

Ukraine

The Ruslan Kotsaba story

New trial against Ukrainian journalists and conscientious objector



"I know that the mobilization is declared under martial law. I would rather go to prison than go into civil war now and kill my compatriots who live in the East. Don't argue with conscription. I will not take part in this fratricidal war".

This was declared by Ruslan Kotsaba to Ukrainian President Petro Poroshenko on January 23, 2015 in a post on YouTube. A few weeks later he was arrested and charged with "treason" and "obstruction of the legitimate activities of the armed forces of Ukraine". After 16 months of pre-trial detention under inhumane conditions, the court in Ivano-Frankivsk sentenced him to 3.5 years in prison. The court of appeal acquitted him shortly afterwards.

However, the public prosecutor's office requested that the trial be reopened, which the Supreme Court followed in June 2017. It ordered a new trial. In the last two years, a total of 14 courts have referred the case to each other. Now a new trial will be held at the court in Kolomyja. On December 10, 2020 the 2nd day of the trial will take place.

Amnesty International had already recognized Ruslan Kotsaba as a political prisoner in 2015. Connection e.V., DFG-VK and other organisations repeatedly called for the acquittal from 2016 to be confirmed and for the criminal proceedings to be stopped.

Information provided by



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Ukraine: the Ruslan Kotsaba story

Chronology

January 23, 2015: Ruslan Kotsaba, originally a supporter of the Maidan protests, uploads a video on *YouTube* to voice his opposition to Ukraine's warfare in the eastern part of the country. In a statement addressed to president Petro Poroshenko, the freelance journalist announces that he will refuse to be called up, calling on his fellow countrymen to do likewise and make a stand against conscription. In his address, he stresses his view that the ongoing conscription at that time in Ukraine is unlawful since the Ukrainian government has not declared war.¹ He goes on to stress that as a Christian he feels committed to upholding God's Commandment "Thou shalt not kill".²

February 7, 2015: Ruslan Kotsaba is arrested on charges of "high treason" and "obstructing the lawful activities of the Ukraine military".

From February 2015: Ukraine's public prosecutor names around 60 witnesses who, over time, are summoned to appear at the monthly court sessions. However, many of them simply don't show up, pointlessly stretching the court case out over many months. Prison conditions during Ruslan Kotsaba's detention are degrading.

February 5, 2016: A full year on from his arrest, Ruslan Kotsaba is given his first opportunity to speak out before court on the charges brought against him. He uses his two-hour testimony to affirm his antimilitaristic stance and his refusal to take up arms. He also speaks at length about the case brought against him, emphasising that he upholds and practises the democratic rules of journalism.

May 12, 2016: The court in Ivano-Frankivsk announces Ruslan Kotsaba's sentence of 3½ years (42 months) in prison. It dismisses the charge of "high treason", stating that the evidence presented by the prosecution, including the wiretapping records, fails to prove that Mr Kotsaba, in his public appearances, wilfully and directly aided a foreign country by engaging in subversive practices against Ukraine. Ukraine's Constitution, the court continues, upholds his freedom of opinion, rendering Ruslan Kotsaba's remarks constitutional.

The court does, however, find him guilty of "obstructing the lawful activities of the Ukraine military", stating that his remarks were not based on precise facts but had instead encouraged the general public to avoid conscription and the duty to defend the country. The court makes no reference to Ruslan Kotsaba's defence that conscription is unlawful since Ukraine has not actually formally declared war.

The court also decrees that in light of the tough prison conditions during detention, his time spent in custody would be counted twice towards his overall prison term pursuant to Article 72.5.

May 16, 2016: Ruslan Kotsaba appeals against the verdict.

July 14, 2016: The Court of Appeal discontinues the proceedings and orders the release of Ruslan Kotsaba after more than 16 months in prison.

