



Topical Problems of Early Release of Convicts under Article 80.2 of the Criminal Code of the Russian Federation

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Abstract

Introduction: the article discusses criminal law issues of the release of convicts from serving their sentences in connection with military service during the period of mobilization, martial law or in wartime in accordance with Article 80.2 of the Criminal Code of the Russian Federation. *Purpose:* based on the analysis of judicial practice and theoretical research, to identify problems of legislative consolidation of the legal basis and type of release of convicts from serving their sentences in connection with military service during the period of mobilization, martial law or during wartime (Article 80.2 of the Criminal Code of the Russian Federation), to propose ways to solve them. *Methods:* formal legal and analytical, theoretical methods of formal and dialectical logic, method of interpretation of legal norms. *Results:* an analysis of Article 80.2 of the Criminal Code of the Russian Federation “Release from serving a sentence in connection with military service during mobilization, martial law or wartime” shows that there is no clarity on the issue of repeated release under Article 80.2 of the Criminal Code if, during military service, a person released from punishment conditionally under Part 1 of this article, committed a new crime. The command of a military unit may reapply to the court with a request for conditional release of a convicted person from punishment under Article 80.2 of the Criminal Code of the Russian Federation. Given the imperative nature of this rule, such situations are quite acceptable. *Conclusion:* in order to solve the problems that arise in connection with the release from punishment due to military service during the period of mobilization, martial law or during wartime (Article 80.2 of the Criminal Code of the Russian Federation), it seems advisable to fix an additional condition in the given article that the court should decide on granting repeated release from serving a sentence or exemption from criminal liability (Article 78.1 of the Criminal Code of the Russian Federation) based on the circumstances of the newly committed crime and taking into account the identity of a perpetrator, that is, to determine the discretionary nature of the application of the specified norm. Besides, Article 80.2 of the Criminal Code of the Russian Federation may be formulated as follows: “Release from serving a sentence in connection with the conscientious performance of military duties during mobilization, martial law or wartime”.

Keywords: convicts; release from punishment; participants in the special military operation; conditional release; military personnel.

5.1.4. Criminal law sciences.

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Introduction

It is known that exemption from punishment, as one of the important institutions of criminal law, is mainly aimed at improving the situation of a person who has committed a crime, one of the means of implementing the principle of humanism in criminal law, and a positive incentive for convicts to lead a law-abiding life. The institution of release from punishment implies legal consequences in the form of non-assignment of punishment to a convicted person, imposition of punishment on a convicted person, but release from the actual service, as well as release from further punishment of a convicted person who has partially served a criminal sentence [1, p. 5]. According to these criteria, various foundations of the institution of release from punishment should be classified into three sub-institutions: release from sentencing; release from an actual sentence; release from further serving a sentence [2, p. 14]. Release from sentencing and release from an actual sentence may be applied only at the sentencing stage, which provides, according to Part 2 of Article 86 of the Criminal Code of the Russian Federation, that these persons released from punishment are considered not convicted. Also according to Paragraph 3 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 14 of June 7, 2022 “On the practice of courts applying legislation regulating the calculation of the repayment period and the procedure for removing a criminal record”, a person who is released from serving a sentence in the event of the adoption of a criminal law eliminating the criminality of the act (Article 10 of the Criminal Code of the Russian Federation) or the expiration of the statute of limitations of a court conviction (Article 83 of the Criminal Code of the Russian Federation).

Accordingly, release from further serving of a sentence presupposes the use of this type of release at the stage of execution of a court verdict, which provides for a criminal record, since

its repayment is regulated by Part 3 of Article 86 of the Criminal Code of the Russian Federation. So, if, for example, release due to a change in the situation (Article 80.1 of the Criminal Code of the Russian Federation) refers to the institution of release from sentencing, release due to the expiration of the statute of limitations of a court verdict (Article 83 of the Criminal Code of the Russian Federation) – to the institution of release from actual serving of punishment, then conditional early release from serving a sentence (articles 79 and 93 of the Criminal Code of the Russian Federation) is part of the institution of release from further serving of punishment.

Research

One of the types of a comprehensive institution of release from further serving of punishment is exemption from punishment in connection with military service during the period of mobilization, martial law or in wartime, because it applies to convicts in accordance with Part 1 of Article 80 of the Criminal Code of the Russian Federation.

