

Misrule of Law

How the Kremlin Uses
Western Institutions
to Undermine the West

FREE
RUSSIA



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FREE RUSSIA FOUNDATION

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Introduction

**By Natalia Arno,
Founder and President of Free Russia Foundation**

This is our 15th report on the practices of the current Russian government and fittingly, our most robust study to date. This report, given in two chapters, represents a wide-ranging review of organized efforts by the Kremlin and its insiders to use freedoms found in Western societies against these societies and to their own advantage even as they crack down, sometimes violently, on those who express dissent at home.

The Kremlin's body of bad behavior – from election meddling to the annexation of Crimea to military involvement in Ukraine – has been widely covered in the media and, for many, news of Russia attempting to suborn Western institutions may begin to sound like background noise. But there is a systematic, often under-the-radar, attack on the rule of law and institutions underway and it is no less alarming than the headlines. In the two chapters of this report, our esteemed authors demonstrate the attacks aimed at free societies, all intended to suborn Western structures to the benefit of the Kremlin.

As this report demonstrates, Russia is attacking Western institutions in craftier and strategically discreet ways than many realize. Russia's tactics today resemble old Soviet agitprop rather than communications from a normal nation-state. The attacks may appear more subtle, but they are every bit as destructive: governments are influenced, laws are changed, legal decisions are undermined, law enforcement is thwarted, and military intervention is disguised. The fact that many of these attacks are either dismissed as just being part of the Russian regime's nature, or barely noticed, will encourage more to follow. Through this report we aim to explain to policymakers that a line needs to be drawn demonstrating that Western institutions will not be leveraged to work against

the normal rule of law in free societies – especially from a country that would never tolerate the reverse.

The irony of a country that jails bloggers, people who share Facebook posts, and those who merely schedule a debate on Russian leadership should not be lost on the reader. It hardly matters if these people are guilty. Fear and terror caused by the random nature of the arrests are the point. Lest we forget, this is also a country that removed all foreign NGOs working on behalf of Russian civil society even as it creates its own phony NGOs to attempt to influence political outcomes in the West favorable to the Kremlin. I am myself a victim of this double standard, kicked out of my own country in 2012 for the act of democracy promotion and civil society development. Since that time, I have tried to inform policymakers and opinion leaders about the true aims of the Russian leadership. Everyone can see the obvious, but this report offers a deeper look into Russia's hostile and cynical actions against the West's political and legal structures.

We are witnessing centuries-old democratic principles under attack; it is well past time to make a collective effort to thwart Russia's attempts to undermine what is best about the West. We have given the Kremlin ample runway to show that Russia can be a good global citizen. We share our banks, beaches and boarding schools with the Russian elite. Allowing the Kremlin the free space to interfere in our institutions presents a clear and present danger to the freedoms enjoyed in Western societies. Therefore, we should spare no effort to expose the Kremlin's illicit acts and aggressively fight against them at every opportunity.

Foreword

By Michael Weiss

It has become a cliché to describe Vladimir Putin as a brilliant tactician but a lousy strategist. Sure, he can wage a plausibly deniable invasion of a neighboring European country, but when it comes to undermining the pro-Western tilt of that country, or immunizing Russia from international censure and sanctions over that invasion, he's decidedly less skillful. Launching a multi-pronged and unprecedented attack on U.S. democracy might yield short-term high dividends, but Putin hasn't got much of a follow-up plan. Worse than that: he so fundamentally misunderstood the American political system that he didn't account for the inevitable blowback from his meddling, which has put Moscow in an even worse position with respect to Washington than it was prior to November 2016. Catastrophic success, it's been argued, is Putin's true *modus operandi*: he wins battles at the expense of wars. From this follows the implicit assumption that the West actually has less to fear from his Kremlin at present than the conventional wisdom would suggest.

This report, originally commissioned as a *tour d'horizon* of Russian active measures and subversion campaigns throughout North America and Europe, demonstrates that there is something very wrong with this assumption. While it may be true that Putin does not think in quarter-century increments — he certainly doesn't place the greater political and economic health of Russia beyond his own prerogatives and those of his inner circle — there is one constant to his two-decade-long engagement with the West. He triumphs where we invite him to and most of all where we happily act as his co-conspirators.

This is a story of how the West consistently fails to get its own house in order. The very institutions created after World War II to keep transparent markets and liberal democracies from corroding and collapsing are now playgrounds for Kremlin agents seeking to enrich themselves and further that corrosion and collapse along. More than anything, the pathologies of our own societies — greed, hypocrisy, impunity — are on ample display in these pag-

es as the principal reason why so many Russian oligarchs, intelligence operatives, and bribe-offering banks and energy companies have been able to thrive outside of Russia.

In these pages you'll read about how:

- a U.S. federal money-laundering case was sabotaged by a Moscow attorney-turned-Congressional-lobbyist who obstructed justice, set up a dubious charity in Delaware to dismantle a landmark American human rights act — all before trying to influence a U.S. presidential race;
- Russian mobsters in Spain, despite a mountain of incriminating evidence compiled over the course of a decade, all went free by, among other things, enlisting Spanish jurists to spread a malevolent defamation campaign against one of the country's most committed counterterrorism and organized crime magistrates;
- the Kremlin directed effort to pass laws in the Belgian and French parliaments that would effectively nullify the Yukos shareholder court decisions and render them unenforceable against the Russian Federation;¹
- a U.S.-financed anti-corruption body in Guatemala become a compromised helpmeet of a Russian state-owned bank to railroad a Russian entrepreneur now caught, along with his family, in a perilous state of exile and legal ambiguity in Latin America;
- Russia has set up a variety of environmentally-focused "NGOs," which are actually far less concerned with the overall health of the planet than they are with furthering European dependency on Russian oil and gas; and
- the eccentric president of a NATO and EU member-state sided against his own government in favor of a hostile foreign one, to which he's been financially and politically connected for years.

¹ Full disclosure: Michael Weiss was previously a senior research fellow at the Institute of Modern Russia, whose president is Pavel Khodorkovsky, the son of Yukos founder Mikhail Khodorkovsky.

Not every attempt at subverting the West incriminates the West. Yevgeny Prigozhin's Wagner Group, a semi-clandestine mercenary corps now operating on multiple continents and responsible for a dangerous direct-fire exchange between U.S. and Russian forces in Syria, is an entirely homegrown phenomenon. The abortive assassination of Sergei Skripal in Salisbury was entirely the work of two haphazard GRU operatives who were caught on CCTV and outed by an open-source digital forensic website. But even here, where Russia has been proven to have used a weapon of mass destruction for murder in the UK for the second time in a little over a decade, the punishment of spy expulsions and slightly increased sanctions makes a mockery of the enormity of the crime. Russia is still allowed access to the British financial system. Its oligarchs still live, dine, and shop in the toniest London post-codes. Its banks still pour questionable rubles into the British real estate market and its white-shoe law firms still launder the reputation of oligarchs and operatives implicated in expropriation schemes, tax frauds, and murder.

What makes combating active measures more challenging now than it was during the Cold War is that while Russia's tradecraft might be broadly the same (allowing for innovations in technology and communication), its target audience is that much larger. No longer is there a messianic mission to bring about the end of capitalism and the beginning of the dictatorship of the proletariat. Russia today will work with anyone who can be bought. The international marketplace has replaced Marxism-Leninism as the new fertile ground of recruitment. Putin's vanguard is no longer ideologues; it's everyone.

And Putin understands this better than most, including our well-meaning Western politicians, bureaucrats, and institutional gatekeepers. Even if his end-game is not to raise Russia's stature to that of its former superpower glory, all he has to do is lower Western standards to his own level. If this doesn't quite meet the traditional definition of grand strategic thinking, neither should it be breezily dismissed as an ad hoc approach to dealing with one's enemies.

Part I. The Kremlin's Attack on Rule of Law in the West: Russian Intervention in Courts, Law Enforcement, and Due Diligence

One of the checks Western governments have had on Russia's growing aggressiveness toward the West has been the integrity of the legal system – a system dedicated to the defense of centuries-old legal principles. However, the integrity of Western courts, particularly in Europe, has come under attack by Russian state actors. Some of their methods are unseemly, but perhaps commonly used. Others have included unethical conduct by participants in the legal systems and, in some cases, outright subornation of legal processes and institutions. Among the most infamous was a case in which a judge submitted his legal decision clearly written by the Russian defendant's legal team – still with “track changes” in the document.

A comprehensive report on Russia's efforts to destabilize Western institutions covers many areas. But its interventions in Western legal institutions deserves its own chapter. In this section, we demonstrate how Russia systematically undermines the integrity of judicial proceedings in an effort to nullify adverse judgements for expropriations and other unlawful conduct. This is most notable in efforts to change the underlying narrative in the U.S. and Dutch Prevezon cases, the full-scale attack on judicial proceedings in the Yukos shareholder cases and the withholding of evidence of Kremlin-favored cronies in criminal matters.

Russia's direct involvement in legal processes goes well beyond the normal actions of a litigant. Russia has launched efforts to interfere in corrupt ways that influence Western policymakers by financing lobbyists (on and off the record), paying third-party advocates, establishing

and funding NGOs to promote its causes, and pressuring business groups and investors. The objectives for Russia in such areas as the passage of so-called “Yukos Laws” and the personal attacks on the Prevezon witnesses are to nullify sanctions and protect various Kremlin insiders. Some of the cases mentioned in the report have spanned multiple countries and engaged multilateral institutions, including the Permanent Court of Arbitration and the European Court of Human Rights.

In other abuses of the international legal system, Russia has been harassing its opponents around the globe by manipulating the Interpol “red notice” process and forcing de-facto extraditions despite the fact that no such treaties exist between Russia and many of the countries involved. Russia has also been credibly accused of exploiting international law enforcement systems even further through the hacking of financial information of its opponents in a system that was created to track international terror suspects.

In Part 1, we demonstrate the tactics employed by Russian state actors to weaken Western institutions or make use of backdoor influence to undermine the resolve of Western policymakers, judicial institutions, and public opinion in an effort to avoid legal responsibilities and consequences of international treaties. Until various court systems understand they are often being threatened and manipulated to suit the geopolitical and business agenda of the Kremlin, we can expect more subversion campaigns. Eventually, the court systems will be so weakened that the rule of law as we have known it will be another casualty in Russia's campaign for influence.



Natalia Veselnitskaya during an interview. Photo AP

The Prevezon Case: Russia Learns How to Game Public Opinion in the West

ABSTRACT

What began as a civil U.S. money-laundering case in the Southern District of New York quickly became a geopolitical battle over international sanctions imposed on Russian human rights abusers. To the Russian leadership, the case of U.S. v. Prevezon Holdings Ltd was not merely about protecting the financial assets of a friend of the Kremlin, but a repudiation of the underlying reasons for sanctions placed on numerous Russian political and business leaders. At the core of the case was the international scandal in the death of Russian whistleblower Sergei Magnitsky and Russian efforts to change the world view of these events. To accomplish this, Russian state actors utilized all available maneuvers to misdirect, undermine, obfuscate, and otherwise employ common Western tactics to achieve its objectives.

By Natalia Arno

The Kremlin's various interests combined in a unique way in U.S. v Prevezon, a complex money laundering case prosecuted by the Southern District of New York's U.S. Attorney's office. The case not only involved accusations of a \$230 million money-laundering scheme of a friend to the Kremlin, but it originated from a sanctions regime that many Kremlin insiders consider an existential threat. To add to the intrigue, several actors in this court

case became embroiled in the U.S. Special Counsel's investigation into Russia's intrusion in the 2016 U.S. presidential election.

For the top leadership of Russia, including President Vladimir Putin, the Prevezon case had to be won at all costs. A victory would have been a rebuke of what Russia sees as the West's sanctimonious interference in and ille-

gal punishment of Russia's own internal actions. The case also threatened to expose the darker side of how Russia's virtual mafia state conducts its business, including stealing from the Russian treasury.

US v Prevezon quickly became a proving ground for Russia to avail itself of its complete arsenal of soft power. Prevezon, led by a well-connected Kremlin insider, was able to hire one of the top legal firms in the U.S. and even to place as lead counsel a lawyer who represented the interests of one of the key witnesses in the underlying case. The law firm hired the same opposition research firm that created the infamous Trump "dossier" to undermine the credibility of all witnesses in the case. Then a phony NGO was created to act as an advocate for lifting Russian sanctions, followed by the hiring of a former member of Congress to act as a lobbyist, without filing the required lobby disclosure registration. The NGO funded a documentary aimed at the now-deceased whistleblower whose exposure of the scheme had caught the attention of the U.S. Attorney's office and led to the civil case being filed. Finally, a Russian lawyer with connections to the Russian Prosecutor General became a prominent participant in the case, before becoming a key figure in the investigation of Russian interference in the 2016 U.S. elections.

How It Began

During the 1990s in Russia, it was the best of times, it was the worst of times. How you fell on that notion said much about who you were. To American-born British investor William Browder, it was an opportunity to make savvy investments buying up Russian state-owned companies for rubles on the dollar. Vladimir Putin, however, saw it as a time when the collapse of order forced former Soviet elites to glad-hand Westerners like Browder in order to survive. Browder's investment firm, Hermitage Capital, eventually amassed a Russian-based fund that exceeded \$1 billion, making him the largest foreign investor in Russia by 2005.

Browder has been quoted that he once admired Putin, believing the new president would be able to remedy corrupt Russian corporate governance practices and rein in the criminal element in Russian businesses that had flourished under former President Boris Yeltsin's leadership. As Browder told a trade group of investors in 2000, "Yeltsin let the animals get out of the cages and start running the zoo in Russia. I think Putin's going to put them back in, and that's good for business."

In November 2005, Browder arrived at Sheremetyevo International Airport in Moscow and was denied entry into Russia. He was told that his Russian visa had been annulled on national-security grounds. Even then, he believed Putin could resolve what he believed to be a misunderstanding. He contacted several diplomats with the idea that if he could only talk to Putin, he could enter the country again. When it became evident this wouldn't be the case, he began to move his money and company personnel out of Moscow.

In 2007, what remained of his office was raided for tax fraud despite the fact he had paid all taxes due and there were no active claims against the company. The Russian police claimed to be raiding Kameya, a small Hermitage subsidiary that had little to no value. In fact, documents as well as original corporate seals for all of Browder's companies were taken during the search. Corporate seals are essentially the same as the title on a car and prove ownership.

Browder hired his tax and legal advisor Sergei Magnitsky to investigate. Magnitsky was able to determine that police had used the impounded seals and stamps to reregister three of Hermitage's subsidiaries in the name of known members of what Senator John McCain later termed a "dangerous transnational criminal organization," the Klyuev Group. Magnitsky also discovered that this group applied for huge tax refunds as the "owners" of the companies, claiming they had suffered exorbitant liabilities owing to a series of civil lawsuits. In fact, as Magnitsky further discovered, those lawsuits were themselves fraudulent – initiated by front companies owned by the Klyuev Group, which then sued the reregistered Hermitage companies it had recently stolen. Amazingly, in at least one case, the Klyuev Group used the same person to represent both the plaintiff and defendant – all without any objection from the presiding judge. This mob outfit, in other words, used a complicit Russian court system to legitimize a staggeringly large tax fraud. The total refund amount said to be owed to the purloined Hermitage subsidiaries was said to be \$230 million. Two state tax offices in Moscow, also infiltrated by the Klyuev Group, appeared to have approved and paid out the refunds in a mere 24-hour period.

When Magnitsky blew the whistle on the scheme, he found himself arrested for tax fraud and was placed in a pre-trial holding cell for 11 months. Shortly before he was to appear in court to defend himself, he died in police cus-

today. Russian investigators reported that Magnitsky died of acute heart failure and toxic shock, caused by untreated pancreatitis. An investigation by Russia's Presidential Human Rights Council also found that he had been severely beaten - an allegation made by his family, too.² This led Browder and human rights activists to push for sanctions on those involved in Magnitsky's death. After years of lobbying on behalf of Magnitsky's memory, the Sergei Magnitsky Rule of Law Accountability Act was signed into law by U.S. President Barack Obama, followed by similar sanctions laws in other Western countries.

During this time, Browder continued to follow the money - all \$230 million of it. Some of that money, allegedly, wound up in Manhattan real estate owned by Prevezon Holding Limited, a Cyprus-based company owned by Denis Katsyv, the son of Pytor Katsyv, the vice president of Russian Railways, who himself is a reported business partner of Putin confidant Vladimir Yakunin. The U.S. government, helped along by evidence provided by Browder, had been investigating where the proceeds of the tax fraud scheme had gone. Four years later, the government felt it had enough evidence to file a civil case against Prevezon.

Russian prosecutors had quickly pronounced the Prevezon case closed, after two small-time thugs pled guilty to the intricate scheme. But as Browder successfully campaigned for international sanctions against those responsible for Magnitsky's death, Russia convicted Browder, in absentia, and Magnitsky, posthumously, of an unrelated tax fraud. Russia's top prosecutor also issued an open letter threatening to prosecute Browder for the original \$230 million treasury theft. To date, Interpol has declined to help Russia pursue its charges against Browder, concurring with the hedge fund manager that the case is politically motivated.

When the U.S. v Prevezon case touched on the Magnitsky affair, Putin began to take notice.³ For the Russian leadership, the charges brought against Prevezon by the U.S. Attorney's office had little to do with a civil action

and everything to do with the Magnitsky sanctions. To Browder and to critics of Putin, it was about defending the righteous cause of a murdered Russian whistleblower.

The \$230 million tax fraud scheme may have been just the tip of the iceberg. Some have suggested that more than \$2 billion has been siphoned from the Russian treasury, with some of the money allegedly traced to a U.S.-sanctioned affiliate of Bashar al-Assad's chemical weapons program.⁴ According to the Panama Papers, it appears \$800,000 ended up in a shell account of Putin's childhood friend, Sergei Roldugin, who has been suspected of covering up funds ultimately intended for the Russian president.⁵

Enter the Supporting Players

Prevezon hired the U.S.-based law firm BakerHostetler, led by former federal prosecutor John Moscow. Browder argued to the court that Moscow had advised Hermitage while it was uncovering the tax fraud case, and urged that both Moscow and BakerHostetler should therefore be barred from representing Prevezon due to this conflict.⁶ Even BakerHostetler partner Mark Cymriot wrote in a pretrial hearing that "Hermitage is central to everything."⁷

The trial court denied two motions to disqualify BakerHostetler, but Hermitage eventually won in the 2nd U.S. Circuit Court of Appeals saying that the firm had an ongoing duty to its former client.⁸ BakerHostetler avoided having to pay \$1.4 million in sanctions in the ruling. Responding to a Tweet that claimed Moscow had not represented Hermitage directly on the case, Browder retorted:

2 <https://www.bbc.com/news/world-europe-20626960>

3 <https://www.politico.com/story/2016/11/putin-congress-rohrabacher-trump-231775>

4 <https://www.thedailybeast.com/this-is-why-putin-is-targeting-three-dhs-agents>

5 <https://panamapapers.sueddeutsche.de/articles/5728d557d7863f665c6eaa21/>

6 <https://www.barrons.com/articles/startling-twist-in-russian-money-laundering-case-1476815935>

7 <https://www.rferl.org/a/us-money-laundering-case-russian-corruption-browder-magnitsky-prevezon-katsyv/27494612.html>

8 https://www.docketalarm.com/cases/US_Court_of_Appeals_Second_Circuit/14-4407/United_States_of_America_v._Prevezon_Holdings_Ltd./34

“Nonsense. I hired John Moscow to track the stolen money that Sergei Magnitsky was killed over. We found it and the DOJ froze it. Moscow then switched sides and went to work for the Russians charged for getting the money. He was then DQ’ed by the court for ethical violations.”

Tweet by Bill Browder, January 14, 2018.

As part of its work on the case, BakerHostetler hired Fusion GPS⁹, an opposition research firm known for its litigation support and most particularly for its work on behalf of U.S. presidential candidate Hillary Clinton and the Democratic National Committee, and the production of the famous dossier alleging ties between Donald Trump and Russia.

Natalia Veselnitskaya: Legal Advisor and Unregistered Lobbyist

When the Prevezon case was picked up by the U.S. Attorney’s office, Katsyv brought along his own lawyer, one who claimed to have been a friend of the family and carried herself as something of a small-town lawyer. The once-obscure Natalia Veselnitskaya has now been linked to various Kremlin insiders, including Russia’s prosecutor general, Yuri Chaika. In an interview with NBC news in April 2018, Veselnitskaya admitted she had been a source on the Prevezon case to Chaika’s office.¹⁰

Veselnitskaya’s role didn’t appear to be limited to legal advice to Katsyv. In fact, it seemed her main objective was to promote Putin’s view of the underlying Magnitsky

case and to paint a more sinister picture of Browder. To do that, she quickly formed a not-for-profit corporation in Delaware called the Human Rights Accountability Global Initiative Foundation (HRAGIF), an obvious attempt to play off the full name of the Magnitsky Act.

According to its website, HRAGIF is “working on analyzing legal and legislative options to help overturn this adoption ban,” [the Russian law banning Americans from adopting Russian children, passed in retaliation for the Magnitsky Act]. “We would like to present our findings to the members of U.S. Congress, Administration and U.S. public and is (sic) planning to brief them on possible ways of resolution of this stalemate on adoptions,” the site explains. The foundation appears to have no staff and its offices are run as a “virtual office” in a Regus suite housed in the same building as BakerHostetler’s office in Washington, DC.¹¹

The HRAGIF foundation and the opposition research firm had in fact been hired to re-write Russia’s perverse cover-up of Magnitsky’s death, and to turn attention away from the broader story of theft from the state coffers that had spilled into the open in the U.S. via the Prevezon case. Browder is convinced that he has been targeted by both Chaika and Veselnitskaya in a coordinated campaign of vilification and disinformation.

“She’s obviously working with Chaika on counter-Magnitsky lobbying in Washington,” he said. Browder’s lawyer, Vladimir Pastoukhov, added that after Veselnitskaya took on Katsyv’s legal defense in the Prevezon case, “the prosecutor’s office and Yuri Chaika personally started to play an unbelievably active role in the Magnitsky story.”¹² As Chaika told the Russian newspaper Kommersant in December 2015, “We are watching this process from the side with interest.”¹³

To add to the Russian narrative of Browder as unscrupulous 1990s robber baron and Magnitsky as tax schemer, the foundation created a documentary “The Magnitsky Act – Behind the Scenes.” The film was produced by Andrei Nekrasov, a filmmaker and frequent Putin critic. However, in this film, Nekrasov claims that his original plan to make a documentary of the tax scheme

9 <https://finance.yahoo.com/news/does-baker-hostetler-fusion-gps-070502460.html>

10 <https://www.nbcnews.com/news/us-news/trump-dossier-firm-also-supplied-info-used-meeting-russians-trump-n819526>

11 <https://web.archive.org/web/20160521035628/http://hragi.org:80/#>

12 <https://www.cnn.com/2017/09/16/opinions/curious-rise-of-russian-lawyer-veselnitskaya-opinion-weiss/index.html>

13 <https://www.kommersant.ru/doc/2876887>

Magnitsky uncovered had changed when his research led him to believe that Magnitsky was not beaten while in police custody. The film shows countless scenes of Nekrasov “figuring out” the pieces to his new theory of Magnitsky’s and Browder’s duplicity.

A scheduled screening of the film at the European Parliament was canceled after complaints from Magnitsky’s friends and relatives and pressure from Browder. However, Veselnitskaya was able to schedule the film for a showing at the Newseum in Washington, DC, emceed by veteran newsman Seymour Hersh. The movie is so accommodating to the Russian narrative that Pavel Karpov, one of the police officers accused of being responsible for Magnitsky’s death, plays himself.

Despite the First Amendment pretensions of the Newseum (which has since closed), the event was by invitation only and arranged through the office of then-U.S. Representative Dana Rohrabacher. Rohrabacher was a supporter of the film and even tweeted: “Don’t ignore courageous Ru journalist who exposes Putin’s sins, Andrei Nekrasov. He reports Magnitsky case is a lie. Open Ur mind.”¹⁴

With the counter-narrative about Magnitsky in full swing and the Russian government failing to provide documents to the U.S. Attorney’s office, Veselnitskaya opened a new front to help obtain sanctions relief. She hired a lobby firm run by Rinat Akhmetshin, a former Soviet counterintelligence officer with dual U.S.-Russian citizenship. Along with Veselnitskaya, Akhmetshin visited Rohrabacher’s office to discuss Magnitsky sanctions relief and hired former congressman Ron Dellums to press the case in the U.S. Congress. Despite the fact they were advocating for a change in U.S. policy and doing so for a foreign principal, none of the required filings with the Justice Department under FARA were made.¹⁵

The efforts to tie the Prevezon case to the Kremlin narrative about Magnitsky’s underlying investigation raised Veselnitskaya’s public profile considerably. Through a series of intermediaries known to the Trump family, a meeting was arranged in Trump Tower at the height of the presidential election campaign including Donald Trump, Jr., son-in-law Jared Kushner and then-campaign manager

Paul Manafort. The ostensible reason for the meeting was for Veselnitskaya to unload dirt she claimed she had on Democrat presidential candidate Hillary Clinton. Trump Jr. gleefully took the meeting. However, once Veselnitskaya, with Akhmetshin in tow, entered the meeting, the subject turned almost exclusively to putting an end to Magnitsky sanctions and, in return, ending the Russian adoption ban.

The focus on equating the adoption ban to the sanctions imposed based on the shadowy death of a reported Russian whistleblower had always seemed an odd mix to congressional staff members in Washington. As one U.S. official put it privately, the current messaging is being “led by ogres out of central casting. They’re saying, ‘You repeal Magnitsky and we’ll let go of the kids.’ And it’s not even American kids. It’s their own. And they’re kids with Down syndrome and spina bifida.”

Veselnitskaya’s public persona always seemed to be at odds with her background. She appeared to have earned money well beyond what most Russian lawyers could expect. She lives in a lavish 8,000 square-foot mansion in a section of Moscow known for the homes of the rich and famous.¹⁶ Browder has his own views of how she arrived at this elevated status before she turned 40. “It’s now been proven that Natalia Veselnitskaya was a de facto agent of the Russian government,” he said in an interview with Michael Weiss for this report. “It’s the new technology of how Putin runs foreign operations. Instead of doing it with people on the FSB payroll, they assign different oligarchs intelligence tasks and the oligarch in this case was Pyotr Katsyv, with his son acting as the asset holder in the family,” Browder explained. “The operation was to try to repeal the Magnitsky Act and in order to achieve their objectives, they spent millions of dollars hiring some of the most talented Americans who’d previously been politicians, government officials, prosecutors and getting them, effectively, indirectly, to work for the Russian government.”

Postscript

In the end, the case against Prevezon was settled before going to trial in 2017 and the company agreed to pay a fine of \$5.9 million. Prevezon and its Russian

14 <https://twitter.com/DanaRohrabacher/status/727859600867889152>

15 <https://www.grassley.senate.gov/news/news-releases/complaint-firm-behind-dossier-former-russian-intel-officer-joined-lobbying-effort>

16 <https://www.cnn.com/2017/09/16/opinions/curious-rise-of-russian-lawyer-veselnitskaya-opinion-weiss/index.html>

friends declared victory. The U.S. government's case was hampered after the Russian government declined to provide the U.S. government with evidence of Russian money flows that would have strengthened the case against Prevezon. Nikolai Gorokhov, a lawyer representing Magnitsky's family, was able to photograph documents that were in a separate Russian case file targeting two people involved in the \$230 million scheme. The evidence traced the money to Russia. Gorokhov mysteriously fell from a window in Moscow and nearly died just over a month before he was due to testify in the Prevezon case. However, the documents he photographed were admitted into evidence shortly before Prevezon agreed to settle.¹⁷

The legacy of Sergei Magnitsky still endures, and Browder continues to fight for sanctions around the world. He recently provided sufficient evidence to a Dutch court that it opened a money-laundering case against Prevezon for business transaction in the Netherlands. A Dutch court froze Prevezon's Dutch-held assets, which, ironically, had been earmarked to pay the fine imposed on Prevezon by the U.S. court. The case is ongoing, as is the effort to unfreeze assets in order to pay the fine.

To many, the nearly four-year case against Prevezon served as a geo-political Rorschach test. If you took the Russian view, the Prevezon case should have never happened because Magnitsky never happened and Browder is a guilty tax schemer. But those who doubt the fairness of the Russian judicial system saw institutional corruption in Russian government leaders and oligarchs tied to Putin, and Prevezon was a case about finding justice for one man who challenged an unjust kleptocracy. Michael Weiss, a CNN correspondent and author who has written comprehensively about the Prevezon case noted, "Magnitsky is the Rosetta Stone of Russian corruption. Some of the money has even been traced by me to Syria's chemical weapons program. Nothing better illustrates how Putin's corruption is exported to the West and how our own financial institutions and markets become accomplices after the fact to fraud and murder."

Magnitsky's boss in the law firm he worked for, Jamison Firestone, perhaps said it best when he lamented that the pre-trial settlement would hide the details about the Russian government, unsavory characters, and investors

who allegedly received the stolen funds. He told CNN, "I wanted this all to come out. The embarrassing stuff exposes the Russian government's entire money laundering machine." He thought for a moment that the settlement was some form of justice before telling CNN, "We're just going to keep doing this until we expose them all. These people may escape prosecution as long as the Putin government stands, but it won't stand forever. Putin is going to die before they do, and hopefully they will die in tiny prison cells like Sergei Magnitsky did."¹⁸

The Prevezon case is over in the U.S. and just heating up in a Dutch court. One of the post-mortems that came out of the case has been the recent indictment in the U.S. of Veselnitskaya for obstructing evidence. Her double-dipping in working on behalf of Prevezon while also advising Chaika's office on how to handle U.S. requests for Russian government documents and actually writing the responses herself led to her indictment. However, she's safely tucked away in her Moscow home¹⁹ and, of course, there is little likelihood of her entering a U.S. court to plead her case.

Browder believes the same game plan used in the U.S. to protect Prevezon and demonize Browder and Magnitsky has been imported to Europe. "The operation didn't succeed in the U.S., but they're doing the same thing in Europe right now," he told Michael Weiss for this report. "The big project in the European Parliament is to take Magnitsky's name off the EU Magnitsky Act. The proposal was put forth by a French MEP from the far-right party who also happens to have (Kremlin spokesman) Dmitry Peskov's daughter on his staff. Another is Heidi Hautala, a MEP who is Andrei Nekrasov's girlfriend. She's gotten the Green Party to support removing Magnitsky's name."

Operations like this don't always succeed for the Russians, but according to what Browder told Weiss, they just move on to the next battle. "One of the hallmarks of the whole Russian foreign operations is that they don't get discouraged even when they fail spectacularly. They just carry on."

17 <https://www.cnn.com/2017/04/26/world/prevezon-witness-lawyer-gorokhov/>

18 <https://www.cnn.com/2017/05/13/world/prevezon-settlement/index.html>

19 <https://www.cnn.com/2017/09/16/opinions/curious-rise-of-russian-lawyer-veselnitskaya-opinion-weiss/index.html>



Mallorca coast, Spain. Photo courtesy of Farid Askerov

Russian Mafia Investigation in Spain

ABSTRACT

It's doubtful Spanish investigators fully understood the web of criminal activity they were about to uncover when they began their decade-long pursuit of Russia's ex-pat criminal gangs. Through arrests, wiretaps and following thousands of leads, they would uncover a crime wave that included murders, kidnapping, extortion, drug and arms trafficking and intricate money-laundering. Much of the illegal acts led back to the Tambovskaya mafia cartel that was created in St. Petersburg where current Russian president Vladimir Putin was once a deputy mayor and where it would have been impossible for their paths not to have crossed. It was never lost on Spanish prosecutors and observers of the Russian mafia that gangs like the Tambovskaya cartel understood they were endowed with "Крыша," the Russian word for protection at high levels. Indeed, as Spanish investigators began to track down suspects and build evidence for prosecution, they turned to the Russian government for assistance but very little was forthcoming. Undeterred, Jose Grinda Gonzalez, a Special Prosecutor in the Spanish Attorney General's office, continued his investigations despite being frustrated by Russian intransience, an organized harassment campaign directed at him and threats on his life. In the end, he's been sharing what he uncovered with law enforcement entities around the world, helping them stem the flow of illegal activity.

By Ilya Zaslavskiy

The case of Russian mafia in Spain is significant, as arguably Spanish law enforcement has been the bravest and most determined among all other European police forces to openly tackle the spread of Russian kleptocracy in Europe on a sustained, long-term basis.

Grinda has been at the forefront of this effort (especially in its most recent phase), personally leading multiple investigations and managing to record and release audio recordings of the top ranks within the Russian mafia.²⁰ Grinda has faced threats to his life, smear campaigns and attacks from his own ranks. Even so, he raised the issue to

²⁰ See Grinda's presentation on these issues in the US last year <https://www.hudson.org/events/1560-dismantling-russian-transnational-crime-organizations-a-conversation-with-jose-grinda-gonzalez52018>

the highest level of media attention and passed abundant and invaluable evidence to law enforcement counterparts in Europe and in the U.S.

However, due to Russian state assistance to those under investigation, the mafia's skilful manipulation of the legal system in Spain and perhaps the reluctance of Spanish courts to antagonize Russia, most senior culprits from Russia have managed to escape punishment so far. This ongoing saga is a demonstration to other Western law enforcement agencies and policymakers of the spread and strength of the Russian mafia, and the need to step up concerted efforts against it.

Background

Spanish law enforcement has been investigating Russian mafia presence in the country for more than a decade. In 2008, Spanish police carried out "Operation Troika,"²¹ arresting 20 Russians accused of mafia ties. The prosecution office found multiple high-level links between the Russian mafia and high-level Russian security and law enforcement²² and even top government officials such as Viktor Zubkov, the former prime minister of Russia.²³ These ties to the Russian government, and particularly to the security services, have led Spanish officials to fear for their national security as well as their country's rule of law.

Witness assassination and Russia's fake legal cooperation

The Russian state has been impeding Spanish efforts to investigate the Russian mob in its country with the most brazen methods, and long before Operation Troika.

For example, it is very likely that Russian intelligence officers carried out the assassination of a major witness specifically to prevent him from helping the Spanish prosecution. The witness was former Russian intelligence agent Alexander Litvinenko. He was murdered with radioactive polonium-210 in London in 2006, just when he was to start helping Spanish officials investigate Russian organized crime.²⁴ His activities in Spain emerged in the offi-

cial British inquiry into his death.²⁵

In addition to eliminating the threat posed by Litvinenko's professional expertise on criminal networks, the Russian state helped the mafia in multiple other ways. Russian organized crime took advantage of the lack of cooperation by the Russian police with Spanish investigations. The collapse of governmental structures, which has decimated the police force, and pervasive corruption were key factors.

This refusal of the Russians to cooperate with the Spanish investigating authorities became the main official argument for other European law enforcement officials justifying the difficulty of investigating the activities of Russian criminal groups. For example, this argument was used in the Indictment of the Special Prosecutor Against Corruption and the Organized Criminality to the Court.²⁶

Below is an illustrative and detailed example of how exactly the Russian prosecutors were opposing the Spanish investigation from the very start of Spain's efforts to stop the mafia:

"To illustrate his thoughts on the level of cooperation Spain receives from Russia, Grinda reviewed Spain's efforts to arrest Taniel Oniani as part of Operation Avispa. In June 2005, Georgian-born Oniani fled to Russia hours before he was to be arrested in Spain and Russia gave him citizenship in April 2006, despite the fact that he had fled Spanish justice. Grinda alleged that the granting of citizenship was neither "innocent" nor "something done for free," and was an example of Russia putting crime lords to work on behalf of its interests. Grinda alleged that the Russian Ministry of Interior and the FSB are closely protecting Oniani in Russia (even in prison). Following Oniani's arrest in Moscow in June 2009, Spain requested his extradition for charges stemming from Operation Avispa, to which Russia replied that Oniani's Russian citizenship prevented him from being extradited. Grinda said that Russia "always tells Spain that it will take away Oniani's citizenship, but it never does." Grinda said that, from his experience, "A virtue of the Russian government is that

21 <https://www.occrp.org/en/daily/5195-spain-issues-arrest-warrants-for-organized-crime-linked-top-russian-officials>

22 <https://www.theatlantic.com/international/archive/2017/11/russian-mob-mallorca-spain/545504/>

23 <https://newtimes.ru/articles/detail/148113/>

24 <https://www.theguardian.com/world/2016/jan/12/alexander-litvinenko-russia-murder>

25 <http://webarchive.nationalarchives.gov.uk/20160613090753/https://www.litvinenkoinquiry.org/files/Litvinenko-Inquiry-Report-web-version.pdf>

26 https://docs.google.com/document/d/1T2pUKz1QTwaeZ-R1D_3o6MZw07o2yE2uEE2KCKN0kAQ/edit#

it will always say and do the same thing: nothing".²⁷

In 2010 Grinda, along with Spanish judge Fernando Andreu, visited Moscow and was met with delays and initial refusal on the part of Russian law enforcement to interrogate two high-level suspects in a money laundering investigation in Spain, oligarchs Oleg Deripaska and Iskander Makhmudov.²⁸ In the end, after a great deal of resistance, they achieved their goal and interrogated the suspects.

However, further cooperation and exchange of materials with Russian law enforcement only led to further obstruction or dead ends. In 2014, Grinda filed a formal note of protest with Spain's National Court asserting that Russian law enforcement had not cooperated with the criminal investigation of Deripaska and Makhmudov, despite evidence that he had sent to Moscow in 2010.²⁹

Inability to properly prosecute leaders of the Russian mob and threats to Prosecutor Grinda

Thanks to the efforts of Jose Grinda, the investigation into the activity of the Russian criminal network in Spain entered the international realm: "criminal activities including drugs, counterfeiting, extortion, car theft, human trafficking, fraud, fake IDs, contract killing, and trafficking in jewels, art, and antiques."³⁰

Despite Russian state obstruction, Grinda's successful work led to the arrest of some of the Russian criminal world's most senior leaders, such as Zakharia Kalashov and Gennadiy Petrov. They all eventually returned to Russia and continued their criminal operations. Kalashov served a few years in prison in Spain while Petrov was released before sentencing to see his family in St. Petersburg (where he of course remained).³¹

Some Russian criminals received tips from bribed officers in the Spanish police and managed to escape arrest. Other key figures stopped coming to Spain and so

never faced charges. Prosecutors could only go ahead with trials for secondary members of the mafia and their Spanish henchmen.

Grinda and other prosecutors faced multiple personal threats from Russian mafia members. For example, in February 2018, the Office of the Prosecutor provided evidence to the court that was handling the Troika case in a letter dated October 7, 2016, sent by then-State Attorney General, Consuelo Madrigal, to the former Secretary of State for Security, Francisco Martínez. Madrigal warned that "members of the Tambovskaya organization " made "direct threats" against the family of prosecutor Grinda.³²

For years Grinda has had to travel in armored bullet-proof vehicles and have armed security around him 24/7.

"Pedophile libel"

In 2017, after Grinda sent off a 488-page report to Moscow's head prosecutor, naming more names of Russian officials and detailing their suspected criminal activities, there was further retaliation. The Moscow prosecutor did nothing with the information, but soon thereafter, Spanish lawyer Ignacio Pelàez began accusing Grinda of being a pedophile. This story was quickly picked up exclusively by questionable internet sites in Spain that are part of the Russian propaganda network.

Grinda says that "the Russian prosecution warned me that former minister of technology Leonid Reiman had paid Ignacio Pelàez to accuse me of pedophilia, thus ruining my public image and causing my destruction." Pelàez was terminally ill (he has since died) and Grinda believes he took a handsome payoff to provide security for his family.³³

This case led to a significant delay in the trial of even secondary members of the gang. The pedophilia charges have since been dropped after a trial took place in October 2018. Meanwhile in 2017, police in France intercept-

27 <https://www.theguardian.com/world/2010/dec/01/wikileaks-cable-spain-russian-mafia>

28 <https://theins.ru/politika/17298>

29 http://rubakhin.org/?page_id=976

30 <https://www.yahoo.com/news/spains-robert-mueller-takes-russian-mob-202248019.html>

31 <https://www.theatlantic.com/international/archive/2017/11/russian-mob-mallorca-spain/545504>

32 <https://www.elmundo.es/espana/2018/04/10/5acc8aece2704e907d8b45ac.html>

33 <https://www.ilfattoquotidiano.it/longform/mafia-and-organized-crime-in-europe/focus/spain/>

ed a phone call from a Georgian mafia member ordering a hit on Grinda.³⁴ This was the third such threat against Grinda during his work against the Russian mafia.

