



ANALYSIS

RUSSIA'S ESPIONAGE IN ESTONIA A QUANTITATIVE ANALYSIS OF CONVICTIONS

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NOVEMBER 2019

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RAHVUSVAHELINE KAITSEURINGUTE KESKUS
INTERNATIONAL CENTRE FOR DEFENCE AND SECURITY
EESTI • ESTONIA

Title: Russia's Espionage in Estonia. A Quantitative Analysis of Convictions

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Publication date: November 2019

Category: Analysis

Cover page photo: People are silhouetted in front of a screen showing handcuffs before the show for fashion house Vivienne Westwood at the Men Spring-Summer 2016 Milan's Fashion Week on June 21, 2015. AFP Photo / Gabriel Bouys

Keywords: espionage, security, counterintelligence, Estonia, Russia

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ISSN 2228-2076

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INTRODUCTION

The activities of Russia's Intelligence Services (RIS) have recently received a lot of media attention. The murder of Russian dissident Alexander Litvinenko in London in 2006, the arrest of ten Russian spies in the United States in 2010, Russian meddling in the US presidential elections in 2016 and the attempted murder of Sergei and Julia Skripal using a weapons-grade chemical agent in the UK in 2018 are just some of the best-known cases. Although the level of attention has been high, these large-scale Russian intelligence blunders have resulted in very few convictions.¹

Since 2009, 20 individuals have been convicted of working for the Russia's Intelligence Services

Cases of espionage in Estonia have not received such widespread media coverage. However, since 2009, 20 individuals have been convicted of working for the RIS involving various crimes listed in the Estonian Penal Code²: treason

¹ There have been some convictions connected to meddling in the 2016 US elections. However, only one person – Russian citizen Maria Butina – has been described as a “Russian spy” by the media, and she has not been convicted of espionage.

² Riigikogu, “Penal Code”, *Riigi Teataja*, I 2001, 61, 364, <https://www.riigiteataja.ee/en/eli/ee/516052019002/consolide/current> (accessed 12 November 2019).

(§ 232), non-violent activities directed against the independence and sovereignty of the Republic of Estonia conducted by an alien (§ 233) and having a relationship antagonistic to the Republic of Estonia (§ 2351). A total of 11 constituent elements of a criminal offence in the Estonian Penal Code describe offences against the Republic of Estonia. In practice, the three mentioned above are the ones mostly applied. Only one of these describes violent activity; the other crimes are non-violent offences against the Republic of Estonia.

This paper, based only on publicly available sources, aims to give an overview of the results of the fight against Russia's espionage by Estonian law enforcement authorities. Although there have only been convictions for such crimes since 2009, a number of persons have been recruited by RIS considerably earlier. The paper gives an overview of legal measures implemented and the profiles of Russian spies convicted in Estonia. The reasons for Estonia's success in the field and possible lessons for other countries are discussed at the end of the paper.

Criminal proceedings related to espionage have posed a major challenge to prosecutors

1. LEGAL ASPECTS

Before the start of the first criminal procedure related to treason (the Simm case), an act of treason was merely one section in the law. This and all subsequent criminal proceedings related to espionage have posed a major challenge to prosecutors: finding the right balance between the need to protect information about

the world of intelligence and the principle of the public nature of judicial proceedings. The decision in principle to bring the cases in question for adjudication before the court created major media interest and led the public to talk about these issues. The first court case, that of Herman Simm, ended with a settlement procedure, pursuant to which he was sentenced to 12½ years' imprisonment. (The maximum sentence at the time was 15 years.) It can be said at the outset that all other cases have ended in

agreement between the accused, the counsel and the prosecutor. At the same time, the first case of treason led to a widespread debate and the sentence for treason was subsequently raised to life imprisonment. While such agreements in cases with this sentence are generally excluded by law in Estonia, in respect of criminal offences against the state an exception is applied and sentencing settlements are permitted. This provides an important opportunity to process classified intelligence information so that access to all material is provided to the court and the counsels in order to exercise the right of defence, but in considering the sensitive nature of state secrets they should not become available to the wider public through open court proceedings. The convictions by the courts show unambiguously that the crimes were related to the Russian special services; the crimes were established through convictions and were not merely the result of allegations flowing from the security authorities' intelligence.