It is known that the Federal Law No. 64-FZ of March 23, 2024 introduced into criminal law Article 80.2 of the Criminal Code of the Russian Federation “Release from serving a sentence in connection with military service during mobilization, martial law or wartime”. Previously, the provision on the exemption from punishment of persons called up for military service on mobilization or during wartime, or who concluded a contract for military service during mobilization, martial law or wartime was contained in the Federal Law No. 270-FZ of June 24, 2023 “On the Specifics of Criminal Liability of Persons Involved in the Special Military Operation”. The legal regulation of criminal law relations through a separate normative legal act, rather than a criminal law, has justifiably caused criticism [3, p. 62].

It should be noted that the Federal Law No. 270-FZ of June 24, 2023 had been in force for

only nine months and was repealed by the Federal Law No. 61-FZ of March 23, 2024 “On the Amendments to the Federal Law “On Mobilization Training and Mobilization in the Russian Federation”, Article 34 of the Federal Law “On Military Duty and Military Service” and on the Recognition of the Federal Law “On the Specifics of Criminal Liability of Persons Involved in the Special Military Operation” invalid”. The relevant changes were also regulated in Part 3.1 of Article 86 of the Criminal Code of the Russian Federation, which dealt with the issue of expunging the criminal record of a person who was called up for military service during mobilization or during wartime in the Armed Forces of the Russian Federation or who concluded a contract for military service in the Armed Forces during mobilization, martial law or wartime, on the grounds provided for in articles 78.1, 80.2 of the Criminal Code of the Russian Federation.

It is important to note that the logic of the legislator, who supplemented articles 78.1 and 80.2 of the Criminal Code of the Russian Federation, is generally clear – to define a legal mechanism that ensures the replenishment of the Armed Forces of the Russian Federation with personnel during the special military operation from among both the suspected, accused, and convicted of committing a crime, giving them the opportunity to atone for their guilt. But early release from serving a sentence implies that public danger of convicts after their conviction or while serving their sentence has significantly decreased or disappeared and the continuation of punishment is impractical due to his/her positive behavior during the period of serving the sentence. Considering the historical aspect, it can be noted that during the Great Patriotic War, not all prisoners were given the opportunity to fight in regular units of the Red Army, in particular, persons convicted of committing the so-called counter-revolutionary crimes and other serious crimes were not sent to the front [4, p. 154].

It should be noted that the title of Article 80.2 of the Criminal Code of the Russian Federation refers to the release from punishment in connection with military service during the period of mobilization, during martial law or in wartime. The first part of this article is aimed

at persons already serving a sentence for committing a crime. At the same time, it is known that a person released from punishment is considered not convicted in accordance with Part 2 of Article 86 of the Criminal Code of the Russian Federation, and a person released from further punishment has a criminal record expunged in accordance with Part 3 or Part 3.1 of Article 86 of the Criminal Code of the Russian Federation or is removed in accordance with Part 5 of Article 86 of the Criminal Code of the Russian Federation. In this regard, the title of Article 80.2 of the Criminal Code of the Russian Federation should be amended as follows: “Release from serving a sentence in connection with the conscientious performance of military duties during mobilization, martial law or wartime”.

It is worth mentioning that early release under Article 80.2 of the Criminal Code of the Russian Federation does not have such a high degree of motivation for those convicted to punishments not related to isolation from society or to short terms of imprisonment, but is aimed mainly at convicts who have committed grave and especially grave crimes. This is due to the fact that the grounds for release in accordance with Articles 80 or 79 of the Criminal Code of the Russian Federation may be beneficial to the first group of convicts [5, p. 26]. Also, restrictions on the rights and freedoms while serving sentences that are not related to isolation from society are not severe and lengthy, as when serving a prison sentence, in order to make a decision about participating in hostilities. Thus, in general, convicts who have committed a grave or especially grave crime, especially at the beginning of serving their sentence, are most motivated to redeem themselves by participating in hostilities that pose a high risk to their lives and health. We believe that this socially useful activity should be attributed to positive law-abiding behavior, which implies the elimination of public danger to the individual.