Questionable Acquittal of all Suspects in 2018

On October 18, 2018 a Spanish court cleared 17 people suspected of mafia ties, including Russian nationals and officials, of all charges, a decade after the high-profile criminal investigation started.³⁵ The National Criminal Court found insufficient proof that the Russians' investments in Spain involved the proceeds of organized crime. The court ruling said the data concerning offshore accounts "is insufficient to determine any illicit origin for the money," even though the defendants' business activities in Spain looked "strange, uneconomic or unconventional."³⁶

Most paradoxically, the judge who acquitted the suspects based her decision primarily on the absence of prosecution of mafia bosses in Russia's corrupt courts and on FSB reports from the 1990's that, unsurprisingly, did not find criminal activity of organized crime groups.

At the very end of 2018, one of the lawyers from the defendants' (Russian) side told a Kremlin-controlled media outlet that Spanish prosecutors failed to effectively appeal the decision and that the acquittal is final.³⁷

Outlook and Conclusions

This strange acquittal verdict and the subsequent legal process will inevitably attract ongoing controversy. The sheer volume of unambiguously compromising material that was resulted from bugged conversations of the Russian mafia from Spain with top officials back at home creates a need for continued investigations.

The acquittal verdicts also have direct repercussions for U.S. sanctions and relations with Russia. On January 23, 2019, the Head of the Russian Parliament (State Duma) Vyacheslav Volodin demanded that Senator Ben Cardin apologize to Vladislav Reznik "as his case against him was based on fairy-tales about Russian mafia in Spain," and that U.S. sanctions against Reznik should be dropped.³⁸

From a U.S. perspective, it is quite astonishing that no senior target of the investigations was imprisoned in Spain even after a decade of investigations and ample evidence. This past December, Leonid Teyf was indicted in North Carolina on charges of murder for hire, money laundering, bribing a public official, and owning a gun with the serial numbers removed, among other offenses.³⁹ Teyf has been a close associate of Anatoly Serdyukov and other Russian top officials with alleged mafia who figure in the Spanish case.

34 <https://www.yahoo.com/news/spains-robert-mueller-takes-russian-mob-202248019.html>

35 <https://themoscowtimes.com/news/spain-acquits-group-russians-suspected-mafia-ties-63239>

36 <https://www.bbc.com/news/world-europe-45907655>

37 <https://ria.ru/20181228/1548876062.html>

38 <https://tass.ru/politika/6029693>

39 <https://www.thedailybeast.com/american-murder-for-hire-plot-has-kremlin-connections>

In the meantime, Grinda is not giving up on his prior criminal findings and his fight against the Russian mafia in Europe. During a recent investigation by Swedish journalists into Iskander Makhmudov's money laundering operations via Swedbank's Estonian branch, Grinda said in an interview that evidence in his possession shows that Makhmudov built his wealth through violence and corruption.⁴⁰ It is very likely that Grinda and his colleagues will seek ways to revive the old case or open new ones against mafia in Spain.

However, there is a big lesson from the 10-year case for all EU law enforcement agencies and courts. The Russian state is actively assisting the Russian mafia through both legal and illegal means, depending on the expediency of a given situation. Therefore, EU police and courts should treat evidence and other legal activity coming from Russia with suspicion and not accept it at face value.

The EU-Russia Civil Society Forum's recent report on "Fighting Transborder Corruption" says that a "major problem preventing European law enforcement bodies from investigating transborder corruption is the absence of meaningful agreements on legal assistance between Russia and European countries and Russia's reluctance to actually enforce any such agreements even if they existed."⁴¹ This problem, however, is unlikely to be resolved while the current kleptocratic regime remains in power in Russia and, therefore, EU law enforcement should act independently, basing its actions on evidence that it can verify on its own territory and treating any Russian evidence as coming from a state where law enforcement itself has been hijacked by the mafia.

40 <https://rus.tvnet.lv/6533069/taynye-sdelki-rossijskih-bogachey-v-swedbank>

41 https://www.researchgate.net/publication/322519997_Defining_and_Prosecuting_Transborder_Corruption



Photo courtesy of Maxime Horlaville

Dueling “Oligarchs” Crash German Nordic Yards Deal

ABSTRACT

This case is one in which German authorities decided to ignore investigations into high-level money-laundering and fraud schemes in their own country because they were afraid to touch the corrupt interests of high-level Russian officials. German officials prioritized concerns about local employment rather than foreign corruption, murders and questionable arrests. The case went all the way to the Chancellor’s level, and police and local press were keenly involved, but no action was taken despite years of misconduct and abundant evidence.

By Ilya Zaslavskiy

In Germany, the security services and law-enforcement agencies failed to prevent major money laundering and mafia activity around a shipbuilding plant called Nordic Yards in Chancellor Angela Merkel’s own electoral district.⁴² What had been sold as a good investment proposal, backed by the Russian government, turned out to be a scheme to launder money both from Russian and

German sources and serve as cover for even more horrific crimes in Russia, including multiple murders and kidnappings.

As far as Germany is concerned, it all started in 2008 when the Nordic Yards, a semi-bankrupt and unprofitable wharf, along with its affiliated assets in Norway and Ukraine, was sold to various Russian officials

42 <http://www.fr.de/wirtschaft/wadan-werft-volle-kraft-voraus-in-den-untergang-a-729242>

and criminals through obscure offshore operations. The first step was when the Norwegian group Aker Yards sold the Baltic part of the Nordic Yards (along with key assets including two shipyards in Germany and one in Ukraine) to Andrey Burlakov in March 2008.

At the time, Burlakov was a senior manager and board member of Financial Leasing Company (FLC), which was controlled by the Russian government. The Luxembourg-registered FLC West (50% of which belonged to FLC) bought the Nordic Yards for €249 million. Documents from Aker show that the Norwegians and local German government and labor organizations believed that there would be direct investment and participation from the Russian state, and this was the primary reason why the semi-bankrupt Nordic Yards were allowed to be sold to FLC West.⁴³

However, it was soon clear that the Russian government had no intention of participating, as a few days after the deal, Burlakov bought 49% of FLC and transferred that stake into a Cyprus-registered offshore company. The second half was owned by another Cyprus company controlled by officials from FLC, which was soon transferred to Vitaly and Igor Yusufov, as auditors in Luxembourg subsequently showed in 2013.⁴⁴

Igor Yusufov is an insider of Putin's circle who was previously minister of energy (2001-04), the president's special envoy for international energy cooperation, and a Gazprom board member. He and his son Vitaly Yusufov, the head of the Nord Stream 1 office in Moscow, hid their involvement with the asset until 2009. (The Yusufov family denies this.)

By July 2008, the full transfer of Nordic Yards was complete. In this deal Burlakov provided €50 million supposedly from his own funds at FLC, while the rest of the sum came from unspecified bank loans clouded in secrecy. The majority (70% stake) of the two German shipyards and the Ukrainian shipyard was thus sold to FLC West, which was then controlled by the FLC's managers, Burlakov, Sergey Morozov, and Evgeniy Zaritsky.

Nordic Yards were renamed Wadan Yards. Burlakov promised contracts worth billions of dollars and improvement in employment rates at the ship docks. However, no

contracts appeared, and the local and federal German governments had to secure several "support" loans to Burlakov worth €240 million.

Despite all the financial investment and promises, Wadan Yards filed for bankruptcy in June 2009. Unemployed dockers held public protests, and it became a political headache for the government in Berlin. In summer 2009 Angela Merkel met twice with Russian President Dmitry Medvedev to discuss the fate of the Yards and to determine who was the ultimate Russian owner behind them. Shortly after the meetings, the Russians announced that the Yusufov family would buy out the distressed asset for €40 million.⁴⁵ It was again renamed Nordic Yards AG.

It is quite possible that German authorities trusted in the good intentions of the Russian side because Vitaly Yusufov had worked with Matthias Warnig, an ex-Stasi officer, a friend of Putin's and CEO of Nord Stream pipeline. It's been variously reported that Igor Yusufov informally told various counterparts that he acted in the interests of Dmitry Medvedev in this deal.

After Yusufov's public entry, Burlakov was side-lined and charged with fraudulent spending of 1.8 billion roubles of FLC, part of which allegedly went into the original purchase of Nordic Yards. He was sent to prison in Moscow along with one of the accountants of the Yards, Anna Etkina, with whom he was in a relationship.

The following year, Burlakov and Etkina were released on bail. Etkina alleged they had to pay a \$5 million bribe to an intermediary – Duma Deputy Denis Voronenkov – who helped to "diffuse the situation" around their case with top officials. Voronenkov was also one of the figures who reportedly promised contracts from the Russian government to the Yards. Subsequently, possibly due to his entanglement in corruption schemes in Russia, he fled to Ukraine in 2016 and renounced his Russian citizenship. He was shot dead a year later in the center of Kyiv, most likely by Russian assassins.⁴⁶

In 2011, Burlakov and Etkina met with a journalist at a Moscow restaurant to talk about Nordic Yards and the case against them. Another assassin walked into the restaurant, shot Burlakov dead and seriously wounded Etkina. This all happened in front of the journalist and Bur-

43 <http://www.spiegel.de/spiegel/print/d-64760875.html>

44 <https://www.rbc.ru/business/10/03/2016/56d9724a9a7947492ca9bd83>

45 <https://www.nytimes.com/2009/08/19/business/global/19shipyard.html>

46 <https://www.theguardian.com/world/2017/mar/23/former-russian-mp-denis-voronenkov-shot-dead-in-kiev>

lakov's daughter. Etkina then fled Russia for Israel even as she was accused of more financial fraud at FLC by Russian law enforcement, an accusation she claims is fabricated. She plans to appeal her case to the European Court for Human Rights.

During the investigation into Burlakov's murder in Russia and subsequent conversations with police in Norway, the senior manager of Wadan Yards, Tom Einertsen, confirmed that the real and major co-owner of the asset had been Igor Yusufov from the very start in 2008.

However, an additional unprecedented twist occurred as a result of Spanish police surveillance of reputed Russian mafia boss Gennadiy Petrov (believed to be the head of the Tambov organized crime group) who at the time resided in Spain. Among many other crimes, this investigation uncovered through bugged calls that Petrov is also a de facto co-owner of the Nordic Yards, and that Nail Malyutin, the CEO of FLC, regularly called Petrov to report on transactions around the Yards.

Spanish prosecutors believed that Petrov and his associates at FLC, most likely including Igor Yusufov, had laundered money through Nordic Yards and deliberately bankrupted it, using Russian government money invested in FLC, German loans, rising shares of Nordic Yards, and other assets. It is also believed that the bankruptcy in 2009 could have been easily avoided if the money had not been laundered to Luxembourg and other Western accounts.

Spanish prosecutors shared audio recordings of Petrov's, Malyutin's, and others' conversations with German law enforcement officers in Mecklenburg, Pomerania that pointed to money laundering schemes around Nordic Yards. Despite convincing evidence, local prosecutors declined to pursue the case in 2012.⁴⁷

However, by that time Nail Malyutin had fled Russia seeking safety. By 2011 he was at odds with the criminal group that was in de-facto control of FLC.⁴⁸ From the very start of FLC's involvement with Germany, FLC's operations and about 25% of Nordic Yards were largely controlled by another Moscow-based criminal boss, Aslan Gagiev. He worked closely with Petrov, Yusufov, and other shad-

owy figures who actually controlled all monetary flows at FLC. Thus, for example, Aslan Gagiev used a fake ID in the 2008 deal presenting himself as entrepreneur Sergey Morozov (as mentioned above).

Malyutin was kidnapped and released by Gagiev and his criminal gang in 2011, whereupon he fled to Austria. At the same time, Russian law enforcement added him to the list of FLC officials charged with fraud. As with Burlakov, secondary figures in the fraud schemes were evidently used as scapegoats for the entire high-level grand corruption scheme by the actual owners of the companies involved.

Gagiev used FLC as a front not only for money laundering operations, but for outright mob activity. His criminal gang, known as "The Family" has reportedly carried out at least 60 assassinations, multiple kidnappings, and other horrific crimes from 2001 to 2013, according to an article by Novaya Gazeta.⁴⁹ By 2013, their crimes became so egregious and out of control that even Russian law enforcement had to do something about it and started arresting some members of the gang. Gagiev also fled to Austria.

In late 2014 and early 2015, both Malyutin and Gagiev were captured by Austrian police. After prolonged separate trials they were extradited to Russia in 2017 and 2018 and charged with multiple crimes. Malyutin received six years in prison for fraud at FLC not directly related to Nordic Yards.⁵⁰

When Gagiev was tried in an Austrian court it was revealed that members of his gang had shot Burlakov. Gagiev also offered to be a witness to the Ukrainian authorities, alleging Yusufov's frauds in relation to Ukrainian parts of the Nordic Yards. Stuningly, Gagiev also claimed that in return for his ability to use FLC as a cover for crimes, and for a blind eye from law enforcement, he was forced to pay €2.4 million in bribes each month to top officials in the government and the Investigative Committee in Russia.

In mid-2018 Gagiyev was extradited to Russia and his trial started in February of this year. It is doubtful that money laundering around Nordic Yards involving Yusufov and Petrov (who is now hiding from Spanish prosecutors

47 <https://www.fr.de/wirtschaft/volle-kraft-voraus-untergang-11069213.html>

48 <https://www.novayagazeta.ru/articles/2018/09/03/77683-odnazhdy-v-rossi>

49 <https://www.novayagazeta.ru/articles/2017/01/14/71142-killery-rabotali-v-ofise>

50 <https://www.novayagazeta.ru/news/2018/05/23/141903-sud-v-moskve-prigovoril-k-shesti-godam-kolonii-biznesmena-svyazannogo-s-delom-russkoy-mafii-v-ispanii>

in Russia) will be a big part of this case. Burlakov's daughter recently gave an interview to a Moscow newspaper in which she whitewashes her father's reputation, does not accuse any top officials, and puts all the blame on Gagiev.⁵¹

As a follow-up to this whole case Russian investigative journalist Roman Shleynov noted, "Neither the Germans or the Norwegians asked critical questions about where the money came from. That is odd. Then, when things went wrong, everyone started looking for scapegoats."⁵²

With the help of the evidence gathered by Spanish prosecutors, German newspapers and Russian investigative journalists uncovered complicated money laundering schemes around Nordic Yards that led to its bankruptcy and various corruption links with Gennadiy Petrov, Aslan Gagiev, and the Vyborg shipbuilding plant in Russia, another asset controlled by Putin and his cronies through various corrupt schemes.⁵³ One of the ideas of this whole

circle was to use the two plants in the plans for the Nord Stream 1 pipeline and its expansion.

What is also telling about this case is that even though it was brought to the attention of Angela Merkel, and despite abundant evidence and cooperation from Spanish prosecutors and important statements from participants of the criminal schemes in Austrian court, all investigations into money laundering and other corrupt activity were swept under the carpet and not acted upon by German law enforcement. It is highly plausible that the main reason for this is the desire of Merkel's government not to sour relations with the Russian government, considering that high-level officials such as Yusufov were directly implicated in the case. Another reason, perhaps, was that Merkel and her government were mainly concerned with pacifying the electorate in her district with hopes that labor protests would dissipate after the Russians brought their money. Negligence and wishful thinking instead brought Russian corruption and lawlessness to Germany and Europe itself.

51 <https://www.mk.ru/incident/2019/02/17/zhertva-bandy-gagieva-rasskazala-o-rol-i-merkel-v-kriminalnykh-razborkakh.html>

52 https://en.wikipedia.org/wiki/Wadan_Yards#cite_note-Eleven_quote-11

53 <http://theins.ru/korrupciya/64148>



Photo courtesy of OSCE/Evgeniy Maloletka

Russia and the Downing of MH17: Concealing the Truth through Obstruction and Obfuscation to Deny Responsibility for the Crime

ABSTRACT

MH17 left Amsterdam for Kuala Lumpur shortly after noon on July 17, 2014. Less than three hours later, a missile determined to be a Russian-made Buk-M1 detonated outside the Boeing 777 killing all 298 passengers and crew onboard. Two-thirds of the passengers were Dutch citizens with the remaining victims representing nine other countries. A Dutch-led international investigative team determined the missile was fired from Ukrainian territory held by Russian-backed separatists and several countries have held the Russian government responsible for the downing of the Malaysian Airline aircraft. To date, however, Russian officials continue to deny responsibility for its role in the shooting down of the airliner and, in fact, have worked hard to obfuscate the facts and impede the investigation – including recently securing the release of one of the key witnesses in a prisoner exchange with Ukraine.

By Scott Martin

On 17 July 2014, a Malaysian Airlines aircraft, flight number MH17, crashed over Ukrainian airspace. All 298 passengers on board died instantly. In the hours following the crash, the international community sought to understand the cause of this tragic event. As governments across the world began to inquire about what happened, it was increasingly apparent to nearly everyone that a Buk-M1 anti-aircraft missile (hereafter referred to as the Buk missile system) was launched from the war-torn region in eastern Ukraine and brought down the civilian airliner.

This was the conclusion drawn by nearly the entire international community, collectively shocked at the tragedy of what they had witnessed. Leadership from around the world offered condolences to the innocent people aboard who had needlessly lost their lives over what appeared to be an act of terror. Subsequent investigations have yielded one consistent conclusion regarding perpetrators of the crime – it was either Russian-backed separatists in eastern Ukraine or individuals from the Russian Federation itself. Accordingly, the world asked both to answer some difficult questions about the crime.

Instead of cooperating with the investigations, accepting the conclusions of these investigations, or otherwise acknowledging responsibility, the Russian government has consistently issued a blanket denial of responsibility on behalf of the two groups. It argues that the Joint Investigation Team (JIT)⁵⁴ has not produced “a single shred of concrete evidence to back up its groundless statements” and was conducting an investigation in “an attempt to discredit the nation” of Russia.⁵⁵

This note describes the need for accountability for what some call the “Dutch 9/11”⁵⁶ and the many attempts by the Russian Federation to obstruct, obfuscate,

or otherwise discredit investigation into this event. In presenting numerous false narratives, it misuses legal tools relied upon to facilitate the truth-telling function of judicial processes, fabricates evidence to implicate another sovereign nation, and denigrates the innocent victims of this tragedy by making them collateral damage to their interests in the war in Ukraine.

The Facts of MH17

On 17 July 2014, flight number MH17 embarked from Amsterdam, Netherlands, on its way to Kuala Lumpur, Malaysia and was flying over Ukrainian airspace en route. Flying at 32,000 feet (9,754 meters), it was 1,000 feet (300 meters) above closed airspace.

At this time, pro-Russian separatists were fighting against the Armed Forces of Ukraine in eastern Ukraine, opposed to the government’s decision to move in a more pro-Western direction (and, implicitly, further from Russia). On 17 July 2014, the war in eastern Ukraine was in its early stages. A particularly troublesome aspect of the separatists’ defenses against government forces was their vulnerability to airborne attacks. They clamored for better air defense systems.⁵⁷ It appears a solution was found – one with devastating consequences.

Credible evidence supports the following conclusions. On 23 June 2014, a convoy of vehicles carrying the Buk missile system departed from the 53rd Anti-Aircraft Missile Brigade of the Russian Armed Forces in Kursk, Russia. It was last seen in Russia in Millerovo, a location near the Russia-Ukraine border.⁵⁸ Relying on a wealth of objective data sources, it crossed into Ukraine on 17 July 2014, passing through Donetsk no later than 10:30.⁵⁹ It arrived at a rural area in Snizhne sometime before 16:00

54 The Joint Investigation Team (JIT) was established to conduct the criminal investigation in the downing of MH17. Investigators from the Netherlands, Australia, Belgium, Malaysia, and Ukraine populate the JIT. According to the Government of the Netherlands, the purpose of the criminal investigation is to: “(i) establish the facts of the case; (ii) determine the truth of what happened; (iii) identify those responsible for downing flight MH17; [and] (iv) gather criminal evidence for prosecution”. See Government of the Netherlands, *Achieving Justice and Establishing the Truth*.

55 NL Times, *MH17: NL Taking 'Diplomatic Steps' Against Russia For Not Cooperating In Investigation*, 19 June 2019.

56 BBC, *MH17 Dutch memorial day: Air disaster that touched a nation*, 10 November 2014; Deutsche Welle, *MH17 memorial to 'Dutch 9/11' to give sorrow a location*, 17 July 2017.

57 CNN, *How rebels in Ukraine built up an arsenal capable of reaching the skies*, 20 July 2014.

58 JIT, *MH17 Witness Appeal and Trial Information*; Bellingcat, *MH17: The Open Source Investigation Three Years Later*, pp. 36-39.

59 Bellingcat, *MH17: The Open Source Investigation Three Years Later*, p. 6; BBC, *MH17 missile 'came from Russia', Dutch-led investigators say*, 28 September 2016.

and prepared for engagement.⁶⁰

It engaged shortly after arrival. A smoke trail was later photographed by residents in Torez which was geolocated to a field just east of the village of Chervonyi Zhovten (near Snizhne).⁶¹ The Malaysia Airlines civilian airplane was brought down from there by the Buk missile system, killing 298 civilians.

Chaos ensued and it was urgent the missile system was evacuated from the area. On 18 July 2014, it was identified as heading towards the Russian border. It was seen with three missiles, instead of the four missiles it had been photographed carrying five hours before the MH17 was shot down.⁶² Phone intercepts of pro-Russian separatists revealed that the Buk missile system was eventually transported back into Russia under cover of night.⁶³

After several years of investigations by the JIT, three Russians and one Ukrainian national were indicted by Dutch authorities (they lead the investigation on behalf of the victims of the missile attack). They were identified as follows:

- Igor Girkin (Russian national) (former FSB colonel; current minister of defense in separatist-held Donetsk);
- Sergei Dubinsky (Russian national) (employee of Russian GRU military intelligence agency; deputy of Girkin);
- Oleg Pulatov (Russian national) (deputy head of the Donetsk intelligence service); and
- Leonid Kharchenko (Ukrainian national) (commander of a combat unit in eastern Ukraine).⁶⁴

It is unlikely that Dutch prosecutors will stop issuing indictments at the above four. In fact, it appears that the prosecutors have pursued ground-level leadership in this

first round of indictments. Neither the actual perpetrators of the crime⁶⁵ nor senior military, intelligence, or political officials from Russia have been indicted. Both groups are likely to be implicated, investigated, and indicted for these crimes.

Russia's Strategy in Response to the MH17 Tragedy

Russia's approach to the MH17 tragedy is not only a fabrication, but it aggravates its culpability by implicating another sovereign nation in the crime. Further compounding this deeply troubled strategy is that this is not a petty crime – as noted above, it involves a crime so grave that it is known by some in the Netherlands as its 9/11.

This section canvasses the strategic approach Russia has taken to defend itself against evidence which clearly implicates it and the pro-Russian separatists. It's a strategy that permits it to continue presenting itself as a responsible member of the international community that complies with norms and practices of Western and international institutions. In presenting its counter-narrative, it uses similar language, technology, and investigatory practices as the JIT and other bodies to provide a sheen of legitimacy to mask otherwise corrupted or fabricated findings. Then, when the findings are rejected by investigators as fraudulent or otherwise lacking sufficient indicia of reliability, they withdraw cooperation by contending that the process is biased, unfairly driven by Western powers, or otherwise prejudicial to its interests.

In reality, the strategy is a face-saving exercise intended to avoid accountability for the death of 298 innocent civilians and maintain its global position and international reputation. This effort allows Russia to present itself as a good global citizen (at least to itself), while avoiding

60 Bellingcat, MH17: The Open Source Investigation Three Years Later, pp. 6-15.

61 JIT, Preliminary Results of the Criminal Investigation on MH17, 28 September 2016; The Guardian, Q&A: What we know and don't know about the downing of MH17, 24 May 2018; Bellingcat, MH17: The Open Source Investigation Three Years Later, pp. 16-18.

62 Bellingcat, MH17: The Open Source Investigation Three Years Later, p. 22.

63 JIT, Preliminary Results of the Criminal Investigation on MH17, 28 September 2016; Bellingcat, MH17: The Open Source Investigation Three Years Later, pp. 22-23.

64 The Public Prosecution Service of the Netherlands, Prosecution of four suspects for downing flight MH17, 19 June 2019; BBC, MH17: Four Charged with Shooting Down Plane over Ukraine, 19 June 2019.

65 It remains somewhat of a mystery who in fact operated the Buk missile system. However, credible phone intercepts indicate that the Buk missile came with a "crew", making it likely that they arrived with the missile system from Russia. Bellingcat, A Birdie is Flying Towards You: Identifying the Separatists Linked to the Downing of MH17, 19 June 2019, p. 16.

having to admit culpability for grave crimes. It also allows Russia to continue denying involvement in the war in eastern Ukraine. The strategy is shrouded in deception and should be thoroughly exposed.

Russia has cloaked its misdeeds through taking the following steps regarding MH17. First, it joined the call for the international community to investigate the incident. Second, it “contributed” to the investigatory process by presenting a counter-narrative. Third, upon exposure for its deception in presenting the counter-narrative, it feigns indignation and refuses further cooperation. Each step is briefly discussed below.

Joining the call for the international community to investigate the incident

Like the rest of the international community, the Russian government expressed solidarity and support to the victims of the MH17 tragedy just after it happened. On 18 July 2014, Vladimir Putin expressed condolences on behalf of the Russian government to the crash victims.⁶⁶ On 21 July 2014, the Russian Federation voted in favour of UN Security Council Resolution 2166, which called on all states “to provide any requested assistance to civil and criminal investigations related to this incident”.⁶⁷ It also indicated support for the JIT.⁶⁸

Offer a counter-narrative that obstructs and obfuscates the truth

After expressing its solidarity with the victims of this tragedy and committing to supporting investigatory efforts, it offers a blatantly false counter-narrative. On 21 July 2014, the Russian Ministry of Defense (MOD) held a press conference to discuss events surrounding MH17.⁶⁹ Subsequent press conferences and announcements have been made since that time.⁷⁰ The principal positions taken by the Russian government, and the reasons why they are fabricated or otherwise false, follow.

Position No. 1: MH17 was guided to travel over the conflict area

The first position it took was that the MH17 was deliberately guided by Ukraine to travel over the conflict zone.⁷¹ During its 21 July 2014 press conference, it showed that the plane appeared to go deliberately above the conflict-affected area. Implicit in this position was that, for whatever reason, they were guided over the conflict-affected area in Ukraine to be made a target or, at the least, to be put in harm’s way.

According to the Bellingcat investigative journalists, the map showing the flight path was “fabricated” (by the Russian MOD or another), as “there was no significant flight path diversion” as shown on the map used by the MOD.⁷² The MH17’s flight data also supports this conclusion.⁷³

66 Guardian, Ukraine Responsible for Malaysia Airlines Flight MH17 Disaster, says Vladimir Putin, 18 July 2014.

67 UN Security Council Resolution 2166 (2014), S/RES/2166 (2014), 21 July 2014, p. 2.

68 Tass: Russian News Agency, Russia Ready for Substantive Negotiations on MH17 Probe – Foreign Ministry, 12 February 2015.

69 Briefing with the media, dedicated to the newly identified facts which relate to the aviation disaster of Malaysian aircraft “Boeing 777”, Ministry of Defence of the Russian Federation.

70 Euronews, Putin’s Q&A discusses living standards, MH17 and a dialogue with Trump, 20 June 2019; Briefing: the Russian Ministry of Defence reveals new findings on the investigation into the MH-17 plane crash at a press briefing in Moscow on Monday, September 17, 2018; Russia claims fresh ‘proof’ Ukraine downed flight MH17, 18 September 2018.

71 Bellingcat, The Kremlin’s Shifting, Self-Contradicting Narratives on MH17, 5 January 2018; Mashable, Satellite images show clearly that Russia faked its MH17 report, 31 May 2015.

72 Ibid.

73 Ibid, citing a weblink that shows MH17’s flight path. See YouTube, Last Minutes of Flight MH17 9M-MRD (from FlightRadar24), 25 July 2014.

Position No. 2: The Buk missile system was launched from Ukrainian-controlled territory

Next, the Russian government took the position that the Buk missile system was traveling through and launched from Ukrainian-controlled territory, not territory held by pro-Russian separatists. Not only was this “fabricated,”⁷⁴ but there is a wealth of video evidence – largely from open source information – demonstrating conclusively that the Buk missile system travelled wholly through separatist-held territory.⁷⁵

The Russian government also presented satellite imagery to demonstrate that two Ukrainian Buk TELAR missile systems were removed from bases in Ukrainian-controlled territory. Expert analysis has shown that the images relied upon to demonstrate this were “significantly digitally altered”.⁷⁶ Beyond this obvious disqualifying observation, the Russian position was otherwise impossible, as satellite imagery showed that the Buk TELAR missile systems were on the Ukrainian base at a time that would have made it temporally impossible to go to the location where the Russian government argued it launched its attack.⁷⁷

To support their position, the Russian government also offered two eyewitness accounts, attempting to place the Buk missile system in Ukraine-held territory.⁷⁸ However, they lack multiple indicia of reliability, are uncorroborated by documentary or other evidence, and are otherwise unworthy of consideration.⁷⁹ They are also firmly contradicted by dozens of reliable witness accounts, corroborated open source evidence, photos and other documentary evidence indicating that the Buk missile system was located in territory held by the pro-Russian separatists.

Finally, the ostensible launch site by the Ukrainians in Ukrainian-held territory was contradicted by separatist fighters themselves. On 2 June 2015, a phone call be-

tween two separatist fighters was intercepted. During the call, the fighters discussed the claims made by the Russian government (as well as Almaz-Antey, the manufacturer of the Buk missile) at a press conference that day. During the call, the “separatists discuss how this village was not under Ukrainian control at the time, let alone a potential launch site for a missile”.⁸⁰

Position No. 3: A Ukrainian jet shot down MH17

During this same press conference, the Russian government has contended that a Ukrainian fighter jet shot down MH17. This hardly merits consideration, even by the Russian military leadership; newly discovered radar that they procured and presented subsequent to the 21 July 2014 press conference mysteriously omitted the Ukrainian aircraft.⁸¹

Political strategy document supports the Russian government’s responsibility

Between 2016-2017, certain Russian government officials had their emails hacked. This included the hacking of Vladislav Surkov, an aide to Vladimir Putin and sometimes referred to as “Putin’s Rasputin”.⁸² One of these emails related to messaging that Russian government officials and friendly media would put forward in relation to the MH17 tragedy. In a document entitled, “Thematic Lines for Working with the Political Network for 20–27 July 2014”, the document provided a list of messaging priorities. This document supports the position that there was never any intent to cooperate in providing a professional investigation into the crime. It provides:

1. It was a provocation by Kyiv targeting the DNR and the LNR.
2. Kyiv, backed by the West, is trying to blame Russia

74 Ibid.

75 Ibid; JIT, Preliminary Results of the Criminal Investigation on MH17, 28 September 2016.

76 Bellingcat, The Kremlin’s Shifting, Self-Contradicting Narratives on MH17, 5 January 2018; JIT, Reaction JIT to press conference of Russian Ministry of Defence, 17 September 2018.

77 Ibid.

78 Ibid.

79 Ibid.

80 Bellingcat, MH17: The Open Source Investigation Three Years Later, p. 63.

81 Ibid.

82 Alya Shandra and Robert Seely, Royal United Services Institute for Defence and Security Studies, The Surkov Leaks: The Inner Workings of Russia’s Hybrid War in Ukraine, July 2019, p. 7.

and Putin personally.

3. A Malaysia Airlines plane was deliberately directed through an area where anti-terrorist operations were taking place.
4. An audio recording revealed that militiamen talked about being attacked by “so-called” civilian airliners (implying that MH17 was not a civilian plane).
5. It is an excuse for NATO intervention.
6. It was an act designed to hide Ukraine’s strategic failure.
7. It could be compared to the shooting of Archduke Franz Ferdinand in July 1914, with Kyiv trying to start a new world war. f
8. Ukraine’s own air defense, partially located in the occupied territories, shot down the plane, and there is evidence to show that these air-defense systems were readied shortly before it was hit.⁸³

Note that there is no mention of conducting an actual investigation according to prevailing international best practices.

Tweets implicating Ukraine

Russia appears to have also relied on Twitter messaging to spread disinformation relating to the attack. However, it appears to have had the opposite effect, instead highlighting further its concerted campaign to cloud international judgement on responsibility for attacking MH17.

It is well-known that Russia relies on disseminating false messages in social media through the Internet Research Agency (IRA), a company run by Yevgeny Prigozhin, a billionaire with close ties to President Putin.⁸⁴ This agency has been involved in sending hundreds of thousands of tweets in an effort to support the Russian government’s international objectives. The MH17 disaster was

no exception; indeed, misinformation spread via Twitter by the IRA was the highest of any of their misinformation campaigns.

On the two days following the downing of the MH17, a storm of false information flooded Twitter. A total of 44,000 tweets were sent from IRA on 18 July. There were 25,000 tweets sent on 19 July. More than 290 accounts promoted that Ukraine was responsible for downing MH17, using hashtags #ПровокацияКиева (#KyivProvocation with 22,300 references), #КиевСбилБоинг (#KyivShotDownBoeing with 22,100 references) and #КиевСкажиПравду (#KyivTellTheTruth with 21,900 references).⁸⁵ This effort, operating in parallel with the other initiatives, worked to cloud the message about ultimate culpability of the Russians.

Obstructing justice through prisoner exchange

On 27 June 2019, Ukrainian state security operatives surreptitiously entered territory held by pro-Russian separatists in eastern Ukraine. They accosted and arrested Vladimir Tsemakh, a 58-year-old Ukrainian citizen and commander of the air-defense unit in the area where the Buk missile system was launched in 2014. By virtue of his role, he was expected to be a key witness (or indicted suspect) in the MH17 case in the Netherlands and elsewhere. Indeed, he appears to have indicated in a video clip for a pro-Russian videographer that he played a role in hiding the Buk missile system after it brought down MH17.⁸⁶ As noted by Dr. Michael Carpenter, Senior Director of the Penn Biden Center for Diplomacy and Global Engagement, Tsemakh “would likely know the particulars of who actually gave the order to shoot and what the chain of command was at the time”.⁸⁷

All this changed on 7 September 2019, when the first prisoner exchange between Russia and Ukraine took place. Delivering on a campaign promise, recently elected President Volodymyr Zelensky negotiated the release of 35 political prisoners. At first, this looked like an en-

83 Alya Shandra and Robert Seely, Royal United Services Institute for Defence and Security Studies, *The Surkov Leaks: The Inner Workings of Russia’s Hybrid War in Ukraine*, July 2019, pp. 71-72.

84 Alya Shandra and Robert Seely, Royal United Services Institute for Defence and Security Studies, *The Surkov Leaks: The Inner Workings of Russia’s Hybrid War in Ukraine*, July 2019.

85 VoxUkraine, *How Russian “Troll factory” tried to effect on Ukraine’s agenda. Analysis of 755 000 tweets.*

86 Bellingcat, *The Arrest of Vladimir Tsemakh and its Implications for the MH17 Investigation*, 9 July 2019.

87 Dr. Michael Carpenter, personal communication with Ms. Natalia Arno, Free Russia Foundation, 11 September 2019.

couraging achievement for the new President.

However, at the last moment, and as a necessary precondition to the negotiations, President Putin demanded Tsemakh as part of the exchange. This put the newly minted President in the unenviable position of either frustrating the Western and MH17 victim states (by handing over Tsemakh) or the Ukrainian public (by not bringing home 35 political prisoners).

Beyond the geopolitical machinations behind this negotiated move, it appears that this exchange was another cynical act to obstruct the ongoing judicial processes in national, regional, and international institutions relating to MH17. Tsemakh has been identified as crucial to the court cases (as a witness or indicted suspect). Now that he is in Russia, it is unlikely that he will cooperate with the judicial processes, thereby damaging the truth-seeking function of such institutions.

Push the counter-narrative and withdraw cooperation once rejected

After laying out its false narrative relating to MH17, Russian leadership continued to note that it was interested in dialogue and cooperation with international investigations.⁸⁸ However, due to the evidence it presented being transparently fraudulent and disproven by credible and probative evidence that supported Russian involvement, investigators looking into those responsible for the crash have not publicly noted its reliance upon it.

Russia finds that “data submitted to the investigation...continues to be willfully ignored”⁸⁹ and further asserts that the JIT investigation of the crash was biased and politically motivated.⁹⁰ In June 2019, President Vladimir Putin summed up the situation:

[w]hat we have seen presented as evidence of Russia’s guilt has not satisfied us at all. We believe that no

evidence was presented. Nothing that proves anything. We have our own version, and we have presented it. But unfortunately, they don’t want to listen to us. As long as there is no real dialogue, we will not find the true answers to the questions which remain regarding the tragedy of the plane and the deaths of the people...[the investigators] have simply made a choice once and for all and have appointed the guilty – and that’s it. This approach to the investigation does not suit us.⁹¹

It appears unlikely that the Russian government will cooperate at any point going forward, thereby “squaring the circle” of their overall strategy of appearing to contribute while, in reality, obstructing, obfuscating, and spreading disinformation in an attempt to cloud international judgement on the matter.

Conclusion

Assessing responsibility for this crime is currently under consideration in a range of cases in national and international tribunals. First, as noted above, the Dutch Public Prosecutor’s Office is prosecuting cases relying upon evidence provided in the context of the criminal investigation by the JIT. These cases are scheduled to commence on 9 March 2020 in the District Court of The Hague and will relate to the four indicted individuals listed above.

Further, there are also cases at the International Court of Justice (ICJ), where Ukraine is requesting the ICJ to recognise that the Russian Federation bears international legal responsibility for, *inter alia*, sponsoring an act of terror.⁹² The European Court of Human Rights is also facing a number of applications relating to MH17.⁹³

Summaries of some of the techniques used by the Russian government to obstruct investigations have been described above. Further examples have been provided to show how it is attempting to obfuscate and cloud inter-

88 New China, Russia calls for “impartial analysis” in MH17 crash investigation, July 18, 2019.

89 The Star, Work with JIT to bring justice for MH17, 21 June 2019.

90 Independent, MH17 Crash: Everything We Know Five Years After Plane Was Gunned Down, 17 Jul 2019.

91 ‘Answers to Journalists’ Questions following Direct Line: Following direct line with Vladimir Putin, the President answered a number of questions from media representatives’, 20 June 2019.

92 International Court of Justice, Case Concerning Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of all Forms of Discrimination (Ukraine v. Russian Federation), 16 January 2017.

93 See for example *Ayley and Others v Russia and Angline and Others v Russia*, Application Nos. 25714/16 and 56328/18, 6 May 2016 and 23 November 2018.

national judgement on who downed the MH17 civilian airplane. Compounding these concerns is the fact that the Russian government does not appear to rely on an evidence-based counter-narrative. Instead, it appears to base its defense on determinatively, deliberately, falsified evidence.

There is nothing problematic in promoting the minority viewpoint in the international arena. Indeed, it tends to provoke further investigation towards establishing the truth. It also accords the respect and due process that a state has the right to demand under such circumstances. Further, there is nothing fundamentally wrong with contending that evidence against a state is somehow biased or corrupted. However, this presupposes a certain affirmative, albeit implicit, responsibility to act ethically in presenting a counter-narrative.

A state cannot be allowed to intentionally proffer evidence that it fabricates, uses to maliciously mislead, or otherwise lie. This is what makes the Russian approach to the MH17 situation so offensive. It is not that the Russian government should not have the right to promote or defend any issue that it wishes to promote or defend. In-

stead, it is the nature of how it goes about doing it. Offering fabricated evidence, flooding the international media with counter-narratives, and the other steps taken by the Russian government obstructs justice and does a disservice to the Western and international legal institutions considering the cases. Without firm commitment to respecting the rule of law and judicial institutions, the fabric of the community of nations continues to fray. There must be respect and, in the event that a state fails to provide that respect, there must be accountability.

If the international community continues to accept such actions from the Russian Federation, it will not change its approach to legal and investigative institutions that seek to find the truth relating to the perpetration of a crime. It is necessary for the international community to take a stand against such activities, not only to preserve the inexorable development and legitimacy of national and international legal institutions, but also to protect the citizens of Ukraine and the victims of the MH17 tragedy.