The evidence used in criminal cases to convict individuals originates from intelligence collected in criminal cases as well as by the security authorities. Intelligence from the latter source can be used in criminal proceedings only in exceptional circumstances, given the principle of ultima ratio. In this connection, the Code of Criminal Procedure states that a ruling on the use of intelligence collected by the security authorities can only be prepared by the Prosecutor General.

Initially, procedural practice for treason cases was developed in Estonian courts, but since 2015 cases related to crimes of other types have been introduced. Treason against Estonia can be committed only by Estonian citizens; other crimes mentioned above can be committed by foreigners. Legislation has been updated constantly over the last ten years and the most recent important amendments relating to espionage offences entered into force on 14 January 2019.

In the case of treason, the first challenge in criminal proceedings is to obtain evidence about the facts of the crime, while for crimes related to the collection and delivery of intelligence, the biggest issue is to show a connection between these activities and the intended goal. Seen from the outside, such crimes often deal with the acquisition, holding and delivery

of simple, unqualified intelligence. It follows that, in these cases, it is always important to collect evidence that can be used in court to prove the objective – the contravention of Estonia's security or territorial independence. The total of 20 convictions (see Table 1 and Figure 1) proves that the legal system has dealt with these challenges effectively.

Although there are legal differences depending on whether the person is an Estonian or a foreign national and whether the information collected was classified, the essence of the crime is the same: the collection of information about Estonia for the RIS or being a courier for such information. In informal terms, this is called espionage. A defector admitted to spying for Russia in a broadcast by the Russian TV channel NTV in December 2014, and was confirmed by the Estonian authorities. In addition to convictions, intelligence also made front-page headlines in Estonia when an Internal Security Service officer was abducted from the Estonian-Russian border in 2014 and with two spy swaps (in 2015 and 2018) on a bridge on the same border.³

³ "ChP. Rassledovanie: Nash chelovek v Talline" [Emergency Situation. Investigation: Our Man in Tallinn], *NTV*, documentary, 14 December 2014, <https://www.ntv.ru/video/1024100/> (accessed 12 November 2019); Ivo Juurvee, "Spy Swaps Make a Comeback in 'Intelligence Culture,'" ICDS Blog, 20 February 2018, <https://icds.ee/spy-swaps-make-a-comeback-in-intelligence-culture/> (accessed 12 November 2019).

2. INDIVIDUALS CONVICTED OF ESPIONAGE CRIMES

Based on open-source material (mainly the annual reviews of the Estonian Internal Security Service and media coverage based on press releases and press conferences), the following 20 convictions provide sufficient data for quantitative analysis.⁴