However, there may be a situation when during the period of mobilization, wartime, or the validity of a contract for military service this person commits (for example, on vacation) a repeat crime or several crimes [6, p. 40]. The court may decide to release a person from criminal liability in accordance with Article 78.1

of the Criminal Code of the Russian Federation. Also, after the conviction of this person and the entry into force of the guilty verdict, the court may decide to release him/her from serving his/her sentence in accordance with Article 80.2 of the Criminal Code of the Russian Federation. Accordingly, the right to be released from serving a sentence in accordance with Article 80.2 of the Criminal Code of the Russian Federation can be granted to convicted persons who committed crimes (with the exception of crimes directly specified in Part 1 of Article 78.1 of the Criminal Code of the Russian Federation) and were called up for military service in the Armed Forces of the Russian Federation during the period of mobilization or in wartime or who concluded a military service contract during mobilization, martial law or wartime, as well as to convicted persons who committed crimes (with the same exceptions specified in Part 1 of Article 78.1 of the Criminal Code of the Russian Federation) during the period of military service in the specified periods.

In accordance with Part 3 of Article 80.2 of the Criminal Code of the Russian Federation, if during the period of military service a person who has been conditionally released from punishment in accordance with Part 1 of this Article commits a new crime, the court appoints punishment according to the rules provided for in Article 70 of the Criminal Code of the Russian Federation (accumulative sentencing). In this regard, the command of a military unit may re-apply for conditional release of a convicted person from punishment under Article 80.2 of the Criminal Code of the Russian Federation. There is no answer to this question in the law. But, given the imperative nature of this rule, such situations are quite possible. Thus, during these periods, these individuals may feel a kind of leniency for the crimes committed. In this regard, it seems advisable to provide in Article 80.2 of the Criminal Code of the Russian Federation an additional condition that repeated release from serving a sentence or exemption from criminal liability (Article 78.1 of the Criminal Code of the Russian Federation) in this case is granted at the discretion of the court and based on circumstances of the newly committed crime and the identity of a perpetrator.

S.A. Gordeichik and N.A. Egorova believe that the imperative nature of the application of articles 78.1 and 80.2 of the Criminal Code of the Russian Federation can hardly be defined as the correct approach given the breadth of the range of crimes and their severity in which Articles 78.1 and 80.2 can be applied [6, p. 41]. In this regard, it seems possible to provide for the discretionary nature of the application of these norms, that is, at the discretion of the courts, taking into account the identity of an individual, as well as the nature and degree of public danger of the crime committed.

Considering the norms of criminal and penal legislation, it can be said that there is no mechanism of state response to violation of the conditions of release from serving a sentence under Article 80.2 of the Criminal Code of the Russian Federation. There is the only mechanism of sentencing according to the rules provided for in Article 70 of the Criminal Code of the Russian Federation (accumulative sentencing) in the case of a new crime committed by a person released from punishment in accordance with Part 1 of Article 80.2 of the Criminal Code of the Russian Federation during military service. At the same time, in case of release on parole, the legislator fixes a mechanism for canceling these means of incentive and returning to execution of punishment (Part 7 of Article 79 of the Criminal Code of the Russian Federation). Also, violation of the conditions for granting a deferral of punishment in accordance with Part 2 of Article 82 of the Criminal Code of the Russian Federation entails its cancellation.

It seems that, by analogy with clauses “b” and “c” of Part 7 of Article 79 of the Criminal Code of the Russian Federation, it is advisable to specify in the criminal law that if a person conditionally released from punishment under Part 1 of Article 80.2 of the Criminal Code commits a crime of negligence or an intentional crime of minor or medium during military service, the issue of cancellation or retention of conditional release is decided by the court. If the specified person commits a grave or especially grave crime, the court cancels the conditional release and imposes punishment on him/her according to the rules provided for in Article 70 of the Criminal Code of the Russian Federation, respectively,

the decision to cancel this type of release is mandatory.

The list of crimes excluding the application of Article 80.2 of the Criminal Code of the Russian Federation specified in Part 1 of Article 78.1 of the Criminal Code consists of 59 elements. It should be noted that the list includes a crime in the form of an attempt on the life of a state or public figure (Article 277 of the Criminal Code of the Russian Federation), but there are no crimes provided for in Article 295 of the Criminal Code of the Russian Federation (encroachment on the life of a person carrying out justice or preliminary investigation) and Article 317 of the Criminal Code of the Russian Federation (encroachment on the life of a law enforcement officer) [7, p. 51]. However, these crimes do not differ in the degree of public danger and therefore can also be included in this list. In this regard, it is important to include in this list the crimes provided for in articles 295 and 317 of the Criminal Code of the Russian Federation.

The list contains public calls for extremist activities (Article 280 of the Criminal Code of the Russian Federation), but does not have incitement to hatred or hostility, as well as humiliation of human dignity (Article 282 of the Criminal Code of the Russian Federation). In addition, the list includes articles 355, 359–361 of the Criminal Code of the Russian Federation, which relate to crimes against the peace and security of mankind, but there is no rehabilitation of Nazism (Articles 354.1 of the Criminal Code of the Russian Federation) and genocide (357 of the Criminal Code of the Russian Federation).

