seven years in prison, and another case in which a deserter was sentenced to time in a penal colony [emphasis added]:

**EUAA, COI Query Russian Federation: Treatment of military deserters by state authorities since the February 2022 invasion of Ukraine (1 February 2022 – 4 April 2022) [Q24-2022], 5 April 2022**

[...] 5. Evidence of desertion occurring in Ukraine [...]

• 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'**.<sup>43</sup> [...]

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

6.1 During 2019-2021 [...]

• 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.**<sup>47</sup> [...]

<sup>43</sup> 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

<sup>47</sup> NR, В Подмосковье солдат-дезертир сдался спустя 14 лет после побёга [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

The following sources addressing conditions in prisons and penal colonies, which were not cited by the EUAA but which were available in the (assumed) research time frame, could have provided relevant contextual information in section 6:

#### **Deutsche Welle, Torture is rife in Russia's prisons, 1 February 2022**

Dozens of victims and their lawyers accuse the Russian authorities of trying to cover up countless cases of torture and of refusing to press charges against prison staff. The accusations come after authorities in Russia's Irkutsk oblast region announced earlier this year that proceedings in four torture cases had been dropped. The list of those allegedly affected is much longer. Sergey Savelyev, a former prisoner, leaked 40 gigabytes of video and photo material from Russian prisons to Russian human rights group Gulagu.net in October 2021. The footage shows prisoners being severely mistreated in various institutions [...]. Several sources from the detention centers the rioters were taken to have confirmed reports of regular torture. The prisoners who cooperated with the prison management forced the newcomers to slander others and confess to having helped organize the riot in Angarsk. When simple beatings were not enough, needles were stuck under the prisoners' nails, their heels beaten with cables and boards. The men were raped with various objects. This went on for months. Dmitry said a senior guard beat and tortured people every morning, except on weekends. [...]

#### **Freedom House: Freedom in the World 2022 – Russia, 24 February 2022**

[...] F3 0-4 pts [...]

Prisons are overcrowded and unsanitary; inmates lack access to health care and are subject to abuse by guards. [...]

#### **AI – Amnesty International: Amnesty International Report 2021/22; The State of the World's Human Rights; Russian Federation 2021, 29 March 2022**

[...] Torture and other ill-treatment [...]

Torture and other ill-treatment in custody remained endemic and prosecutions of perpetrators rare [...]. Smuggled graphic videos of inmates' torture, including rape, in Saratov prison hospital and other penal institutions were made public in October by activists from the Gulagu.net group. In response to widespread media coverage and a public outcry, the authorities initiated criminal investigations and sacked some prison officials [...]





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