June 1, 2017: The Supreme Court of Civil and Criminal Matters of Ukraine annuls the verdict of the Court of Appeal on the grounds that the Code of Criminal Procedure was not complied with. In particular, the evidence submitted by the prosecutor's office had not been fully reviewed by the Court of Appeal.

November 3, 2020: The case is retried before the court in Kolomyja. The charge is again "treason" and "obstruction of the legitimate activities of the armed forces of Ukraine".

December 10, 2020: On Human Rights Day the second day of the trial will take place in Kolomyja

¹ <https://www.youtube.com/watch?v=zv-FpSztm5g>

² Ruslan Kotsaba to the Ivano-Frankivsk eparchy of the Ukrainian Greek Catholic Church.

Political persecution of antimilitarists

Summary

Connection e.V. and the *German Peace Society - United Antimilitarists (DFG-VK)* see the criminal prosecution of Ruslan Kotsaba as a case of political persecution. Ruslan Kotsaba appears to have been accused of taking a public stance against Ukrainian government policy and of calling for an end to the “fratricidal war” and for negotiations to be begun with the separatists in the east of the country. That’s the only possible explanation why the Ukrainian authorities are cracking down on him so harshly and why he has been sentenced to a number of years in prison.

It is particularly worth noting the public prosecutor’s attempt, on the basis of extremely flimsy evidence, to have the journalist found guilty of “high treason”. At the same time, this should be seen as a threat aimed at silencing any further criticism of the conflict, since anyone doing so can expect to be prosecuted in a similar fashion and the court, it seems, would be prepared to hear such cases.

What is more, by summoning more than 60 witnesses, the public prosecutor managed to stretch the court case out over many months, forcing Ruslan Kotsaba to languish in degrading conditions in custody. The court confirms as much (indirectly) in its verdict by counting his period in detention twice towards his overall sentence. This should be condemned as punishment without trial and should not, under any circumstances, be legitimised. For Ruslan Kotsaba, the period in custody became a form of punishment in itself.

With the reopening of the trial, Ruslan Kotsaba is threatened with being arrested and sentenced again. For the second time, he is subject to persecution that violates human rights.

Connection e.V. and *DFG-VK* also consider Ruslan Kotsaba’s call on fellow Ukrainians to refuse to be conscripted to be legitimate. The right to refuse conscription is very limited at best in Ukraine and falls short of the standards stated by the European Court of Human Rights, amongst others. Only members of roughly a dozen religious organizations are permitted to avoid military service. Furthermore, army reservists are prohibited from refusing the draft. Moreover, as Ruslan Kotsaba himself notes, calling up conscripts without actually declaring war is a questionable thing to do. Sentencing Ruslan Kotsaba to 42 months in prison for calling on fellow Ukrainians to refuse to be drafted should be condemned in the strongest-possible manner and regarded as political persecution.

Some background information

Amnesty International: political prisoner of conscience

Amnesty International has adopted Ruslan Kotsaba as its first prisoner of conscience in Ukraine in five years, writing: "Members of the media are suffering harassment at the hands of the authorities. Among them is the journalist and prominent blogger Ruslan Kotsaba – recently named as Amnesty International's first Ukrainian prisoner of conscience in five years. He could face more than a decade in prison on the charge of 'high treason' and for his views on the armed conflict in eastern Ukraine.

Ruslan Kotsaba was arrested on 7 February in Ivano-Frankivsk, 130 km south-east of Lviv, after he posted a video describing the conflict as "the Donbas fratricidal civil war". He also expressed opposition to military conscription of Ukrainians to take part in the conflict.

After being formally charged on 31 March with 'high treason', he faces up to 15 years in prison, as well as up to an eight-year sentence on a further charge of 'hindering the legitimate activities of the armed forces'. Amnesty International has called for his immediate and unconditional release, and we see his treatment as a brazen restriction on the right to freedom of expression".³

Conscription and Conscientious Objection⁴

(February 14, 2020) In September 2019 the military commissariats of Kyiv sent to the police 34,930 cases of evaders from the conscription. The military commissariat of Lviv Oblast reported that two-thirds of summoned conscripts did not appear at draft stations so the police were asked to search for them. Hunting for conscripts at the streets to abduct them and deliver to the military assembly point against their will is the usual (and partly legal) activity of police

during the draft period. Officers of military commissariats doing their draft duties often received bribes. At other times they were confronted by outraged civilians.