Photo courtesy of Zbynek Burival

The Yukos Cases: Undermining Western Legal Institutions and Traditions

ABSTRACT

The Kremlin's vicious expropriation of Yukos is a defining feature of the Russian political regime and its transformation into an authoritarian kleptocracy. Moreover, in the subsequent legal proceedings, Russia has attempted to undermine the integrity of judicial proceedings across the West in an effort to nullify adverse judgements and their enforcement. While the ultimate outcome of the Yukos shareholders' efforts to protect their arbitral awards remains in the hands of the Dutch judicial system, there is already indisputable evidence of the Kremlin's undermining of Western legal institutions. This case demonstrates that the Russian government and its proxies have exerted pressure on the executive branches of power in France and Belgium to manipulate their own domestic legal system and undercut international court decisions, tampered with the judicial processes in Armenia and in the Netherlands, and undermined traditional professional standards at major Western law and audit firms.

By Ilya Zaslavskiy

In 2003, Yukos was the fourth largest investor-owned oil company in the world, producing over 1 million barrels of oil per day, or 2% of global oil production. However, in what would later become a pattern for the Kremlin, Yukos was seized on spurious grounds by the Russian state and its principal assets were ultimately transferred to

state-owned oil company Rosneft.

The seizure of Yukos and the subsequent show trials of company executives were reminiscent of Soviet show trials from an earlier age, attracting worldwide media attention. Through a series of dubious tax charges and

unprecedented rulings on alleged tax evasion by Kremlin-directed criminal courts, the company was convicted, dismantled and redistributed between 2003 and 2006.⁹⁴

This well-documented political campaign by Putin's Kremlin launched more than a decade of litigation against the Russian Federation, as Yukos shareholders sought to hold the Russian government accountable for the theft of their assets.

Former majority shareholders launched arbitral proceedings in 2005 under the Energy Charter Treaty (ECT), establishing an independent arbitral tribunal in The Hague, under the auspices of the Permanent Court of Arbitration. The ECT provides for arbitration in the case of unlawful expropriation of investments. Importantly, the Russian Federation participated fully in the arbitration proceedings, which included a panelist appointed by the them.

In 2009, the Arbitral Tribunal issued two important decisions, unanimously confirming that Yukos majority shareholders had standing as investors as defined by the ECT, and that the case could proceed on its merits.

Crucially, the Tribunal also ruled without a single dissent that Russia was fully bound by the ECT, until its formal withdrawal from provisional application of the Treaty took effect on 19 October 2009. Russia's attempt to disavow a treaty to which they were signatories was rejected, even by the Russian-appointed arbitrator on the Tribunal.

The arbitration process proceeded on that basis and resulted in a decision in 2014 that unanimously affirmed three fundamental points:

- the Russian state had deployed its own courts to bankrupt Yukos;
- the unlawful expropriation was part of a Kremlin-driven campaign to oust a political rival;
- the former majority shareholders should be compensated.

On July 18, 2014 the Arbitral Tribunal unanimously approved an award in excess of \$50 billion to the majority shareholders.

On July 31, 2014, the European Court of Human Rights (ECHR) ruled in favor of all former Yukos share-

holders in a parallel case, awarding them €1.9 billion in compensation and concluding that the Russian Federation had indeed violated the European Convention on Human Rights. For the first time in the long history of expropriations of private companies by Kremlin-connected interests, the Russian Federation faced accountability for its illegal acts.

The Russian response was not surprising. They have defied the ECHR and reacted to the Tribunal's unanimous decision with fury. The Russian government applied to The Hague District Court to have the arbitral awards set aside, thus placing all subsequent proceedings within the national judicial system of The Netherlands. In 2016, the District Court set aside the awards on jurisdictional grounds but without challenging the merits of the case, namely the unlawful expropriation. The former shareholders have since appealed to The Hague Appeals Court, aiming to reinstate their awards, where a ruling might be expected at the end of 2019.

In addition to seeking to set aside the arbitral awards in the Netherlands, Russia also launched a concerted diplomatic offensive to raise the potential political costs for any country seeking to enforce their own rule of law in this case. The Russian government mounted a campaign to discredit the plaintiffs and the process in the media, which included the launch, by the Russian Ministry of Justice of a phony think tank, the "International Centre for Legal Protection", complete with an "expert spokesperson", to attack the arbitration process and the Yukos shareholders in the media. The Russians have also put leaders of the legal community on their payroll to undermine public perception of the arbitral process itself. By "re-litigating" issues in the media that have long been decided by courts of law (most notably the privatization of Yukos in the first instance) the Kremlin seeks to make it more difficult for Western institutions to implement any judgement which is in accordance with the rule of law.

In 2015, the former shareholders launched proceedings in several jurisdictions to enforce the awards by identifying and attaching non-diplomatic state-owned assets of the Russian Federation in any of the 153 countries that have signed the New York Convention. It is this prospect of shareholders actually enforcing a judgement against the Russian state – something no previous Kremlin target

94 After the Skripal poisoning case (see more below in this report) in the UK, MI5 re-opened a case on a helicopter crash in March 2004 which killed Yukos's lawyer Stephen Curtis and his pilot as there are suspicions that this could have been an assassination directed by the Russian state. <https://www.chroniclive.co.uk/news/north-east-news/death-sunderland-lawyer-stephen-curtis-14408339>

has managed to do – that has led to an entirely new level of intervention by the Russian Federation in Western legal processes. The resilience of Western institutions and the people who should uphold them is the key question moving forward.

The “Yukos Act” and the “Putin Amendment”

After a decade of unusual persistence by Yukos majority shareholders, the Russian Federation, for the first time, faced the prospect of being held accountable to the rule of law for the theft of a company. The history of what is commonly known in Russia as “reiderstvo,” where companies are seized by political elites capitalizing on weak Russian institutions, media and criminal courts, is well understood. However, it is virtually unprecedented for the victims of reiderstvo to succeed in forcing the Russian political elite to pay for their lawlessness.

When Yukos shareholders pursued their legal rights under the New York Convention by seeking to attach non-diplomatic Russian Federation properties in Belgium and France, the Russians began to enlist Western policymakers to actively defy their own legal traditions and the rule of law in their own countries.

In addition to a vigorous influence and media campaign, aimed at discrediting both the plaintiffs and the legal process in the Hague, the Russian government issued threats against French and Belgian diplomatic properties within Russia. Specifically, the Russian Foreign Ministry summoned the Belgian Ambassador and threatened to seize Belgian embassy property in retaliation for any enforcement of the Tribunal’s award in Belgium.⁹⁵

The Belgian government immediately set about applying pressure on its own courts as well as its own parliament to block ongoing legal proceedings and to enact laws that would effectively render judgements against the Russian state unenforceable in the country. To say the least, this is a set-back for the country’s rule of law traditions.

For example, the Belgian Ministry of Foreign Affairs (MFA) explicitly acted as an advocate for the Russian government in opposition to established Belgian law, by seeking to stop agencies of the Belgian government from performing their lawful tasks under the initial enforcement

procedures. Thus, in August 2015 the MFA refused to serve legal documents on the Russian Federation pertaining to the attachment of Russian assets in Belgium. The MFA was forced to reverse its position only in response to threatened legal action against them for violating Belgian law.

Once the enforcement process was allowed to proceed, the former Yukos shareholders submitted applications to the Belgian courts to attach certain non-diplomatic Russian-owned properties in Brussels. However, the request was immediately “leaked” to the Russian government to provide them with time to frustrate the order. In one case, a property on Rue Jean-Baptiste, Brussels, was suddenly adorned with diplomatic plaques the day after the asset had been frozen in an absurd attempt to declare the property exempt from any enforcement order because of its diplomatic status. The irony, of course, is that Russia had specifically threatened to seize Belgian diplomatic property in retaliation only days earlier.

Meanwhile, just weeks after receiving a threatening letter from the Russian Foreign Ministry, the Belgian government launched an effort in its Federal Parliament to change the law in such a way that the Arbitral decision would be unenforceable in Belgium.

In August 2015, the Belgian Parliament passed “emergency” legislation (article 1412 in the Judicial Code) that essentially established a retrospective general rule that foreign assets on Belgian territory are not subject to seizure in response to judicial orders. Recognizing that the new “Yukos” law would render foreign governments immune from legal responsibility to investors, the act includes exceptions that would allow property seizure only if the creditor can prove that the foreign entity explicitly consents to the seizure. Hence, in Belgium all the creditor (Yukos shareholders) needs to do to recover a judgement is to receive Putin’s authorization to seize Russian property.

Adding to the absurdity of the “Yukos Law,” the Belgian Foreign Ministry sent a letter to the court-appointed notary responsible for assessing the value of any Russian property subject to seizure. The letter, which clearly oversteps the authority of the MFA, pitted the Belgian government, working on behalf of Russia’s interests, against its own judicial branch. The notary was directed to cease his activities and noted that the MFA was “notified by the Russian Federation” of the notary’s work and that if the

95 <https://russiaeu.ru/en/news/press-release-summoning-ambassador-kingdom-belgium-russia>

notary did not stop, the Belgian state would need to take “coercive measures.”

Having now abandoned well-established Belgian legal principles under Russian pressure, the Belgian government added to the absurdity by filing documents with the court that fully embraced the Russian Federation’s legal position seeking a release of all attachments on all Russian properties and all bank accounts identified in the proceedings. They sought the unfreezing of all assets, not based on law, but on Russian threats. The best argument the Government could advance was: “The Belgian State draws this Court’s attention to the fact that, if seizures are enforced, a major and especially serious diplomatic incident with the Russian Federation would result.”

The Russian campaign to change French law followed a similar pattern. Russia threatened the French Government and the French Government subsequently capitulated by pressuring the independent courts and the Parliament to abandon French legal principles. Thus, the “Putin Amendment” was born in France.

Throughout 2015, Yukos shareholders had been seeking various Russian-owned assets in France pursuant to the New York Convention. These assets ranged from shares in Russian broadcasting entities, to non-diplomatic real estate, to stakes in state-owned companies, including Total, BNP Paribas, Roscosmos and Air France.

On 6 March 2015 the Russian Ministry of Foreign Affairs sent a letter to the French Ambassador in Moscow, threatening to retaliate for any seizure of Russian property by acting against assets of the French state, its citizen and its companies.

As in Belgium, the French effort had its absurdities. For example, Russian state-owned space agency, Roscosmos, was able to persuade the First Instance Court of Évry that its frozen assets should be unfrozen on the grounds that Roscosmos was not a state entity and that it had not been established that state-owned Roscosmos was acting on behalf of the Russian government when it entered into agreements with Arianespace, its French counterpart.⁹⁶

In 2016, an amendment to French law, dubbed the “Putin Amendment” in the French press, was introduced

in Parliament. This change to the ‘Sapin 2 Act’ stipulates that assets of a foreign government can be seized after an arbitration decision only through the prior approval of a judge. However, the judge can only authorize a seizure if the affected government (namely Russia) has consented to the enforcement action; has allocated or earmarked the property to satisfy a claim; or if the property is exclusively used for non-governmental commercial purposes.

Thus, in France, shareholders with a claim against the Russian government for expropriation of shareholder assets, which is by no mean limited to Yukos (as BP-BNP will attest), will need the authorization of Putin’s government to collect any damages. The obvious risk for Western investors in Russia or elsewhere was noted by critics in the French media at the time.

Rosneft’s attempts to manipulate courts in The Netherlands

In 2016, a series of investigations made public in the Netherlands, demonstrated how audacious Russia can be in tampering with judicial proceedings. Another case related to the pursuit of Yukos assets revealed how Russia, through its state-owned oil company Rosneft and in cooperation with a prominent U.S. law firm, Baker Botts, directly tampered with Armenian court rulings that also affected related Dutch court decisions on the case.⁹⁷

According to U.S. court filings, Rosneft filed suit in Armenia in the late 2000s seeking possession of Yukos CIS, one of Yukos’s subsidiaries in the post-Soviet space. In 2011, Rosneft won possession of the subsidiary.

However, a year later, Surik Ghazaryan, an Armenian judge involved in the rulings, testified in U.S. federal court that his superiors ordered him to issue a judgment favorable to Rosneft. Among the evidence he provided was a flash drive with a pre-written copy of the judgment that was drafted by lawyers at U.S. law firm Baker Botts, who were representing Rosneft in the case through their Moscow office. Though Baker Botts and Rosneft deny any wrongdoing, there has been no explanation for the fact that attorneys for one side of a case apparently provided a draft decision to a court of law. Judge Ghazaryan subsequently fled Armenia fearing reprisal for his refusal to

96 <https://www.august-debouzy.com/en/blog/1092-the-yukos-case-former-shareholders-lose-their-legal-battle-in-france-but-continue-the-war>

97 <https://g8fip1kplyr33r3krz5b97d1-wpengine.netdna-ssl.com/wp-content/uploads/2016/11/161124-NRC-Online-EN2.pdf>

comply with instructions from his superiors.⁹⁸

In spite of denials from Baker Botts and Rosneft, copies of Baker Botts e-mails are part of the court record. According to a Financial Times article of November 2016, these emails show “Rosneft lawyers giving instructions to a senior member of the Armenian justice system on the outcomes required in five Yukos-related cases. Other emails show Rosneft lawyers working to draft rulings in advance for the Armenian court in cases in 2010-11 over Rosneft’s takeover of Yukos CIS.”⁹⁹

Russian tampering with the courts on this matter also emerged in the Netherlands in 2016 when a Dutch Court hearing a parallel case about Yukos CIS accepted the evidence of tampering with the Armenian court. An investigation by Dutch media outlet NRC revealed that Dutch Chief Judge Jan Peeters received the evidence on the Ghazaryan revelations. During the hearings, ample evidence was introduced that the verdicts of the Armenian courts in five Yukos-related cases were “spoon-fed” to the Court by Rosneft’s legal team and Baker Botts in Moscow. The evidence also suggested that Rosneft corrupted the highest echelons of the executive and judicial branches of Armenia, not only to attain the desired verdicts in Armenia, but also to manipulate the Dutch Courts.¹⁰⁰

This explains why Rosneft decided to quickly settle the case to avoid publication of the damaging revelations about manipulation of verdicts in Armenia and, through them, the judicial process in Netherlands.

However, NRC raised a more important issue in an editorial that argued that the damage to the Dutch judicial process still needs to be assessed.¹⁰¹ It said that the Amsterdam Court was initially influenced by manipulation of a foreign judicial process and illegitimate conduct by litigants. That this conduct could in any way impact the legal process in the Dutch courts is a significant concern. The international reputation of the Netherlands Commercial Court could be unwittingly undermined by foreign forces adept at abusing the legal process. But, more importantly, it shows that the Russian Federation will go to any lengths to undermine the Dutch judicial system as a whole.

Undermining Standards at Professional Services Firms

The Russian Federation employs no shortage of professional services firms willing to push the boundaries of professional responsibility in exchange for lucrative fees. There are ethical questions to be asked about the professional conduct of U.S law firms, accounting firms and public relations firms working on behalf of Putin’s Kremlin. The Yukos litigation continues to be an excellent example of this problem.

The conduct of U.S law firm Baker Botts, discussed earlier, raises serious questions about its own integrity and the integrity of judicial proceedings. Another U.S. based law firm, White & Case, may also be in conflict with the well-known principle of a law firm’s continuing duty to previous clients.

In recent years, White & Case has represented the Russian government during the privatization of its stake in the state-owned oil company Rosneft, a company whose key assets were built around the expropriated assets of Yukos. White & Case also represents Russia’s interests in the US federal court in Washington, where it is helping challenge the 2014 arbitral awards requiring compensation to the former Yukos shareholders of \$50 billion.¹⁰²

However, in spite of the fact that these matters were litigated and found in the shareholders’ favour long ago, part of the Russian government’s campaign is to accuse the shareholders in international courts of illegally acquiring Yukos assets in the 1990’s during Russia’s privatization process.

Interestingly, White & Case acted as an auditor and legal adviser to Yukos during the privatization in the 1990s. However, all the relevant documents on the matter were seized or destroyed in Russia during the forced expropriation of Yukos (and its archive) starting in 2003. Today, White & Case refuses to release documents from that period – the very work that their previous client, Yukos, had commissioned, and which is now relevant to the ongoing proceedings in The Hague. Incredibly, Yukos has needed to take legal action to compel their former

98 <https://www.rferl.org/a/russia-yukos-arbitration-shareholders-baker-botts-court-ruling/28588682.html>

99 <https://www.ft.com/content/56650382-b495-11e6-ba85-95d1533d9a62>

100 <https://www.nrc.nl/nieuws/2016/11/24/rosneft-liet-het-vonnis-aanreiken-op-een-usb-stick-5470460-a1533485>

101 <https://www.nrc.nl/nieuws/2016/11/30/rosneft-is-aangifte-waard-5584966-a1534325>

102 <http://tass.ru/en/economy/869455>

attorneys to release the information; White & Case chose to fight the request. Moreover, White & Case has direct knowledge of a previous decision by a Russian court that found the Yukos privatization to be completely lawful.

Nonetheless, White & Case ignores its own due diligence work confirming the legitimacy of the Yukos privatization and instead chooses to fight attempts at document discovery in a US court.¹⁰³ For White & Case, the doctrine of continuing duty to clients appears to have been jettisoned for a lucrative new opportunity. Moreover, the firm has apparently completely reversed the legal conclusions that it previously maintained on the Yukos matter.

Accounting firms have been similarly compromised. In 2007 the international accounting firm PricewaterhouseCoopers (PwC) revoked its annual audit reports for Yukos for the years 1996-2004. This happened as Yukos came under full-blown attack and de-facto expropriation by the Russian state; PwC's own branch in Russia was itself under court pressure in Moscow on the alleged tax evasion and illegal contracts with Yukos.¹⁰⁴ At the time, Western and Russian experts suggested that even during the collapse of the US energy giant Enron in 2001-2002, auditors from Arthur Andersen did not revoke their audits on the company. PwC's Western management distanced itself from its Russian subsidiary's position on the issue of Yukos, reportedly arguing that the recall of 1996-2004 audits was done under pressure from judicial authorities in Russia.¹⁰⁵ While, by the end of 2009, PwC had happily settled all tax claims and other judicial issues with the Russian state and kept its license, the question of its Yukos audits was by and large forgotten.¹⁰⁶

Conclusion

The common thread running through Russia's tampering with Belgian and French law-making, Armenian and Dutch judicial processes, and the professional standards of law firms is Moscow's determination to keep its grip on the assets stolen from Yukos shareholders in 2003-06. The challenge for Western policy-makers and law enforcement officials is to ensure that the Kremlin's aggressive deployment of state power does not overwhelm one of Europe's essential values: the rule of law. So far, Russian efforts have succeeded, and Western institutions fallen short.

103 <https://globalarbitrationreview.com/article/1174579/yukos-shareholders-fail-in-initial-white-case-discovery-bid>

104 <https://www.kommersant.ru/doc/777543>

105 <https://www.newsru.com/finance/25jun2007/audit.html>

106 <https://www.kommersant.ru/doc/1389816>



San Pedro La Laguna, Guatemala. Photo courtesy of Ran Berkovich

The Case of Guatemala: Russia's Long Arm of Legal Interference Reaches Latin America

ABSTRACT

Guatemala is a country with few obvious connections to Russia. It offers limited political and economic dividends to Moscow in terms of increased investment in Latin America. Yet Moscow's dogged pursuit of a fugitive Russian family through the Guatemalan legal system demonstrates its impressive ability to corrupt another country's judicial process using techniques widely practiced at home. These include media campaigns, branding individuals as criminals, sham criminal investigations to trigger Interpol red notices, requests for mutual legal assistance, and other efforts to influence due process. Similar approaches can be found in other countries around the world, where the Russian authorities have used rule-of-law systems to further criminal interests by disguising them as legitimate and employing reputable Western lawyers to act on their behalf. However, the striking feature of the case described below is Russia's co-opting of the respected UN-sponsored anti-corruption agency, the International Commission against Impunity in Guatemala, commonly known by its Spanish acronym "CICIG."

By John Lough

**Mr. Lough, in a private capacity, has been providing pro bono advice to the Bitkov family as part of the campaign for their freedom.*

Efforts by the Russian authorities to extradite a Russian family from Guatemala provide a clear illustration of how Russia influences the judicial system of a country on the other side of the world. This has included co-opting the UN-sponsored anti-corruption agency, the International Commission against Impunity in Guatemala (whose acronym is "CICIG" in Spanish) and persuading Guatemalan government agencies to act in Russia's interest.

The targets are Igor and Irina Bitkov, who fled to Guatemala in 2009 after their successful paper-producing business North-West Timber Company (NWTC) was "raided" by three Russian state banks: Gazprombank, Sberbank, and VTB. The banks had provided loans for investment in the company's production facilities at Kamenogorsk (Leningrad Region) and Neman (Kaliningrad Region). In 2007, Sberbank had valued NWTC at \$450 million.¹⁰⁷ It was the largest producer of European standard exercise books in the CIS and exported production to 33 countries.¹⁰⁸ It boasted the highest level of profitability in the sector.

After a change of governor in Kaliningrad Region in 2005, government authorities began to view the Bitkovs as unreliable because of their reluctance to provide financial and other support to the Kremlin's political party, United Russia. They had also sponsored opposition candidates in the 2006 elections in Kaliningrad Region. Irina Bitkova's rejection of invitations to be a United Russia candidate from Kaliningrad in Duma elections in 2007 and to head the regional branch of the Russian Union of Industrialists and Entrepreneurs caused a rift with the Governor of Kaliningrad Region, Georgy Boos.

The raid followed an established pattern. In 2005, a state bank representative expressed interest in buying a 51% stake for a laughable sum. After the Bitkovs rejected the offer, a criminal gang specializing in extortion kidnapped their 16-year old daughter, Anastasia, in St. Petersburg¹⁰⁹ in June 2007. She was held for three days until the Bitkovs paid a ransom for her release. During this time, she was drugged and raped. The experience left her with severe mental health issues. Ministry of Interior Offi-

cialists told Igor that the gang operated under the authority of the FSB.

Several months later, with the Bitkovs showing no signs of voluntarily ceding control of their company, the three banks simultaneously called in their loans totalling \$158 million.¹¹⁰ This was despite NWTC's impeccable credit record and the absence of any repayment problems. NWTC was unable to comply with the banks' demands. The banks appointed an administrator who sold off the company's assets for less than \$100,000 to entities believed to be under the control of their managers.

At this point, the Bitkovs received a warning that they faced imminent arrest. In April 2008, they fled to Latvia and then to Turkey. Fearing for their safety after receiving threats they could be murdered if they did not return to Russia, they responded to an advertisement by Cutino International, a Panama-based law firm offering assistance in obtaining citizenship in Guatemala. Unlike its neighbors, Guatemala did not have an extradition treaty with Russia.

In April 2009, Igor and Irina Bitkov flew to Guatemala and began the naturalization process. They spoke no Spanish. On the advice of the law firm, they applied for Guatemalan documents with new identities. On receipt of the documents, they settled in Guatemala and were joined by Anastasia who also received Guatemalan documents with the assistance of Cutino International. They learned Spanish, and Igor and Irina worked for a while as teachers while Anastasia resumed her modelling career. In 2012, Irina gave birth to a son, Vladimir. The Bitkovs felt that their fortunes had turned, and that Guatemala was a place of sanctuary.

They could not have been more mistaken. Unknown to them, in 2010 Guatemala's Office of the Special Prosecutor against Impunity ("FECI") had opened an investigation into document fraud in the Migration Department that had issued the Bitkovs' passports.

At the same time, investigators from VTB were searching for the Bitkovs and appear to have located them in

107 Rust (an affiliate of Sberbank) valued NWTC at RUR 12 billion in 2007. http://www.foundation19-29.com/news/fullnews.php?fn_id=16 According to NWTC's financial statements for 2007, profits were 2.1 billion before tax (\$85.7 million using an average exchange rate of 25.5 rubles to the dollar). Applying a ratio of 5, this gives enterprise value of \$428.6 million

108 Svyaz Bank bond issue prospectus (2007)

109 <https://klops.ru/news/2018-01-12/167654-krah-bumazhnoy-imperii-kak-okazalis-za-reshyotkoy-eks-vladeltsy-nemanskogotsbk-i-cto-govoryat-o-nih-nemantsy>

110 Murashko Y (2009), Credit Raiderstvo: how it is done

Guatemala in early 2013. In June of that year, VTB hired Comte & Font, one of Guatemala's top law firms, to help bring the Bitkovs back to Russia. Andrey Kostin, the President of VTB, personally signed the power of attorney.

Investigators in Russia laid the basis for their return. In line with the Russian tradition of "corporate raiding," the victims were portrayed as criminals. The Russian authorities opened a criminal case against the Bitkovs in September 2009, and Kaliningrad prosecutors charged Igor with intentionally bankrupting the Neman plant and obtained an Interpol red notice for his arrest.¹¹¹ VTB told its Guatemalan lawyers that the Bitkovs had embezzled loans to their company and then laundered the money in Guatemala.

In December 2013, Comte & Font filed a criminal complaint against the Bitkovs with Guatemala's Metropolitan Prosecutor's Office. It alleged that the Bitkovs had obtained Guatemalan identity documents to evade justice in Russia. It asked for their immediate arrest, the freezing of their assets in Guatemala, and their extradition to Russia at the end of legal proceedings. It appears that this strategy was not successful: the Metropolitan Prosecutor's Office did not initiate legal proceedings against the Bitkovs.

At this point, Gazprombank entered the fray. In February 2014, the President of Gazprombank, Andrey Aki-mov, signed an agreement giving power of attorney to another top Guatemalan lawyer, Alfonso Carrillo, who was known for his political connections and his vigorous defence of CICIG. The Commission's role had become deeply controversial amid perceptions that it was not accountable and was abusing its powers for political purposes. The Commission's mandate is to support the Guatemalan authorities in rooting out the activities of illegal security forces and clandestine security organizations.

With Comte & Font making little headway, Carrillo's representatives approached CICIG and asked for its assistance in investigating the Bitkovs. On the instructions of CICIG's Colombian head, Iván Velásquez, a CICIG prosecutor met with Carrillo's lawyers and advised that the case lay outside the Commission's mandate and that it should not become involved. Nevertheless, for reasons that remain unclear, Velásquez agreed to assist Carrillo's team. CICIG devoted resources to investigating the Bitkovs, including surveillance.

On 3 November 2014, Velásquez personally wrote to then-Attorney General Thelma Aldana with a recommendation that VTB Bank's criminal complaint against the Bitkovs addressed to the Metropolitan Prosecutor's Office be transferred to the special prosecutor FECEI and attached to the ongoing investigation of document fraud in the Migration Department, which was being pursued by FECEI and CICIG.¹¹² Aldana agreed to this request.

The results came quickly. On 15 January 2015, FECEI raided the Bitkovs' home in a gated community on the outskirts of Guatemala City with a team of 70 armed police. They detained Igor, Irina, and Anastasia on suspicion of possessing illegally issued passports. A junior FECEI prosecutor told one of the Bitkovs' lawyers who had rushed to the scene that "the Russian bank organized everything." For its part, VTB boasted in a press release that the Bitkovs' arrest was the result of its "coordinated actions" with CICIG.

The arrest of the Bitkovs became a huge news story in Guatemala. The Bitkovs were branded as criminals. The scale of the operation suggested that the Guatemalan authorities believed that the Bitkovs might have committed offences way beyond the alleged possession of illegally issued passports.

After their arrest, the Bitkov family suffered serious human rights violations. Igor, Irina, and Anastasia were held for several days in open cells in a parking lot under the main court building in Guatemala City where it was impossible to sleep and where there were no washing facilities or bathroom privacy. The authorities did not provide food or water. Detainees are not supposed to spend more than 24 hours in these conditions. Irina and Anastasia stayed there for five days until Anastasia required hospitalization after suffering a nervous breakdown. She had been deprived of her medication. Igor remained there for eight days before making his first court appearance. Irina accompanied Anastasia to a hospital and remained with her under prison guard while Igor was transferred to a remand prison.

The Guatemalan authorities attempted to place three-year old Vladimir in an orphanage. One of the Bitkovs' lawyers argued successfully in court that since he and Vladimir's nanny had been appointed his legal guardians, they would take care of him. Vladimir went to stay with the lawyer.

111 <http://raud.spb.ru/en/node/1453>

112 The letter can be viewed at <http://igorbitkov.com/site/index.php/2019/01/23/english-our-fight-for-freedom/?lang=en>

At this point, Pavel Astakhov, the Children's Rights Commissioner for the President of the Russian Federation, became involved. Through the media and his own Twitter account, he called for Vladimir's removal to Russia,¹¹³ and even offered to personally fly to Guatemala to make this happen.¹¹⁴

Vladimir became a pawn in a campaign to encourage the Bitkovs to agree to return to Russia. On 10 February 2015, his guardians were told to bring him before a family judge who ruled that he should not stay in the care of his guardians but should be transferred to an orphanage. The judge cited "security concerns" and pointed to the fact that the Bitkovs could receive long jail sentences in Russia. Forcibly separated from his guardians, he spent 42 days in the Amor del Niño orphanage in Guatemala City where he was deprived of contact with his parents or anyone he knew.

While Vladimir was in the orphanage, Russia's Ambassador to Guatemala, Nikolai Babich, visited Irina in the hospital. He told Irina that the only way for Vladimir to leave the orphanage was for his parents to agree to his return to Russia. However, Vladimir was a Guatemalan citizen and not a Russian citizen. To get around this, Babich instructed Irina to sign citizenship forms for Vladimir. She refused to do so.

In the end, a local lawyer specializing in family law secured Vladimir's release from the orphanage. The little boy was then able to return to the care of his guardian. He was in poor condition: he was psychologically traumatized and would not speak. A medical examination showed that he had a respiratory infection, conjunctivitis and head lice. He had also developed the habit of hiding food under his shirt.

In the meantime, Comte & Font applied for VTB to become a complementary prosecutor in the case against the Bitkovs. In making the application, VTB's lawyer repeated the allegation that Igor and Irina committed bankruptcy fraud in Russia. In support, he presented illegible copies of a purported loan agreement signed by the Bitkovs. The signatures had been forged.

Without any formal reason to do so, CICIG made official submissions supporting VTB Bank's participation in the family's prosecution, repeating VTB Bank's com-

plaint against the Bitkovs based on trumped up Russian charges. As a result, VTB Bank became a complementary prosecutor on a provisional basis.

In April 2015, the Guatemalan Attorney General's Office issued an indictment against the Bitkovs for possession of illegally issued passports and being part of a criminal ring engaged in document fraud.

It turned out that Cutino International, which the Bitkovs had hired in good faith to arrange their application for citizenship, was part of an illegal business selling Guatemalan documents. However, no official from Cutino International was arrested, and no other recipient of documents from Cutino International was indicted.

After the Bitkovs' arrest, Russian investigators returned to the case opened in 2009. On February 6, 2015, the Kaliningrad Region Prosecutor's Office sent a request for mutual legal assistance to the Guatemalan government. The request set out Igor Bitkov's alleged financial crimes in Russia and asked the Guatemalan government to interrogate the Bitkovs (Igor as a suspect and Irina and Anastasia as witnesses) and locate and freeze their assets. The aim was to receive information that would support a request for the extradition of the Bitkovs. The Guatemalan authorities did not respond, possibly because they agreed with the Bitkovs' legal argument that there were insufficient grounds to support the request.

On 9 June 2015, the Bitkovs applied for asylum in Guatemala citing their persecution in Russia. Their request was refused in November 2016 after FECl informed the decision-making panel of the Russian allegations against the Bitkovs.

After the indictment was issued, the case worked its way through the judicial system. Court proceedings began in August 2016. In February 2017, Judge Erika Aifan, who is closely linked to CICIG, affirmed the earlier provisional ruling that allowed VTB Bank to participate in the case as a complementary prosecutor. As a result, VTB was able to take part in the preliminary hearing on 20 February 2017 and argue its case along with FECl and CICIG. Judge Aifan accepted their arguments and dismissed the Bitkovs' defence case.

The Bitkovs argued that they were the victims of Cu-

113 <https://ria.ru/20150120/1043380278.html>

114 <https://www.bbc.com/russian/features-44134877>

tino International's illegal practices and that as migrants fleeing persecution, they enjoyed protection under both Guatemalan law and international law (the Palermo Convention) and that criminal liability for illegally issued documents lay not with them but with Cutino International.

Judge Aifan ruled that the Bitkovs would stand trial with 38 other persons as part of the "migration case" in a separate chamber of the High Risk Court. The other 38 were either individuals accused of smuggling refugees or low-ranking officials indicted for corruption. Of the reportedly thousands of recipients of illegally issued passports, only the Bitkovs were in the dock.

The Bitkovs' defense team filed two appeals: one calling for the case against them to be dismissed, the other for the removal of VTB as a complementary prosecutor because it had no standing in the case in Guatemala.

On May 2 2017, an appeals court allowed the Bitkovs' appeal regarding VTB Bank. On May 16 2017, the Russian Embassy intervened again with a letter to the Guatemalan foreign ministry asking about the sentences the Bitkovs would face if convicted. The foreign ministry forwarded the request to the judges in charge of the Bitkovs' case: Judge Aifan, who had just committed the Bitkovs to trial, and Judge Yassmín Barrios, the appointed trial judge.

Barrios replied that it would be unlawful and unethical for a judge to give an a priori opinion. Aifan, however, provided the information requested with references to the relevant penal code provisions together with the applicable sentencing ranges. A judicial disciplinary body would later rule in response to a complaint by the Bitkovs that Aifan had not breached professional rules.

In a bizarre twist, on 17 October 2017, the Court of Appeal upheld the Bitkovs' appeal against Judge Aifan's decision to send them to trial. However, it did not make this public until 13 December 2017, when the trial was already underway. In response, CICIG, VTB and the National General Prosecutor appealed to the Constitutional Court. Judge Barrios refused to allow the proceedings against the Bitkovs to stop because of the appeal against the appellate court's decision.

Two days later, the Russian General Prosecutor's Office responded by renewing its request for mutual legal assistance in tracking and freezing the Bitkovs' assets in

Guatemala.

At the trial, the judges showed no interest in the Bitkovs' arguments that they had faced persecution in Russia and had sought refuge in Guatemala in good faith. They also ignored the role of Cutino International in procuring the Bitkovs' passports. As a result, Igor received a 19-year jail sentence for his alleged crimes, and Irina and Anastasia 14 years each. Igor's sentence was longer than the average sentence for manslaughter. Irina and Anastasia's were longer than the average sentences for rape. Igor received a sentence three years longer than that of the head of the passport agency. A Russian Embassy official was spotted entering the judges' chambers in the final stages of the trial.

The injustice meted out to the Bitkovs and the role of Russian state entities in the process sparked a campaign in the U.S. Congress led by Bill Browder who saw parallels between the pursuit of the Bitkovs and the events that led to the murder of his lawyer, Sergei Magnitsky, in a Moscow detention facility in 2009. A session of the Helsinki Commission on April 27 2018 heard evidence of how CICIG abused its mandate by supporting the Russian persecution of the Bitkovs. CICIG did not send a representative to the hearing. The revelations led to Senator Marco Rubio placing a hold on \$6 billion in U.S. funding for CICIG pending the family's release from jail.¹¹⁵ Fifty percent of CICIG's budget comes from the U.S. Government.

Two days earlier, the Constitutional Court upheld the Bitkovs' appeal (in Igor's name) and instructed Judge Aifan to reconsider the decision to commit him to trial. Aifan responded by ordering Igor's retrial and separating his case from Irina's and Anastasia's. On 22 May 2018, the court of appeal annulled this decision but Aifan, backed by CICIG and other Guatemalan agencies, lodged an appeal against the annulment in the Constitutional Court alleging that the Court had violated her judicial independence.

With international pressure on CICIG growing as a result of its role in the case, Judge Aifan ordered Igor to be released from jail and placed under house arrest on 28 May 2018. Irina and Anastasia were released on bail two weeks later.

However, in an inexplicable reversal of its earlier decision, the Constitutional Court found in favor of Judge

115 http://www.ghrc-usa.org/wp-content/uploads/2011/10/Final_BitkovQA_180509.pdf

Aifan, CICIG and the other government agencies, arguing that there were grounds for a re-trial for possession of illegally issued documents other than passports.

In the meantime, the Russian authorities made a further request for mutual legal assistance in early March 2018. Guatemala's Supreme Court granted the request less than a week later. It is possible that they had concluded that the Bitkovs might appeal their sentences successfully and that a further tool was needed to bring them back to Russia.

Igor's re-trial began on 5 December 2018 and followed the pattern of his earlier trial, with FECl and CICIG alleging that he had personally arranged a scheme to alter public records and acquire falsified documents. Once again, the arguments about the role of Cutino International were dismissed.

However, on this occasion, Igor was able to bring detailed evidence of the role of senior officials in overseeing the illegal passport business, including Mayra Veliz, the former second-in-command at the Public Prosecutor's Office, who had earlier held a senior position in the Migration Department. The information came from a leaked investigation by officials in the Public Prosecutor's Office that was terminated on orders from above. The investigation revealed a criminal structure involving Cutino International that illegally issued passports to foreign citizens from a wide range of countries, including Russia and Kazakhstan. At the Bitkovs' trial in December 2017, a former official in the registrations agency (RENAP) revealed that between 2010 and 2012, officials illegally issued more than 5,000 passports. It later emerged that Mayra Veliz had personally counter-signed an identity document issued to Anastasia.

Despite the prosecutors' request for Igor to receive a 14-year jail term, Judge Sara Yoc sentenced him to seven years. In view of time served, he should not have to return to jail unless the Public Prosecutor's Office appeal for a longer sentence is upheld. However, Judge Yoc ruled that Igor should face expulsion to Russia on completion of his sentence.

The family's position remains precarious. They do not

have refugee status in Guatemala and could still face further jail time. Irina and Anastasia's appeal against their sentences will be heard at the end of May. The date for Igor's appeal hearing is not yet known.

The Bitkovs' future hinges on internal Guatemala politics, and the question, in particular, of which forces will prevail in the presidential and parliamentary elections due to take place in June this year. Meanwhile, the Russian authorities are negotiating an extradition treaty, and in early February 2019, a senior Gazprombank official secretly visited Guatemala and held meetings with Government officials about the Bitkovs.

CICIG's dramatic loss of influence after President Morales' decision in January 2019¹¹⁶ not to renew its mandate and to transfer its functions to Guatemalan agencies appears to have seriously weakened Russian efforts to bring the Bitkovs back to Russia. However, with elections due in June and the possibility that forces aligned with CICIG will come to power, it is by no means certain that the Bitkovs will continue to enjoy support from the part of the government, including the President, that has been in conflict with CICIG.

It is clear that Russia has well-developed channels of influence in Guatemala. These probably relate to commercial and other interests. For example, there is major Russian investment in the largest nickel mine in the country.

The strategy of hiring two powerful law firms with complementary strategies for pursuing the Bitkovs proved highly effective in securing their convictions, even if it did not result in their extradition to Russia. By attaching them to the "migration case," CICIG ensured that they would receive long jail sentences. The Bitkovs believe that the purpose of the jail sentences was to persuade them to seek the intervention of the Russian authorities and agree to return home for Igor to face a shorter jail term.

The Russian side almost certainly did not bargain for the issue of the Bitkovs becoming a subject of debate in the U.S. Congress, nor that it would trigger a series of articles in the Wall Street Journal outlining the illegal practices of CICIG.¹¹⁷ The Bitkovs' success in internationalising their case has so far been their salvation.

116 Guatemala's Constitutional Court overruled the President's decision but the government's refusal to ensure the security of CICIG officials led to the UN withdrawing them. <https://www.theguardian.com/world/2019/jan/09/guatemala-jimmy-morales-un-anti-corruption-cicig-court-blocked>

117 The Wall Street Journal columnist Mary O'Grady wrote a series of articles on CICIG in 2018 that brought the Bitkovs' case to international prominence. The articles had a profound effect on public opinion in Guatemala.

However, the passivity of CICIG's Western government backers has helped to keep the Bitkovs in limbo. The U.S., Swedish, and British governments are among CICIG's biggest financial contributors together with the EU. None has yet called for an investigation into CICIG's handling of the Bitkovs' case, or of other cases where there is evidence that it has acted beyond the law.