SURNAME	GIVEN NAME	DATE OF CONVICTION	SENTENCE
"A"	"A"	29 August 2019	5 years' imprisonment (Penal Code § 233)
Dressen	Aleksei	3 July 2012	16 years' imprisonment (§ 232, § 243), confiscated criminal income EUR 142,900
Dressen	Victoria	3 July 2012	6 years' imprisonment, 5 years' probation (§ 232, § 243)
Gruzdev	Maksim	18 February 2016	4 years' imprisonment (§ 235 ¹)
Khuchbarov	Alik	14 September 2016	3 years' imprisonment (§ 235 ¹ , § 133 ¹)
Kozlov	Dmitri	20 March 2019	3 years 6 months' imprisonment (§ 235 ¹)
Kulikov	Vladimir	9 September 2019	5 years' imprisonment (§ 235 ¹ , § 234 ²)
Malyshev	Artyom	14 September 2016	2 years 6 months' imprisonment (§ 235 ¹)
Metsavas	Deniss	11 February 2019	15 years 6 months' imprisonment (§ 232, § 243)
Petrov	Mikhail	17 October 2017	5 years' imprisonment (§ 233)
Provornikov	Albert	4 October 2017	3 years' imprisonment (§ 235 ¹)
Romanov	Pavel	22 October 2015	4 years 10 months' imprisonment (§ 233)
Rudnev	Aleksandr	1 October 2015	2 years' imprisonment (§ 235 ¹)
Simm	Herman	25 February 2009	12 years 6 months' imprisonment (§ 232), confiscated criminal income EEK 1,323,154 (EUR 84,564.95) and Ministry of Defence claim EEK 20,155,000 (EUR 1,288,139.28)
Slavin	Yevgeni	10 September 2018	1 year 8 months' imprisonment (§ 235 ¹)
Tihkanovski	Ilya	3 April 2018	4 years' imprisonment (§ 235 ¹)
Vasilyev	Aleksei	21 March 2018	4 years' imprisonment (§ 233, § 216 ¹)
Veitman	Vladimir	30 October 2013	15 years' imprisonment (§ 232, § 243, § 241), confiscated criminal income of EUR 120,000 and Internal Security Service's claim EUR 65,520
Volin	Pyotr	11 February 2019	6 years' imprisonment (§ 232, § 243)
Zinchenko	Artyom	8 May 2017	5 years' imprisonment (§ 233)

Table 1: Offenders, dates of conviction and sentences

⁴ See "Annual Reviews," Estonian Internal Security Service, accessed 12 November 2019, <https://kapo.ee/en/content/annual-reviews.html>.



Figure 1: Individuals convicted of espionage crimes in Estonia since 2009
(Sources: Estonian Internal Security Service; Postimees)

First let us look at when the people were arrested and which service they were working for (see Figure 2). It appears that only two people were spying for the Russian Foreign Intelligence Service (SVR). Although this number is rather low, both Herman Simm and Vladimir Veitman were high-value assets with access to classified material and were active for more than a decade, although retired by the time of their arrest. Five individuals were working for the GRU, Russian military intelligence.⁵ The Federal Security Service (FSB) holds the highest score for convictions with 11 individuals convicted, which may indicate its high level of activity or high number of failures. Although considered an internal service, the function of espionage abroad was given to

the FSB with changes to legislation in 2003. However, according to open sources, two of these people were recruited in the 1990s and at least one in 1994 when the FSB was still known as the Federal Counterintelligence Service (FSK). For the two last convictions (Kulikov and the person known in public only by the initials A.A.), the service involved is not yet publicly known, and the same applies to a person who was detected in 2014. Since the offenders were recruited at different times, some working for the RIS for a decade for more, this graph reflects to some extent the growing efficiency of the Estonian authorities in dealing with the problem of Russian espionage, but not necessarily the sharp rise in RIS activity.