It is interesting that the list includes such crimes as smuggling of cash and (or) monetary instruments (Article 200.1 of the Criminal Code of the Russian Federation) (a minor crime), illegal entry into a protected facility (Article 215.4 of the Criminal Code of the Russian Federation) (moderate severity), violation of the requirements for ensuring security and anti-terrorist protection of fuel and energy complex facilities (217.1 of the Criminal Code of the Russian Federation) (negligent crime). It turns out that perpetrators of these crimes cannot be conscripted into military service upon mobilization, but a person who has committed murder with extreme cruelty can. According to S.A. Gor-

deichik and N.A. Egorova, "it is surprising and alarming that there are no crimes provided for in articles 105, 111, 126, 131, 132 (in relation to victims who have reached the age of 18), 162, 163, 222, 228.1, 337–339 of the Criminal Code of the Russian Federation" [6, p. 41]. V.A. Doroshkov believes that "as a result, it may happen that the same serial killers, including of underage children, in the absence of appropriate supervision, may soon be released, returning to their homes, and threaten the parents of crime victims" [8, p. 6].

Probably, it would be advisable to adjust the list of crimes that prevent release from further serving of punishment under Article 80.2 of the Criminal Code of the Russian Federation and form it not by listing specific elements, but on the basis of common features.

In Part 1 of Article 80.2 of the Criminal Code of the Russian Federation, the wording "is conditionally released from punishment" is used (in contrast to "may replace the remaining unserved part of the punishment with a milder type of punishment" used in Part 1 of Article 80, or "may delay the actual serving of the sentence" in Part 1 of Article 82 of the Criminal Code of the Russian Federation). Part 1 of Article 78.1 of the Criminal Code of the Russian Federation stipulates "exemption from criminal liability". In this regard, the new type of release from serving a sentence, as well as the new type of exemption from criminal liability, is mandatory, that is, independent of the discretion of law enforcement officials. Thus, the question of the expediency of such a release from serving a sentence (taking into account the behavior of a convicted person or the degree of his/her correction) or exemption from criminal liability (taking into account circumstances of the crime and the identity of a perpetrator in terms of reducing the degree of public danger of the act) is not even discussed when making an appropriate procedural decision [9, p. 17].

The conditions and procedure for release from punishment under Article 80.2 of the Criminal Code of the Russian Federation are the same for all categories of persons, regardless of personality characteristics of a convicted person, the presence of recidivism or a combination of crimes, as well as circumstanc-

es of a specific crime. This indicates that the issue of loss or reduction of public danger of a convicted person within the framework of this norm is not a key issue for the legislator, except in cases when persons are serving sentences for crimes specified in Part 1 of Article 78.1 of the Criminal Code of the Russian Federation. It seems that such a position may contradict the principle of differentiation and individuality of criminal liability and punishment, as well as does not correspond to the purpose of criminal legislation to prevent the commission of new crimes (Article 2 of the Criminal Code of the Russian Federation).

One of the important conditions for the application of early release from serving a sentence under Article 80.2 of the Criminal Code of the Russian Federation is the time and environment within which the release process can be carried out. These include the period of wartime and mobilization, martial law [10, p. 20]. The convicted person is called up for military service and serves in the Armed Forces of the Russian Federation, or during the same period signs a contract for military service during the specified period of time.

It should be noted that the wording “conditionally released from punishment”, specified in Part 1 of Article 80.2 of the Criminal Code of the Russian Federation, does not seem to be entirely correct, since the term “parole” is more applicable to the situation under consideration, since the person is released on probation (before the conditions set out in Part 2 of Article 80.2 of the Criminal Code of the Russian Federation emerge), as well as ahead of schedule (until the full term of the criminal sentence imposed by the court is served) [10, p. 20]. Indeed, Part 3 of Article 80.2 of the Criminal Code of the Russian Federation stipulates that when a new crime is committed by a person conditionally released from punishment, the court appoints punishment according to the rules of Article 70 of the Criminal Code of the Russian Federation, by analogy with the abolition of parole from serving a sentence in accordance with Part 7 of Article 79 of the Criminal Code of the Russian Federation. The difference between the release provided for in Article 79 of the Criminal Code of the Russian Federation

and the new type of release (Article 80.2 of the Criminal Code of the Russian Federation), which is similar in its legal nature to parole, lies in the nature of the requirements imposed on a person released early during the remaining unserved part of the sentence [11, p. 42].