Quite to the contrary, two of the principal actors in the persecution of the Bitkovs received a prestigious international honor in September 2018. Sweden's Right Livelihood Award (known as the Alternative Nobel Peace Prize) went to former Attorney General Thelma Aldana and Iván Velásquez "for their innovative work in exposing abuse of power and prosecuting corruption."¹¹⁸

CICIG is seen by Western governments and NGOs as the most successful example of anti-corruption efforts in the region; any criticism of it is viewed as undermining the anti-corruption drive and as support for political forces in Guatemala that oppose CICIG. The UN General Assembly has not reacted to the egregious violation of the Bitkovs' rights even though CICIG operates under its authority, and the UN Secretary-General António Guterres has continued to provide unqualified support for CICIG and Commissioner Velásquez. The U.S. State Department is said to be divided on the issue of CICIG, with a minority group expressing reservations about its lack of account-

ability and its respect for the law.

It is hardly surprising that a powerful anti-corruption body in a country with weak institutions risks becoming politicized and prone to acting beyond the law.

Despite the strong international support from Western countries fighting corruption in Guatemala and the large number of former officials jailed, the country is still far from having an independent judiciary and governance based on rule of law. Naturally, representatives of the Russian state do not find it difficult to operate in this environment.

Why have the Russian authorities put so much effort into pursuing the Bitkovs over so many years? And why do they persist in doing so, ten years after the Bitkovs fled? After all, the Bitkovs were not billionaires and they gave up their assets when they left. They disengaged from Russia and were not active in opposition circles. The answer almost certainly lies in the fact that the Bitkovs defied the Putin system and showed disloyalty by doing so. Therefore, the system must go after them to show others the price of disloyal behavior. At the same time, the officials who artificially bankrupted the Bitkovs' business and stole their assets have an interest in covering up their crimes. For them it is important to silence the Bitkovs. As a result, the mechanisms of persecution continue to function.

118 <https://www.rightlivelihoodaward.org/media/2018-right-livelihood-award-laureates-announced/>



Vladimir Putin at the General Assembly of the Interpol in St.Petersburg. Photo AP

Russia's Abuse of International Law Enforcement Agencies

ABSTRACT

Interpol's internal charter forbids their 194 member nations to use the international law enforcement organization in any actions that are of a "political, military, religious or racial character." Russia undoubtedly violates all four of these restrictions. By using the system to mete out punishment against its opponents, Russia's general prosecutor's office has served Red Notices and diffusions on countless individuals, causing them legal, travel, and immigration headaches. In some cases, this works as a substitute for extradition treaties where none existed. Russia also uses Interpol's system to deport mostly Muslim antagonists by declaring them terrorists. Finally, evidence is now emerging that Russian officials may have hacked their way inside international financial institutions and gained access to private financial information of Russia's opponents.

By Dr. Denis Sokolov, Ilya Zaslavskiy, and Natalia Arno

The International Criminal Police Organization, more widely known as Interpol, has a somewhat misleading name, implying that Interpol is a policing operation; it would be better defined as an international "message board" that lists the names of people accused of crimes in one of its 194 member countries. Interpol makes no effort to determine the validity of the criminal complaints, which

makes it far too easy for authoritarian regimes to abuse the process to punish political opponents. Over the past several years, Russia has filled Interpol's database with the names of political opponents and others who have earned the wrath of Kremlin-friendly business leaders.

Despite Interpol's constitution that forbids member

countries from using the system for “any intervention or activities of a political, military, religious or racial character,” Russia has become one of the top abusers of Interpol “Red Notices,” which are (incorrectly) viewed in some countries as an international arrest warrant or a reason to deport. Numerous Red Notices filed by Russia have been aimed at political opponents such as Vladimir Gusinsky, the former owner of Russia’s leading independent media group; Ilya Ponomarev, a former Duma member who cast the lone vote in opposition to the annexation of Crimea; Russian environmental activist Petr Silaev; Leonid Nevzlin, vice president of Yukos Oil, who was indicted as part of the Kremlin’s campaign against the company; Eerik-Niiles Kross, an Estonian politician who has long been a thorn in the Kremlin’s side; Boris Berezovsky, once Russia’s most influential “oligarch,” who helped bring Vladimir Putin to power and later became his sworn opponent; Akhmed Zakayev, a Chechen prime minister in exile; and Nikita Kulachenkov, an activist at Alexei Navalny’s Anti-Corruption Foundation. Russia has also hounded businessman and Kremlin critic Bill Browder by requesting at least five Red Notices, but none of them, thanks to legal and international pressure, have been published. The Russians did transmit a diffusion on Mr. Browder through Interpol. (A diffusion is similar to a Red Notice but sent directly by a member country of Interpol to a country of their choice.)

In more high-profile cases, those who were put into Interpol’s data base have been able to hire attorneys and have their names removed, at a cost and sometimes after being detained or having travel restricted. The impact of Russia’s use of Red Notices is being felt the hardest on those seeking asylum from Russia around the world. In Europe, Russia has placed many Russian-born Muslim dissidents on terror watch lists, creating dozens of deportations back to Russia and Chechnya (see case studies below). In the U.S., recent changes in Department of Homeland Security policy have meant hundreds of detentions and deportations for Russians seeking refugee status in the U.S. The new policy, adopted in 2015, limits asylum requests from anyone with an allegation of a criminal background, which is assumed by immigration judges to be the case if a name appears in Interpol’s database.

Pavel Ivlev, a former lawyer for Yukos Oil who fled Russia for the U.S. and has himself had to deal with Red

Notices for the past nine years, now assists Russians facing deportation or arrest for being on Interpol’s Red Notice list. Ivlev explains that many of his clients have been arrested in their homes or detained when going to an immigration status hearing. Many of his clients were unaware they were on Interpol’s list at the time of their detention. He says that Russia is completely aware of how to game the system and have those it treats as criminals sent back to Russia. “Russia completely understands how it works in the U.S. and abuses Red Notices and diffusions¹¹⁹ to return many people back to Russia who left because of criminal persecution for political or business-related reasons,” Ivlev said. “The U.S. and Russia do not have an extradition treaty, and this is, essentially, a way to get around that and have people it believes are criminals returned back to Russia.”

Ivlev said that once his clients are detained, they are often placed in local jails, often without bail, while they wait for up to 90 days to see an immigration judge. Even with the best lawyers, Ivlev said the end result is often deportation back to Russia. “They don’t get due process. Everything is wrong with this system now,” Ivlev says of internal changes in DHS policy. “Russia knows ICE (Immigration and Customs Enforcement) is traditionally very cooperative of Red Notice requests. They know how it works. They know ICE is supposed to inform the requesting country, Russia, and notify them when someone has been detained. There are criminal charges pending by a Russian court and they’re saying, ‘we want that person to be delivered to us.’”

Dr. Ted Bromund, a Senior Research Fellow at the U.S.-based Heritage Foundation, has written extensively on Interpol abuses and reform. He agrees that immigration policy in the U.S. can be abused by autocratic regimes: “ICE ... cannot arrest on the basis of the Red Notice, but it can and does arrest for the immigration violation that the Red Notice creates, which comes very close to allowing Vladimir Putin to pick his targets on ICE’s behalf.”¹²⁰

Not all who have Red Notices filed against them face jail or deportation. But that doesn’t mean life for them is any easier. Bromund agreed with the U.S. Helsinki Committee’s Kyle Parker that “a Red Notice can be even more effective than the judicial system — with none

119 A diffusion is an alert that notifies Interpol members that a country is seeking an arrest of a suspect. Diffusion notices, unlike Red Notices, are routinely not published.

120 Email interview with Dr. Bromund, March 16, 2019.

Tumso Abdurakhmanov

The situation around the possible extradition from Poland to Russia of Tumso Abdurakhmanov, a Chechen blogger and creator of the YouTube channel “Abu-Saddam Shishani” which has more than 100,000 subscribers, is a vivid example of how the Russian authorities in general, and the head of Chechnya, Ramzan Kadyrov, in particular, can effectively use international law enforcement agencies, migration law, and bureaucratic procedures to victimize their opponents.

Tumso Abdurakhmanov was forced to leave the Chechen capital city of Grozny, having previously sent abroad his family members (mother, brother, wife, and children), after a conflict with Islam Kadyrov, the Head of the Chechen Presidential Administration, and Ramzan Kadyrov’s relative and appointee. In the fall of 2015, Abdurakhmanov entered Georgia, but the Georgian authorities refused to grant him asylum on the basis of information received from Russian law enforcement agencies – in November 2015 a Chechen investigator filed a criminal case naming Tumso Abdurakhmanov and alleging violations of Russian Criminal Code Art. 208, Part 2 [“Involvement in an armed group not provided for by federal law, as well as involvement on the territory of a foreign state in an armed group not provided for by the law of that state, bearing objectives contrary to the interests of the Russian Federation”]. On top of that, in 2016-2017 Tumso Abdurakhmanov was added to Interpol’s international wanted list. However, on August 17, 2017, in response to a request, the Interpol Commission for the Control of Files replied that Tumso Abdurakhmanov’s information was removed from the system on May 3, 2017, since an investigation had shown that there were insufficient grounds for conducting a manhunt using the Interpol system.

Abdurakhmanov booked a ticket to Russia via Warsaw and, once in Warsaw, he requested political asylum. His Russian passport has expired and, on the basis of information received from Russian and Georgian law enforcement agencies, some of which is classified, the Polish authorities have denied Abdurakhmanov’s asylum application and are going to extradite him to Russia. From the experience of Muslims already extradited from the EU, Ukraine, and Turkey, Abdurakhmanov can face torture and a lengthy prison sentence in his homeland.

of the safeguards ... It doesn't prosecute you; it persecutes you."¹²¹ In an email exchange for this report, Dr. Bromund explained that "a Russian Red Notice may get you arrested and has a chance of getting you extradited — but the real punishment is the number of ways it complicates your life, and the difficulties you will face in getting things back to normal."

"Basically, presuming you are not arrested and/or extradited as a result of a Red Notice, it has four effects," Dr. Bromund explained. "1. A Red Notice makes it much, much harder to travel; 2. If you are not a citizen, and if you have any valid travel documents (a visa, for example), it is likely to lead to the cancellation of those documents, which can in turn land you in jail on an immigration violation charge; 3. If the abusive Red Notice is public, it can and often does lead to the closure of your bank accounts, which makes fighting back even harder, because you no longer have a credit card or a check to pay your lawyers; 4. It brands you as a criminal (particularly because most people incorrectly believe that a Red Notice is an 'international arrest warrant' or that it is based on evidence or some Interpol investigative process, none of which is true), and this can make it hard to get or keep a job or to do anything where having a 'criminal background' creates problems. Generally speaking, of course, the more famous and the richer you are, the less these effects are likely to bother you and the more able you are to hire good lawyers to fight back — but even for the very rich and famous, the effects can be serious."¹²²

In Europe, the effect of being subjected to a Red Notice depends on the country's legal system and how it views their obligations as a member of Interpol, according to Dr. Bromund. "Broadly speaking, the best rule of thumb is that common law nations (e.g. the UK, the US, Canada, Australia, New Zealand) do not treat a Red Notice as an actionable basis for making an arrest, whereas in many civil law nations (France and most of the rest of Europe) a Red Notice can serve as a sufficient basis for making an arrest," Dr. Bromund said.¹²³

According to Dr. Bromund, Russia's relationship with some countries can mean a more perilous application of the Red Notice system. "If I was named in a Russia Red

Notice, for example, I would not be too worried about visiting Norway — but I would be very worried about visiting Bulgaria or Serbia."¹²⁴

In recent years, Russia has been using European law enforcement agencies and public sentiment against dissident migrants from Russia. This may include creating difficulties with obtaining documents in the EU, Turkey, and Ukraine, and, in some cases, initiation of deportation or extradition of their opponents. This has impacted two migrant groups disproportionately: (1) Muslims who have fled religious persecution and who continue to remain in the public spotlight and (2) Chechens who openly criticize the Kremlin-picked head of the Chechen Republic, Ramzan Kadyrov, or whom the Chechen leader believes present a danger to him. Chechens are frequently accused of religious extremism, having connections with terrorist organizations, or participating in the armed conflict in Syria on the side of ISIS, and placed on international terror lists managed by Interpol.

Those accusations place European migration services, law enforcement agencies, and even human rights organizations in a difficult position. On the one hand, verifying the accuracy of those accusations sometimes proves impossible, but on the other, ignoring the information received from Russian intelligence or police agencies means potentially dropping the ball on threats of terrorism.

The practices of Turkish, Ukrainian, Egyptian, and other North African and Middle Eastern security and migration services are often perceived as unpredictable or corrupt, presenting risks to immigrants. The recent mass detentions and deportations of Russian Muslims from Egypt are a vivid example.

With European law enforcement agencies, Russia has been using both official and unofficial means to achieve their political goals.

The first method is to place the targeted persons on Interpol's Red Notice list or to name them in diffusions. To do this, four types of charges are created, according to information provided by Vayfond lawyers, an independent human rights organization that represents Chechens

121 <https://www.icij.org/investigations/interpols-red-flag/interpols-red-notice-used-some-pursue-political-dissidents-opponents/>

122 Email interview with Dr. Bromund, March 16, 2019.

123 Email interview with Dr. Bromund, March 16, 2019.

124 Email interview with Dr. Bromund, March 16, 2019.

in cases such as Interpol abuse. They are:¹²⁵

1. Allegations of involvement in the armed conflict in Syria (the immigrant is often accused of involvement in the conflict both on the side of IS and on the side of al-Qaeda / the Al-Nusra Front, even though such allegations are mutually exclusive). Such accusations are usually based on the testimony of witnesses who are either unavailable or whose identity is classified. In order to be accused of association with ISIS, after 2012 it is enough for a Russian Muslim to travel from his/her native country to Turkey and spend as little as one day there. It is on these grounds that accusations of involvement in a terrorist organization were brought against the Chechen blogger Tumso Abdurakhmanov, Russian Muslim Pavel Okruzhko, the Voice of Islam website editor Dmitri (Khamza) Chernomorchenko (all three case are examined below), and hundreds more Russian Muslims. In some cases, the investigators asked for a payoff to withdraw the charges (or to not file a criminal case). The sum of this "compensation," according to our informants, ranged from \$5,000-\$50,000.¹²⁶
2. Allegations of providing support for terrorist activities. Relatives, friends, and even business partners of those who have been accused of terrorism or membership in illegal armed groups are exposed to such allegations. (After the statute of limitations on the charges of "justifying terrorism" in this area has been reviewed, the at-risk group has been expanded to now include all journalists, experts, and bloggers who have written about the Syrian conflict or the North Caucasian underground.)¹²⁷
3. Registration of persons convicted of crimes related to terrorism and recently released from prison for the purpose of so-called "effective monitoring to prevent terrorist activities." (That is, the "preventive monitoring" to which tens of thousands of people from the North Caucasus, who were not necessarily ever imprisoned, were subjected to from 2010 to 2016 on the recommendation of local beat police officers).¹²⁸
4. In addition to the information from the Vayfond

lawyers, it is worth adding that the allegations of financing terrorism are also frequently made. Those charges can be brought against businessmen or against ordinary citizens who did something as basic as paying a phone bill for a relative or friend who was living abroad (in Turkey), or made a small donation to build wells or mosques in Africa to the Living Heart Foundation operated by Abu Umar Sasitlinsky, a Muslim preacher and philanthropist from Dagestan. The Living Heart Foundation itself is also accused of financing terrorism, on no grounds and without evidence.

Second, it is not only adding a person to the international wanted list (which requires a foundation of evidence and compliance with a number of formalities) that can be effective. Sometimes an information letter from Russian special services is enough to prevent a refugee from being granted asylum or rights to protection. Such a letter states that according to information available to the special service – for example, the FSB – "this person is dangerous because he is a member of the terrorist organization Al Qaeda and the Islamic State."¹²⁹

A third method consists of completely unofficial levers of influence. In the past few years, the influence of Ramzan Kadyrov's representatives has been growing in the Chechen diasporas of Poland, Germany, Austria, France, Belgium, and other European countries. This is largely due to the inability (and sometimes unwillingness) of European states to protect Chechen immigrants from Kadyrov, the practice of taking their relatives in Chechnya hostage, and the growth of anti-Islamic and anti-Chechen sentiments in Europe in connection with the events in Syria.

According to our informants, representatives of Ramzan Kadyrov collaborate with intelligence services in EU countries, readily providing them with information about the trustworthiness of Chechens who are living or seeking asylum in those countries. There are several first-hand accounts that before such "consultations," the Chechen EU collaborators conduct talks with those about whom information is being collected and force them to cooperate by threatening to give the intelligence services negative feedback about them.

125 <http://vayfond.com/en/about-us/>

126 Dr. Denis Sokolov, field research.

127 Dr. Denis Sokolov, field research.

128 Dr. Denis Sokolov, field research.

129 Dr. Denis Sokolov, field research.

Case Study

Azamat Bayduev

Actually, Poland already has had a similar experience: the extradition of a Chechen, Azamat Bayduev, in September 2018. "Current Time has received a response from the Ministry of Internal Affairs of Poland. It states that they have received a statement from an 'authorized agency' about returning a Russian citizen to his country of origin. It does not specify which agency is being referred to. The Polish Interior Ministry has added that the final decision to extradite the Russian was made on the basis of this document, and also because Bayduev allegedly posed a threat to the public security of Poland [...] This decision, according to the Ministry, was issued on the basis of Article 329 of the Law Regarding Foreigners. That provision was introduced by the anti-terrorism act of 2016." According to the information provided by the MVD of Chechnya, Bayduev had confessed that he had previously traveled to Syria to take part in combat operations. Criminal charges were filed against Bayduev in Chechnya under Art. 208, Part 2, of the Criminal Code of Russia. From a post published by Human Rights Analysis Center attorney Akhmed Gisayev it became known that "Bayduev who, according to the lawyer, was deported from Poland to Russia on August 31, was abducted around midnight on September 1 from the house of his uncle Azamat in the village of Shalazhi, Urus-Martansky District, Chechnya. According to Gisayev, about a hundred operatives of the Chechen divisions of the FSB and the MVD, with their weapons drawn, first blocked off the area around the house, and then broke into the house."

In 2017–2018, Ukraine, which is de facto at war with Russia, has delivered several Muslim immigrants to the Russian authorities. For example, "[the] brothers Arif Jabarov and Albert Bogatyrev. Albert was detained at the Zaporizhia airport (in Ukraine), from where he was about to depart to Istanbul. In 2017, he flew into Ukraine, got married there, and was planning to fly to Istanbul in order to complete some business there, but it turned out that he was wanted by Interpol on the basis of a request made by the Russian special services."

As a result, Chechen immigrants in the EU are finding themselves in a situation similar to that from which they have fled. They are pressured by threats of violence (there are several incidents of beatings, kidnappings, and murders), by blackmail with threats of reprisals against their relatives, by fabricated indictments, and by abuse of state institutions and threats of extradition to Russia, followed by torture, prolonged imprisonment, or even death in their homeland.

The Vayfond attorneys believe that "the situation is exacerbated by the fact that the authorities in the EU countries (including France, Germany, Sweden, and Poland) prefer to put up with the threats looming over the refugees, who were previously released from prison, if they are extradited to Russia. In this manner, the German authorities did not accept a prominent Chechen's line of reasoning and deported him to Russia, separating him from his family. The authorities of France, Germany, and Poland successively deported another Chechen, and he also ended up in Russia. Fearing for their lives, both Chechens have fled Russia again.

The attitudes of different EU countries toward this issue varies quite a bit. France, Belgium and, less frequently, Germany are willing to provide protection to refugees, but only after appropriate judicial rulings have been made. Austria, Poland, Slovenia, and Greece prefer not to provide them with protection and instead hand them over to Russia. As for the countries in the Council of Europe, there is a mutual understanding and cooperation with Ukraine. We experienced absolute indifference on the part of the authorities of Bosnia and Herzegovina.

According to the Vayfond attorneys, "obvious bias or lack of professional competence on the part of Interpol employees, through whom the Russian authorities are able to persecute refugees and dissidents abroad. This bias is exacerbated by the deterioration of the perception of Chechens in particular, and Muslims from Russia in general, in terms of both the public and police professionals."¹³⁰

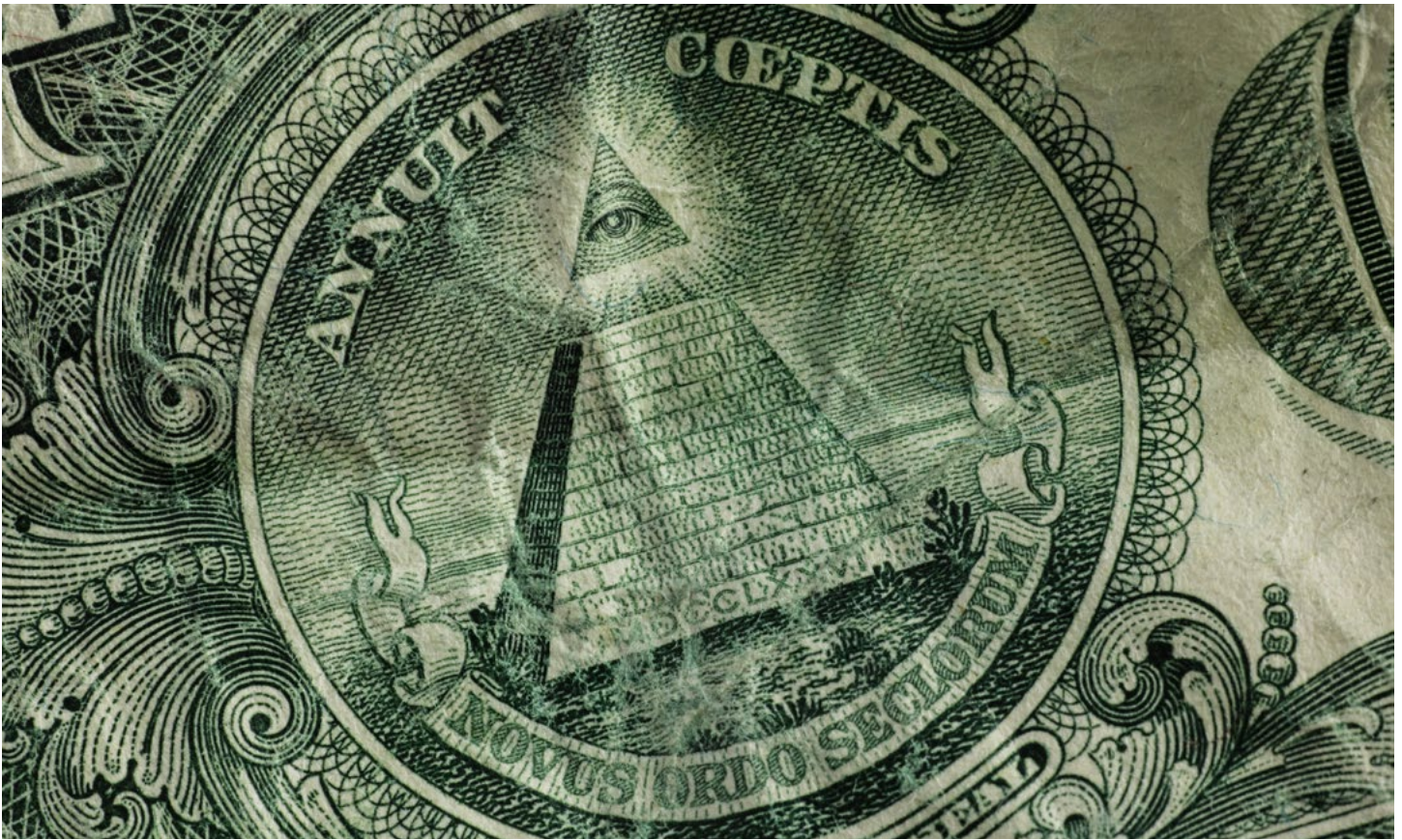
Insiders claim that Kadyrov's representatives command an excellent understanding of their European diasporas' weak points and skillfully manipulate them, getting young Chechens involved in criminal activities or simply in violent confrontations, which draws the attention of law enforcement agencies.

The "revelations" of migrants about the difficulties of living in the EU, about suffering, and the lack of assistance from the state, human rights and humanitarian organizations, initiated by the authorities of the Chechen Republic, may also affect attitudes toward Chechens in Europe. Those "revelations" and the disturbances organized by Chechens in Europe are actively "highlighted" by the Russian media.¹³¹

There is an effective use of negative attitudes toward political Islam and of the growing activity of right-wing political figures in Europe by the Russian administration, Russian special services, and the Chechen authorities. In public opinion, justice, the rule of law, and human rights are all inferior to safety and security sentiments.

In conclusion, the fundamental structures of international law enforcement, built up over many years, are being operationalized by Russia in its campaign against its own dissidents and minorities. Other countries need to be aware of the extensive abuse of Interpol and security cooperation by the Kremlin.

131 <https://www.crimea.kp.ru/daily/23768/57023/>



Russia Digs into Opponents' Finances

ABSTRACT

A two-year investigation points to a potential Russian "hack" into an international financial database used to monitor terror suspects. Evidence in the matter points to an elaborate phishing operation by Russian counter-terrorism officers against U.S. Treasury officials through communications on open networks. Several Kremlin opponents have had their financial records reviewed by Russian operatives, according to news accounts.

By Ilya Zaslavskiy

The Putin regime is successfully using international financial mechanisms to keep potential dissenters at bay through Russia's financial intelligence unit, formally known as The Federal Financial Monitoring Service of Russia or just simply Rosfinmonitoring. This unit is under the direct control of the president and has been run by Putin loyalists ever since its creation in 2001. Rosfinmonitoring, as well as the laws criminalizing money laundering (Russian Federal Law No. 115-FZ), were in fact established on the

recommendation of US, UK and other European powers, as they sought to institutionalize a global anti-money laundering regime in the 1990's and early 2000's. As Andrew S. Bowden from The Atlantic points out, "this push was led by the Financial Action Task Force (FATF), a Paris based organization that sets rules and recommendations for countries to combat money laundering."¹³²

On paper Russia has been an international leader in fighting money-laundering activities, especially through

¹³² <https://www.theatlantic.com/international/archive/2013/07/how-putin-uses-money-laundering-charges-to-control-his-opponents/277903/>

the FATF.¹³³ Year after year, Russia has been rated by the FATF as having one of the most exemplary financial intelligence units in the world. In practice, however, Russia's prominent role in anti-money-laundering regulation has not curbed corruption. Unlike in the U.S., where the importing of soft law norms from the FATF is subject to strong checks and balances that limit the expansion of anti-money-laundering regulation, Russia used the FATF's broadly formulated norms to establish financial intelligence units with vast financial surveillance powers that are used by Putin's loyal subordinates within these units to prosecute dissenters on legal grounds.¹³⁴

William Partlett, a researcher from Columbia University, argues that Rosfinmonitoring is simply one of the many legal instruments of a newly created "lawfare" Russian state that Putin uses against his opponents in order to hide political motives behind the façade of legality.¹³⁵ Strong legal institutions are simply a means to an end – a tool for ensuring that Putin can punish those who don't comply with his informal rules of the game through selective prosecution.¹³⁶

In terms of broader surveillance and control, the leadership of Rosfinmonitoring has been advocating amendments to expand the scope of Russia's "foreign agents" law to include research organizations and universities. It has accused international organizations of financing radicals in Ukraine and sponsoring some public institutions in Russia, and advocated extending the definition of a "foreign agent."¹³⁷

Even more ominously, after Russia began military operations against Ukraine in 2014, Rosfinmonitoring became a key government body in furthering illegal restrictions and systematic violations of human rights for political reasons, whether in Crimea or whether related generally to Russia's policy in Ukraine, in Chechnya and elsewhere in the Caucasus, in the Middle East and many other critical issues deemed important to the Kremlin. For example,

after the annexation of Crimea, Rosfinmonitoring started to compile and publish a so-called "List of organizations and individuals, on which there are evidences that they are involved in extremist activities or terrorism," which tracks those who opposed the annexation.

Among other criminal articles created under Putin to suppress dissidents, Rosfinmonitoring extensively employs Article 280.1 of the Criminal Code of the Russian Federation, the so-called "article for separatism." It is highly politicized, has no legal precision and its text is used very selectively. Many human rights activists believe that this criminal article was created for the prosecution of all those who oppose Russian actions in Crimea and other policies.¹³⁸ There are also multiple other articles of the Criminal Code on extremism and terrorism that are used for the same purpose.

In addition to the verdicts of the complaisant courts, there are many other, even easier, ways to label a person as a terrorist or extremist inside Russia. For example, a procedural decision declaring a citizen to be a suspect or an investigator's decision on indicting a person under the terrorist or extremist article is sufficient for this measure. This includes adding not only active opposition figures, human rights activists, or Crimean Tartars to Rosfinmonitoring's restrictive lists, but journalists¹³⁹ and bloggers who simply re-posted jokes or any information that the authorities deem "extremist," which often means simply criticism of their specific policies.¹⁴⁰

All the money- or property-related actions of the people on this list are under the constant supervision of the relevant authorities and services, making a dissident's life hell. One can no longer properly use bank accounts, travel abroad, or even receive salaries. In 2016, opposition activists tried to appeal the legality of Rosfinmonitoring's powers at the Russian Constitutional Court, but they were rebuked as the state-controlled court found no wrong-doing.¹⁴¹

133 <http://www.fatf-gafi.org/documents/documents/mutualevaluationoftherussianfederation.html>

134 https://imrussia.org/media/pdf/Research/Ilya_Zaslavsky__How_Corrosive_Practices_from_Russia_Penetrates_and_Undermine_US_and_UK.pdf p.24

135 <http://nationalinterest.org/article/putins-artful-jurisprudence-7882>

136 <http://www.brookings.edu/research/opinions/2012/02/28-putin-law-partlett>

137 <https://www.hrw.org/news/2014/03/23/russia-halt-orders-block-online-media>

138 <https://crimeahrg.org/en/list-of-terrorists-the-way-russia-infringed-financial-rights-of-pro-ukrainian-crimeans-2/>

139 http://www.kasparov.ru/material.php?id=5B23ACF6A0EE0§ion_id=463C51C7066AB

140 <https://www.vedomosti.ru/politics/articles/2016/05/23/641932-zakon-blokirovke-schetov-podozrevaemih-ekstremizme-os-poren-ks>

141 <https://www.sova-center.ru/misuse/news/persecution/2016/09/d35439/>

However, this is far from an internal affair within Russia. Rosfinmonitoring's abuse of international laws have spilled abroad, including in the U.S. against the U.S. Department of Treasury. In late 2018, BuzzFeed published a major investigation into how Rosfinmonitoring abused its cooperation agreement and joint mechanisms with the Treasury Department, which had been intended to fight Islamic terrorists' money-laundering operations.¹⁴²

According to the investigation, in late 2015, a unit of the U.S. Treasury Department called the Office of Terrorist Financing and Financial Crimes entered into such an agreement. Named the ISIL Project, it called for Russia and the U.S. to share information on financial institutions suspected of supporting ISIS.

But instead of fighting terrorists, between 2015 and up to 2017, Rosfinmonitoring abused the system to internally investigate Russian dissidents and their U.S. supporters by trying to extract their private financial information on bogus accusations of being connected to ISIS.

According to the article, "Russian agents ostensibly trying to track ISIS instead pressed their American counterparts for private financial documents on at least two dozen dissidents, academics, private investigators, and American citizens."

The article also revealed that in late 2015, U.S. Treas-

ury Department officials agreed to communicate with their Russian counterparts by allowing the use of an insecure back channel through Gmail and Hotmail accounts set up by Russians. The back channel continued to be used through 2017 despite multiple objections and whistle blowers from Treasury insiders. Russia's attempts to extract information about Western targets triggered alarms inside the Financial Crimes Enforcement Network, or FinCEN, a powerful unit of the Treasury Department with exclusive access to the most comprehensive and sophisticated financial database in the world.

However, the article alleges that internal investigation at the Treasury and enquiries from oversight bodies in Congress have not yet been able to provide comprehensive answers. BuzzFeed also alleges possible Russian moles in the Treasury Department, managerial chaos, department rivalry, and ongoing inability by Treasury and Congress to investigate claims by whistle-blowers.

To conclude, international anti-corruption and money-laundering measures provide yet another avenue for Russia to persecute its internal opposition, particularly in the case of Crimea; and U.S. officials with access to sensitive information about Russian dissidents need to remain very conscious of this when dealing with their Russian interlocutors.

142 <https://www.buzzfeednews.com/article/anthonycormier/russian-agents-sought-us-treasury-records-on-clinton-backers>

Part II. Active Measures: Russian Manipulation of Western Policy

This second part examines some of the clearest cases of the Russian government's attempts to interfere in the domestic affairs of Western countries. Not every attempt has been successful. However, the failures and near-misses have prompted diplomatic expulsions, international sanctions, the rallying of law enforcement agencies and the near-imposition of martial law in a European city.

Influence operations, or "active measures," can take many forms: bribery or blackmail, the strategic use of lies and half-truths designed to influence societies or electorates, and state-sponsored or state-orchestrated acts of violence.

Fifth columns and front groups are likely to be funded by Kremlin-friendly oligarchs who have relationships with fringe parties or individuals in European countries, rather than receiving direct support from the Russian security services or Foreign Ministry through its various "cultural outreach" arms, such as the ubiquitous Rosstrudnichevtso. Whether it's to whip up anti-American, anti-EU or anti-NATO sentiment, encourage extremist political movements, or scaremonger through disinformation about supposed human rights abuses (the persecution of Russian ethnic minorities, the suppression of linguistic rights), active measures can also veer into bloody and illicit behavior. This is one reason why even failed attempts

to establish pro-Kremlin beachheads in Europe mustn't be dismissed as inconsequential, any more so than an attempted murder or robbery can be ignored because the attempt failed.

The actual extent of Russian efforts to manipulate democratic votes is unknown. The coverup or denial of previous operations continues even as their true nature is revealed through reports or investigations. The history of the Kremlin's efforts to sway historic referenda in Britain and Spain is still being written and Russian leadership's efforts to revise or distort their history are ongoing.

Finally, espionage – be it human or cyber – is an ongoing national security threat to all European countries, and can have lethal consequences, as was seen in the last six months with the notorious Skripal affair in the U.K. Increasingly, Vladimir Putin has relied on Russia's military intelligence agency, the GRU, to pursue these operations abroad, whereas in the immediate past, its domestic or foreign intelligence agencies – the FSB and SVR, respectively – had been used for such purposes. GRU operatives spear-phish their way into politicians' inboxes; command Spetsnaz or mercenary units in Syria, Ukraine and the Central African Republic; and slather nerve agents on door handles of provincial English houses.



Vladimir Yakunin, founder of the policy institute 'Dialogue of Civilizations' speaks during the founding event in Berlin. Photo AP

Fifth Columns and Front Groups

ABSTRACT

While Putin was signing laws that effectively banned foreign NGOs from operating in Russia, the Russian state and leadership circles began ramping up their own NGOs for the purpose of acting as third-party advocates for the Kremlin. Dozens of NGOs have been created in Europe and the U.S. to influence public opinion on Kremlin-backed issues, including some that are regularly quoted by prominent news agencies. Reports have also suggested that funding of established organizations has come from off-shore Russian accounts when their goals align with Russia's, particularly among environmental groups opposed to "fracking."

By Vasily Gatov

Russia's economy is not built for cheap oil prices. Economists have suggested the Russian economy, with its insatiable desire to spend in recent years, can best flourish in a market with oil at \$80 per barrel.¹⁴³ High energy costs have not only been a boon for Russian domestic spending, and keeping Putin's popularity high, but has

also allowed Russia to spend more freely to expand its interests around the world. But over the past 18 months, the price of a barrel of oil has dropped precipitously, leading to a projected Russian federal budget deficit for 2018 of 3.2% of GDP.¹⁴⁴

One of the leading causes of dropping energy

¹⁴³ <http://www.intellinews.com/moscow-blog-oil-tops-80-a-barrel-and-changes-russia-s-fiscal-landscape-141809/>

¹⁴⁴ <https://www.themoscowtimes.com/2018/01/26/russia-inc-goes-into-profit-as-the-budget-breakeven-price-for-oil-falls-to-53-a60302>

costs has been the expansion of the recovery of shale oil through hydraulic fracturing, better known as “fracking.” While this process has led to abundant and ever cheaper energy costs, it has also come with concerns from environmental organizations such as the U.S.-based Sierra Club that suggests fracking increases carbon dioxide emissions and poses a risk to wildlife.¹⁴⁵ As it happens, fracking poses a risk for Russia’s overall economy and it is here that environmental groups’ and Putin’s interests coincide.

For more than a decade, U.S. policy and policy throughout most of Europe was to slow, or even end, exploration for shale using fracking. Environmental groups played a large role in pressuring governments to maintain these policies through funding massive education campaigns and lobbying efforts. But did the funds that paid for the advocacy campaigns around the world come from only clean hands? Many have doubts, including former Secretary of State Hillary Clinton, who said in a 2014 speech in Canada that Russians were funding “phony-environmental groups” to oppose fracking and pipeline construction projects.¹⁴⁶

In 2014, The New York Times wrote about the experiences of a small-town mayor in Romania who faced widespread protests after it was revealed he was considering an offer from Chevron to explore his property for natural gas. The mayor blamed the protests on Russian government-owned gas company Gazprom, which denied funding the anti-fracking protests.¹⁴⁷

While environmental groups state that claims of Russian funding are absurd, there is a strange coziness between large environmental donors and Russia. One of those donors has been very charitable, giving \$23 million to a U.S. organization called the Sea Change Foundation with a history of supporting environmental causes and run by long-time environmental activists Nat Simons and his wife Laura Baxter-Simons. The money originated from a Bermuda-based donor called Klein Ltd, which exists as a corporation on paper only. Klein Ltd was created by two lawyers at a Bermuda law firm called Wakefield Quinn.

The lawyers are directors of a firm owned by a close friend of Putin’s, Leonid Reiman, and are listed in leadership positions of an investment firm called Marcuard Spectrum. One of the founders of Marcuard is also the chair of Russian-owned oil giant Rosneft. The Sierra Club, the Natural Resource Defense Council, the League of Conservation Voters, and the Center for American Progress were among the recipients of Sea Change’s \$100 million in grants in 2010 and 2011.¹⁴⁸

While it’s been estimated that more than \$3 billion has been contributed to energy-related environmental groups, the funding supplied by Sea Change Foundation has caught the attention of U.S. lawmakers who have asked U.S. Treasury Secretary Steve Mnuchin to investigate the origins of the money.¹⁴⁹ According to a source in the Treasury Department, the investigation is ongoing and no comment would be made as per department rules.

When Russian internet trolls were meddling with U.S. public opinion in 2016 amid the presidential elections, they created fake social media groups that disseminated divisive messages. While this was a new twist for U.S. politics, for some European neighbors of Russia it was nothing more than déjà vu. For decades, Russia invested in real and fake NGOs in Baltic states that addressed the issue of Russian ethnic minorities in the former Soviet republics. Initially, these organizations were grassroots activist groups that fought for equal treatment of non-citizens.

Free Russia Foundation senior fellow Olga Shorina analyzed the funding and activities of Russian NGOs that “work” on the issues of civil rights in the Baltic states, mixing legitimate help to “non-citizens” and fighting for expansion of political rights for Russian minorities with pro-Russian propaganda, and even some elements of intelligence operations. Many of the NGOs in question receive Russian government funding through Rossotrudnichestvo grants and the “Russkiy Mir” Foundation – totaling \$1.5 million in 2012-2015, according to a Re:Baltica investigation.¹⁵⁰

NGOs in all three Baltic states share a similar agen-

145 <https://www.sierraclub.org/policy/energy/fracking>

146 <https://thehill.com/opinion/energy-environment/401587-to-protect-the-environment-trump-should-investigate-russian>

147 <https://www.nytimes.com/2014/12/01/world/russian-money-suspected-behind-fracking-protests.html>

148 <https://freebeacon.com/issues/foreign-firm-funding-u-s-green-groups-tied-to-state-owned-russian-oil-company/>

149 <https://dailycaller.com/2017/07/10/heres-everything-you-need-to-know-about-allegations-us-environmental-ists-may-have-secretly-taken-russian-cash/>

150 <https://www.4freerussia.org/ngos-as-a-tool-for-russias-projection-of-influence/?fbclid=IwAR3eytZZLdxFN4SA5Sbh9Is18R-KO5rUgBBMFkDxeFMhcOJYMmh1aDV-XH8>

da and tools: they are “against Nazism,” which is supposedly “rising” in all countries; they chastise governments for “racial and language discrimination”; and they fight against EU and NATO participation, especially against NATO’s Forward Force. All these themes are inspired and supported by Moscow, actively promoted by Russian state-owned media and Russia-funded local media organizations. While there are indeed real problems and grievances for Russian speakers in Latvia and Estonia, Russia-sponsored NGOs do exactly what “Russian trolls” did in the U.S. in 2016: take a real divisive problem (the complex issue of Latvians and Estonians who participated in World War II on the side of Nazi Germany), package it into an even more radical picture (say, as “revival of Nazism” or glorification of Hitler) and spread the word as if it comes from “concerned citizens” and/or human rights organizations. Sometimes, as Re:Baltica reported,¹⁵¹ these NGOs do both – they incite some anti-Russian event and then “confront” it.