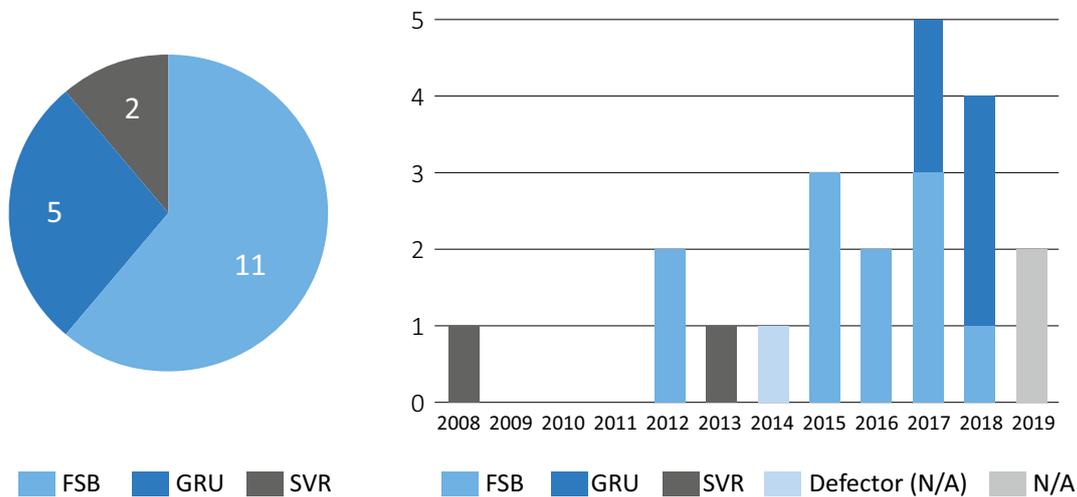


Figure 2: Number of convictions by year of arrest and RIS for which they were working. Not available (N/A) here and in forthcoming figures means that the data is not available in the public domain, however, in most cases it should be known to Estonian authorities.

⁵ Although the official name of the service has been “GU” since 2010, the former abbreviation “GRU” is still used both in the media and in academia, and in statements by Russian officials including Vladimir Putin. In order to avoid confusion, it is also used in this paper.

While there is plenty of material about the RIS in the public domain, this analysis concentrates on who the people convicted were. First, only one of the 20 offenders is female – Victoria

pushchairs from Russia to Estonia. None of these people had access to classified information, but most were collecting information on the Estonian military, infrastructure and security agencies, and one was a courier. Two were retired members of the Estonian Internal Security Service, while one (Veitman) was spying for Russia while

still in the service (the same applies to the defector (Puusepp), not shown in Figure 3) and the other (Kulikov) started cooperation only after retirement. Two people were arrested while on active service in the Estonian Defence Forces General Staff (Metsavas) and Estonian Internal Security Service (Aleksei Dressen). One with access to classified information (Simm) had recently retired from the Ministry of Defence, but had already been spying for more than a decade with access to both Estonian, NATO and EU highly-classified information. Some of those convicted were an IT businessman, an IT student, a martial arts trainer and a retired prison guard. In two cases the affiliation has not yet been made public.

Only one of the 20 offenders is female

Dressen, who was used as a courier for her husband spying inside the Internal Security Service. There has been no Estonian Mata Hari and Russian espionage seems to be very masculine business. The individuals’ most recent affiliations before their arrest can be seen in Figure 3.

The most common affiliation is smuggling contraband cigarettes into Estonia from Russia. People involved in illegal activities seem to have been easy prey for the RIS to recruit, probably as their opportunities to say “no” were rather limited. Two individuals were dealing with legal export-import business, one exporting lingerie from Estonia to Russia and the other importing