It should be noted that even before the introduction of Article 80.2 into the criminal law, P.V. Teplyashin and S.A. Stupina proposed to indicate in Part 4.1 of Article 79 of the Criminal Code of the Russian Federation that when considering a convicted person’s request for parole from serving his/her sentence, the court takes into account the convicted person’s behavior, his/her attitude to study and work during the entire period of serving his/her sentence, including the person’s desire to participate in special operations officially declared by the Russian Federation, including military ones, as well as the conclusion of the administration about the expediency of his/her conditional early release [4, p. 154]. Such a proposal highlights the possibility of including this type of release from serving a sentence in a sub-type of conditional early release from serving a sentence.

Prior to the entry into force of Article 80.2 of the Criminal Code, judicial practice also applied Article 80.1 and released participants of the SVO due to a change in the situation. Thus, the Judicial Board for Military Personnel of the Supreme Court of the Russian Federation in the case of V.A. Ustinov sentenced to two-year deprivation of liberty in a penal colony under Part 5 of Article 264 of the Criminal Code of the Russian Federation (violation of traffic rules by a person driving a car, resulting in the death of two persons by negligence), issued a cassation ruling of June 28, 2023 in the case of No. 225-UD23-8-K10 about the release of V.A. Ustinov from punishment under Article 80.1 of the Criminal Code of the Russian Federation, that is, in connection with a change in the situation. It was taken into account that V.A. Ustinov had compensated the victims in full, done his military service in the Special Military Operation and been positively characterized by the command of the military unit.

Unfortunately, the law does not regulate cases of violation of the conditions of release under Article 80.2 of the Criminal Code of the

Russian Federation and evasion from military service. There are no legal consequences of this evasion and no mechanism for returning to the stage of punishment implementation. In addition, the norms of Article 80.2 of the Criminal Code of the Russian Federation do not specify which type of punishment a convicted person is exempt from or whether this article applies to all types of punishment [11, p. 77].

The condition for final release from further serving of the sentence is the occurrence of the events mentioned in paragraphs "a", "b" of Part 2 of Article 80.2 of the Criminal Code of the Russian Federation (conscientious fulfillment of the duties of a serviceman, including committing a heroic act for which he is awarded a state award). Criminal and penal legislation do not establish any other conditions related to the behavior of a convicted person. It is worth mentioning that in case of non-compliance with the requirements provided for in Part 2 of Article 80.2 of the Criminal Code of the Russian Federation, release from serving a sentence is canceled, and, accordingly, the remaining unserved part of the sentence is subject to execution. By the way, similar provisions related to the cancellation of parole are provided for in Article 79 of the Criminal Code of the Russian Federation. Thus, release from punishment in connection with military service during the period of mobilization, martial law or in wartime, by its legal nature, may be a special sub-type of conditional early release from serving a sentence [12, p. 42].

According to Part 2 of Article 80.2 of the Criminal Code of the Russian Federation, a person conditionally released from punishment in accordance with Part 1 of Article 80.2 of the Criminal Code of the Russian Federation is released from punishment, first, from the day of getting a state award received during military service, and second, from the day of discharge from military service on the grounds provided for in paragraphs "a", "b" or "o" of Paragraph 1 of Article 51 of the Federal Law No. 53-FZ of March 28, 1998 "On Military Duty and Military Service" (dismissal from military service upon reaching the age limit, for health reasons and upon completion of mobilization measures, lifting of martial law or end of wartime). The same conditions are provided for the repayment of a

criminal record in accordance with Part 3.1 of Article 86 of the Criminal Code of the Russian Federation.

A state award should be included in the list of awards approved by the Decree of the President of the Russian Federation No. 1099 of September 7, 2010 "On measures to improve the state award system of the Russian Federation". In addition, the convicted person must be awarded a state award during military service in wartime, during mobilization or martial law. At the same time, the very moment of awarding a state award can take place both during military service and after its completion. Accordingly, a soldier awarded a state award, in accordance with paragraph "a" of Part 2 of Article 80.2 of the Criminal Code of the Russian Federation, is exempt from serving a criminal sentence regardless of the end of wartime, martial law or mobilization.