The United Nations Human Rights Monitoring Mission in Ukraine documented eleven cases between May and August 2019 of arbitrary detention of conscripts by the representatives of the military commissariat who do not have the right to apprehend individuals.⁵ For example, Yehor Potamanov was abducted by police and military commissariat during the raid for conscripts on the streets of the city when he was taking his sick father to the hospital with his brother. Protesting against the abduction, Yehor Potamanov resorted to a week-long hunger strike and refused to take a military oath.

According to Dmytro Tyshchenko, brother of Yehor Potamanov, hundreds of conscripts were abducted the same way in the streets of Kharkiv this summer. Three of them cut their veins and one hanged himself in desperate attempts to get an exemption from the draft on the grounds of mental disorder. Abducted conscripts' requests to meet with their relatives were refused since authorities tried to conceal bruises and injuries caused by violent transportation to the military commissariat. Police failed to conduct an effective criminal investigation of abduction, inhuman treatment, and abuses of power during so-called "hunting for draftees".

³ Amnesty International: Ukraine's spate of suspicious deaths must be followed by credible investigations. 17 April 2015. www.amnesty.org/en/latest/news/2015/04/ukraine-suspicious-deaths-need-credible-investigations.

⁴ *European Bureau of Conscientious Objection: Annual Report - Conscientious Objection to Military Service in Europe 2019. February 14, 2020.*

⁵ Human Rights Council document A/HRC/42/CRP.7 "Report on the human rights situation in Ukraine 16 May to 15 August 2019, 24th September 2019

According to official statistics, 228 draft dodgers in 2018 were sentenced by the courts, 12 of them incarcerated, and 207 received suspended sentences mostly of one or two years' imprisonment. Fines were imposed on 108 evaders from military registration or mandatory gatherings.

Servicemen who develop a conscientious objection have no legal way to have their objection recognized, and voluntary dismissal from military service is usually unavailable. This also applies to conscripts transported to military units against their will. In 2018 there were 2,490 sentences for unauthorized abandonment of military units or desertion, usually two to five years of prison with discharge on probation, but 193 were jailed, 128 arrested, and 11 detained in a disciplinary battalion. Also, one person was arrested and two got suspended sentences for self-harm to avoid military service. In Ukrainian armed forces, about two or three servicemen have committed suicide weekly since the start of the Donbas war, and several cases of conscript suicide are reported by the media. In Kyiv and Ternopil, conscripts killed themselves by jumping from the windows of military commissariats.

There are many signals of abuse of power by the military commissariats during the spring and autumn drafts in 2019 in particular, as noted by the UN Human Rights Monitoring Mission in Ukraine. The Potamanov case in Kharkiv, detention of conscripts in Rivne oblast, and hunting for conscripts at the streets was widely reported by the media.

Defence Minister Andriy Zahorodniuk stated the cancellation of conscription is the policy of the state and his personal goal, but it will not happen quickly.

The United Nations General Assembly, condemning the ongoing temporary occupation of part of the territory of Ukraine, namely, the Autonomous Republic of Crimea and the city of Sevastopol, expressed its deep concern over the conscription by the Russian Federation of the residents of Crimea into its armed forces, including assignment to military bases in the Russian Federation, and urged the Russian Federation to stop such illegal activity.

On 29 August 2019 *Ukrainian Pacifist Movement* picketed Verkhovna Rada (the Ukrainian parliament) and the President's Office in Kyiv demanding an end to the cruel "hunting for conscripts" and the abolition of conscription. Petitions to President Zelensky calling to abolish conscription gathered more than 10,000 signatures.