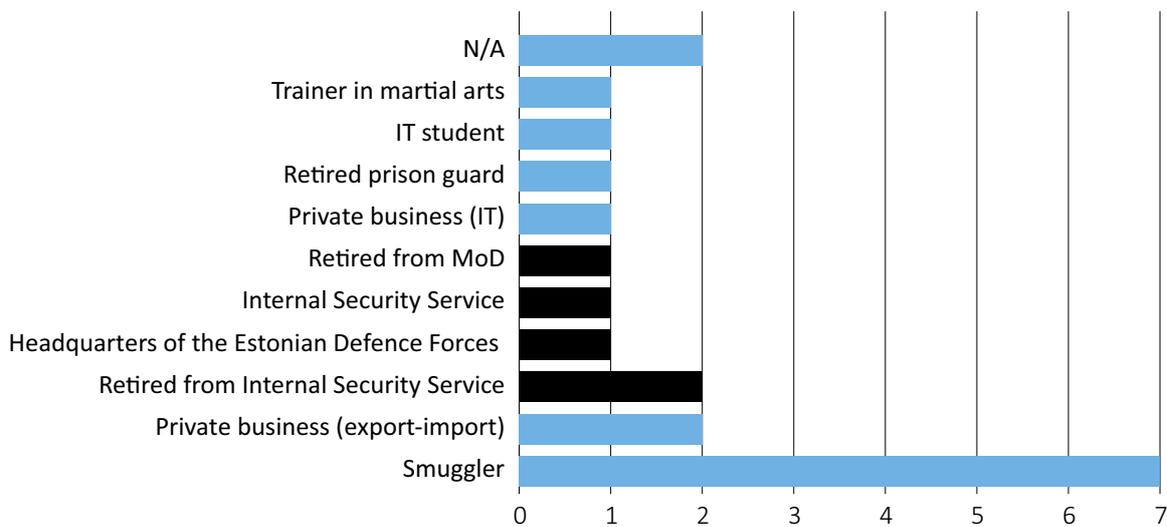


Figure 3: Number of offenders according to last affiliation before arrest (those with access to classified material are marked in black)

The citizenship of the offenders has been varied (see Figure 4). Half are Estonian citizens (as is the defector), and four have dual citizenship, with both Estonian and Russian passports making travel between the countries especially easy. Four are Russian citizens and the citizenship of one is undefined (after the fall of the Soviet Union he could not make up his mind what citizenship he wished to choose or did not comply with naturalization requirements).

The exact date of birth of most offenders is not known. Press releases usually refer to their age at the time of conviction or arrest, so there may be some one-year errors when calculating their year of birth. However, the decades are known (see Figure 5).

The age ranges mean that only one generalisation can be made: people working for the RIS have been from very different age groups. The oldest (Veitman) was 63 when arrested and the youngest (Vasilyev, born in 1997) only 20. The “average” year of birth would be 1977. Connected with age is the question of KGB links during the Cold War. Since Estonia was occupied by the Soviet Union, it is valid to ask how much the shadows of the past still influence espionage activities (see Figure 6). One person had been a KGB officer on active duty (as was the only defector), and in one case there was known collaboration with the KGB without being a cadre; in all three cases, it played a major role in recruiting. One person was working for the KGB Border Guard Troops but can hardly be considered an operational worker – he used to be diver in a patrol-vessel port. His son was also convicted of espionage, but here the father’s KGB links do not seem to have had any direct impact. Eleven of the offenders were 13 years old or less (or even not born) at the time of the collapse of the Soviet Union and could not possibly have been recruited by the KGB (let alone being KGB personnel).