Another important role of Baltic NGOs on the Russian payroll is to promote the Kremlin’s agenda in the OSCE, the European Parliament, and other pan-European organizations which respect civil society. It has become a more important issue as Russia has become more politically isolated. Shorina quotes the observation of Daniel B. Baer, U.S. ambassador to OSCE, that pro-Kremlin NGOs obstruct the work of the forum by “flooding HDIM plenary sessions with GONGOs” with the result being that “the amount of time given to real civil society organizations is reduced,” as is the capacity to counter “the impact and resonance of the compelling, fact-based testimonials shared by groups and organizations being repressed by their governments.” The latter particularly affects Ukraine which is suffering both physical and information aggression from Russia.

Another divisive problem that Russia’s influence operations exploit is the EU migration crisis. Of course, different nations may have different attitudes to migration, but the Russian approach has consistently suggested that [Muslim] migration is an existential threat to Europe. Ironically, Russia itself has a population that is more than 30% Muslim, but no other nation is more concerned about “Islamization” of Western European cities. The spectacular

“Lisa case” in Germany in 2015, in which a teenage girl of Russian descent was supposedly abducted by (non-existent) illegal immigrants from Middle East offers a glimpse of this tactic, even though the central theme of the story was debunked.

The Russian immigrant community in Germany has been cultivated by the Kremlin media for years, which has used similar tropes to the ones in the Baltic states. The central issue of the Kremlin’s narrative to its former compatriots in Germany is that the government spends too much on “ethnically and religiously alien” migrants rather than on poor but “real Germans from Russia.” When a suspected criminal accident happened in Marzhan, a predominantly Russian neighborhood in Berlin, Russian Channel One reported on the issue aggressively, pushing the narrative of “a criminal Muslim gang” that terrorizes residents.¹⁵² The report – based on false and fabricated information – created an outbreak of unrest among Russians in Berlin.¹⁵³ The incident meanwhile helped the anti-immigration “Alternative für Deutschland” gather many votes from German Russians and expand their base, thus satisfying the Kremlin’s desire to have an ally in the Bundestag and influence Berlin politics.

This all emerged from the breakdown of Russia’s rapprochement with the West in the 1990s. Disagreements over issues of European security, the war in former Yugoslavia, reservations over Western policies in the Middle East, and a loss of confidence in a just and fair international order grew constantly even in the days of the Boris Yeltsin administration. These grievances planted seeds of resentment for the future bloom. Russia had never fully dismantled the Soviet foreign policy organs – structures like Novosti Press, Progress Publishers, the “World Peace Council,” “friendship societies” and other front organizations from the days of the Cold War mostly survived the transition and were populated by former KGB and CPSU operatives with international experience.

The most important tool of the USSR’s soft power was its ideology, followed by money, spy craft, intimidation, and natural interest in Russian culture, language and people; but the Communist mirage was always first. For the embattled Russian Federation in 1999, when it protested

151 <https://en.rebaltica.lv/2015/08/kremlins-millions/>

152 <https://www.thedailybeast.com/the-kremlin-cries-rape-for-propaganda-in-germany>

153 <https://p.dw.com/p/2Vaf1> "Дело девочки Лизы": как в Германии обратили внимание на фейковые новости из России (10.01.2017)

US-led global policy in former Yugoslavia, “ideology” was a bad word, and the other soft power tools looked unpromising. Yet Prime Minister Yevgeny Primakov cleverly played the only trump card Russia held – a strident anti-American posture with clear Cold War connotations. These were always popular Soviet themes – from Latin America to the Arab World, from the anti-imperialist Western left to isolationist parties on the right – all of them loved being on the opposite side of Washington.

From 1999 on, the seeds of modern grievances fell on the soil of old battles. Russian foreign policy institutions and the Kremlin re-discovered soft power. A few months later, Vladimir Putin became President Yeltsin’s chosen successor. As he infamously “reported” to his former FSB/KGB colleagues in December 2000, “infiltration operation to put a KGB operative in the Kremlin succeeded” (of course, he was joking then but the cost of this joke grew in 20 years). With Putin in power, all foreign policy activities again became an orchestrated national project – in almost the same way as in the old Soviet Union.

How The Kremlin Sees The Outside World, and Why It’s Important

As with other societies that have experienced a prolonged period of foreign travel restrictions, for Russians, working abroad is not a service to the country, it is a privilege. For generations of Soviet people, zagranitsa (abroad) and uncontrolled travel were dreams that belonged to the upper levels of society. At the same time, official ideology insisted on Socialism’s supremacy – making anti-capitalist, anti-Western and especially anti-American sentiments an essential part of ideological indoctrination for those who aspired to a career in diplomacy, intelligence, or foreign trade.

Vladimir Putin’s cohort in the ruling class belong – as he did – to the most “Soviet” of all generations. Those born after WWII and raised in a rapidly developing society have positive memories of the USSR and share an ideological mindset. Among these, former KGB operatives stand out – not only because their indoctrination was more efficient, and not because the Party particularly cared about security personnel, but because of the cynicism needed for their kind of work.

Author’s note:

In the USSR, Soviet Intelligence (PGU KGB, Pervoe Glavnoe Upravlenie and GRU) and KGB counter-intelligence supervised all “peaceful activities” abroad, while the CPSU’s International Department directed them.

Every Soviet delegation, or even organized tourist group, had an embedded agent. Almost every single foreigner who visited the USSR was targeted or at least weighed as a possible agent.

In 1993, describing his work of dismantling the KGB as its last chairman, Vadim Bakatin noted that of the 480,000 KGB active operatives, nearly 30% were either “looking for Soviet citizens not to become spies, or for foreign citizens to become Russian espionage or influence agents.” Of the 200,000 active reserve, almost all were involved in domestic surveillance and security control.

In 1991, 75% of the personnel were retired involuntarily, and at least 50,000 officers with intelligence and counter-intelligence expertise were thrown out of the service into what is now called the "Stormy Nineties."

These people were not as harmless as it then seemed. A decade later they rose from obscurity to fill the ranks of the "foundations," "strategy institutes," and "societies" that became a second backbone of Putin's aggressive foreign policy.

Among the cynical ideas they carried through the bad years was the concept of *revanche* for the defeat of 1991. Driven by retired leaders of their services – Vladimir Kryuchkov, the last Chairman of the KGB, Nikolay Leonov Head of the Analytics Directorate and Leonid Shebarshin, the last head of the PGU – the idea of an "American plot against the USSR" became central to their worldview. Instead of receiving the simple fact of a nation's divorce with the Communist mirage, many KGB-ists became invested in the conspiracy theory in which the CIA and George Soros conspired with Mikhail Gorbachev and Alexander Yakovlev to destroy the best country of their youth, the Union of Soviet Socialist Republics. This "secret defeat" should thus be avenged, ran the thinking.

Ideas Pageant

Since 2000, Putin has been driving Russian foreign policy. His openly declared views have developed from a relatively pro-Western orthodoxy in the beginning (he even mused about Russia joining NATO at one point) to aggressive militant adventurism by 2010. His 2007 speech at the Munich Security Conference formally marked the turning point even though his subordinates and allies had already started to resurrect the Soviet system of front organizations, initially for domestic and "near-abroad" purposes.

From 2000 to 2008, Putin's aim was to secure his domestic power. Foreign policy was an important "window to Russia," as the rapidly developing economy needed foreign investment, expertise, and other resources (especially, managers with American and European backgrounds.) Those were the days of a "positive agenda" – Russia invested in acquiring a better image to the outside world. RIA Novosti, the successor to the Novosti Press Agency, a Soviet-era propagandist GONGO, was reformed into a bustling multimedia company. The broadcaster "Russia Today" was founded (also as an NGO) with a goal to promote Russia as an investment and tourist destination.

The Kremlin also returned to other Soviet classics: front organizations, active measures, agents of influence and subversive practices from the Cold War era. Initially, these operations targeted what Russia considers its "sphere of influence," the former Soviet republics, nearby states with a large Russian-speaking or Orthodox population such as Ukraine, the Baltic countries, the Balkans, and generally Southern Europe. As the Russian state became richer with oil and gas exports, the government funneled significant resources into influence operations including transborder broadcasting (Russia Today/RT, global versions of Channel One and Rossiya Channels¹⁵⁴) and pro-Russian think tanks (Valdai Club, Institut de relations internationales et stratégiques, etc).

In 2008, President Putin set up a government institution responsible for humanitarian cooperation now

154 The importance of TV broadcasters who are accessible for Russian speakers abroad, or transmit the Russian Government point of view in English, grew dramatically in a wake of the Russo-Georgian War in August 2008. Russia Today rebranded to RT and revised the content from promoting Russia as destination to criticizing Western governments and supporting political marginals. State-owned TV companies received special budget funding to expand their international versions (see Budget of RF, 2009-2011). While the financial crisis of 2008-2009 generally sequestered other Government spending, propagandist mass media and "soft power" institutions saw a significant rise: for example, for RT/RussiaToday, from RUR 1.1 bln (2008) to RUR 14 bln (2016).

known as Rossotrudnichestvo, an official channel for Russian support to foreign organizations.

Between 2008 and 2012, foreign influence operations were conducted inconspicuously and seldom noticed by political analysts and even security experts; they appeared to be either legitimate or trivial. Russian government-funded NGOs advanced the agenda by expanding their networks, inviting Western politicians and experts to “observe elections” and participate in high-level conferences including the Valdai Club’s annual meeting with President Putin.

But the order of things changed radically in 2012 when the U.S. Congress approved the Magnitsky Act. Under this new legislation, many Russian officials involved in kleptocracy were sanctioned personally – enraging both them and Putin. The Russian Duma retaliated with a law that restricted foreign adoption for U.S. citizens known as “Dima Yakovlev Law” – named after a Russian orphan who died due to neglect in the custody of American guardians – and established its own sanctions on a group of U.S. officials, including senators supportive of the Magnitsky Act and the prosecutor of captured Russian arms dealer Viktor Bout.

The Magnitsky Act played an important role in Russia’s state institutions and spurred NGO/GONGO engagement in “dark policy” in the United States, including the hiring of lobbyists and shadow PR companies. Human rights non-profits were also used as part of these campaigns. Russians also learned the ways of conducting smear campaigns.

Cheap and Dirty Soft Power

In 2012, in an article on foreign policy,¹⁵⁵ Vladimir Putin discussed “soft power” as a toolset of foreign influence methods that include NGOs. “We have to recognize clearly where [someone exercises] freedom of speech and normal political activity, and where [someone] enacts illegal tools of ‘soft power,’” he wrote. “We should welcome the civilized work of humanitarian and charitable non-governmental organizations, including those who criticize ruling authorities. But we should not allow activities of ‘pseudo-NGOs’ and other structures who pursue

the goals of destabilization of domestic political climate in other states.” Putin was the Russian prime minister when he published this article, and it clearly forecast the forthcoming legislation against “foreign agents,” a category so broad as to encompass almost any critic of the Russian government.¹⁵⁶ Interestingly, Putin underlined in his article that Russia uses only “open” instruments of “soft power,” naming Rossotrudnichestvo, the Russkiy Mir Foundation and “leading universities.” He emphasized that Russia does not use “foreign NGOs, does not fund them for propelling its own political goals.”

This was already a lie in March 2012. In 2019, we know that Russia’s foreign projection primarily relies on covertly supported and funded foreign organizations, many of them masquerading as NGOs and think tanks.

There are a number of reasons why the Russian government after 2008 opted for a combination of “legitimate soft power” and – as Putin himself put it – “illegal tools.”

First, domestic. At home, the Russian government forced out almost all Western NGOs and even cultural institutions - apart from Germany’s Goethe Institute and some foundations - because of state security concerns about the covert subversion of otherwise innocent Russian people to serve American or generally Western interests. In Russia’s “sphere of influence,” Russia launched a massive multilevel smear campaign against assigned “enemy NGOs,” primarily the U.S. National Endowment for Democracy and the Soros-funded Open Society Foundation. This effort wasn’t completely successful. Apart from autocratic Belarus and Azerbaijan (and Central Asia dictatorships), former Soviet states generally did not expel U.S. and EU foundations and institutions. The campaign included all the well-known Soviet ingredients: FSB agents infiltrated foreign NGOs; there were then arrests and the exposure of “CIA and MI5 operatives” who, by the FSB’s account, were “sending instructions to the agents employed in civil society groups,” and persistent intimidation of diplomatic personnel for their contacts with Russian civil society such as U.S. Ambassador Michael McFaul. After the 2014 Ukrainian “Revolution of Dignity,” the Kremlin saw that regime change had happened

155 <http://www.mn.ru/politics/78738>

156 Amendments to Russian Law “On non-government organizations” enabled by The State Duma in April 2012. This changes in legislation were directly targeting American NGOs with democracy development/media development profiles, including IRI, NED, Internews and Open Society Foundation.

next door; now, Kremlin conspiracy theorists thought, “we have to fight back.”

The second reason was international: The Arab Spring and a chain of “color revolutions” in Europe were interpreted by the Kremlin as Western plots and dress rehearsals for regime change in Moscow. Russian diplomats and intelligence officers had been in Soviet shoes during social uprisings and they saw U.S. subversive operations even where those would have been contrary to common sense and policy logic (such as the overthrow of pro-American President Mubarak in Egypt). Frightened by their own invented conspiracy theory, Putin and his apparatus decided to retaliate with “the West’s own weapon.”

The third reason was more analytical. The financial crisis of 2008-2009 exposed many unsolved problems in Western societies along with new issues arising from globalization. Among these, the rise of right- and left-wing populist political forces in Europe, which demonized globalization and all forms of constructivist foreign policy. For Russia – especially for the Russian propagandist mass media – these forces were natural allies. Soon, via RT studios they came to the Kremlin, to Russian oligarchs in search of money, and to Russian intelligence in search of operational support. To maintain these new “friendships,” Russia already had an overt system (Rosstrudnichestvo and “Russkyi Mir”) but needed more covert liaisons. It would be an exaggeration to say that the Kremlin immediately had far-reaching plans to use radical political activists in the beginning of the decade, although many researchers agree that continuous fostering of ties with Fidesz in Hungary, the Lega Nord (now simply Lega) in Italy, Syriza in Greece and many less prominent groups at least gives good reason for more serious inquiry¹⁵⁷.

The fourth reason comes from a complex and networked structure of the Russian political system. While on the surface, it appears that power in Russia derives from Putin directing all decisions, in reality, it functions as a group of nodes competing for resources, authorizations, and the president’s patronage. These “network nodes” are informal groups representing different parts of the

Russian elite. Some of them are united because of former KGB membership, others share specific interest in some Orthodox Church obscurities (such as the Mount Athos monasteries), and some believe in a particular nationalist theory (for example, the followers of Russian philosopher Alexander Dugin). Other groups have distinct commercial interests and seek Putin and the government’s support for lucrative contracts, many with pariah states such as North Korea and Iran. The “nodes” pitch their projects of interest to Putin, usually through a secretive Security Council apparatus, as the projects may impact Russian international policy. If a pitch is successful, the whole system of government may be employed to implement it.

For Russian pseudo-NGOs and GONGOs, the importance of the “pitch” is crucial. With Putin’s approval they may count on government funding – Russia annually invests close to 75 billion rubles into what it calls “civil society.” Many foreign-oriented NGOs also receive “mandatory” funding from oligarchs including “Russkyi Mir” or the Russian International Affairs Council. Also, Putin’s approval opens the doors of Russia’s powerful security and intelligence institutions – the SVR, GRU and FSB – providing access to invaluable support and allies. As European analysis demonstrates, Russia openly spends quite a significant sum on “soft power” (\$115 million), but the “private share” in foreign activity funding (including camouflaged intelligence funds) may be more than twice as much.

Soft power, Russian-style is therefore born of a marriage of intelligence expertise, the legacy of Soviet propaganda (although seriously influenced by imported American dirty PR practices) and different elements of private interest. For example, Russian financier Konstantin Malofeev has fostered links with Orthodox right-wing radicals in the Balkans¹⁵⁸ for years, gradually expanding his network to other Southern European states – including, most recently, Italy, where he acts as an intermediary to Lega ministers in the far-right populist government.¹⁵⁹ Malofeev invested his own money, not only in separatist fighting forces in Eastern Ukraine (which earned him sanc-

157 Shekhovtsov, Anton. *Russia and the Western far right: Tango Noir*. Routledge, 2017.

158 Paul Goble, “Moscow Using Serbs Against Bosnia as It Did Ethnic Russians Against Ukraine,” Jamestown Foundation, April 19, 2018, <https://jamestown.org/program/moscow-using-serbs-against-bosnia-as-it-did-ethnic-russians-against-ukraine/>; Vera Mironova, Bogdan Zawadewicz, “Putin Is Building a Bosnian Paramilitary Force,” *Foreign Policy*, August 8, 2018, <https://foreignpolicy.com/2018/08/08/putin-is-building-a-bosnian-paramilitary-force/>; “Keeping the Balkans Out of Putin’s Grasp,” *Bloomberg*, December 20, 2018, <https://www.bloomberg.com/opinion/articles/2018-12-20/the-balkans-progress-and-russian-interference> (Retrieved on January 11, 2019).

159 <http://espresso.repubblica.it/inchieste/2019/02/20/news/esclusivo-lega-milioni-russia-1.331835>

tions from the U.S. and EU), but also in multiple adventures of Russian ex- and acting operatives in the Balkan states, including Serbia and Montenegro where he is accused of plotting to overthrow the Montenegrin government.

Legal & Illegal: Fighting Sanctions

As stated above, after the Magnitsky Act, Russia was forced to face significant problems with sanctions, first person-targeting individuals and later, after the annexation of Crimea and downing of the MH-17 flight over Donbass, against companies, industries, and institutions. The U.S. championed the sanctions, but European politics became a more crucial battlefield for Russian NGOs and GONGOS. Given Europe's consensus principle, Russia could have averted sanctions in the European Union with a single member state's opposition. Russian open and covert "soft power" organizations focused on helping possible EU political allies as well as ultra-nationalist, populist, and isolationist parties and politicians. These parties and politicians were already attracted by Putin's constant calls for "absolute sovereignty," disgust with Euro-Atlantic institutions, and more subtle messaging like "traditional family values" and "Christian civilization."

Many of these "allies" were already compromised (in the intelligence sense of the word) by participating as foreign observers in phony Russian elections and by taking political funding from Russian individuals and entities — (for instance, Front National's Marine Le Pen who took a loan from a Russian bank to pay for her campaign). On top of these relatively cheap deals, Russia expanded its presence in European politics significantly. Russia has not yet succeeded in breaking the European consensus on Ukraine-related sanctions but is getting closer in Italy. The growing influence of Germany's "Alternativ für Deutschland" and Hungarian Viktor Orban's tensions with the EU also benefits Russian goals.

In 2015, Russia started to feel the pressure of American sanctions. Persons and companies have become "toxic," losing contracts and facing legal scrutiny inside the U.S. and in Europe. The looming U.S. presidential elections didn't offer much hope for policy change as former Secretary of State Hillary Clinton was a clear favorite and no friend of Putin's regime, and every other candidate besides one, Donald J. Trump, promised to continue pressure on Russia.

Meanwhile, "the national interest" (i.e. Putin's interest) coincided with many private interests on American

sanctions. Many Russian officials and companies hired lawyers, consultants, and lobbyists in Washington, D.C. to fight for personal exclusion from the U.S. Treasury's Denied Party Lists. Some of them, like aluminum magnate Oleg Deripaska, fought for years — in his case, for a U.S. visa that was denied to him on suspicion of being involved with organized crime schemes. As described in an earlier section of this report, other shady individuals pursued the same goals, among them the Katsyv family, father and son, whose company, Prevezon Holdings, Limited, appeared in the sanctions list under the Magnitsky Act, and became the center of a lawsuit involving the notorious Natalia Veselnitskaya, the phony non-profit Human Rights Accountability Global Initiative (HRAGI) and an opposition research dossier on Bill Browder.

HRAGI and Veselnitskaya's legal team from the BakerHostetler law firm were also used to create a smear campaign against Bill Browder, the British businessman who was Sergei Magnitsky's employer. Attorneys working for Prevezon hired Fusion GPS, the opposition research firm which later commissioned the notorious "Trump dossier" to dig into Browder's commercial affairs. The material uncovered, particularly Browder's already-public business relationship with the Ziff brothers (investment bankers and prominent donors to the Democratic Party and the Clinton campaign) were then used by Veselnitskaya to lobby the Trump campaign to repeal the Magnitsky Act. In fact, Veselnitskaya's June 2016 meeting at Trump Tower with Jared Kushner, Paul Manafort and Donald Trump, Jr., was arranged on the pretext of her having "dirt" on Clinton — her information, however, all pertained to Browder.

Russian Thinking And Thanking

During the 1990s, Russia realized the value of think tanks — specialized public research, advisory, and advocacy organizations that gather and process the knowledge of politics and issues. The Russian Council on Foreign Affairs, sponsored by the Ministry of Foreign Affairs, was established in 1992 as a version of the American Council on Foreign Relations. Since then, the government and various Russian politicians and political operatives established a number of "think tanks" on multiple subjects — from the state-funded Russian Institute of Strategic Studies, an SVR offspring, to the Center on Global Interests, founded in 2012 by Russian political scientist Nikolay Zlobin.

Initially, Russian "think tanks" were an alternative to the traditional slow, notoriously bureaucratic "scientific

institutes.” Think tanks offered a variety of research subjects normally overlooked by academia or the industrial and corporate science sectors, which were primarily in international relations, security studies and regional studies. The founders and managers of early Russian iterations were usually established researchers with international reputations. They also became a weapon in Russia’s information war with the West. For example, former Chairman of Russian Railroads Vladimir Yakunin leads the “Dialog of Civilizations” institute, conveniently located in Berlin. Yakunin, sanctioned in the West since Russia’s invasion in Ukraine, has announced plans for the institute to open offices in New York and Brussels to “engage and reach out,” according to his spokesman, Jean-Christophe Bas.¹⁶⁰ While Yakunin himself cannot travel to New York due to the sanctions, he can still attempt to influence policy at the U.N. and the IMF through intermediaries.

Russian “think tanks” have become commonplace in major European capitals: Paris, Berlin, London, and Brussels. Of course, Russia also supports pro-Russian “thinkers” in its own self-defined sphere of influence – former Soviet republics, Eastern Europe, and the Caucasus Region. Unlike activist NGOs and official GONGOs, “think tanks” attempt to blend into the intellectual scene of their respective capitals, organizing events and presenting reports and publications. While the real influence of Russian “think tanks” is miniscule, their reporting to the Kremlin aggrandizes of their achievements, which mainly lie in recruiting sympathizers and “understanders” (crisply referred to in German as *Putinverstehers*). Sometimes it is difficult to differentiate legitimate organizations from “front” groups as they evolve: the Valdai Club initially pursued the noble goal of “contextualizing Russia in the international agenda” and providing Western intellectuals, academics, and analysts with direct and honest dialog with Russian leaders. Today, the Valdai Club is a collection of *Putinverstehers* who are transmitting Russia’s agenda and pushing a softer policy toward Moscow. The Russian Council for Foreign Relations initially played an important role in building understanding and trust between diplomatic and research communities of Russia and the West. Today the Council mostly purveys an anti-Ukrainian, imperialist agenda.

The subject of Russian “think tanks” is not well re-

searched (with a few exceptions¹⁶¹). There are two components: Russian attempts to subvert existing institutions abroad and exploit their reputation and past achievements in a respective field, and newly created “think tank-like” entities that may be used as front organizations, or just as a honey pot gathering place for pro-Russian politicians and journalists. Unlike NGOs/GONGOs used by Russia to promote its interests that and often cooperate with conservative, even far-right public figures, parties and organizations, Russian “think tanks” abroad are less-defined politically. Some of them – like, such as Dialogue of Civilizations, – could cultivate relations and ties with religious and conservative circles in the EU, while the Paris-based Institut de relations internationales et stratégiques (IRIS) is undoubtedly a left-leaning institution. The RIAC (Russian International Affairs Council) partners with liberals and conservatives alike, while pro-Russian “think tanks” in the Baltic states –, such as the Legal Information Centre for Human Rights in Estonia, clearly imitates leftist human rights organizations. In the Czech Republic and Slovenia, Russian NGOs and “think tanks” partner with local far-right groups, while in the United Kingdom, Russian operatives promote their agenda through the the respected, moderate Conservative Westminster Forum, formerly (and more honestly) known as Conservative Friends of Russia.

160 <https://thinkprogress.org/vladimir-yakunin-sanctioned-russian-oligarchs-think-tank-might-expand-to-the-u-s-c2b95d6c2de0/>

161 See: “The Bear in Sheep’s Clothing”, Wilfred Martens Center, 2017 and “NGOs as tools for projection of Russian interests” by Olga Shorina, Boris Nemtsov Foundation, 2018

List of Russian-state or Russian-friendly NGOs and their activities

Name, official website	Associates	State funding	Activities and agenda	Year
Historical Memory Foundation http://www.historyfoundation.ru	Alexander Diukov, Denis Fomin-Nilov Alexandra Orlova Roman Smagin Sergey Zhuravlev	No official reports	Participation in the official meetings of the State Duma, Presidential Administration and various state councils. Publications of articles, reports, books. Organization of conferences. Views: Supporting annexation of Crimea; accusing Ukraine, Belarus, the Baltic States of fascism	2008
All-Russian Parents Resistance http://www.rvs.su	Zhanna Tachmedova	\$150,000 in presidential grants in 2015-2017	Organizing advocacy campaigns in support of traditional family and against juvenile law. Views: anti-Western, anti-American, anti-liberal. Connected to Sergey Kurginyan, founder and leader of the Russian nationalist movement Essence of Time. Alexander Kudryavtsev, who chairs the organization's Council, previously worked in the Ministry of Justice and at the Presidential Domestic Policy Directorate.	2013
All-Russian Public Organization "Russian Association of Protection of Religious Freedom" (RARF) http://www.relignvoboda.ru	Oleg Goncharov	\$150,000 from the state budget in 2016	Producing monitoring briefs, research and policy papers; running advocacy campaigns. Views: supporting traditional values, anti-Ukraine stance.	2014
Center for Social-Political Studies "Russian Baltika" http://www.rubaltic.wordpress.com/about/центр-общественно-политических-иссл/	Oleg Filonov Andrejs Starikovs	\$104,000 in presidential grants in 2014-2016 (no official reports)	Conducting research, organizing summer schools for the media, holding conferences and roundtables on the issues of the Russian-speaking community in the Baltic states.	2006
Centre for Research and Protection of Fundamental Rights http://www.pravovojcentr.lt	Shifo Rakhimbekova	No official reports	Organizing conferences for the Russian diaspora in Lithuania, supporting diaspora issues in Lithuania. Has ties with Rossotrudnichestvo and the Russian embassy in Lithuania. Receives grants (stipends) from the Moscow mayor. In 2015, Lithuania's state security agency mentioned the Center in its report calling it Russia's influence agent and a threat to the Lithuanian national security.	2013
Commonwealth of Independent States—Elections Monitoring Organization (CIS-EMO) http://www.cis-emo.net	Alexey Semenov	\$120,000 in presidential grants in 2015-2017	State-controlled organization focusing on election observation. The Kremlin's alternative to the observers of OSCE's Office for Democratic Institutions and Human Rights.	2003

For Fair Elections http://www.komitet2005.ru	Olga Loseva	No official reports; claims no foreign funding	<p>Created with the support of Russia's Central Election Committee.</p> <p>No reported activities, official website reprints official news.</p> <p>Linked to Russian politician Nikolay Gonchar of United Russia's Moscow branch.</p>	2006
Fund for Legal Support and Protection of Compatriots' Rights Abroad http://www.pravfond.ru	Vladimir Ivanov Victor Demin	\$10,000,000 from the state budget in 2013-2017	<p>Grant-making organization; supports the Kremlin's agenda and works with the Russian diaspora in various countries.</p> <p>Views: criticizes the West, promotes the Kremlin.</p>	2012
Information Group on Crimes Against the Person (IGCP) http://igcp.eu	Maksim Vilkov	No official reports; official status unknown	<p>Producing monitoring briefs and reports, active in social media.</p> <p>Linked to "Historical Memory" Foundation (see above).</p>	
International Byzantine Institute https://byzantclub.world/el/	Sergey Lakovskiy	No official reports	<p>Supports the idea of an Imperial Russia. Associated with Sergey Markov, member of the Civic Chamber, and nationalist politician Sergey Baburin, former leader of the Rodina party.</p>	2016
International Platform "Global Rights of Peaceful People" (Hungary)	Sergiy Markhel	No official reports	<p>Organizes exhibitions in Europe on the issues of what it calls the "humanitarian tragedy in Donbass," holds rallies in Europe, promotes The Immortal Regiment movement.</p> <p>Views: supports the Novorossiia project, as well as anti-NATO platforms.</p>	2014
International Public Foundation "Russian Peace Foundation" (RPF) http://www.peacefond.ru	Anatoly Salutskiy	<p>No official reports. Several regional branches (separate entities) received around \$164,000 in 2014-2017.</p> <p>According to activity reports, RPF spent over \$2,500,000 in 2016.</p>	<p>Former Soviet Fund for Peace. Provides grants, humanitarian support; organizes competitions, conferences, festivals, and exhibitions; funds trips for youths.</p> <p>The elected chair of the RPF Board is Leonid Slutsky, who also chairs the State Duma's Committee on International Affairs.</p>	1961
Latvian Human Rights Committee http://www.lhrc.lv/	Mr. Aleksandrs Kuzmins	No official reports	<p>Supporting minority rights, persons' legal status and housing rights.</p> <p>Connected to Rossotrudichestvo and the Ministry of Foreign Affairs.</p>	1992
Legal Information Centre for Human Rights http://www.lichr.ee	Larissa Semjonova	No official reports	<p>Associated with Rossotrudichestvo and the Ministry of Foreign Affairs.</p>	1994
The Commonwealth of Journalists http://mediacongress.ru	Ashot Dzazoyan	No official reports	<p>Holding forums, competitions, and festivals for journalists.</p> <p>Office located in the headquarters of the Rossiya Segodnya, a news agency owned and operated by the Russian government.</p>	2013

Russian Association for International Cooperation http://rams-international.ru	Georgy Muradov Leonid Mironov	No official reports	Georgy Muradov, deputy head of the Association, previously worked as a deputy head of Rossotrudnichestvo.	1992
Russian Public Institute of Electoral Law (ROIIP) http://www.roiip.ru	Igor Borisov Alexander Ignatov Elizaveta Borisova	No official reports	Associated with the United Russia party, Russia's Central Election Committee, and CIS-EMO (see above).	1999
Russian Union of Journalists (RUJ) http://www.ruj.ru	Andrei Trofimov	No official reports	Head of the Russian Union of Journalists Vladimir Solovyev (since 2017) is a TV anchor and a well-known Kremlin propagandist.	1992
World Russian People's Council http://www.vrns.ru	Marine Voskanyan	No official reports	Associated with the Moscow Patriarchate of the Russian Orthodox Church.	1993

Chart from *Free Russia Foundation report NGOs as a "Tool for Russia's Projection of Influence,"* by FRF Fellow Olga Shorina¹⁶²

¹⁶² <https://www.4freerussia.org/wp-content/uploads/2019/01/GONGO-final.pdf>



Viktor Orban, third left, Matteo Salvini, second left, and Sandor Pinter, left, shake hands with Hungarian border police. Photo AP

Subversion of European Interior Ministries

ABSTRACT

Russia has recently been growing closer to many political parties throughout Europe, particularly populist parties. It has leveraged those relationships to forward its political and business agenda in several countries, most notably Hungary, Austria, and Italy, among others. This has provided an opportunity for Russian actors to influence internal government operations – none more pernicious than Russian attempts to suborn interior ministries in these key European countries.

By Neil Barnett

Russia has been exploiting its allied European populist parties in a very specific way, which is extremely dangerous for NATO and the Atlantic alliance. Three cases are discussed below – Hungary, Austria, and Italy – where European interior ministries and security services (particularly internal, but foreign as well) are being targeted by Russia for multiple objectives. These include:

Neutralize/degrade the ability of local security services to disrupt wider Russian active measures on the national territory – subversion, information operations, political money laundering, infiltration of illegals, recruitment of third country nationals, paramilitary training etc.;¹⁶³

- Gain access to local and liaison intelligence material; establish a new Russian liaison under the cover of

163 <https://www.atlanticcouncil.org/publications/reports/democracy-in-the-crosshairs-how-political-money-laundering-threatens-the-democratic-process>

organized crime and counterterrorism cooperation, ideally under the terms of a specially-drafted legal protocol;

- Disrupt and, if possible, suspend NATO/Western intelligence liaison (having accessed as much liaison material as possible);
- Purge the services of reliable, loyal, and experienced officers, particularly those expert in Russian counterintelligence and replace them with individuals loyal to the populist partner;
- Over the long term, drive domestic services toward internal repression and active “Putinization,” to resemble the FSB;
- Use the target country’s foreign intelligence service as a proxy in neighboring states;
- Use the interior ministry to execute a policy of hostility to migrants, those who assist migrants and – in the case of Italy – minorities;
- Disrupt local security services’ monitoring of far-right extremism (including paramilitary training and terrorism).

Each case is different; of the three case-study countries, two are NATO members, one is not, while two have coalition governments and one does not. Nevertheless, a pattern emerges. Hungary is the most developed case, in which the government appears to have mandated active intelligence collaboration with Russia, to the detriment of NATO allies. Hungary’s Fidesz political party has been in power since 2010, without the constraints of a coalition partner or even an effective opposition.

In Italy, so far Deputy Prime Minister Matteo Salvini has had little opportunity to enact changes in the services. Both countries have seen right-wing populists enter coalition governments in the last two years, but both have stronger constitutional and legal protection of their security services. During its period in control of the interior ministry Austria’s far-right Freedom Party (FPÖ) has raided the domestic security service, seized its files, tried and failed to fire its director, and has seen security cooperation with Western states suspended.

Russian efforts to penetrate European security services are of course nothing new, and all three states

covered in this report have experienced this in the past. What is new is the active and, in some regards, overt policy of cooperation with Russia by populist parties once in government. These parties and their leaders may share Moscow’s outlook on some matters, but perhaps more importantly they may also owe debts of numerous sorts and indeed be fundamentally compromised by Moscow.

There is also nothing new in the Kremlin’s interest in European interior ministries and security structures. In the late 1940s the Soviets used interior ministries as tools to undermine democracy in Central Europe as preparation for a wider power grab. The circumstances today are of course quite different, but the underlying struggle is much the same: Russia seeks to draw European states away from each other, from NATO, and from the U.S., and to convert them into compliant satellites.

It cannot be denied that millions of voters in Hungary, Austria, and Italy are receptive to populist messages of anti-elitism and nativist identity politics. At the same time, research indicates that Hungary, along with Poland, has among the bloc’s most pro-EU populations, and that approval for the EU is growing in both countries.¹⁶⁴ (In 2018 Eurobarometer found that 88% of Polish respondents believed the EU benefitted the country, up from 84% a year earlier; in Hungary the figure was 78%, up from 72%.)

By the same token, Hungary’s historical experience of invasion and domination by the USSR is something all Hungarians understand. Whether those voters are conscious that their elected representatives are steering their countries away from the Western democratic group and into the orbit of a hostile authoritarian state is debatable; while such a scheme does not feature in the manifesto of Fidesz, the FPÖ, or the Lega, the evidence suggests that they are nonetheless carrying it out, with varying degrees of success.

The operations of security services are necessarily arcane. But these operations, and particularly their choice of foreign partners, underpin a country’s geopolitical character. As Hungary has degenerated into an “illiberal democracy” in parallel with its Russian-oriented security policy, so Austria and Italy are at risk of drifting away from the group of liberal democratic states.

As described below, in recent months Austria has

164 <http://www.europarl.europa.eu/at-your-service/files/be-heard/eurobarometer/2018/eurobarometer-2018-democracy-on-the-move/report/en-one-year-before-2019-eurobarometer-report.pdf>

seen its intelligence liaison with Western states formally suspended. While there has been no formal suspension in the case of Hungary, sharing has been heavily curtailed. Yet the situation in Hungary is far more serious than that in Austria. The reason for this discrepancy, almost certainly, is that openly suspending intelligence cooperation with a NATO member is a grave step, which could start a process of unravelling the Alliance. NATO is therefore in a double bind in the case of Hungary and may in time find itself in the same predicament in Italy.

Hungary

Hungary is the most advanced and disturbing case, as Prime Minister Viktor Orbán has been in majority power since 2010. At the diplomatic level Hungary maintains the NATO/EU line – for example it has not vetoed any sanctions on Russia. Similarly, Hungary continues to participate in NATO missions and exercises.

Nonetheless, Orbán appears to regard Vladimir Putin both as a role model and a strategic partner. While building what he describes as an “illiberal democracy,” Orbán has taken a number of decisions that bind Hungary to Russia. These include the Paks II nuclear power project, which was awarded to Rosatom without tender and in which Russia is providing 80% of the financing for the €12 billion project cost. The financing could extend to 100% of the project cost according to Putin’s public comments and will extend Hungary’s reliance on Rosatom technology for decades. The channels for this money and the mechanism for its distribution remain unclear, causing concern among Western states.

Similarly, MET Group, a Swiss-based gas trader, generates around €5 billion annually by re-selling Gazprom gas primarily to Hungary. MET Group in some respects resembles the now-defunct Ukrainian gas intermediary RosUkrEnergo; Gazprom could sell its own gas directly to Hungary, and so the economic purpose of MET Group’s existence is elusive. Over the last decade its shareholding has included an obscure Russian individual and people with longstanding links to the Hungarian business and political elites. On top of this, the growing economic role of the Orbán family and straw men close to them means that Hungary increasingly resembles a

Central Asian nepotistic kleptocracy. Hungary may be a neighbor of Poland and the Czech Republic, but its political economy is beginning to resemble that of Uzbekistan and Kazakhstan.

In the intelligence and security sphere – notwithstanding diplomatic compliance at the top level – Hungary now acts as a *de facto* ally of Russia and an adversary of NATO. There are numerous reasons to believe that Hungary accepts and even facilitates Russian intelligence activity on its soil, even when doing so may undermine its own security. For Hungary’s NATO allies, the resulting vulnerabilities go beyond leaking of classified information, and may include Russia using Hungary as a springboard for hostile activities in other member states.

It is true that Russia had penetrated the country’s intelligence services even under the former Hungarian Socialist Party (MSzP) governments of the 2000s. Notably, the head of the National Security Office (NBH, now renamed Constitutional Protection Office, AH) in 2004-07, Lajos Galambos, was arrested and jailed for treason in 2011. György Szilvássy, the “minister without portfolio,”¹⁶⁵ and Sándor Laborc, Galambos’s successor as head of the HBH, were also arrested. According to Hungarian Spectrum,¹⁶⁶ “Galambos and Szilvássy each received jail sentences of two years and ten months, Sándor Laborc a suspended sentence of one year.” These crimes were committed under MSzP and it was Orbán who initiated the arrests. While it appears that there were legitimate grounds for the arrests, the circumstances of the cases were mixed up with intrigue between the parties, and all three defendants had been involved in trying to root out pro-Fidesz leaks. Moreover, as Fidesz has tightened its grip on power, it has institutionalized collaboration with Russian intelligence to an extent never seen under MSzP.

A first-hand account of the scale of Russian activity in Hungary and of the deliberate degrading of Hungary’s counterintelligence capability under Fidesz emerged in March 2017 an interview¹⁶⁷ with Frence Katrein, a former NBH officer. This is so unusual that it merits quoting at length; below are some direct quotes from Katrein, with the interviewer’s questions in italics:

I worked for the Hungarian National Security Office (NBH) and then for the Constitution Protection Office (AH)

165 This is a euphemism for the minister in charge of the intelligence services, in this period György Szilvássy

166 <http://hungarianspectrum.org/tag/sandor-laborc/>

167 http://index.hu/belfold/2017/03/21/hungarian_secret_agent_reveals_how_serious_the_russian_threat_is/

between 2000 and 2013. My main areas of expertise were extremism, mainly the far-right and international terrorism, and counter-espionage. The highest-ranking position I reached was executive head of operations, I later became chief adviser to the director general. I currently live abroad as a civilian....