Analyzing various situations and judicial practice, it is impossible to exclude situations when a person was convicted and sentenced to serve his sentence in a general regime correctional facility, for example, in February 2024. In April of the same year, this convict signed a contract for military service in the Armed Forces of the Russian Federation and participated in the special military operation. Two months later, in June 2024, this convict committed a new crime, for which he was detained and placed in the pre-trial detention center, where he remained until trial. In August 2024 it was documented that the convict was awarded a state award for a feat performed in May 2024. The court was to make a decision and pass a sentence in November 2024. The question arises, whether there is a recurrence of crimes and a criminal record for the first crime can be expunged.

According to Article 18 of the Criminal Code of the Russian Federation, recidivism is the commission of an intentional crime by a person with a criminal record for a previously committed intentional crime. But, according to Part 3.1 of Article 86 of the Criminal Code of the Russian Federation, in respect of a person with a criminal record who was called up for military service in the Armed Forces of the Russian Federation during mobilization or wartime or who concluded a contract for military service in the Armed Forces of the Russian Federation

during mobilization, martial law or wartime, the criminal record is extinguished from the date of awarding a state award, received during military service. In accordance with Part 1 of Article 10 of the Criminal Code of the Russian Federation, a criminal law that eliminates the criminality of an act, mitigates punishment or otherwise improves the situation of a convict is retroactive, that is, it applies to persons who have committed the relevant acts before the entry into force of such a law, including persons serving a sentence or who have served a sentence but have a criminal record. It seems that the law is also recognized as improving the situation of a person who has committed a crime in another way, in particular, mitigating the conditions for exemption from criminal liability or punishment, reducing the time for repayment or removal of a criminal record. Therefore, the criminal record of this person is cancelled and, accordingly, all legal consequences related to the criminal record are annulled. In this regard, in the above case, recidivism of crimes should also not be taken into account when sentencing.

As for release from serving a sentence in connection with discharge from military service, the Federal Law No. 53-FZ of March 28, 1998 "On Military Duty and Military Service" establishes different service terms for persons serving conscription or contract military service. In this regard, it is necessary to establish a ratio of the length of service, the period of wartime, martial law or mobilization, the category of crime, as well as the term of criminal punishment. According to Article 38 of this law, the service term of a conscript soldier is 12 months, a contract soldier – 2, 3, and 5 years. Enlistment (2, 3 or 5 years) may be limited by the age limit of the serviceman. Nevertheless, the law does not set a deadline for concluding a contract for military service in the Armed Forces of the Russian Federation.

It is also necessary to take into account that the term of punishment imposed by the court may be either longer or shorter than the term of service and the specified circumstances. In this regard, if the term of military service of a contractor is less than the term of the sentence imposed by the court, the release from serving a sentence of persons who have completed military service and do not want to conclude a

contract or extend it should be carried out taking into account the nature and degree of public danger of the crime and the personality of a convicted person. Therefore, the court may decide on granting full release from serving the sentence or imposing execution of the unserved part of the sentence.

It seems that, if meeting the criteria provided for in paragraph "b" of Part 2 of Article 80.2 of the Criminal Code of the Russian Federation, a soldier released from serving a suspended sentence may be released in full if the sentence imposed by the court ends during martial law, wartime or mobilization, as well as before the end of his term of service or contract, since conditional release implies the refusal to actually serve the sentence of the remaining unserved part of the sentence.

Conclusion

Thus, having analyzed judicial practice and theoretical research in the field of application of the norm on release from punishment in connection with military service during the period of mobilization, martial law or in wartime (Article 80.2 of the Criminal Code of the Russian Federation), we came to a conclusion about the necessity of supplementing Article 80.2 with a condition that repeated release from serving a sentence in accordance with Article 80.2 of the Criminal Code of the Russian Federation or exemption from criminal liability in accordance with Article 78.1 of the Criminal Code of the Russian Federation is decided at the discretion of the court based on the circumstances of the newly committed crime and taking into account the identity of a perpetrator. We find it important to include crimes fixed in Article 295 (encroachment on the life of a person carrying out justice or preliminary investigation) and Article 317 of the Criminal Code of the Russian Federation (encroachment on the life of a law enforcement officer) in the list of crimes that exclude the application of Article 80.2 of the Criminal Code of the Russian Federation and are specified in Part 1 of Article 78.1 of the Criminal Code of the Russian Federation. We propose the following wording of Article 80.2 of the Criminal Code of the Russian Federation: "Release from serving a sentence in connection with the conscientious performance of military duties during mobilization, martial law or wartime".

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