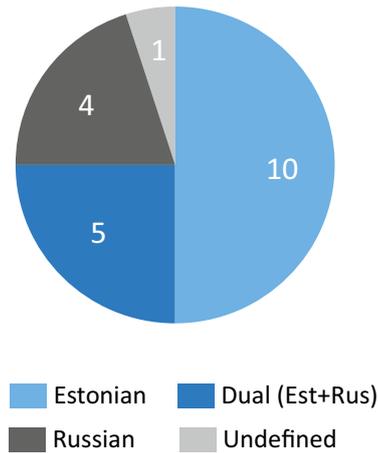


Figure 4: Citizenship of offenders

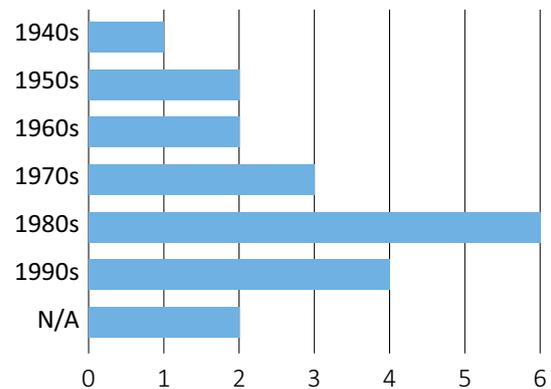


Figure 5: Decade of offenders' birth

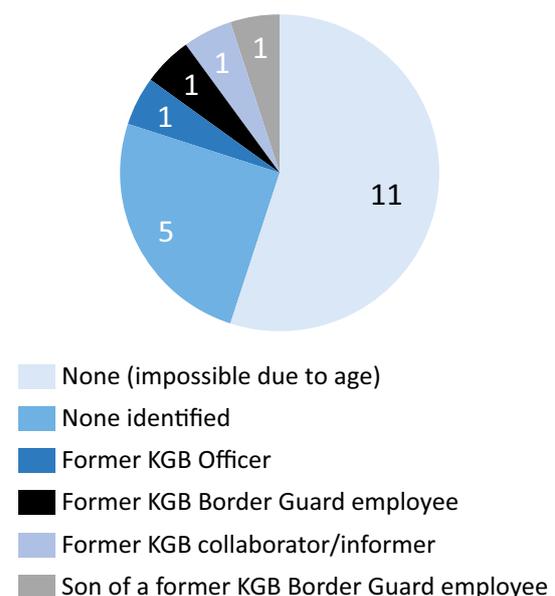


Figure 6: Offenders' connections with the former KGB

3. SOME FACTORS OF ESTONIA'S SUCCESS

The number of convictions is impressive compared to other countries and, at least according to publicly available data, Estonia has convicted more Russian spies than any other NATO or EU nation. Why is this?

Estonia has convicted more Russian spies than any other NATO or EU nation in the last decade

There is no definitive answer, and using public sources one can only speculate. However, it seems impossible that Estonia – although a border state and a member of NATO and the EU – would be the highest priority in the world for the RIS after Ukraine (although the proximity of Russia and Estonia's large Russian-speaking community probably facilitates HUMINT efforts). Consequently, there must be something that Estonia does differently from other countries when dealing with the problem. Several things are required to not just identify a Russian spy (and there are no public data about how many have been identified around the world), but also convict one.

First, there has to be an understanding of the seriousness of the problem and the threat it poses to national security, among both political figures and the public. This should create the political will to deal with the problem as articulated in legislation and the resources allocated to counterintelligence. In addition, there is a need for know-how and time; experience in the law-enforcement agencies can be accumulated only over the years and nobody should expect rapid results in this field. In Estonia these requirements do exist and a decision seems to have been made to go public and go to court with the cases. This approach has sometimes been criticised and has certainly caused some harm to Estonia's international image. However, only in this way can prevention be effective. In the most recent case that attracted international media attention, a major in the Headquarters of the Estonian Defence Forces was convicted.⁶ He was recruited in

2007, at a time when there had been no arrests or convictions on espionage charges in Estonia. He probably had little idea, therefore, about what espionage was and might have had the impression that the chances of being caught were very limited or non-existent. If a young Estonian officer were to be approached now – 12 years and 20 convictions later – there should no longer be any such illusions. In other words, it is reasonable to believe that the efficient conviction of current spies serves as a deterrent for possible future recruits of the RIS.

Conviction of current spies serves as a deterrent for possible future recruits

CONCLUSIONS

Precise information is the basis of planning any kind of hostile action (including hybrid warfare and economic activities); therefore, espionage should be seen as a threat to national security. In the field of hindering foreign HUMINT efforts, apprehending active spies and preventing the recruitment of possible future spies is essential. Although the first Russian spy was only arrested in 2008 and convicted in 2009 – as we now know the earliest recruitment took place no later than in 1994 – Estonia has been more successful than any other NATO or EU state in that field since (at least according to open sources). There have been spies working for all three RIS (SVR, GRU and FSB) dealing with HUMINT convicted in Estonia, and there is no reason to believe that Estonia should be number one target for Russia's HUMINT effort. Therefore, it would be advisable for other NATO and EU member countries to also pay attention to the problem in order to protect their national security. In order to do so, according to Estonian experience, there is a need to understand the seriousness of the problem, fix the legal framework, acquire the know-how (via international cooperation if needed), build the capacity of law enforcement agencies and finally – to take action.

⁶ Daniel Lombroso, Caitlin Cadieux, "Confessions of a Russian Spy," *The Atlantic*, video, 26 June 2019, <https://www.theatlantic.com/video/index/592507/russia-spy-doc/> (accessed 12 November 2019).

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