Did you feel that the political attitude towards Russia changed and that the services were obstructed on the political level?

Yes. We were not allowed to perform active operations that were necessitated by professional considerations and international cooperation was less intense than in previous years. But I must emphasize that I was an insider until 2013, there is a new leadership now who I cannot talk about. The current director general cannot possibly have ties to Russia due to his age.

Do you have knowledge of individuals specialized in countering Russian secret service activities being sidelined within the service?

Rotating experts working in these fields is especially harmful. Sadly, several internationally recognized experts were redirected to other areas referring to constant reorganizations and so-called optimization.

Katrein speaks at length about the case in October 2016 when Istvan Györkös,¹⁶⁸ a 76-year old Hungarian neo-Nazi, shot dead a Hungarian police officer and seriously wounded another. They had visited his house in order to search it for illegal firearms and were met with automatic fire. Subsequently the Hungarian police found illegal automatic weapons of unknown origin at nine other properties linked to Györkös' Magyar Nemzet Arcvonal (National Front Movement - MNA). Hungarian security officials later revealed that Györkös and other MNA members had "played paint ball" on Hungarian soil with members of the GRU. Paintball is a proven method for teaching infantry tactics, and it is unlikely that GRU officers would spend their days playing games with elderly fascists without some underlying purpose. In short, Russian officers provided military training to far right extremists under the nose of the Hungarian state.

Moreover, Györkös himself had established the websites hidfo.ru and hidfo.net (Hídfő means "bridgehead"), which disseminated Russian disinformation on Ukraine in particular. Hidfo.net was responsible for one

of the more notorious recent disinformation operations in Hungary, in which it was falsely claimed that Hungary was selling old T-72 tanks to Ukraine. The Russian foreign ministry confirmed, "Hungary's Defense Ministry is supplying Ukraine with armored vehicles, including T-72 tanks, through a 'proxy agency'... [actions which] violate legally binding obligations—the Arms Trade Treaty." This nexus is a good example of the audacious and broad-spectrum intelligence efforts Russia makes in Hungary. (It should be noted that shooting the two police officers was almost certainly not done at the behest of the Russians). Katrein also commented on this matter:

In Hungary, it was the GRU in connection with the István Györkös-led neo-Nazi, paramilitary organization the Hungarian National Front (MNA), they held joint drills with undercover Russian diplomats. Was this also needed to provide readiness to take action and if it was, what does this mean exactly?

I would leave the answer up to the imagination of the reader. But by readiness to take action we mean anything from provoking street riots through the disruption of public services – e.g. news communication or the media – to physical atrocities. All this is suitable for testing a country's security systems or authorities. Who, when, how and with what forces reacts to these, who takes part in countering these, what the hierarchy for making decisions is and what the decision-making processes are – a lot can be mapped by these actions.

Returning to Györkös: after the murder of a police officer in Bőny, the Counter-Terrorism Centre (TEK) dissolved MNA practically in a few weeks. Why did the murder have to happen beforehand?

We cannot push our own responsibility to others, as we also dealt with this area. But it shows how the philosophy of the police and the secret service are different, and since prevention has been transferred to the Ministry of Interior again, the former is the dominant one. Thus, something has to happen, a crime, a murder for the mechanism to start. But obviously this has been going on since the '90s, and the passivity of the agencies also played a role in this.

What could explain in professional terms that Hungarian authorities knew about the connections between the MNA and the GRU and that Györkös's organisation

168 <https://www.ft.com/content/66d3993a-b0b8-11e6-9c37-5787335499a0>

also possessed weapons, yet they did not intervene for years?

No professional reason can explain this. Presumably we did not want direct confrontation with a foreign intelligence agency or country.

Katrein also speaks about the Hungarian government's scheme of granting citizenship to non-Hungarians in return for buying a €300,000 "residency bond"¹⁶⁹ (something that Malta and several other EU states also do). He considers that the 30-day vetting period is inadequate and says it is a standing invitation to the Russian services to establish "illegals":

It is of course possible to ask for extraordinary screenings, but I think 30 days is really insufficient to perform their background checks. If we think with the head of the opposing secret service, there is no need for a bigger opportunity. In a reverse situation, I would also take this chance.

Russians who obtained a Hungarian passport in this way (some of whose true identities may be open to question) gained visa-free access to the U.S. and to the Schengen zone. Note that the scheme closed on 31st March, after 5,000 "sales."

In September 2016 Hungary and Russia (specifying the FSB) signed a bilateral accord on "mutual protection of classified information exchanged in the course of political, military, military technical, economic or other cooperation." While in itself a dry piece of regulation, the accord is important because it gives Hungarian intelligence officers the legal and bureaucratic framework they need in order to share classified information with Russia. Here is an extract from the gazette:

1. **AGREEMENT BETWEEN THE GOVERNMENT OF HUNGARY AND THE GOVERNMENT OF THE RUSSIAN FEDERATION ON THE MUTUAL PROTECTION OF CLASSIFIED INFORMATION**

The Government of Hungary and the Government of the Russian Federation, hereinafter referred to as the Parties, striving to ensure the protection of classified information exchanged in the course of political, military, military technical, economic or other cooperation, as well as of classified information generated in the process of such cooperation,

Taking into account mutual interests in ensuring the

protection of classified information in accordance with the laws and other regulatory legal acts of the State of each Party, have agreed as follows:

Hungary's depleted opposition was reportedly completely unaware that this accord was being signed, having failed to notice announcements that were deeply buried in official documentation. The agreement only came to light after journalists unearthed it. NATO partners, however, did notice and have informally scaled back intelligence sharing accordingly. Intelligence sources report that some counterterrorism collaboration continues, but that almost nothing regarding Russia is shared with the Hungarian services.

In February 2019 it was announced that Russia's International Investment Bank (IIB) would open an office in Budapest in the latter part of the year. This will effectively be a second embassy, with diplomatic status for both the building and the personnel.¹⁷⁰ Inexplicably, under a piece of legislation that has been specially drafted, the Hungarian state has agreed to cover all of the bank's costs and will exempt it from all regulation, legal scrutiny, taxes, and duties. The IIB's staff in Budapest will also have an unrestricted ability to invite guests into the country, something that even regular diplomats cannot do. Once in Hungary, like beneficiaries of the "visa bond," these individuals will then have access to the entire Schengen zone.

Four intelligence sources of different nationalities have reported that since 2014/15 GRU activity in Hungary has spiked, some of it relocating from Vienna to Budapest. It is remarkable in itself that Russia's military intelligence agency would choose to move from a neutral state to a NATO member state. According to the sources, the move was motivated by geographic factors: knowing that the 2015 refugee crisis was coming, the GRU wanted to be within shorter driving distance of the Balkan states that would see the heaviest refugee flows. The subtext of this information is that Hungary's security agencies tolerate this informal and undeclared presence by a hostile service.

The Hungarian press has done some excellent work in exposing the intelligence relationship with Russia. In November 2018 the investigative portal Direkt36.hu published evidence that Russia and Hungary had conferred over the expulsion of diplomats in the wake of the Skri-

169 <http://www.residency-bond.eu/residency-bond-program.html>

170 https://index.hu/english/2019/02/20/international_investment_bank_russia_hungary_putin_Orban_immunity

pal attack.¹⁷¹ Diplomatic cables obtained by Direkt36.hu show how Russian officials accepted that Hungary needed to expel someone for the sake of appearance, and nominated a GRU officer whose posting was already near its end.

One month later Direkt36.hu published another story, which again illustrated how Hungary aims to give the appearance of cooperating with NATO allies, but in reality, is working closely with Moscow. The story concerns a U.S. DEA sting against two Russian arms dealers who were attempting to sell automatic weapons, SAMS, and anti-tank missiles originating in Hungary to Latin American drug traffickers in 2016. After the traffickers were arrested the U.S. attempted to extradite them from Hungary, but instead the Hungarians extradited the men to Russia:

Finally, the [US] asylum application was rejected after one year, but the court accepted both the U.S. and Russian extradition requests. In this situation, the Hungarian Ministry of Justice had to have the final word and decide which country's extradition request should be honored. Instead of the NATO ally US's extradition request, Hungary's government approved the Russian claim a year and a half after the Lyubishins' capture.

The overall picture is not one of Hungary being successfully targeted by Russian intelligence, but rather of well-established policy of bilateral intelligence cooperation between Hungary and Russia.

Austria

Austria, as a non-NATO neutral state, is a different case from Hungary and Italy. Espionage which does not target Austria itself is legal, and Vienna has served as a crossroads for intelligence services from East and West for decades. Russia has several hundred accredited diplomats in Austria split between its embassy, the UN, and international organizations like the International Atomic Energy Authority (IAEA). The country's services also use Austria as a training ground for teaching its officers to work in Western states. There are numerous documented cases of Russia recruiting and running assets from Central and Eastern Europe through Vienna, and the city is also a major hub for Russian business, energy, and financial

interests.

A particular focus of Russian interest in Austria is the Chechen émigré community in Vienna, Europe's second largest after the one in Paris. This provides common ground for security cooperation – Russia is interested in monitoring the community, while Austria needs Russian help in dealing with Chechen organized crime. For this reason, until 2014/15, there was an FSB liaison office inside the Austrian interior ministry.

However close the overall Russia-Austria relationship, in the security realm Austria has traditionally maintained friendly intelligence links to Western states. The main forum for this is the Club of Berne, a loose grouping that facilitates cooperation between the EU states, Austria, Switzerland, and Norway. The closest non-NATO cooperation under the Berne format is with Sweden and Finland, which are Alliance members in all but name, with Austrian cooperation at a slightly lower level. As described below, this level has now fallen dramatically.

From early 2018 until May 2019 the FPÖ – like the Lega, an official partner of Vladimir Putin's United Russia party – controlled the interior, defense, and foreign ministries. In May 2019 the FPÖ leader and vice chancellor Heinz-Christian Strache resigned following a sting in Ibiza in which he discussed an apparently corrupt deal with a woman posing as a rich Russian. Days later the interior minister, Herbert Kickl, was dismissed.¹⁷² The Austrian government has since collapsed.

Under the Austrian system incoming governments put political allies into senior positions in state institutions. While there is little doubt that the FPÖ intended to take full control of the security structures, it faced several obstacles. First (again, recalling the Lega), it lacked adherents with the background and qualifications to perform such functions. Second, the courts acted as a break on the party's excesses. Third, the People's Party (ÖVP, the senior coalition partner) actively pushed back against the FPÖ in this regard.

In March 2018 a narcotics unit¹⁷³ of the Austrian police raided the domestic security service, the Bundesamt für Verfassungsschutz und Terrorismusbekämpfung (BVT). The choice of this police unit is significant because its com-

171 <https://www.direkt36.hu/en/latszolg-osszeugrottak-a-magyarok-es-az-oroszok-a-szkripal-mergezes-miatt-de-a-hatterben-valami-mas-tortent/>

172 <https://www.theguardian.com/world/2019/may/20/austrian-government-collapses-after-far-right-minister-fired>

173 Formally titled "street crime," but primarily dealing with drug offenses

mander, Wolfgang Preiszler, is a functionary of the FPÖ.

They also carried out raids on the homes of five BVT officials, including its director, Peter Gridling. The action was supposedly triggered by the BVT's alleged mishandling of secret information. As Reuters reported, "The case has caused a political uproar amid fears the FPÖ, which became the junior partner in the governing coalition in December, sought to secure intelligence on right-wing groups or sideline political opponents within the BVT—accusations it denies."

There is a strong possibility that the raids were also intended to take possession of intelligence material provided by Austria's partners such as the U.S., UK, France, and in particular, Germany. Whether such material was then passed on to a third party remains unknown. Wolfgang Preiszler, the police unit commander, reportedly had sole possession of the drives in his car for 30-40 minutes. In particular, Western agencies were alarmed by the possible compromise of the entire NEPTUNE system associated with the Berne Club, not just the terabyte of information that was seized.

The interior ministry then attempted to fire Gridling for allegedly mishandling classified information. This was subsequently struck down by judges, and he remains in his post, although reportedly in a reduced capacity.

The raid seriously dented confidence among the Club of Berne partners, leading to suspension from the club.¹⁷⁴ In the wake of the raid, Germany's security service has publicly questioned the reliability of its Austrian partner under the new government. The U.S. State Department's 2018 Integrated Country Strategy for Austria includes the following passage, which illustrates how the FPÖ's control of the interior ministry is in itself problematic:

The [interior ministry] recognizes the quality and impact of our ability to assist Austria's efforts to combat terrorism, and counter cyber-crime and transnational crime. At the same time, the Freedom Party's pro-Russian stance

should, and does, give U.S. pause when it comes to sharing certain types of sensitive information. We will continue to increase bilateral information-sharing, while monitoring Austria's information-sharing protocols.

In late 2018 the Austrian magazine Falter reported that the Finnish security service had sent a message to friendly services about a Russian diplomat suspected of espionage, but had excluded Austria's BVT from the distribution.¹⁷⁵ This came to light because the Finns accidentally sent a document to Austria in July 2018 marked "full PHILOSOPHY except BVT Vienna" (PHILOSOPHY being a distribution group for secret material). Rather than indicating a specific Finnish-Austrian blockage, the note is a sign of a broader boycott of the BVT, as the State Department explains rather more diplomatically.

Since the raid there were numerous signs that the FPÖ's behavior was causing strains with the senior coalition partner, the ÖVP. In November 2018 news broke of a retired Austrian colonel from Salzburg who had spied for Russia.¹⁷⁶ However, the case had been known to the BVT for several years, and according to a political source in Vienna, "this was an internal matter to do with tension between ÖVP and the FPÖ over Russia. When [the FPÖ foreign minister] Karin Kneissl invited Putin to her wedding and curtseyed for him, it was too much for [Chancellor] Sebastian Kurz and the ÖVP. They don't mind friendly relations with Russia, but they don't want Austria to be a client state. The cold warriors in the party are up in arms over both Kneissl and [interior minister] Herbert Kickl." Austria's failure to expel any Russian intelligence officers after the Skripal attack was also reportedly a source of embarrassment to Kurz.

Then, in the wake of the Christchurch mosque attack in March 2019 it transpired that the attacker, Brenton Tarrant, had been in Austria in November and December 2018.¹⁷⁷ Tarrant had also been in contact with the neo-Nazi Identitarian Movement of Austria (IBÖ) and

174 This suspension may be self-imposed and there are varying reports of its exact terms and duration. However, its existence is not disputed.

175 <https://www.falter.at/archiv/wp/except-bvt-vienna>

176 <https://www.independent.co.uk/news/world/europe/russia-spy-austria-colonel-karin-kneissi-sebastian-kurz-putin-sergei-lavrov-a8627246.html>

177 <https://www.news.com.au/world/europe/inside-the-dark-neonazi-movement-linked-to-christchurch-terrorist/news-story/def860d6b9d565d7322878786d603046>

donated €1,500 to it.¹⁷⁸ The extent and nature of Tarrant's interaction with Austrian extremists remains unclear,¹⁷⁹ but Kickl and the FPÖ are facing political pressure to explain what was done to monitor Tarrant and, more broadly, domestic far-right groups. Tarrant's exact movements and activities in Austria – including whether he received paramilitary training – remain unknown; there are specific concerns that the far right is running such training courses in Austria and neighboring states, perhaps with indirect Russian backing, as well as protection from the interior ministry while under FPÖ control.

In April 2019 it emerged¹⁸⁰ in the public domain that the UK and the Netherlands had stopped sharing intelligence with Austria, on the grounds that Kickl and other FPÖ leaders were too close to Russia. It was also reported by the press that Chancellor Kurz had taken direct control of the intelligence services in response, with Tarrant's connections cited as a principal reason.¹⁸¹

Such reports may be exaggerated, as Kurz's ability to directly supervise the BVT is limited.¹⁸² Kurz's "control" of the BVT is likely to be limited to oversight, rather than direction.

Kickl reportedly intended to convert the BVT from a hybrid police unit to a full domestic intelligence agency, which again would have created opportunities to insert or promote politically friendly individuals.

With a snap general election scheduled for September, the FPÖ is likely to see substantially reduced support. Should it be able to re-enter a coalition with the ÖVP, it is now very unlikely it would be trusted with the interior ministry. It is therefore likely that the FPÖ has failed to turn neutral Austria into an active collaborator with Russia, like its neighbor Hungary. The resumption of Berne Club co-operation will be a sign that Western services share this assessment.

Italy

Of the three countries covered in this report, Italy's interior ministry and security services are so far the least compromised. However, its governing coalition is also the most overtly pro-Russian, and the situation may well deteriorate over time.

Following the Italian parliamentary election in March 2018, the Lega and the Five Star Movement (5SM) parties agreed to form a coalition government. The respective leaders of the parties, Matteo Salvini and Luigi di Maio, became deputy prime ministers, with 5SM's Giuseppe Conte as a figurehead prime minister. Salvini was also appointed interior minister.

Salvini has arguably the most overt pro-Kremlin position of any senior European politician; where Orbán merely acts in a way that favors Russia, Salvini is also outspoken, particularly on the subject of lifting sanctions on Russia. Since the coalition partner, Five Star, is also pro-Kremlin, there is no effective break on Salvini's pro-Kremlin tendencies.

In March 2017 the Lega joined the FPÖ in signing a "cooperation agreement" with Vladimir Putin's party, United Russia.¹⁸³ At the time, United Russia Duma member Sergey Zhelzhnyak said:

Russia is a neighbor to European countries. This makes it especially strange that Europe is not using the extensive unique experience in fighting terrorism that our country has accumulated. We're sure that it's important to exchange experiences in all important spheres and to step up cooperation with nations that conduct responsible policies in the sphere of security and bringing out their national potentials.

There is clearly some enthusiasm on the Russian side for "security cooperation." The question is whether this is being suggested in good faith, or as a way to undermine and compromise Western security cooperation.

So far, unlike with the French National Front, there is

178 <https://www.heute.at/politik/news/story/Martin-Sellner-Identitaere-Emails-Christchurch-Attentaeter-Neuseeland-ge-oescht-parlamentarische-Anfrage-Peter-Pilz-47912196>

179 https://diepresse.com/home/innenpolitik/5628873/Sellner-zu-Attentaeter_Wir-muessen-auf-ein-Bier-gehen

180 <https://uk.reuters.com/article/uk-austria-security/uk-dutch-spy-agencies-curb-intel-flow-to-austria-over-russia-ties-mp-idUKKC-N1RL2C6>

181 <https://www.telegraph.co.uk/news/2019/04/03/austrian-intelligence-isolated-european-allies-chancellor-moves/>

182 Austria's two other intelligence services are under the defence ministry, which is also controlled by the FPÖ

183 <https://www.rt.com/russia/379737-united-russia-party-signs-cooperation/>

no hard evidence of Kremlin money flowing to the Lega. However, in February 2019 the Italian magazine *L'Espresso* ran a story suggesting that Salvini and his team went "offline" for 12 hours during an official visit to Moscow in October 2018. The story reports that Salvini and Gianluca Savioni – key links between the party and Russia – struck a deal for a Russian company to deliver three million tons of fuel to the Italian oil company Eni. The profits from this trade, estimated at \$3 million, would then reportedly be recycled from Russia into the coffers of the Lega.

There are also numerous other questions over the Lega's funding, not least an ongoing investigation by the prosecutors in Genoa and Bergamo into the misappropriation of €49 million in party funds. Sources in Italy report that the investigation is now focusing on transactions through Luxembourg, about which the Italian prosecutors are trying to obtain details.

The story in *L'Espresso* is interesting in terms of the general Russia/Lega relationship, but also specifically in relation to the interior ministry. Savioni accompanied Salvini on an earlier visit to Moscow during the World Cup in the summer of 2018. The visit included meetings with Russian interior ministry personnel, including the interior minister, Vladimir Kolokoltsev.

Savioni has no official government role (like Orbán's gray eminence, Arpad Habony), and so his presence on an official trip raised eyebrows in Rome. On August 1, 2018 the Jamestown Foundation, a respected organization that studies the FSU, reported:¹⁸⁴

In these meetings, the officials discussed strengthening bilateral cooperation on combatting terrorism, cybersecurity, the fight against drug trafficking, and on efforts to deal with the return of foreign fighters from Syria and Iraq. Salvini was accompanied to Moscow by Gianluca Savioni, the president of the cultural association Lombardia-Russia. Some observers in Italy criticized his presence, asking why a person with no official governmental role participated in meetings in which sensitive topics were apparently being discussed.

This law enforcement and counter-terrorism collaboration potentially provides a cover for general intelligence

sharing and even joint operations. So far there is no sign of a cooperation protocol of the sort passed by the Hungarian parliament (see above), but it cannot be ruled out in the coming years as Salvini consolidates control over his ministry. It is clearly sought by Russia, as Sergey Zhelzhnyak's comments show.

In other ways, too, Salvini has yet to make radical changes to the direction or operation of Italy's services. This appears to be a result of legal and institutional breaks on Salvini's powers. One major obstacle is that the President of the Republic must by law approve the appointment of the heads of the security services. The current President is Sergio Mattarella, a center-left politician with four years left to serve. A second factor is that the personnel of the services must by law be deemed suitably qualified. So even if Salvini would like to install Lega loyalists in the services, the party lacks activists with suitable backgrounds.

These safeguards have already been tested. The retirement in late 2018 of Alberto Manenti, the widely-respected director of the Agenzia Informazioni e Sicurezza Esterna (the external service, AISE) was a cause for concern among professional officers, who feared an outsider would be appointed on political grounds. In December 2018 General Luciano Carta, deputy director of AISE, with a background in the Guardia di Finanza, was named as his successor.¹⁸⁵ Carta is seen as representing continuity and stability.

The Agenzia Informazioni e Sicurezza Interna (domestic service, AISI) director is Mario Parente, a former General in the Carabinieri. He was appointed under the previous center-left government and is regarded as upstanding and professional. He previously ran the Carabinieri special operations group ROS, and brought some senior colleagues with him. AISI is the lead service for counter-intelligence and therefore Russian influence, and as yet there is no sign of any moves to remove Parente.

What Salvini is doing, however, is explicitly and publicly politicizing the work of the security agencies in a way that is liable to exacerbate inter-communal mistrust.¹⁸⁶

184 <https://jamestown.org/program/salvini-works-to-strengthen-italian-russian-ties-but-within-certain-limits/>

185 https://www.corriere.it/cronache/18_novembre_22/du-general-i-gdf-capo-servizi-segrete-vecchione-dis-carta-all-aise-d785e3c6-ede3-11e8-be2f-fc429bf04a05.shtml?refresh_ce-cp

186 <https://www.breitbart.com/europe/2019/04/26/salvini-demands-security-services-increase-observation-islamic-cultural-centres/>

Policy Recommendations

The paper's purpose is above all to describe an emerging pattern and to suggest ways to counter it. In light of that, the main recommendations thus far would be:

Spell out explicitly in law the obligation of the services to monitor and disrupt hostile states' subversion operations on the national territory. This legal cover would allow services to work with greater confidence in the difficult terrain of domestic politics, and conversely penalize them if they neglect this duty.

In systems such as Austria where public appointments are politicized, introduce greater constitutional protections to ensure impartiality of intelligence officers and prevent purges.

NATO allies should develop a protocol to register behavior that violates the terms of the Alliance, and allow for formal measures against transgressors.



Russian Attempts to Interfere in the 2017 Dutch Elections

ABSTRACT

Dutch officials were well-prepared for any attempts by Russia to influence the results of their 2017 Parliamentary elections. After all, it was the Dutch security service AVID that discovered the hacking tools “Cozy Bear” and “Fancy Bear” that reportedly left electronic fingerprints as the tool for hacking into the emails of Democratic National Committee and top Hillary Clinton staffers leading up to the 2016 U.S. presidential elections. While there were instances of bots discovered that pushed the agenda of far-right political parties, some observers believed the intrusions into the Dutch election was a run-up to the upcoming French and German elections. Cooperation among Dutch, French, German and U.S. election officials largely curtailed greater success from Russia to significantly impact the outcome of elections that followed in France and Germany.

By Anton Shekhovtsov

Before 2014, when Western nations started sanctioning Russia for the annexation of Crimea and invasion of Eastern Ukraine, the Netherlands was the top export

destination of Russia¹⁸⁷ – a result of the extensive bilateral investment treaty between the two countries. This might explain why, historically, the Netherlands was not among

187 “Where Does Russia Export to? (2013)”, *The Observatory of Economic Complexity*, https://atlas.media.mit.edu/en/visualize/tree_map/hs92/export/rus/show/all/2013/.

those Western countries that were particularly critical of Russia's domestic and international politics. However, after the Russian troops shot down Malaysia Airlines Flight 17 (MH17)¹⁸⁸ over Ukraine in July 2014, killing 298 people over two-thirds of whom were Dutch, the authorities of the Netherlands assumed a more assertive position towards Russia.

Not all the political forces in the Netherlands adopted the position of the Dutch authorities with regard to the shooting down of Flight MH17, and reactions to this tragedy became, in a certain sense, a marker of attitudes towards Putin's Russia. Mainstream Russia-skeptics blamed Russia for the downing of the aircraft, while Russia-friendly forces blamed Ukraine. This cleavage became even more pronounced in the run-up to the referendum on the approval of the Association Agreement between the EU and Ukraine which was held in April 2016. The EU-Ukraine Agreement, which the Kremlin opposed, was supported by Prime Minister Mark Rutte's coalition government formed by his centre-right People's Party for Freedom and Democracy and the centre-left Labour Party, as well as the centre-right Christian Democratic Appeal, centrist Democrats 66, and some smaller parties.¹⁸⁹ In their turn, parties that campaigned against the Agreement, the far-right Party for Freedom (PVV) and left-wing Socialist Party, expounded views that were very close to the narratives pushed forward by Moscow.

The "No" campaign won the referendum; despite being non-binding, it complicated the process of ratification of the Agreement by the Netherlands, but, after adopting some additional agreements, the Dutch parliament eventually ratified it. The "No" campaign also gave birth to yet another political force: the think-tank "Forum for Democracy," which took part in the campaign against the Agreement, was transformed into a Euroskeptic right-

wing political party led by Thierry Baudet. One of the first scandals involving Baudet as a politician was an open letter sent on January, 2 2017 to U.S. President Donald Trump¹⁹⁰ asking him to start an independent investigation into the downing of Flight MH17, because the 25 signatories of the letter believed that the official investigation launched by the Netherlands and its partners was "neither independent nor convincing."¹⁹¹ Briefly discussing the tragedy, the letter relied on Moscow's narratives with regard to the downing of Flight MH17 and, quite expectedly, proposed lifting Western sanctions imposed on Russia. Baudet was one of the signatories of the letter, which naturally gained attention from RT,¹⁹² and his signature presented him as an initiator of the Dutch referendum on the EU-Ukraine Association Agreement and the leader of the Forum for Democracy party, which implies that he introduced his party as a force clearly advancing Russian foreign policy interests.

With the backdrop of a robust investigation that was taking place over Russian interference in the 2016 U.S. presidential elections and continued scrutiny of how Russia may have impacted the "Brexit" vote in the United Kingdom, concerns began to grow that Russia intended to interfere in the 2017 Dutch parliamentary election by spreading false information. There was even a credible threat that it would hack into the general voting systems. Russia's hacking intrusions also occurred following Dutch security services penetrating the computer hacker group "Cozy Bear," which was later accused of hacking into the email accounts of the Democratic National Committee. By the time the 2017 elections were set to begin, Moscow was aware that Dutch intelligence sources had full view of the hacker's activities, including accessing their internal security cameras.¹⁹³

The Dutch intelligence service, AIVD, stated in its an-

188 Stef Blok, "Letter from the Minister of Foreign Affairs on the State Responsibility of Russia in the Matter of MH17", *Government of the Netherlands*, 31 May (2018), <https://www.government.nl/topics/mh17-incident/documents/letters/2018/05/31/letter-from-the-minister-of-foreign-affairs-on-the-state-responsibility-of-russia-in-the-matter-of-mh17>.

189 Tom Vasseur, "The Dutch-Ukraine Referendum: Between Apathy and Antipathy", *Green European Journal*, 30 March (2016), <https://www.greeneuropeanjournal.eu/the-dutch-ukraine-referendum-between-apaty-and-antipathy/>.

190 Janene Pieters, "MH17 Survivors Shocked by Request for Trump to Investigate Plane Crash", *NLTimes*, 31 January (2017), <https://nltimes.nl/2017/01/31/mh17-survivors-shocked-request-trump-investigate-plane-crash>.

191 Mark Bartalmai *et al.*, "Open Letter aan Trump: 'Start nu objectief onderzoek naar MH17'", *De Nieuwe Realist*, 23 January (2017), <https://joostniemoller.nl/2017/01/open-brief-aan-trump-start-nu-objectief-onderzoek-naar-mh17/>.

192 "European Experts Ask Trump to Back New Independent Inquiry into MH17 Crash", *RT*, 24 January (2017), <https://www.rt.com/news/374893-trump-letter-mh17-investigation/>.

193 <https://www.volkskrant.nl/wetenschap/dutch-agencies-provide-crucial-intel-about-russia-s-interference-in-us-elections-b-4f8111b/>

nual report that Russia attempted to influence the 2017 elections, but the agency chief, Rob Bertholee, said the findings indicated that Russia did not succeed in “substantially influencing” the election process.¹⁹⁴ “I think they have tried to push voters in the wrong direction by spreading news items that are not true, or partially true,” Bertholee said in a press conference. “In its efforts to position itself as a superpower, Russia is not afraid of using Cold War methods to obtain political influence. Russia is using the freedom of open and democratic society of the West (to accomplish this),” he said while also adding that Russia is “extremely active in espionage,” and not just during elections.

In the end, the soft intrusion into the Dutch election process was seen more as a practice run aimed at influencing the looming French and German elections. Ronald Prins, co-founder of the cyber security company Fox-IT explained in an interview with DW.Com, “The Dutch elections are good practice for them.” Fox-IT regularly comes across Russian hacker groups APT28 and APT29 (“Cozy Bear” and “Fancy Bear”) while working for clients, which include Dutch intelligence service AIVD and various Dutch Ministries. Digital fingerprints of these two groups were also found in attacks on the Democratic National Convention in the United States, and in Germany and France.¹⁹⁵

Tony van der Togt, a Russia expert at the Clingendael Institute in The Hague, agrees that the Dutch elections may not be the Russians’ primary target. “The German and French elections are certainly more important,” Van der Togt said to *Deutsche Welle*. “But the Netherlands is an important business partner of Russia.”

One tactic that the Russians learned during the Dutch elections was the use, and manipulation, of data in public opinion polls. Shortly before the 2017 elections, RT claimed that a majority of the Dutch populace would prefer “Nexit,” or leaving the EU in the same manner of

the referendum vote in the United Kingdom. As it turned out, not only were the numbers distorted (the Dutch poll for example excluded the number of “Do not know” responses in its final calculation), the poll was conducted by Brand Analytics, whose parent company’s clients included the FSB, Russia Ministry of Interior, and the Ministry of Defense of the Russian Federation.¹⁹⁶ The polling company issued a poll that was reported by Sputnik just prior to the first round of the French presidential elections claiming that François Fillon was in the lead, when he was in fact far behind in third position.¹⁹⁷ Polls conducted by recently-created NGOs that have defended or promoted Russian narratives, such as anti-Ukraine and pro-Russian Crimea issues, have been growing in recent years.¹⁹⁸

Despite the long odds of making a significant impact in the Dutch elections, payback for anti-Russian sentiment in the wake of the MH17 may have also played a role. There was not much room for Russia to gain any ground as Moscow could rely only on Russia-friendly PVV and Forum for Democracy, and, to a much lesser degree, on the Socialist Party. However, while the PVV was leading in the public opinion polls, it was evident that it would not be able to form a government in its own right, and no major party would form a coalition government with the PVV due to its radical right-wing populism. The Socialist Party was an outlier too: it had been in opposition since its founding and would not join a coalition with Prime Minister Rutte’s party. In its turn, Forum for Democracy was polling at around 1-2%.

Moscow was manifestly displeased with the Russia-skeptic consensus of Rutte’s government and among the overwhelming majority of Dutch mainstream parties. In the months leading to the elections, Russian cyber-espionage groups APT28 (Cozy Bear) and APT29 (Fancy Bear) made numerous, yet apparently unsuccessful, attempts to hack into Dutch ministries and steal sensitive information.¹⁹⁹ These attempts frightened the Dutch authorities, and Interior Minister Ronald Plasterk acknowledged

194 <https://www.politico.eu/article/russia-spread-fake-news-during-dutch-election-report-putin/>

195 <https://nltimes.nl/2017/03/10/russia-hacking-dutch-election-warm-germany-france-interference-report>

196 <https://www.bellingcat.com/news/uk-and-europe/2017/06/06/russia-attempted-influence-french-dutch-elections-suspect-polls/> https://www.kremlinwatch.eu/userfiles/western_experiences_eastern_vulnerabilities_20171012_15273208786863.pdf

197 <https://uk.reuters.com/article/uk-france-election-russia/french-polling-watchdog-warns-over-russian-news-agencys-election-report-idUKKBN1740JK>

https://www.kremlinwatch.eu/userfiles/western_experiences_eastern_vulnerabilities_20171012_15273208786863.pdf

198 <https://www.4freerussia.org/ngos-as-a-tool-for-russias-projection-of-influence/>

199 Huib Modderkolk, “Russen faalden bij hackpogingen ambtenaren op Nederlandse ministeries”, *de Volkskrant*, 4 February (2017), <https://www.volkskrant.nl/cultuur-media/russen-faalden-bij-hackpogingen-ambtenaren-op-nederlandse-ministeries-b77ff391/>.

that “state actors might gain advantage from influencing political decision-making and public opinion in the Netherlands and might use means to try and achieve such influence.”²⁰⁰ As the cyber-attack on the U.S. Democratic National Committee carried out by APT28 and APT29 in 2016 was still fresh in memory, the Dutch authorities decided to process votes in the 2017 parliamentary elections by hand.

At the same time, Russia lacked any impactful media instruments in the Netherlands – no Dutch edition of either RT or Sputnik existed. Moreover, although the PVV’s leader Geert Wilders frequently made statements that were congruent with Russian disinformation narratives, he seemed to be unprepared to strengthen his contacts with Russian actors: ironically, he was presumably happy to deepen his relations with American right-wing groups who had been providing financial support to the PVV since at least 2010.²⁰¹ Thus, Russian stakeholders hardly had any viable options to interfere in the 2017 parliamentary elections in the Netherlands, despite their clear willingness to do so.

One of the lessons that have come from Russia’s inability to meddle in the Dutch elections is that attempts to interfere can be repulsed provided there is awareness and cooperation between governments, political parties, and mainstream media. With the sharing of information between Dutch and German government officials, German election officials were prepared for any attacks on its democratic process from Russia. This led to all the major political parties deciding to refrain from using automated social media during the campaign, and several major media outlets warned German voters of the possible threat.²⁰² This concentrated effort was aided by a new bill adopted in 2017 introducing fines for social media plat-

forms up to EUR 50 million in case they fail to remove criminal, fake, hate-inciting contents.²⁰³ Thus it is no surprise that Facebook removed “tens of thousands of fake accounts” before the election in September 2017 in cooperation with German authorities such as the Federal Office for Information Security.²⁰⁴ This can partly explain why – apart from the rather usual and expected last minute bot-attacks mainly boosting the far-right AfD – there was no large-scale election meddling in Germany, as many had expected before.

200 Sewell Chan, “Fearful of Hacking, Dutch Will Count Ballots by Hand”, *The New York Times*, 1 February (2017), <https://www.nytimes.com/2017/02/01/world/europe/netherlands-hacking-concerns-hand-count-ballots.html>.

201 Anthony Deutsch, Mark Hosenball, “Exclusive: U.S. Groups Helped Fund Dutch Anti-Islam Politician Wilders”, *Reuters*, 10 September (2012), <https://www.reuters.com/article/us-dutch-wilders-us/exclusive-u-s-groups-helped-fund-dutch-anti-islam-politician-wilders-idUSBRE8890A720120910>; Robbie Gramer, “Why The Dutch Fear Election Meddling From ... America”, *Foreign Policy*, 10 March (2017), <https://foreignpolicy.com/2017/03/10/why-the-dutch-fear-election-meddling-from-america-geert-wilders-immigration-anti-islam-anti-e-u-movement-in-europe-campaign-donations/>.

202 <http://comprop.oii.ox.ac.uk/wp-content/uploads/sites/89/2017/06/Comprop-Germany.pdf>

203 <https://www.theguardian.com/media/2017/jun/30/germany-approves-plans-to-fine-social-media-firms-up-to-50m>

204 <https://www.cnn.com/2019/01/20/tech/facebook-sheryl-sandberg-election-interference/index.html>



Photo courtesy of Will Porada

The Wagner Group

ABSTRACT

Perhaps nothing is more destabilizing to international norms than a privately funded military force that operates outside the constraints of international law. The Wagner Group, a growing private military company, now has troops and advisors on the ground in Syria, Central African Republic, and Venezuela. Run by Vladimir Putin's former catering manager, Wagner has been dubbed Putin's expendable.

By Michael Weiss

For the past several years a member of Putin's inner circle has built an expedient mercenary militia that allows for Russian military intervention without the messiness of international condemnation. Yevgeny Prigozhin, dubbed "Putin's chef" due to his catering contracts with the Kremlin, has established a "privately" funded militia known as the Wagner Group, which has turned up in hotspots

around the world and given Putin an air of plausible deniability that Russia is at war.²⁰⁵

The Wagner Group are Putin's Expendables, a convenient workaround solution for what remains the chief liability of Russian adventurism: "Cargo 200," dead Russian soldiers whose return home in zinc coffins risks stirring domestic opposition not only to conflicts abroad but

205 <https://www.reuters.com/article/us-venezuela-politics-russia-exclusive/exclusive-kremlin-linked-contractors-help-guard-venezuelas-maduro-sources-idUSKCN1PJ22M>

also to the general leadership at home. Military casualties scandalized the USSR during the occupation of Afghanistan and contributed to the eventual dissolution of that regime and empire. The Kremlin's undeclared dirty war in Eastern Ukraine carries no official statistics into Russian military deaths, a lacuna made up for by a number of intrepid investigations conducted by Russian journalists, activists and politicians trying to arrive at the figures themselves. Usually the person doing the investigating has been threatened or beaten or, most notoriously in the case of former deputy prime minister Boris Nemtsov, assassinated. Moreover, relatives of the dead have been intimidated into silence.

Wagner has thus elided the Afghanistan Syndrome: now those injured or slain on the battlefield are simply living up to the terms of their contracts, working not for the state but for private enterprise. And they have been well compensated for it.

Background

Russian mercenary operations first received press attention in November 2013, when journalist Denis Korotkov published an article on the Saint Petersburg news website *Fontanka*, detailing a failed mercenary mission in Syria by a group called the Slavonic Corps.²⁰⁶

The Hong Kong-registered company was founded and owned by two employees of a private security company called the Moran Security Group. Vadim Gusev was listed as deputy director and Yevgeny Sidorov as HR chief. Although the company was registered in Belize (with ownership ultimately traceable to a company registered in the British Virgin Islands), the president of the company was one Lieutenant Colonel Vyacheslav Kalashnikov, a reservist in the FSB, establishing its connection to the security organs.²⁰⁷

Members of the group told Korotkov how they had been misled about the quality of equipment and support they would be receiving, finding pickup trucks fitted with

armor plates instead of T-72 tanks. They were given the assignment of guarding oil fields near Deir ez-Zor, in the east of Syria. On their way they suffered their first casualty when a Syrian Air Force helicopter flew too low overhead and crashed into power lines. The Slavonic Corps had to take the mutilated pilot to an airbase near Homs, where they spent two days awaiting orders. When orders finally arrived, they turned out to be somewhat different from the ho-hum guard duty the Slavonic Corps fighters had been briefed on: they were sent out in an attempt to reinforce Assad regime forces engaged in fierce battle with members of the rebel Jaish al-Islam group near Al-Sukhnah, on the highway between Palmyra and Deir ez-Zor.²⁰⁸

According to the Russians who spoke to Korotkov, the Slavonic Corps were badly outnumbered and out-matched, faced with between two and six thousand Islamist rebels. Not even the presence of artillery and air support from the regime was enough to save the mercenaries, who soon quit the battlefield. Six were injured, though heavier casualties were avoided thanks to a sandstorm that enveloped and hid the Slavonic Corps from view as they retreated.

Their first assignment would be their last. On return to Russia several days later, they were detained and questioned by the FSB. Gusev and Sidorov were arrested on charges of mercenary activity and ultimately jailed in 2014. The fighters were set free.²⁰⁹

The failed effort — more Keystone Kops than Delta Force — closely resembles a true mercenary operation than any subsequent reported activity by Russian PMCs. The Russian Ministry of Defense may well have seen the media attention garnered by an otherwise deeply embarrassing affair as an opportunity to create an “off-the-books” force for risky deployments to foreign countries while not only offloading some of the costs, but making money for a friend of the President — always a good deed in Putin's Russia.

Despite his repeated convictions for violent crime and nine years' jail time on charges ranging from fraud

206 <https://www.fontanka.ru/2013/11/14/060/>

207 <https://foreignpolicy.com/2013/11/21/the-case-of-the-keystone-cossacks/>

208 <http://www.interpretermag.com/the-last-battle-of-the-slavonic-corps/>

209 <https://www.svoboda.org/a/29084090.html>

and robbery to organizing prostitution,²¹⁰ Prigozhin has received privileged access to the highest levels of power, even serving food to visiting Presidents Jacques Chirac and George W. Bush.²¹¹ Racking up state contracts worth at least \$3.1 billion since 2013, his interests have expanded well beyond the gastronomic. He is perhaps most famous in the West for his sponsorship of the Internet Research Agency, often referred to as the “Troll Factory,” in Saint Petersburg, for which he has been sanctioned and received dishonorable mention in the Mueller Report.²¹²

Prigozhin became the sponsor, via several shell companies, for a new private military enterprise, named for its commanding officer, Dmitry Utkin, who goes by the nom de guerre of Wagner after Hitler’s favorite composer: Utkin is an avowed admirer of the Third Reich. A Ukrainian-born former member of Russia’s GRU Spetsnaz, he took part in the shambolic Slavonic Corps effort and took several former Moran Security Group colleagues with him to act as trainers at the new “Wagner PMC.”²¹³

While Russian law currently forbids mercenary activity — and high-profile attempts to remedy this have ended in failure — the Prosecutor General’s office has stated that they have never investigated Wagner due to a lack of any complaints, although the Meduza news site points out that such official requests have been made.²¹⁴ In December of last year, Putin said that, if Wagner does not violate Russian law, “they have the right to conduct their business interests anywhere on the planet.”²¹⁵

PMCs Going to War

The new outfit first saw combat in Eastern Ukraine, where reports of their presence go back as far as the battle for Sloviansk, in the summer of 2014.²¹⁶ While suffering heavy casualties during the battle for Debaltsevo in early 2014, the unit gained a notorious reputation after being accused by fellow Russia-backed paramilitaries of carrying out the assassinations of troublesome commanders amongst their own ranks.²¹⁷

This time the contractors were provided direct state support, most visibly in being allowed to build a dedicated training base immediately adjacent to the 10th GRU Spetsnaz training range near Molokino in Krasnodar Krai.²¹⁸ Construction of the site began in 2014, and it now includes everything from firing ranges to an on-site shop for uniforms. A mortuary chapel and cemetery, owned by a Prigozhin-related company, was built in December 2017, just a couple of miles south of the training camp down the Don Highway.²¹⁹ One Western intelligence officer told the present writer that Wagner is a “tool of the GRU.”

In which case, it may also be a revenue-generation one. Prigozhin’s Evro Polis company signed a contract with the Assad regime granting it 25 percent of the oil and gas produced on territory recaptured from ISIS.²²⁰

In October 2017, *Novaya Gazeta* estimated that Wagner had around 2,100 fighters, making up four reconnaissance and assault brigades and three artillery batteries, in addition to tank, signals, sapper, engineering

210 <https://meduza.io/feature/2016/06/09/pravo-na-zabvenie-evgeniya-prigozhina>

211 <https://www.nytimes.com/2018/02/16/world/europe/prigozhin-russia-indictment-mueller.html>

212 <https://www.nytimes.com/2015/06/07/magazine/the-agency.html>

213 <http://www.interpretermag.com/fontanka-investigates-russian-mercenaries-dying-for-putin-in-syria-and-ukraine/>

214 <https://meduza.io/feature/2018/12/20/genprokuratura-utverzhdает-cto-vedomstvo-ne-proveryalo-chvk-vagnera-etonepravda>

215 <https://tass.ru/politika/5936179>

216 https://tvrain.ru/teleshov/reportazh/chvk-467150/?utm_medium=share_android&utm_term=467150&utm_campaign=teleshov-reportazh

217 https://www.lemonde.fr/europe/article/2017/02/16/l-elimination-troublante-des-chefs-de-guerre-du-donbass_5080541_3214.html

218 <http://www.interpretermag.com/russia-update-august-26-2016/#14971>

219 <https://www.bbc.com/russian/features-46291929>

220 <https://www.nytimes.com/2017/07/05/world/middleeast/russia-syria-oil-isis.html>

and staff units.²²¹ While membership is largely drawn from former Russian servicemen, Wagner contractors reportedly hail from across the former Soviet sphere, particularly Ukraine and Serbia.²²²

One mercenary told TV Rain:

“You can generally turn up, say ‘hello,’ and, if you have your military billet with you, if you meet the requirements — all will be well. They will dress you up and give you boots. You pass the physical exam — and that’s it, on your way.”

This open-door policy reflects the heavy attrition rate suffered by the unit, particularly in Ukraine and Syria.

By the end of September 2017, Reuters reported that consular records indicated at least 131 Russian citizens who were not serving military personnel had died in Syria.²²³ Given that Russian consulates do not issue death certificates for members of the armed forces, and that the Russian government was not producing such records for those citizens killed while fighting with rebel groups, the bulk of those deaths were likely private military contractors.

Of that 131, at least 54 appear to have been killed in September alone — a figure extrapolated from documents provided to the BBC by the mother of a Wagner contractor killed near an airbase in the Homs governorate.²²⁴

The most high-profile losses for Wagner occurred on February 7 the following year, when they attempted an assault on US-backed Syrian Democratic Forces (SDF) fighters near the town of Khasham on the eastern bank of the Euphrates river in the Deir ez-Zor governorate, in particular the Conoco gas plant. A U.S. special forces unit was deployed with the SDF in the area and called in fire support from U.S. marine artillery batteries and a vast range of aerial assets ranging from AC-130 gunships to B-52 bombers. The U.S. initially claimed to have killed around 100 Syrian pro-regime fighters. But reports soon emerged from Russia of Wagner casualties, albeit with widely divergent numbers.²²⁵ Initial reports from either anonymous or less-than-reliable sources, such as self-declared Cossack leader Yevgeny Shabayev, described Russian death tolls ranging from 80 to over 200.

Meanwhile, open-source investigators at the Conflict Intelligence Team (CIT) were only able to confirm ten fatalities, based on evidence available from relatives and friends on social media. As of February that year, the CIT estimated that the total number of Wagner operatives killed in the engagement with U.S. forces was around 20 to 30. It is significant to note here that even Foreign Ministry spokeswoman Maria Zakharova conceded that five Russian citizens “may have been killed” while denying any connection with the government.

Whatever the casualty figure, this battle in the Levantine desert was the first and only of direct combat between U.S. and Russian forces to date and yet not only did it not lead to World War III, it barely even registered

221 <https://www.novayagazeta.ru/articles/2017/10/09/74125-ih-prosto-net>

222 <http://www.balkaninsight.com/en/article/donbass-brothers-how-serbian-fighters-were-deployed-in-ukraine-12-12-20184>

223 <https://www.reuters.com/article/us-mideast-crisis-russia-syria-casualtie/exclusive-death-certificate-offers-clues-on-russian-casualties-in-syria-idUSKBN1CW1LP>

224 <https://www.bbc.co.uk/news/world-europe-43114312>

225 <https://www.thedailybeast.com/did-the-us-really-kill-200-russians-in-syria-or-just-a-few>

as newsworthy in Moscow. Dmitry Peskov, Putin's press spokesman, was cavalier when asked about the deaths of what were rumored to have been as many as 200 Wagner mercenaries: "These reports require verification...Let's be clear, there is a fair amount of our compatriots in various countries across the world."

That there are, but note Peskov's use of "compatriots" here and not "soldiers." Deploying Wagner means creating a Chinese wall of separation between the Russian government and private "patriotic" guns-for-hire.

Wagner is also known for rather primitive tactics. One former contractor described his experience in Ukraine to *Fontanka* thus:

*"It's right out of the Second World War, all that's missing are bayonets on the AKs. Outside Debaltsevo, the men were booted out of their vehicles in a field and given the order to seize a fortification or a blockpost. And forward, just like meat. When they started up on U.S. with 120 mm [guns], with RPGs on the vehicles, people... they just vomited. Direct hit from an RPG – only hands and feet remain. No one is sent out to battle from Molokino without training, but they only manage to learn the basics of how to shoot so as not to die immediately."*²²⁶

In Syria, Wagner continues to serve as what would once have been called the "forlorn hope":

*"What are we doing there? We go as the first wave. We direct the aircraft and artillery, push back the enemy. After U.S. merrily go the Syrian special forces, and then Vesti-24 [a Russian state TV station] together with other Russian state television crews with cameras at the ready to interview them."*²²⁷

Nevertheless, the Wagner model appears to be viewed by the Russian government as a success. As the independent TV Rain channel reported in 2018, a whole "market for special operations" now exists among Russian private military companies, with the majority of recruits

made up of veterans from the Alfa special forces unit, the GRU, or the FSB.²²⁸

The most prominent rival to Wagner, dubbed "Patriot," was first reported on by TV Rain in July that year. Notably, the channel's sources claimed that the outfit was connected to the Ministry of Defense and made up of regular servicemen. One officer at the Ministry of Defense told the outlet that Patriot offers better pay and combat assignments than Wagner, with another source at a veterans' organization adding:

*"If Wagner more often takes combat assignments, Patriot is more involved in security for government leaders."*²²⁹

This is a significant point, given that many reports in media of Russian PMC deployments tend to assume Wagner is the contracting company. The basic tactics and equipment utilized by the Wagner group make them unsuitable for protecting such high-value assets as foreign leaders or important Syrian commanders.

Patriot appears to be little more than a screen for Russian special forces deployed abroad. Similar methods have been seen before in Ukraine, where serving soldiers were formally discharged before being sent into combat in order to maintain deniability if captured or killed in the Donbass. When two Wagner fighters were captured by ISIS near Deir ez-Zor in 2017, the Kremlin washed their hands of them.²³⁰

By 2018 Russian "private contractors" were popping up in several African countries, beginning in Sudan²³¹ and then the Central African Republic, where the Kremlin announced in March that year that 170 "civilian advisors"

226 <http://www.interpretermag.com/fontanka-investigates-russian-mercenaries-dying-for-putin-in-syria-and-ukraine/>

227 <http://www.interpretermag.com/fontanka-investigates-russian-mercenaries-dying-for-putin-in-syria-and-ukraine/>

228 https://tvrain.ru/teleshov/reportazh/chvk-467150/?utm_medium=share_android&utm_term=467150&utm_campaign=teleshov-reportazh

229 <http://www.interpretermag.com/meet-patriot-the-new-russian-private-military-contractor-competing-with-wagner/#17015>

230 <https://www.independent.co.uk/news/world/europe/isis-russia-video-soldiers-syria-kremlin-mercenaries-roman-zabolotny-grigory-tsurkanu-a7983316.html>

231 <https://www.youtube.com/watch?v=xdvQnlknBQI>

had been deployed.²³²

In August, three Russian journalists (Orkhan Dzhe-mal, Aleksandr Rastorguyev, and Kirill Radchenko) were murdered while attempting to investigate reports of a Wagner camp near the former palace of the Central African Republic's late dictator and self-styled "Emperor," Jean-Bedel Bokassa, in Berengo, Lobaye Prefecture.²³³ Russian authorities have declined to investigate the murders, saying that the men were killed by local Seleka rebels, despite abundant evidence that they were set up for an ambush by their driver, who was connected to the CAR military.²³⁴ TV Rain received claims from two military sources implicating members of the Patriot "PMC" — that is to say Russian special forces — in the killings.

Once again, Prigozhin capitalized on his investment. Two companies linked to his enterprises, Lobaye Invest and M-Finance, signed deals in the CAR and Sudan, respectively, to mine gold and diamonds.²³⁵ Orkhan Dzhe-mal and his fellow reporters had been planning on filming at the Ndassima gold mine being developed by Lobaye Invest as part of a larger investigation into the supply of Russian arms to the CAR.

In July of last year, TV Rain reported that Prigozhin had approached the then-President of Madagascar, Hery Rajaonarimampianina, with an offer to help get him re-elected. According to the report, Prigozhin proposed Russian military contractors would train the gendarmerie and "ensure the security of the electoral IT infrastructure."²³⁶ It should be noted that, following attempts to change electoral law that year, Rajaonarimampianina was forced to accept a consensus government which took

charge of electoral preparations; he was defeated in the first round of voting after winning less than nine percent of the vote.

Prigozhin was also reported to have entered into ventures in Yemen and South Sudan. The BBC Russian Service was told by a Wagner fighter that a company-sized unit was currently deployed in the CAR, with another 80 men in Sudan and preparations underway for an operation in Libya.²³⁷

The Sudan deployment gained further attention when, as the regime of Omar al-Bashir began violently repressing massive anti-government demonstrations in January 2019, photos began emerging of Russian para-militaries on the streets of Khartoum.²³⁸

Elsewhere in Africa, a Ministry of Defense source told TV Rain last year that around 200 contractors with an unnamed PMC were involved in the construction of a Russian military base in Burundi.

The most recent reports of Russian PMC activity, however, come from a new theatre of operations: Venezuela. On January 25 Reuters reported, citing several sources connected to Wagner, that Russian contractors had flown to Caracas in order to reinforce security for President Nicolas Maduro, who is facing widespread opposition protests and a challenge to his leadership from National Assembly President Juan Guaido.²³⁹ Notably the mission discussed here would perhaps seem more suited to the genuine special forces operating under the cover of the Patriot PMC than Wagner.

The abundant reporting on the Wagner group only

232 <https://www.kommersant.ru/doc/3580591>

233 <https://www.thedailybeast.com/murdered-russian-journalists-in-africa-were-onto-something-dangerous-for-putin>

234 <https://www.novayagazeta.ru/articles/2019/01/10/79135-hronika-horosh-podgotovlennoy-smerti>

235 <https://www.novayagazeta.ru/news/2018/09/01/144691-minfin-tsar-opublikoval-razreshenie-na-razvedku-mestorozhdeniy-zolota-dlya-svyazannoy-s-prigozhinym-kompanii>

236 https://tvrain.ru/teleshov/reportazh/chvk-467150/?utm_medium=share_android&utm_term=467150&utm_campaign=teleshov-reportazh

237 <https://www.bbc.com/russian/features-46291929>

238 <https://www.thetimes.co.uk/article/russian-mercenaries-help-put-down-sudan-protests-vw0gzngq8>

239 <https://www.reuters.com/article/us-venezuela-politics-russia-exclusive/exclusive-kremlin-linked-contractors-help-guard-venezuelas-maduro-sources-idUSKCN1PJ22M>

helps serve the Kremlin in this sense, as the presence of Russian military personnel abroad can be written off as the “mere” presence of private contractors. This would explain why so many officials have been willing to talk, albeit on condition of anonymity, to major news outlets such as RBC.²⁴⁰ That the connection between Wagner and the state is so blatant is of little concern. After all, Yevgeny Prigozhin has been allowed to attend public meetings with military allies (and potential clients) such as Libyan warlord Khalifa Haftar.²⁴¹

The last five years have provided repeated demonstrations — Crimea, MH17, troops captured in the Don-

bass — that the Russian government is comfortable with only the thinnest veneer of plausible deniability. The benefits, so far, have greatly outweighed the risk to Putin’s government. He is able to shape events on the ground in strategic locations around the world and still show up at G20 meetings as a man of peace. Meanwhile, from Ukraine to Syria, Africa, and now South America, his PMCs are giving him tactical advantages both on the world stage and at home where he can look into the TV cameras and tell his people that Russia is a country not at war.

240 <http://www.interpretermag.com/russia-update-august-26-2016/#14971>

241 <https://www.novayagazeta.ru/articles/2018/11/09/78517-na-etoy-kuhne-cto-to-gotovitsya>



Sofia, Bulgaria. Photo courtesy of Alexandr Bormotin

The Bulgarian Connection

ABSTRACT

Arguably no other European country has given Russia the “run of the house” more than Bulgaria. From no-bid contracts to legislative changes to accommodate Kremlin-connected Russian businesses, to forgoing its state oversight obligations, Bulgaria has allowed Russia to erode its sovereignty. Even when Bulgarian authorities are caught doing the bidding of Russia, government regulators find a way to overlook the actions and cover up the scandals.

By Rumena Filipova and Martin Vladimirov

Lukoil’s Special Role in Bulgaria and Elsewhere in Europe

The Russian private oil major Lukoil has been the largest firm²⁴² and the biggest foreign investor in Bulgaria

over the last decade, accounting for close to 25% of the government revenues in some years. Lukoil controls roughly two-thirds of the wholesale fuels, a quarter of the retail markets, and almost 100% of Bulgaria’s refining capacity.²⁴³ It is also responsible for the imports of 100% of

242 Capital Daily, 2018, *K100. Най-големите компании в България 2018*, (*K100. The biggest companies in Bulgaria in 2018*), available at <https://www.capital.bg/k100-2018/#rating-menu>

243 Heather Conley, James Mina, Ruslan Stefanov, Martin Vladimirov, 2016, ‘Bulgaria: What State Capture Looks Like’, p.45 in *The Kremlin Playbook. Understanding Russian Influence in Central and Eastern Europe*, Rowman and Littlefield

Bulgaria's crude oil needs. The company has been seen by the public as an overly powerful economic actor that has been able to push fuel prices and margins up and command preferential treatment by the Bulgarian government. One example of the company's leverage has been the pushback on government plans to install metering devices along the whole value-chain of production back in 2010.

To ensure the company is accurately paying VAT and excise taxes, the government, in line with Order No 3 of the Ministry of Finance of 2010, insisted that Lukoil install metering devices for tracking the amount of oil that enters and leaves the company and that those devices be connected remotely to the Bulgarian Customs Agency.²⁴⁴ The Russian company failed to comply with the timeline for the installation of the devices, and on July 26, 2011, the Customs Agency's Head Vanyo Tanov revoked the operational license of Lukoil Neftohim Burgas refinery and the importing terminal.²⁴⁵ The Administrative court in Sofia stopped the implementation of the revocation on the grounds that this would inflict significant damage to the fuel supply and to the company itself. In August 2011, the Supreme Administrative Court confirmed the ruling of the Administrative Court, thus rejecting all of the Customs Agency's grievances.²⁴⁶ In the following month, Lukoil's

global CEO, Vagit Alekperov, visited Bulgaria, assuring Prime Minister Boyko Borissov that Lukoil would comply with the rules and further asserting that the company did not have problems with the Bulgarian government but only with certain Bulgarian institutions over the issue of deadlines.²⁴⁷ At the end of 2011, Lukoil claimed that it would install all the metering devices within a month; this was a year and a half late.²⁴⁸

Yet, in the spring of 2013, the conflict between the Bulgarian Customs Agency and Lukoil repeated itself over improper management of one of Lukoil's tax warehouses due to a number of violations of the order for the installation of metering devices by the March 31 deadline. The Customs Agency claimed it discovered a number of discrepancies between the actual fuel throughout the warehouse and the data transmitted to the Agency, which were caused by pipeline diversions that purposefully circumvented metering devices. Moreover, some metering devices had not been installed by the deadline, while others had not been connected to the information systems of the Customs Agency.²⁴⁹ Nevertheless, as in 2011, the Supreme Administrative Court in Sofia stopped the implementation of the Agency's decision.²⁵⁰ Lukoil Bulgaria again openly accused Tanov of carrying out a crusade against the company, tendentiously attacking it on every

244 Ministry of Finance, 13 February 2010, 'Наредба № 3 от 19 февруари 2010 г. за специфичните изисквания и контрола, осъществяван от митническите органи върху средствата за измерване на акцизни стоки', ('Order No 3 of 13 February 2010 on the specific requirements and control exercised by the customs institutions for metering goods subject to revenue tax'), *Econ.bg*, available at http://econ.bg/Нормативни-актове/НАРЕДБА-3-ОТ-19-ФЕВРУАРИ-2010-Г-ЗА-СПЕЦИФИЧНИТЕ-ИЗИСКВАНИЯ-И-КОНТРОЛА-ОСЪЩЕСТВЯВАН-ОТ-...i.182083_at.5.html

245 Ivan Mihalev, 2011, 'ЛУКойл без лиценз', ('LUKoil without a license'), *Capital Daily*, 27 July 2011, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2011/07/27/1129683_lukoil_bez_licenz_obnovena/

246 Ivan Mihalev, 2011, 'Съдебното определение не връща лиценза на ЛУКойл', ('The court decision does not reinstate LUKoil's license'), *Capital Daily*, 1 August 2011, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2011/08/01/1132328_sudebnoto_opredelenie_ne_vrushta_licenza_na_lukoil/

247 Darik News, 2011, 'Алекперов запознал Борисов с графика за поставяне на измервателни уреди в Лукойл Нефтохим', ('Alekperov presented to Borisov the timeline for the installation of metering devices at Lukoil'), 27 September 2011, available at <https://dariknews.bg/novini/biznes/alekperov-zapoznal-borisov-s-grafika-za-postavqne-na-izmervatelni-uredi-v-lukojl-neftohim-781865>

248 Bnt.bg, 2011, 'Лукойл-Нефтохим сложи измервателни уреди', ('Lukoil Neftohim installed metering devices'), 6 December 2011, available at http://news.bnt.bg/bg/a/65531-lukojl_neftohim_sloji_izmervatelni_uredi

249 Vesti.bg, 2013, 'Митниците отнеха лиценз на един от данъчните складове на Лукойл България', ('The customs revoked one of Lukoil Bulgaria revenue-tax warehouse's license'), 22 April 2013, available at <https://www.vesti.bg/pari/biznes/otneha-edin-ot-licenzite-na-lukojl-5709971>

250 Vesti.bg, 2013, 'Съдът спря отнемането на лиценза на Лукойл', ('The court stopped the revocation of Lukoil's license'), 23 April 2013, available at <https://www.vesti.bg/bulgaria/sad/sydyt-spria-otnemaneto-na-licenza-na-lukojl-5714591>

occasion arising from his and his employees' "supposed incompetence."²⁵¹ On his part, Tanov complained that as of 2012, the court had been pressured by Lukoil to file a lawsuit against him on the grounds that he had revealed a state secret by announcing the amount of fuel stored by the state for emergencies.²⁵² Moreover, in response to the court ruling, the Customs Agency argued that the court had missed the chance to dispel the belief prevalent in Bulgarian society that oligarchy and foreign interests rule the country. Marin Raikov – the Prime Minister in the caretaker government (March-May 2013), implicitly backed Tanov, calling him an honest person who worked to defend the national interest.²⁵³

The government of the Bulgarian Socialist Party (2013-2014) cancelled the obligation for fuel warehouses to install metering devices at every entry-exit point. The motives cited included the alleged high costs incurred by fuels providers for fulfilling the requirement and the overall decline in fuels tax revenue collection.²⁵⁴ However, these motives were criticized because the Customs Agency could not collect the taxes over the course of the duration of the tax metering regime as Lukoil did not properly implement it.²⁵⁵ Also, in the amended version of the metering devices order, the Parliament removed the special clause requiring warehouses subject to revenue tax, spanning the territory of more than one customs sub-division,

to install metering devices at every point where fuels can be imported or exported. So metering devices had to be installed at the entry and exit points of the warehouses but not on the pipeline connections between them. In this way Lukoil would be free to transfer fuel from one warehouse to another, evading scrutiny on the basis that the fuel is somewhere in the pipelines between the warehouses.²⁵⁶ When GERB (Citizens for the European Development of Bulgaria) came back to power in late 2014, the government reinstated the metering devices requirement for every pipeline section operated by Lukoil and Lukoil subsidiaries.²⁵⁷ GERB's decision came despite internal party opposition showing that the government had been trying to strike a balance between its Euro-Atlantic political orientation and the interests of local pro-Russian networks.

In 2017, an investigation conducted by the Commission on the Protection of Competition (CPC) revealed that Lukoil had abused its dominant position on the wholesale fuels market by charging its domestic clients higher prices than in neighboring markets. The price difference was especially visible between 2012 and 2014 when Lukoil seemed to have been overcharging Bulgarian consumers by around 16% above prices in neighboring Romania. The anti-trust regulator also discovered e-mail correspondence between traders at Lukoil and other large fuel distribution companies revealing price coordination

251 Mediapool.bg, 2013, 'Лукойл обвини Ваньо Танов в кръстоносен поход срещу рафинерията', ('Lukoil accused Vanyo Tanov of carrying out a crusade against the refinery'), 21 April 2013, available at <https://www.mediapool.bg/lukoil-obvini-vanyo-tanov-v-krastonos-sen-pohod-sreshtu-rafineriyata-news205512.html>

252 Dir.bg, 2012, 'Лукойл се възмути от обвиненията на Ваньо Танов', ('Lukoil was outraged by Vanyo Tanov's accusations'), 16 May 2012, available at <https://dnes.dir.bg/ikonomika/vanyo-tanov-zatvaryaneto-lukoil-neftohim-11159711>

253 Mediapool.bg, 2013, 'Безсилна пред Лукойл, държавата обяви: 'Законът коленичи, монополът победи', ('Powerless before Lukoil, the state proclaimed: 'The law kneeled down, the monopoly won'), 24 April 2013, available at <https://www.mediapool.bg/bezsil-na-pred-lukoil-darzhavata-obyavi-zakonat-kolenichi-monopolat-pobedi-news205631.html>

254 Stefan Antonov, 2014, 'Контролът и дистрибуцията на горива ще се облекчат', ('The control over and distribution of fuels will be relaxed'), *Capital Daily*, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2014/01/23/2226477_kontrolut_i_distribuciiata_na_goriva_shte_se_oblekchat/

255 Stefan Antonov, 2014, 'Контролът и дистрибуцията на горива ще се облекчат', ('The control over and distribution of fuels will be relaxed'), *Capital Daily*, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2014/01/23/2226477_kontrolut_i_distribuciiata_na_goriva_shte_se_oblekchat/

256 Capital Daily 2013, 'Лукойл' отново избегна пълно акцизно отчитане', ('Lukoil got away from full tax supervision once again'), 4 December 2014, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2014/12/04/2432485_lukoil_otnovo_izbegna_pulno_akcizno_otchitane/

257 Georgi Zhelyazkov, 2015, 'Лукойл ще има два месеца да монтира измервателните уреди', ('Lukoil will have two months to install the metering devices'), available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2015/04/02/2505207_lukoil_shte_ima_dva_meseca_da_montira_izmervatelnite/

activities. However, the regulator reached a conclusion that there had not been a breach of monopoly rules, and simply advised the big market players to refrain from discussing pricing strategies.²⁵⁸ An almost identical decision was also reached in 2012 after a similar investigation by the anti-trust regulator, initiated upon the request of the Minister of the Economy, Traicho Traikov. Overall, the analysis of the substance of the CPC's decision gives cause for doubt about its objectivity. For instance, the regulator remained silent on whether firms which are formal competitors exchanging information among themselves about existing prices was a violation. Also, the analysis was focused on the retail market without an investigation of the pricing and supply strategies on the wholesale market (given that Lukoil dominates supply and storage channels). Paradoxically, despite not finding a fuels cartel, the Commission concluded that the structure of the fuels market was nonetheless oligopolistic.²⁵⁹

In addition to this particular clear case of Lukoil being used to undermine rule of law in Bulgaria, the role of the company must be seen in the broader context of how the Kremlin uses Lukoil's huge economic power in Bulgaria to achieve its political, business, and corruption goals in the country, all well described in a CSIS study, "The Kremlin's PlayBook."²⁶⁰

It must be noted that Lukoil has a special role for Kremlin and its kleptocratic network not only in Bulgaria, but elsewhere in Europe. The company has been buying strategic assets, thus advancing the Kremlin's economic and political goals across the Western Balkans²⁶¹ and in Romania.²⁶²

In Spain, specifically Catalonia, Lukoil was reportedly prevented from opening 150 gasoline stations a de-

cade ago as "information from Spanish and Russian law enforcement cited in court documents suggested that organized crime figures with ties to both Lukoil and the Russian spy agencies planned to use the deal to launder illicit funds. Lukoil, now a major multinational firm, denied any ties to organized crime. But those concerns also prompted Spanish officials to block an attempt in 2008 by Lukoil and Gazprom, another giant Russian company, to acquire an interest in Repsol, Spain's biggest energy firm. Spanish leaders feared an eventual loss of control of the national energy sector, law enforcement officials said."²⁶³

In 2014, Lukoil's managers met with Cambridge Analytica, a data firm accused of using social media data to manipulate voting outcomes, including in the U.S. 2016 presidential elections, to discuss its powerful social media marketing system. Reportedly, most senior managers at Lukoil reviewed election disruption strategies and other electoral manipulation tools that the data firm offered.²⁶⁴

Gazprom-Sponsored Energy Law in Bulgaria

One of the most visible cases of circumvention of the rule of law by Russian corporates in Bulgaria was a failed attempt by Gazprom to change the Bulgarian energy law in early 2014 to circumvent the EU's Third Energy Package and allow for the construction of the South Stream pipeline across the Black Sea. Gazprom's goal was to accelerate the start of the construction of the South Stream gas pipeline on Bulgarian territory by pushing through a change in the new pipeline's status, so that it is considered an interconnector, hence not a part of the Bulgarian gas transmission system and not subject to EU law (given that the latter is interpreted to apply to the internal market

258 Capital Daily, 2017, 'КЗК: Лукойл не злоупотребява с монопола си', ('The Commission on Protection of Competition: Lukoil does not abuse its monopoly'), 24 May 2017, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2017/05/24/2976875_kzk_lukoil_ne_zloupotrebiava_s_monopola_si/

259 Economix.bg, 2017, 'КЗК с противоречиво решение за пазара на горива', ('The Commission on Protection of Competition with a controversial ruling regarding the fuels market'), 29 March 2017, available at <https://economix.bg/cpc-cartel-goriva>

260 https://csis-prod.s3.amazonaws.com/s3fs-public/publication/1601017_Conley_KremlinPlaybook_Web.pdf

261 See four detailed studies on Bosnia and Herzegovina, Macedonia, Montenegro and Serbia. <http://www.csd.bg/artShow.php?id=18114>

262 <https://expertforum.ro/en/files/2017/05/Final-countries-report-coperta.pdf>

263 <https://www.theatlantic.com/international/archive/2017/11/russian-mob-mallorca-spain/545504/>

264 <https://www.theguardian.com/news/2018/mar/17/cambridge-academic-trawling-facebook-had-links-to-russian-university>

rather than to relations with non-EU member states). Leaks to the media showed official communications between Gazprom and the Bulgarian Ministry of Economy and Energy, in which the Russian company proposes specific legal amendments to enable South Stream. Two MPs from the then-ruling Bulgarian Socialist Party then introduced in Parliament new legal texts taken verbatim from the proposal suggested by Gazprom.²⁶⁵

In particular, the legal changes proposed that South Stream should be treated as a system of pipelines (rather than one single pipeline), where different rules applied to different parts of the pipelines. Thus, another legal change introduced the notion of a “sea pipeline,” which did not exist in the EU’s gas directive and hence European rules would not be applicable to the part of South Stream under the sea. The aim was to circumvent the EU’s rule that the pipeline operator has to reserve 50% of the capacity of the pipeline for third-party suppliers, so that Gazprom could use the full capacity of the planned project.²⁶⁶ MPs took the Gazprom-instructed law forward even under the threat of sanctions by the European Commission and its statement that South Stream had to ask explicitly for exemption from EU rules – as did Nord Stream for its land-based section.

The legislation passed at first reading in April 2014, and was on the legislative agenda for full passage in early summer but the ruling coalition fell in June 2014. An additional consequence of the failed South Stream project was the toppling of the fourth-largest bank in the country

– Corporate Commercial Bank (CCB), which had been prepped to become the main funder of the Bulgarian part of the project. An authoritative investigation uncovered that CCB operated as a funding instrument for lucrative projects involving companies close to the MP from the MRF party, and media tycoon, Delyan Peevski, who was believed to be behind three of the companies taking part in the construction consortium for the Bulgarian section of South Stream. Peevski reciprocated by providing CCB with political protection and media comfort as the bank was growing swiftly fueled by state companies’ deposits.²⁶⁷ The break-up of the Vassilev/Peevski tandem in late 2013/14 resulted in the unravelling of the bank and subsequent battle for the control of assets backed by the bank.²⁶⁸

The Business Rendezvous of the Bulgarian Prosecutor General

The access of pro-Russian proxies to the highest echelons of Bulgarian law enforcement has been most vividly exemplified by the scandalous rendezvous of the Bulgarian prosecutor general with Sasho Donchev and Georgi Gergov, two top-tier Russia-related businessmen in 2017. It started when Sasho Donchev, the Chairman of the largest natural gas retail distribution company, Overgas Inc., 50% owned by Gazprom, publicly complained that he had been threatened by the Prosecutor General, Sotir Tsatsarov, that his business would be taken away if he did not stop his support for an anti-government newspaper, a

265 ClubZ.bg, 2014, ‘Скандалът "Южен поток" премина от конспирация към признания’, (‘The South Stream scandal has transformed from a conspiracy into confessions’), 9 May 2014, available at https://clubz.bg/3661-skandalyt-yujen_potok-premina_ot_konspiraciq_kym_priznaniq.

Bivol.bg, 2014, ‘Националното предателство "Южен Поток"’, (‘The South Stream national treason’), 11 June 2014, available at <https://bivol.bg/south-stream-documents.html>

266 Georgi Zhechev, Ilian Stanev, 2014, ‘Депутатите опитват да изключат "Южен поток" от правилата на ЕС’, (‘The MPs are trying to exclude South Stream from EU rules’), *Capital Daily*, 5 March 2014, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2014/03/05/2255417_deputatite_opitvat_da_izkljuchat_jujen_potok_ot/

Nikolay Marchenko, 2014, ‘БСП вади от ЕС 60 км от българската земя под „Южен поток“’, (‘The BSP is taking 60 kilometers of Bulgarian land under South Stream out of the EU’), *Bivol.bg*, 22 July 2014, available at <https://bivol.bg/bsp-south-stream-60km.html>

267 The data in the article about the financial and project-based entanglements between Vassilev and Peevski is based on an in-depth journalistic investigation, also published in a book: *Mediapool.bg*, 2017, ‘КТБ: Разводът между Цветан Василев и Делян Пеевски’, (‘Corporate Commercial Bank: The divorce of Tsvetan Vassilev and Delyan Peevski’), 20 October 2017, available at <https://www.mediapool.bg/ktb-razvodat-mezhdu-delyan-peeviski-i-tsvetan-vasilev-news270781.html>

268 Ilian Vassilev, 2014, ‘Парите от Южен поток тръгнаха и България се разтрепсе’, (‘The money from South Stream started to flow and Bulgaria was shaken’), *The Blog of Ilian Vassilev*, available at http://idvassilev.blogspot.com/2014/07/blog-post_16.html

TV station, and an opposition liberal party.

A meeting between the two was organized by and occurred in the office of Georgi Gergov, a businessman, Bulgarian Socialist Party official, and honorary consul of the Russian Federation in Bulgaria. The meeting, which was not disclosed by or properly notified formally with the Bulgarian prosecution raised questions about the independence of the judiciary and its intermingling with political and business interests related to Russia. The meeting would not have been revealed if Donchev had not given publicity to it.

The explanations for the meeting given by the three men involved were divergent, confusing, and evasive. Gergov characterized the meeting as an active campaign against himself, the Prime Minister, and the Prosecutor General Tsatsarov. Gergov partly confirmed Tsatsarov's version of the event to the extent that the latter reluctantly accepted the invitation to meet. However, Gergov remained elusive on the purpose and initiator of the gathering, while alluding that it was Overgas' Chairman who requested the meeting with the Prosecutor General. The latter claimed that Mr. Donchev asked him to exert pressure on prosecutors leading an investigation into the supply and sales of natural gas, which the Prosecutor General declined to do.²⁶⁹ Mr. Donchev disputed the claims about giving financial to opposition parties and TV stations, but he also alluded to a threat having been issued

by the Prosecutor General.²⁷⁰

An investigation carried out by the Supreme Judicial Council upon the demand of civil society organizations concluded that there were no irregularities or illegal activities surrounding the meeting due to a lack of available information about the content of the conversation. This put an end to the scandal without any consequences for the Prosecutor General, as the investigation argued that Tsatsarov's behavior neither undermined the image of the judiciary, nor did he break the ethical code for magistrates despite the fact that the meeting took place during Tsatsarov's working hours.

The investigation never released the data gathered to back this decision.²⁷¹ Indeed, the Council's decision gave rise to doubts about political bias, as due legal practice was not followed. The Council could have delved much deeper into the issue of the content of the conversation as well as consider the possibility that the very fact of the meeting constituted a violation of ethical standards. Moreover, the data gathered to reach the verdict was not disclosed under the pretext that Tsatsarov and Gergov declined such a disclosure. However, according to the practice of the European Court of Human Rights and the Supreme Court in Bulgaria, when public figures are involved in a case, their consent for revealing information is not required.²⁷² Significant criticism of the Council's decision was voiced by Lozan Panov – head of the Supreme Court

269 Mediapool.bg, 2017, 'Пазейки Цацров, Гергов затъна в объркани обяснения', ('Gergov got bogged down into confused explanations by protecting Tsatsarov'), 23 April 2017, available at <https://www.mediapool.bg/pazeiki-tsatsarov-gergov-zatana-v-obarkani-obyasneniya-news262986.html>

Webcafe.bg, 2017, 'Гергов опроверга Сашо Дончев за ЦУМ-гейт', ('Gergov debunked Sasho Donchev on TSUM-gate'), 2 May 2017, available at https://www.webcafe.bg/id_1440076270_Gergov_oproverga_Sasho_Donchev_zh_TsUM-geyt

270 Btvnovinite.bg, 2017, 'Сашо Дончев: Георги Гергов беше посредник на срещата с Цацаров', ('Sasho Donchev: Georgi Gergov mediated the meeting with Tsatsarov'), 22 April 2017, available at <https://btvnovinite.bg/bulgaria/sasho-donchev-georgi-gergov-beshe-posrednik-na-sreshtata-s-cacarov.html>

Legalworld.bg, 2017, 'Телефонът на Сашо Дончев – подслушван, срещата с главния прокурор се провела в офис на Георги Гергов', ('Sasho Donchev's phone – wiretapped, the meeting with the Prosecutor General took place in Georgi Gergov's office'), 21 April 2017, available at <http://legalworld.bg/61503.telefonyt-na-sasho-donchev-%E2%80%93-podslushvan-sreshtata-s-glavniia-prokuror-se-provela-v-ofis-na-georgi-gergov.html>

271 Capital Daily, 2017, 'ЦУМ-гейт приключи официално', ('TSUM-gate has ended officially'), 18 July 2017, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2017/07/18/3009053_cum-geit_prikljuchi_oficialno/

Dnevnik, 2017, 'Цацаров и Гергов не дават да се разкрива информацията за срещата в ЦУМ', ('Tsatsarov and Gergov do not allow the disclosure of information about the meeting in TSUM'), 19 February 2018, available at https://www.dnevnik.bg/bulgaria/2018/02/19/3132292_cacarov_i_gergov_ne_davat_da_se_razkriva_informaciata/

272 Dnevnik, 2017, 'Цацаров и Гергов не дават да се разкрива информацията за срещата в ЦУМ', ('Tsatsarov and Gergov do not allow the disclosure of information about the meeting in TSUM'), 19 February 2018, available at https://www.dnevnik.bg/bulgaria/2018/02/19/3132292_cacarov_i_gergov_ne_davat_da_se_razkriva_informaciata/

of Cassation, who argued that the investigation demonstrated the absence of judicial reform in Bulgaria.²⁷³ The only tangible consequence of the scandal was Mr. Gergov's dismissal from the BSP's governing council on moral and ethical grounds.²⁷⁴

The politicized nature of Tsatsarov's actions and Russian connections received further credence when he exchanged visits with Russia's Prosecutor General Yury

Chaika. Chaika's visit to Bulgaria was controversial and based on unclear motivations, which may well have gone beyond "establishing Bulgarian-Russian cooperation against terrorism and corruption."²⁷⁵ The leader of the right-of-center party Yes, Bulgaria! argued that Chaika's visit might be connected to the need to transmit a Russian message regarding Russian defense interests in Bulgaria in weapons production (and government moves).²⁷⁶

ia/2018/02/19/3132292_cacarov_i_gergov_ne_davat_da_se_razkriva_informaciata/
ClubZ.bg, 2017, 'Край: Няма нищо нередно в "ЦУМ-гейт"; ('The end: there was nothing wrong in TSUM-gate'), 18 July 2017, available at https://clubz.bg/56304-kraj_nqma_nishto_neredno_v_cum_gejt

273 Mediapool.bg, 2017, 'Лозан Панов: Цум-гейт показа, че няма съдебна реформа'. (TSUM-gate showed the absence of a judicial reform'), 22 May 2017, available at <https://www.mediapool.bg/lozan-panov-tsum-geit-pokaza-che-nyama-sadebna-reforma-news264204.html>. Other strongly voiced media criticisms: Polina Paunova, 2017, 'Край, България е напълно овладяна', ('The end: Bulgaria has been completely captured'), available at <https://www.dw.com/bg/край-българия-е-напълно-овладяна/a-39765528>

274 Mediapool.bg, 2017, 'Корнелия Нинова: Не знам за сценарий „ЦУМ-гейт“, ('Kornelia Ninova: I am not aware of a TSUM-gate scenario'), 19 July 2017, available at <https://www.mediapool.bg/korneliya-ninova-ne-znam-za-senariy-tsum-geit-news266820.html>

275 Capital Daily, 2017, 'Юрий Чайка и Сотир Цацаров се разминаха за това какви споразумения са подписали', ('Yury Chaika and Sotir Tsatsarov diverged on what kind of agreements they had signed'), 18 September 2017, available at https://www.capital.bg/politika_i_ikonomika/bulgaria/2017/09/18/3044257_jurii_chaika_i_sotir_cacarov_se_razminaha_za_tova/ OFFNews, 2017, 'Цацаров се възмути как посрещат колегата му Чайка', ('Tsatsarov indignant at how his colleague Chaika is greeted'), 18 September 2017, available at <https://offnews.bg/itemida/tcatcarov-se-vazmuti-kak-posreshat-kolegata-mu-chajka-665340.html>

276 Mediapool.bg, 2017, 'Руският генерален прокурор се среща в София дори с патриарха', ('The Russian Prosecutor General meets even with the Patriarch in Sofia'), 18 September 2017, available at <https://www.mediapool.bg/ruskiyat-generalen-prokuror-se-sresh-ta-v-sofiya-dori-s-patriarha-news269358.html>



Miloš Zeman and Vladimir Putin. Photo AP

Moscow's Man in Prague

ABSTRACT

For all intents and purposes, Russia has a seat at the table in the current Czech Republic government. Czech President Miloš Zeman extends extraordinary power to his key advisor who maintains very close relationships to Russian leadership. With the Czech Republic's swing toward supporting Russian dogma and closer ties to Russian state enterprises, Russia is inserting its own soft power into the heart of Eastern Europe.

By Veronika Víchová and Jacob Janda

In the early 2000s, Miloš Zeman was a forgotten political figure. The Czech politician who had led his center-left Social Democrats from the ashes in the early 1990s to become the main governing party in 1998 was now a nobody. After leading the country of 10 million as Prime Minister for four years, he lost a presidential vote in

2003 and felt betrayed by his own party. Following the loss, Zeman disappeared from Czech public life. Though that didn't mean he wasn't busy mounting a comeback. What the Czech people didn't realize was how Russian influence operations started to swirl around Zeman immediately after his political defeat.

Just a couple of months after becoming “a pensioner,” to use his own term, Zeman’s old friend Zdeněk Zbytek brought somebody to meet him. Zbytek was a colonel in the Czechoslovak communist army and had close ties to Russian military and intelligence circles. With him was Vladimir Yakunin, a Russian oligarch, KGB veteran, and former president of the Russian state rail monopoly Russian Railways. Yakunin instantly befriended the former prime minister and invited him to the Greek island of Rhodes, where Yakunin organizes his annual “Dialogue of Civilizations” conference, which is nicknamed by Western intelligence professionals as a “KGB team-building” exercise. The dialogue is, in fact, a weeklong holiday in a sunny climate, underwritten by Russian oligarchic money, as well as a showcase for has-been statesmen from the West to commingle, reminisce, and consider their post-retirement plans.

Yakunin wasn’t the only one to take an interest in Zeman in this period. Martin Nejedlý, a Czech citizen and former volleyball player, had spent most of the 1990s working in Russia in close collaboration with the Moscow political elite under Boris Yeltsin. Though what he did, exactly, remains a mystery: Nejedlý has steadfastly refused to disclose his professional past to Czech journalists, although whatever he was up to, it evidently paid off. In 2007, several years after repatriating to the Czech Republic, he launched Lukoil Aviation Czech, a Czech subsidiary of the Russian oil company Lukoil. Nejedlý personally owned a 40% stake. But his main job wasn’t confined to the energy sector. Nejedlý became the right-hand man and fixer for Milos Zeman.

In 2009, Nejedlý helped found the political party “SPOZ,” or the “Party of Citizens’ Rights – Friends of Zeman,” a bizarre personality cult-style tribute to the former politician, clearly designed to bring Zeman back into public life. The party served as the basis for Zeman’s presidential campaign in 2012, which Nejedlý effectively ran and coordinated, while carefully shrouding its financing. Zeman won the presidency, taking office in March 2013. Nejedlý was appointed his economic adviser.

Even though the Czech presidency is a ceremonial position, it still offers its holder access to classified state

secrets and entrusts him with being the standard bearer on the world’s stage of the national interest. Because of Nejedlý’s uncertain Russian history, he is unable to get a Czech security clearance and has no official working contract or income from the Presidential Office, consigning him to the role of a volunteer or “informal” advisor. But just what he’s advising, or whether or not Zeman is the only person he’s relaying government business to, is a subject of intense interest in the Czech media. The portrait of Nejedlý that has emerged in recent years is that of a gatekeeper, someone monitoring who and what kind of information gets to the president.

Since 2013, Zeman has taken, by our estimation, at least 50 actions beneficial to the Russian Federation.²⁷⁷ Many even contradicted official Czech government policy, EU policy, or assessments made the Security Information Service (BIS), the Czech counterintelligence agency.

Primarily, Zeman has frequently promoted Kremlin narratives on the international scene. For instance, in a 2014 interview with Chinese state television (where he also said he had come to China to learn how to “stabilize society”), Zeman exonerated the Kremlin in its Anschluss in Ukraine. It is “not primarily Russian aggression, but simply a civil war,” he said, continuing with a long-debunked piece of Russian disinformation about the post-Maiden state. “One of the first steps of the new [Ukrainian] government was the abolition of the Russian language on the territory of Ukraine, which was complete nonsense. It was one of the facts that provoked a civil war.”

Having the president of a democratic NATO member-state mouth Kremlin-hatched lies about a war entirely of the Kremlin’s own devising may not seem as startling in 2019 as it would have been two or three years ago. Nevertheless, Zeman appears to have had an impact on shaping Czech opinion. Nearly four out of ten Czechs blame the United States and NATO for causing the Ukraine crisis, according to a public survey conducted by the European Values Think-Tank in cooperation with the Czech Institute of Empirical Research STEM.²⁷⁸ Zeman has continued with Russia’s propaganda line in his actions. Despite the fact that Zeman’s friend Vladimir Yakunin was sanctioned by the U.S. Treasury Department after Russia

277 https://www.kremlinwatch.eu/userfiles/activities-of-czech-president-milos-zeman-as-the-kremlin-s-trojan-horse_15273212383711.pdf

278 https://www.kremlinwatch.eu/userfiles/impact-of-disinformation-operations-in-the-czech-republic_15273212544152.pdf

invaded Ukraine in 2014 and was described in a press release as a “close confidant of Putin,” Zeman still invited him to Prague Castle in 2015.

In some cases, Zeman has even happily diverted the blame of proven acts of Russian aggression onto his own country. He has recently said that the Novichok used to try and assassinate Sergei Skripal, a former Russian military intelligence officer turned British spy, was tested and produced in the Czech Republic.²⁷⁹ This conforms with a narrative advanced by Russian representatives, for example the spokeswoman for the Russian Foreign Ministry Maria

Zakharova, who suggested, without evidence, that the lethal nerve agent came from the Czech Republic and thus the failed murder of Skripal was a Western, not Russian, plot. Zeman even gave state sanction to this conspiracy theory by ordering a “study” from the Security Information Service, which has surely got better things to do. “Terrorism is the most immediate threat, while Russian influence activities are the most dangerous threat which can destroy our sovereignty,” a senior Czech counter-intelligence official acknowledged to the authors.

279 <https://zpravy.aktualne.cz/domaci/novicok-byl-u-nas-vyraben-a-testovan-tvrdi-prezident-zeman/r~888929944f0111e8b-8310cc47ab5f122/?redirected=1555602093>



Riga, Latvia. Photo courtesy of Gilly

Gaslighting Latvia

ABSTRACT

It's been no secret that Russia under Putin covets the Baltic countries. The ascension of Lithuania, Estonia and Latvia to NATO membership has been a particular irritant. When Putin was asked last year what historical event he would like to change he quickly replied, "The collapse of the Soviet Union." Putin also called the end of Soviet domination over large swaths of Europe the "greatest geopolitical catastrophe" of the twentieth century. Understanding that retaking lost territory via military means may not be possible, Putin has instead embarked on a program to undermine the Baltic governments through agitation and propaganda among their Russian-speaking populations. He is beginning to make some headway in Latvia through a series of active measures.

By Maria Snegovaya

The key element of Latvia's vulnerability to Russia's influence operations is a substantive share of ethnic Russians (around 24 percent) who feel a close connection to Russia, have different opinions on political issues from the ethnically Latvian population,²⁸⁰ and tend to be regionally concentrated in big cities (especially the cities of Riga, Jūrmala, Jelgava, and Liepāja) and the eastern part of

Latvia, in particular the Latgale region located closer to the borders of Russia and Belarus.

Russia's influence campaigns tend to be targeted at these groups. Since the annexation of Crimea in 2014, surveys on foreign and domestic issues in Latvia reveal significant differences between ethnic Russians and the

280 <http://www.pewresearch.org/fact-tank/2017/07/24/ethnic-russians-in-some-former-soviet-republics-feel-a-close-connection-to-russia/>

rest of the Latvian population. Based on these surveys, the ethnic Russians in Latvia could be roughly divided into three groups: European-minded Russian-language speakers loyal to the Latvian state, "neutral" Russians who are not sufficiently integrated into Latvian society but not pro-Kremlin either (this group also includes Ukrainians and Belarusians residing in Latvia), and those who consider themselves Russian compatriots and support the ideas of rebuilding a "Russian World," a blood-and-soil imperialist enterprise.²⁸¹ The Russian influence operations are primarily targeted at the "neutral" Russians, attempting to politicize their grievances and frustration with Latvia's domestic policies.

Studies have shown that collective memories, interpretations of the Soviet past, post-Soviet state-building policies, and language-related issues are all heavily politicized and demarcate the boundaries between the "core nation" (Latvians) and "Russian-speakers."²⁸² Therefore, the main Russian disinformation efforts in Latvia tend to focus on the narrative of a supposedly collapsing or failing Latvian state²⁸³.

The first narrative, as in Ukraine and the other two Baltic countries, is about Latvia's systematic discrimination against the ethnic Russians. An example of the use of such narratives was a piece on the alleged harassment of an ethnic Russian girl who was allegedly refused treatment from a Latvian doctor because she did not speak Latvian well enough. The doctor then allegedly suggested her to "go to her Russia."²⁸⁴ The latest example of this narrative that was promoted before Latvia's most recent election in October 2018 was the attack against Latvia's minority school reform program designed to strengthen the role of Latvian as the state language. Monthly protests over this reform, mostly called by pro-Kremlin politicians from Lat-

via's pro-Russian minority Latvian Russian Union (Latvijas Krievu Savienība, LKS), were designed to use the issue as much as possible ahead of the October election.²⁸⁵ Yet the protests failed to mobilize sufficient numbers of participants against this reform.

Another subgroup of narratives focuses on appeals to post-Soviet nostalgia. When reporting on Latvia, the Russian media usually prioritize the events that portray Latvia negatively and emphasize the so-called "rebirth of fascism" in Latvia. Examples of such presentation include the March 16 commemorations, court cases against Latvia's "liberators," the lack of sufficiently ceremonial presentation of May 9 events in the Latvian media, etc.²⁸⁶ Pro-Russian media portray the March 16 unofficial Remembrance Day commemorating the soldiers of the Latvian Legion, who were part of the Waffen-SS, as a day honoring and glorifying Nazism and Nazi-collaborators. They often begin their stories with eye-catching headlines, using terms like "Nazi," "SS," and "honor," and proceed by portraying the Remembrance participants as Nazi Waffen-SS veterans and their families/supporters.²⁸⁷ When a Soviet WW2 monument was demolished in Latvia in 2016, an article described the Latvian government as nationalistic and neo-Nazism related, as the National Alliance part of the ruling coalition in the Latvian Parliament, supported the Remembrance Day.²⁸⁸ By contrast, the pro-Russian media try to promote the myth of the Soviet Union as a success story.

The third group of narratives focuses on Latvia's security threats, and primarily includes anti-NATO sentiment along with an emphasis on the alleged rise of fascism. In 2017, the Riga-based NATO Strategic Communications Centre of Excellence discovered a clear trend of Russian-language bots on social media in the Baltics using sto-

281 <http://prismua.org/en/english-latvia-disinformation-resilience-index/>

282 Cheskin, Ammon Matthias (2013) Identity, memory, temporality and discourse: the evolving discursive positions of Latvia's Russian-speakers. PhD thesis, University of Glasgow. <http://theses.gla.ac.uk/4020/1/2013CheskinPhD.pdf>

283 <http://infowar.cepa.org/Briefs/Isolating-Russias-three-master-narratives-in-Latvia>

284 Halliday, A. (2018). The Study of Russo-Baltic Disinformation and Information Manipulation in Contemporary News Media. *Sekuritizace mediálního zpravodajství - případová studia Ruska v Pobaltí*, September 12.

285 <https://www.euractiv.com/section/languages-culture/news/in-latvia-school-language-reform-irks-russian-minority/>

286 Ilze Šulmane The Media and Integration. Interaction Between the Media, Politics and Economics. // How Integrated Is Latvian Society? An Audit of Achievements, Failures and

Challenges / Editor Nils Muižnieks; University of Latvia Advanced Social and

Political Research Institute. – Riga: University of Latvia Press, 2010. –

287 <http://europeanreform.org/files/ND-RussianInfluenceInLatvia-preview%28low-res%29.pdf>

288 Halliday, A. (2018). The Study of Russo-Baltic Disinformation and Information Manipulation in Contemporary News Media. *Sekuritizace mediálního zpravodajství - případová studia Ruska v Pobaltí*, September 12.

ries from Russian media outlets emphasizing actions and exercises of NATO involving American and British military personnel.²⁸⁹ One example involved Russian-language internet sites (including the popular Russian-language Latvian news website *vesti.lv*) objecting to the presence of Canadian troops deployed to Latvia in 2017 as part of NATO's presence there. The campaign portrayed the Canadians as beer-buying homosexuals who lived in luxury apartments at the expense of local taxpayers.^{290, 291} Another example was the attempt by LKS Kremlin-financed activist Alexander Gaponenko to spread false rumors on social networks that Latvian authorities wanted to establish a concentration camp for Russians in the central stadium in Riga to please NATO.²⁹²

Latvia's media landscape features multiple pro-Russian TV and radio channels, which makes the spreading of these narratives easier among Latvia's Russian-speakers who prefer to use Russian-language media.^{293, 294}

Three Russian television channels are among the most popular in Latvia: the state-funded Rossiya RTR Russian TV channel, First Baltic Channel (PBK), and NTV Mir. All three are either directly or indirectly sponsored by Russia. Russian-language PBK, which accounts for 8.1 percent of the Latvian TV market with an audience of 20 percent of Latvia's population and 60 percent of ethnic Russians and Russian speakers (Ukrainians and Belarusians) living in Latvia, is by far the most popular channel among them. About 70 percent of PBK footage is made in Russia (through retransmission of First Russian Channel ORT) and presents viewpoints that are favorable to the Kremlin. The remaining local Latvian PBK news programs are politically more neutral than the channel's news broadcasts created in Moscow. PBK has been the main media supporter of the Social Democratic Party Harmony Centre, which

contributed to the party's electoral success in the 2014 parliamentary election.²⁹⁵ The Russian channels NTV Mir Baltic and RTR Planeta Baltija are respectively Latvia's fifth and sixth most popular TV channels. Both are among the most active distributors of Kremlin-backed propaganda in Latvia. REN television Russia broadcasts both Russian and foreign (including Hollywood) movies in the evenings, while its derivative REN television Baltic almost exclusively shows movies and series produced in Russia.²⁹⁶

Three out of the ten most popular radio channels in Latvia (SWH+, Latvijas Radio 4, and TOP Radio) broadcast in Russian. Specifically, Latvijas Radio 4 is a public channel that attracts a significant segment of the Russian-speaking audience in Latvia.

The media polarization is deepened by the fact that the most popular news portals in Latvia – *Delfi.lv* and *TVnet.lv* – make different content in Latvian and Russian. As result, Latvians and Russians living in the same country encounter different news and interpretations, even on the same media.²⁹⁷ There are also media outlets aimed specifically at Russian speakers in the Baltics, such as *Sputnik* or *Baltnews*. Popular non-political Latvian Facebook pages have also been bought by people with Russian ties.²⁹⁸ The quantitative analysis of comments posted on Latvia's three major online news portals (in both Latvian- and Russian-language versions) in summer 2014 – *Apollo.lv*, *Delfi.lv* and *TVnet.lv* – concluded that the strength of pro-Russian trolling on those websites lied in its ability to reinforce Russia's narrative which is already being communicated via other information channels – TV, blogs, propaganda websites run by pro-Kremlin activists, etc.²⁹⁹

The division of the media landscape translates into a party system that is also divided across pro-and an-

289 <https://www.stratcomcoe.org/download/file/fid/76056>

290 <https://www.usatoday.com/story/news/world/2018/03/07/tiny-latvia-can-teach-u-s-lesson-two-russian-meddling/405330002/>

291 <https://worldview.stratfor.com/article/russia-eyes-europes-vulnerable-edges>

292 <https://eng.lsm.lv/article/society/society/security-police-arrest-notorious-pro-russia-activist.a275716/>

293 <https://www.foi.se/report-search/pdf?fileName=D%3A%5CReportSearch%5CFiles%5C708382a7-8a50-4ab2-ad67-77fdb-2ca300b.pdf>

294 "Pēfijums: Mazāk nekā puse Latvijas iedzīvotāju spēj atpazīt uzticamu informāciju." <http://bit.ly/2FQDv7>.

295 <https://www.foi.se/report-search/pdf?fileName=D%3A%5CReportSearch%5CFiles%5C708382a7-8a50-4ab2-ad67-77fdb-2ca300b.pdf>

296 <https://www.foi.se/report-search/pdf?fileName=D%3A%5CReportSearch%5CFiles%5C708382a7-8a50-4ab2-ad67-77fdb-2ca300b.pdf>

297 <http://prismua.org/en/english-latvia-disinformation-resilience-index/>

298 <https://eng.lsm.lv/article/society/defense/blogger-reveals-mystery-websites-ties-to-russia.a213155/>

299 <https://www.stratcomcoe.org/internet-trolling-hybrid-warfare-tool-case-latvia-0>

ti-Kremlin lines.

Harmony Centre is the most popular political force among ethnic Russian voters in Latvia. It was set up in 2005 uniting a number of left and center-left political parties in Latvia. One of the co-creators of Harmony Centre was Sergejs Dolgopolovs, who sought allies in Latvia and support from Russia in 2004 and 2005. Alfreds Rubiks, the chairman of the Latvian Socialist party that joined Harmony in 2005, was a member of the Central Committee of the Latvian Communist party during the Soviet period, and actively supported the preservation of the USSR in 1991, opposing Latvia's independence. Other political forces in Harmony Centre support the interests of ethnic Russians in Latvia and closer ties with Russia.³⁰⁰ Riga's mayor Nils Ušakovs has been Harmony's leader since 2014. In 2011 Ušakovs's leaked email correspondence revealed his interaction with an advisor of the Russian embassy in Riga, Alexander Hapilov, an alleged Russian intelligence agent, regarding the funding of the 2009 Latvian municipal election.³⁰¹

Until 2017, Harmony held a soft pro-Russia line, refraining from attacking the Crimea annexation and criticizing the subsequent EU sanctions against Russia. In 2014, a few months after Harmony voted against a parliamentary motion that condemned Russia's actions against Ukraine, Ušakovs flew to Moscow and posted photos of himself on Twitter together with Russian Prime Minister Dmitry Medvedev, the head of the Russian Orthodox Church, and the mayor of Moscow.³⁰² Until fall 2017, Harmony had a cooperation agreement with Russia's United Russia, which Ušakovs defended during the war in Ukraine as necessary to developing relations with Russia.³⁰³

Yet in the wake of the 2018 election the party's strategy has radically changed (possibly the rebranding had to do with Harmony's earlier failures to secure a coalition with other parties due to its pro-Kremlin reputation). The party worked hard to erase its image of being Putin's tool, to rebrand itself as a Western-style social democratic party,³⁰⁴ and to attract the votes of ethnic Latvians. To achieve that goal Ušakovs even hired an American political technologist, Christopher Ferry, who previously advised Republican Senators John McCain and Lindsay Graham, as well as Viktor Yanukovich, when the latter was Ukraine's Prime Minister.³⁰⁵ In line with the rebranding strategy, Harmony rejected calls from some radical pro-Russia groups for Latvia to leave NATO and the European Union. Yet the party still called for the lifting of sanctions against Russia³⁰⁶ and failed to rally behind the Latvian position on Russian aggression against Ukraine. The party's attempts still failed: in the 2018 election the Harmony party received 23 seats (one seat down from its 2014 election results).

The campaign of the LKS, another openly pro-Kremlin Latvian party, in the October 2018 election was poor in terms of money and content.³⁰⁷ The party focused on the new language law and the Latvian election commission's ban on the candidacy of the LKS leader, MEP Tatjana Ždanoka (Latvian law prevents communist party members who did not give up their membership after the country's independence from running for office).³⁰⁸ LKS failed to make it to the parliament.

Little if any Russian interference was discovered in the 2018 election. The Baltic Centre for Investigative Journalism Re:Baltica that has monitored platforms since the summer found no strong evidence of foreign interference.

300 <https://www.foi.se/report-search/pdf?fileName=D%3A%5CReportSearch%5CFiles%5C708382a7-8a50-4ab2-ad67-77fdb-2ca300b.pdf>

301 <https://www.csmonitor.com/World/Europe/2013/0315/An-echo-of-Soviet-era-censorship-and-meddling-in-Latvia>

302 <https://en.rebaltica.lv/2018/05/former-aide-to-senators-now-pushing-pro-russia-party-abroad/>

303 <https://en.rebaltica.lv/2018/05/former-aide-to-senators-now-pushing-pro-russia-party-abroad/>

304 https://en.rebaltica.lv/2018/10/in-russias-shadow-populists-rise-before-the-latvian-elections/?utm_source=Baltic+Center+for+Investigative+Journalism+Re%3ABaltica&utm_campaign=f63cc755a6-EMAIL_CAMPAIGN_2018_10_03_10_01&utm_medium=email&utm_term=0_37eda3a852-f63cc755a6-87393343

305 <https://en.rebaltica.lv/2018/05/former-aide-to-senators-now-pushing-pro-russia-party-abroad/>

306 https://en.rebaltica.lv/2018/10/in-russias-shadow-populists-rise-before-the-latvian-elections/?utm_source=Baltic+Center+for+Investigative+Journalism+Re%3ABaltica&utm_campaign=f63cc755a6-EMAIL_CAMPAIGN_2018_10_03_10_01&utm_medium=email&utm_term=0_37eda3a852-f63cc755a6-87393343

307 <https://en.rebaltica.lv/2018/10/in-russias-shadow-populists-rise-before-the-latvian-elections/>

308 https://en.rebaltica.lv/2018/10/in-russias-shadow-populists-rise-before-the-latvian-elections/?utm_source=Baltic+Center+for+Investigative+Journalism+Re%3ABaltica&utm_campaign=f63cc755a6-EMAIL_CAMPAIGN_2018_10_03_10_01&utm_medium=email&utm_term=0_37eda3a852-f63cc755a6-87393343



Salisbury Cathedral. Photo courtesy of Alexander London

The Skripal Affair

ABSTRACT

Russia has become more brazen in its attacks against its state enemies with at least two high-profile poisonings in the United Kingdom. The audacious killing of former FSB officer Alexander Litvinenko by slipping polonium 210 into his tea in 2006 caused a diplomatic row between the two countries, with Russia denying any involvement. A lengthy investigation by Scotland Yard found that evidence pointed to the Russian State. A year ago, an eerily familiar poisoning attack was carried out on Sergei Skripal, a former FSB agent turned MI6 counterspy, and his daughter Yulia. They both survived, although a passerby succumbed to the poisoning. British authorities claimed all were poisoned by a Russian-State manufactured nerve agent called Novichok, setting off a new round of British accusations against the Kremlin.

By Michael Weiss

“On the bench there was a couple – an older guy and a younger girl. She was leant in on him. It looked like she’d passed out. He was doing some strange hand movements, looking up to the sky. I felt anxious, like I should step in but they looked so out of it. They looked like they had been taking something quite strong.”³⁰⁹

Sergei and Yulia Skripal had taken something quite strong, although without their knowledge or consent, before they were discovered by a passerby collapsed on that bench in the Maltings shopping center in Salisbury on March 4, 2018. Within hours, the cathedral city in southwest England would be turned into a contamination zone, populated by hundreds of British counterterrorism,

309 <https://www.theguardian.com/world/2018/mar/05/salisbury-incident-critically-ill-man-is-former-russian-spy-sergei-skripal>

law enforcement and military officials in hazmat suits. A Russian state-manufactured nerve agent called Novichok had been loosed on European soil and two native Russians, a father and daughter, were under quarantine in critical condition in a Salisbury hospital. They were the first two patients in Britain ever to be treated for exposure to this military-grade weapon of mass destruction. Unfortunately, they were not the last: two police officers and local couple Charlie Rowley and Dawn Burgess would later require medical treatment after succumbing to Novichok poisoning. Burgess did not survive.

It was a mere two years after an official British inquiry concluded that Alexander Litvinenko had been irradiated using a rare nuclear isotope, kept in exactly one facility on earth – in Russia, under FSB guard – by two operatives “probably” acting with the approval of Vladimir Putin.³¹⁰

Sixty-six-year-old Sergei Skripal had once been MI6’s double agent inside Russia’s military intelligence service, the GRU, where he’d risen to the rank of colonel, as well as in its foreign ministry, where he continued to steal state secrets for London. He was captured in Moscow in 2006 by Russian counterintelligence, convicted of “high treason in the form of espionage” and sentenced to 13 years in prison. Then came “Operation Ghost Stories,” the FBI’s ambitious round-up of ten Russian “illegals” in the United States in 2010, and Skripal was traded back to Britain where he spent the next eight years more or less out in the open. He’d bought a house in Salisbury under his real name, drove a BMW, played the lottery and went to pubs.³¹¹ He also did what a lot of spooks do upon reaching retirement age: he hit the international lecture circuit and briefed Western intelligence services.³¹²

But if he’d thought the Kremlin’s legal pardoning of him amounted to forgiveness, he was (almost fatally) wrong. The Russian government had spied on the Skripals for five years, according to Theresa May’s national security adviser Sir Mark Sedwill, who informed NATO that it had also looked into ways of using Novichok on door handles, which is how the Skripals first came in contact with the substance.³¹³

By March 13, Theresa May had issued an ultimatum to the Kremlin to account for how a highly regulated substance, traced back to a closed Russian military facility, became the murder weapon: “Should there be no credible response,” the prime minister said in a speech before the House of Commons, “we will conclude that this action amounts to an unlawful use of force by the Russian state against the United Kingdom.”

There was no credible response.

Instead, the Russian Foreign Ministry branded May’s comments a “provocation;” Andrei Lugovoi, the man accused by Britain of having assassinated Litvinenko twelve years earlier but who now serves as a deputy in the Russian parliament, called them “irresponsible.”³¹⁴ Alexander Yakovenko, Russia’s ambassador to the UK, said Britain’s accusation was merely a ploy for “diverting attention from Brexit.”

Russian state television, meanwhile, engaged in its usual cavalcade of bravado, denial, and conspiracism. “Don’t choose England as a place to live,” presenter Kirill Kleymenov darkly intoned on Russia’s most-watched station Channel One on March 9, just five days after the attack. “Whatever the reasons, whether you’re a professional traitor to the motherland or you just hate your country in your spare time, I repeat, no matter, don’t move to England.” Dmitry Kiselyov, the EU-sanctioned propagandist who headlines Russia 24’s flagship program, blamed the UK for trying to off one of its own agents and then pin it on Moscow as a pretext for orchestrating a boycott of the upcoming 2018 World Cup, which Russia was set to host. “[I]f you think about it closely, the only people who stand to gain from the poisoning of the former GRU colonel are the British,” he said. “Just to stimulate their Russo-phobia.”³¹⁵

Unsurprisingly, social media also became a battleground of contradictory and mutually exclusive counternarratives all designed to shift culpability away from Moscow and onto Britain and the international institutions, such as the OPCW, which had corroborated the British government’s line on the affair. Whitehall observed

310 <https://www.nytimes.com/2016/01/22/world/europe/alexander-litvinenko-poisoning-inquiry-britain.html>

311 <https://www.theguardian.com/uk-news/2018/mar/06/salisbury-scratchcards-and-sausage-the-quiet-life-of-sergei-skripal>

312 <https://www.theguardian.com/uk-news/2018/may/14/sergei-skripal-briefed-european-intelligence-services-reports-say>

313 <https://www.independent.co.uk/news/uk/home-news/russia-sergei-skripal-spy-daughter-gru-yulia-uk-salisbury-attack-nerve-agent-a8302816.html>

314 <https://www.theguardian.com/uk-news/2018/mar/12/russia-highly-likely-to-be-behind-poisoning-of-spy-says-theresa-may>

315 <https://www.theguardian.com/uk-news/2018/mar/12/russian-state-tv-accuses-uk-of-plotting-spy-attack>

a 4,000 percent uptick in pro-Russian propaganda since the abortive assassination, most of it coming from unmanned algorithms or “bots,” although other prominent peddlers of disinformation were all-too-real people who’d previously rushed to Kremlin’s defense on Syrian chemical weapons use or MH17 or the hacking of the Democratic National Committee’s email servers.

Downing Street ended up expelling 23 Russian diplomats – who according to May were in fact undeclared Russian intelligence officers – and rallying its allies to do likewise. In all, about 100 suspected Russian spies were booted from embassies and consulates all over Europe, Canada, and the United States, which expelled lion’s share of them, including from the UN mission in New York.

It was only months later that the alleged perpetrators of the murder plot were identified – or, rather, displayed on CCTV footage entering Salisbury. Their names were Alexander Petrov and Ruslan Boshirov, or at least those were the names printed on their passports. The Novichok, it was believed by Metropolitan police, was contained in a Ninna Ricci perfume bottle the two men, posing as tourists in their 40s, carried with them, although this bottle was engineered to be watertight and had a custom-made applicator. They arrived at Gatwick airport on March 2, spent a night in east London, then made their way to Salisbury the next day, where they spent two hours before heading back. It was on the following day, March 4, that they returned to the cathedral city to carry out their mission. Their train pulled in just before noon; they were caught walking down a road back to the Salisbury station by 1:05 p.m. They departed the city for London by around 2 o’clock.

It would later be discovered that the perfume bottle had been disposed of in a charity bin, which is where Charlie Rowley and Dawn Sturgess would eventually find it and fall ill from its remaining contents. Traces of Novichok would also be detected in the City Stay hotel in Bow, where the two hit-men were said to have passed the night before the operation smoking marijuana and having loud intercourse with prostitutes – not exactly the pinnacle of clandestine tradecraft.³¹⁶

Nevertheless, the UK was certain of one thing: Petrov and Boshirov were no mere tourists. They were officers of the GRU come to take care of one of their own.

The extent to which this assessment could be confirmed would fall not to MI5 or MI6, however, but to open-source investigative analysis websites Bellingcat and The Insider Russia, which began by showing how the passports Petrov and Boshirov used were highly unusual.

Petrov’s passport, for example, was stamped “Do not provide any information,” which, as Bellingcat noted, “does not exist in standard civilian passport files.” This stamp was followed by a seven-digit number of (at first) unknown origin and accompanied by a handwritten note reading “There is a letter. SS.” A Russian police official told Bellingcat SS is a common abbreviation for “sovershenno sekretno,” or “top secret.”³¹⁷ Also, as St. Petersburg-based newspaper Fontanka reported, Petrov and Boshirov’s passports were issued at virtually the same time because their numbers are separated only by three digits (and these digits are issued sequentially), which would be highly coincidental under any circumstance.

Finally, neither man’s international passport was ever registered in his government passport file, which is mandatory for all Russian civilians except those traveling under the auspices of a “special issuing agency” intended to keep these identities secret.³¹⁸ But it was the curious seven-digit number after “Do not provide any information” that furnished the “gotcha” clue in this mystery. That number, Bellingcat and The Insider Russia discovered, is the same as the telephone number for the Russian Ministry of Defense and is registered at Khoroshevskoe Chausse, the headquarters of the GRU.³¹⁹

Bellingcat then proceeded to use the passport photos, which had been released by the UK government, to try and reverse-search for Petrov and Boshirov’s real identities. The website started by canvassing the records of the Far Eastern Military Command Academy, which had the best reputation for graduating multilingual GRU operatives of similar age to the suspects. This was how Boshirov – real name Col. Anatoly Chepiga – was out-

316 <https://www.thesun.co.uk/news/7268509/salisbury-russia-poisoning-drugs-sex-prostitutes-london/>

317 <https://www.bellingcat.com/news/uk-and-europe/2018/09/14/skripal-poisoning-suspects-passport-data-shows-link-security-services/>

318 <https://www.bellingcat.com/news/uk-and-europe/2018/09/20/skripal-suspects-confirmed-gru-operatives-prior-european-operations-disclosed/>

319 <https://www.bellingcat.com/news/uk-and-europe/2018/09/20/skripal-suspects-confirmed-gru-operatives-prior-european-operations-disclosed/>

ed by the forensic analysts. Chepiga is a former Spetsnaz soldier who fought in the Second Chechen War and received numerous military decorations for his service including, in 2014, the state's highest honor, Hero of the Russian Federation. That award was personally bestowed on him by Vladimir Putin.³²⁰

Bellingcat's method of identifying Petrov was slightly more complicated, but no less fruitful. Using clues found in Petrov's fake passport, analysts alighted upon a Dr. Alexander Mishkin, whose Volvo was registered to the address of GRU's headquarters, at Khoroshevskoye Chausse. Like his colleague, Mishkin, a military doctor, was also awarded the Hero of the Russian Federation, and family members told Bellingcat they believe this owed either to his activities "in Crimea or in relation to [former Ukrainian president Viktor] Yanukovich."

Perhaps the oddest turn of this sordid affair was how "Petrov" and "Boshirov" accounted for their journey to Salisbury and their acquaintanceship in a bizarre and much-mocked "interview" on RT, Russia's foremost Western-aimed propaganda channel, in September of last year.

In a scripted performance either intended for domestic Russian consumption or quite possibly as a sneering and baleful reply to the West, or both, Petrov and Boshirov insisted they were mere sports nutrition salesmen who had long planned a holiday in the "wonderful" Salisbury. "It's famous for its 123 meter spire," a slightly perplexed-looking Petrov said in his first televised appearance since being captured on CCTV and being charged with attempted murder in Britain. "It's famous for its clock. It's the oldest working clock in the world." A particular attraction for them, Petrov added, was "cathedral of the blessed Virgin Mary," which the Guardian's Steven Morris observed, is stilted language lifted straight from Wikipedia.³²¹

If this brochure-perfect explanation for their visit strained credulity, then so did their meteorology. "We arrived in Salisbury on 3 March and tried to walk through

the town," Petrov told RT's editor-in-chief Margarita Simonyan, "but we lasted for only half an hour because it was covered in snow." The two were "drenched up to our knees," Boshirov clarified.

Except snow was thin on the ground on the dates and at the times they were there, according to Salisbury weather data.³²² Also, it would only take about fifteen minutes to reach Salisbury Cathedral from the rail station.

In confirmation of Bellingcat and The Insider Russia's sleuthing, on January 21, 2019, the Council of the European Union sanctioned Anatoly Chepiga and Alexander Mishkin in connection with the conspiracy to murder Sergei Skripal. Both were identified as officers of the GRU.³²³

Nor does Putin, who maintains their innocence, seem to care much for their victim. Skripal, the Russian president said at an energy conference in Moscow last September, was a traitor to the motherland, a class of Russian whose demise he has elsewhere fantasized about. "He's simply a scumbag. That's all."³²⁴

It wasn't all. In a strange coda to this sordid tale of international terrorism, Bellingcat and its investigative partners identified a third GRU officer, Captain Denis Sergeev, who operated under the cover name "Sergey Fedotov," and was in the UK when the Skripals succumbed to Novichok poisoning. Sergeev had traveled widely throughout Europe and Central Asia in the last five years — at least once in the company of Mishkin — and was placed in Bulgaria in 2015 when the Bulgarian arms dealer Emilian Gebrev nearly died from exposure to a mysterious substance later shown to consist of elements of organo-phosphate.³²⁵ It is unclear if Sergeev ever went to Salisbury, although Bellingcat rightly suggests he may have played an operational role in the attempted assassination of a defector. Whatever the case, he never boarded his return flight from London and instead traveled — by means unknown — to Rome, and from there straight onto Moscow, on the same day the Skripals were found unconscious.

320 <https://www.bellingcat.com/news/uk-and-europe/2018/09/26/skipal-suspect-boshirov-identified-gru-colonel-anatoliy-che-piga/>

321 <https://www.theguardian.com/uk-news/2018/sep/13/skipal-suspects-account-of-salisbury-trip-does-not-add-up>

322 https://www.salisburyjournal.co.uk/news/16057914.LIVE__Snow_in_Salisbury_-_weather_and_travel_updates__pictures_and_video/

323 <https://eur-lex.europa.eu/legal-content/en/TXT/PDF/?uri=CELEX:32019D0086&from=en>

324 <https://www.theguardian.com/uk-news/2018/oct/03/vladimir-putin-calls-sergei-skipal-a-scumbag-and-traitor>

325 <https://www.bellingcat.com/news/uk-and-europe/2019/02/14/third-suspect-in-skipal-poisoning-identified-as-denis-sergeev-high-ranking-gru-officer/>

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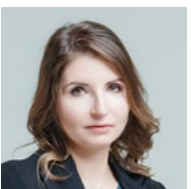
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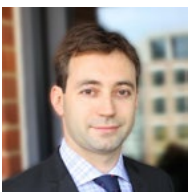
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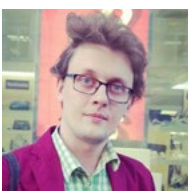
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Free Russia Foundation is an independent nonprofit organization with a 501 (c) 3 status registered in the U.S. in 2014.

The work of Free Russia Foundation is focused in three key mission areas:

1. Advancing the vision of a democratic, prosperous and peaceful Russia governed by the rule of law by educating the next generation of Russian leaders committed to these ideals;
2. Strengthening civil society in Russia and defending human rights activists persecuted by the Russian government; and
3. Supporting formulation of an effective and sustainable Russia policy in the United States and Europe by educating policy makers and informing public debate.

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