



Hermitage Capital Management

Editor in Chief
Der Spiegel
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11 December 2019

Dear Madam/Sir:

We write in relation to the article published in *Der Spiegel* on 22 November 2019, “*The Case of Magnitsky: How true is the history on which US sanctions against Russia are based?*”¹, also published in English on 26 November 2019 as “*The Case of Sergei Magnitsky: Questions Cloud Story Behind U.S. Sanctions.*”²

This article contains such serious factual mistakes and false and misleading statements that it amounts to gross journalistic malpractice.

As a leading news organisation with a long-term commitment to reporting the truth, it is imperative that you investigate what made such a distortion of the truth possible. We call on you to correct the mistakes and apologise to the family of Sergei Magnitsky.

While there are numerous errors, we address here key false claims in the article, including:

- I. Sergei Magnitsky was not killed intentionally.
- II. Sergei Magnitsky did not testify against Russian Interior Ministry officers.
- III. Sergei Magnitsky was not a lawyer.
- IV. Major Pavel Karpov was not involved in the fraud Sergei Magnitsky denounced.

We address each of these claims below.

I. *Der Spiegel's Claim: Sergei Magnitsky was not killed intentionally.*

Der Spiegel claims that Sergei Magnitsky was not killed intentionally and that his death was due to a routine lack of care in a Russian prison system.

*“They [Moscow Prison Oversight Commission] also interviewed the prison staffers who, instead of helping Magnitsky, **let him die**. The commission's 20-page report offered detailed insights into the sadistic, cold-hearted nature of Russia's prison system. ... the dying man began to panic. He was sedated and restrained with handcuffs. The files analyzed by the commission note the “use of a rubber baton.” Magnitsky was left alone in his cell, unobserved, without a doctor. “An ill person in severe condition was effectively left without medical attention for 1 hour and 18 minutes to die,” the commission wrote in its report, a chronology of merciless negligence. Yet it contains **no evidence of a targeted murder.** ”*

Truth: Sergei Magnitsky was intentionally killed.

Available evidence contained in the Moscow Prison Oversight Commission's report and released since shows that Sergei Magnitsky was intentionally killed.

¹ <https://www.spiegel.de/plus/russland-der-fall-magnitski-story-ohne-held-a-00000000-0002-0001-0000-000167093479>

² <https://www.spiegel.de/international/world/the-case-of-sergei-magnitsky-anti-corruption-champion-or-corrupt-anti-hero-a-1297796.html>.



A. Evidence of Intentional Killing

1. **The autopsy photographs from the post-mortem report.** The official post-mortem autopsy report contained graphic photos of the injuries inflicted on Magnitsky's body:



See: Magnitsky's medical records made as of 17 November 2009 by autopsy expert Borzova.

[ENG Link \(slide 26\)](#) & [GERMAN Link \(slide 26\)](#)

2. **Use of a rubber baton.** The records of Matrosskaya Tishina detention center confirm the use of a rubber baton against Sergei Magnitsky on the final night of his life. A certificate signed by four officials states:

"16.11.2009 at 19:30 ... a rubber baton was applied to ... Sergei Magnitsky."

[ENG Link](#) & [RUS Link](#)

3. **Official Forensic Expert Report.** The Official Forensic Expert Report produced on 15 June 2011 found that the injuries inflicted on Magnitsky were caused by a blunt hard object, similar to rubber baton:

"The injuries which S.L. Magnitsky had were caused resultantly from the traumatic application of the blunt hard object (objects) which is confirmed by the closed type of the trauma and their morphological manifestations in the form of the abrasions, ecchymomas, blood effusions into the soft tissues ... The determined mechanism of S.L. Magnitsky's injuries formation does not exclude the possibility that part of the injuries formed based on the traumatic impact of the rubber truncheon which is testified by the following:

- a. *The injuries are caused through the impact of the blunt hard object (objects)*
- b. *The rubber truncheon is a blunt hard object."*

[ENG Link](#) & [RUS Link](#) (page 46, 48)

4. **Cerebral Cranial Injury.**

Sergei Magnitsky's death certificate identifies *a suspected "cerebral cranial injury"*.

[ENG Link](#) & [RUS Link](#)



5. **Death threats.** Magnitsky's colleagues in London received death threats shortly before his death.

- i. The first death threat message was sent to Magnitsky's colleagues on 23 October 2009, 24 days before Magnitsky's death. It posed a question what was worse, death or prison:

*"Oct 23, 2009 20:38: Don't know what is more frightening ... **death** ... or prison. I.L. Kuchin. Selected works"*

- ii. A further message was sent to Magnitsky's colleagues on 8 November 2009, 8 days before Magnitsky's death. It stated that anyone could be killed:

"Nov 8, 2009 12:09: If history has taught us anything, it is that anyone can be killed – Don Michael Corleone"

[ENG Link](#)

6. **Statements of Sergei Magnitsky pointing to murder.** The Moscow Prison Oversight Commission's report referred to statements of Sergei Magnitsky in custody in the last moments of his life that he was about to be murdered:

"As for his psychosis – based on Sergey saying that someone wants to murder him – it could have been an appropriate response to what was happening to him."

[ENG Link \(page 18\)](#)

B. Findings of Intent and Murder

This information was reviewed by multiple parties, who independently came to a conclusion that Sergei Magnitsky was killed.

1. **Murder report by local investigator.** Based on available records, three days after Magnitsky's death, on 19 November 2009, a local Russian investigator launched a murder probe into **intentional killing** (under Article 105 of the Russian Criminal Code) and **intentional infliction of grave harm to health** (under Article 111 of the Russian Criminal Code). The investigator's murder probe report stated:

"Bearing in mind that during the performance of the examination, data came to light that pointed to the elements of the crime envisioned by article 105 and part 4, article 111 of the CC of the RF, I have presumed to record this report in the Crime Report Registration Book (CRRB), and to perform an examination."

[ENG Link](#) & [RUS Link](#)

2. **Statements by Moscow Prison Oversight Commission members.** Members of the Moscow Prison Oversight Commission identified the intentional killing of Sergei Magnitsky in order to conceal the fraud he exposed during the presentation of their report in December 2009:

*"'As horrible as it sounds, this was **an intentional death**,' Zoya Svetova, a panel member, said in a news conference.*

*Another, Andrei Babushkin, said **Mr Magnitsky was murdered to conceal the fraud he had exposed.**"*

[ENG Link](#)



3. **Moscow Prison Oversight Commission linked Sergei Magnitsky's death to his testimony against Interior Ministry officers involved in the fraud.** The Moscow Public Oversight Commission's report stated it was of '*particular concern*' that Sergei Magnitsky '*named names*' of Interior Ministry officers before his death.

"During the course of our investigation of Magnitsky's conditions in Butyrka detention facility we have come to the conclusion that the circumstances which lead to the detainee S.L. Magnitsky's death cannot be reviewed separately from the course of the investigation of the incriminated case. He believed that the conditions created for him in Butyrskaya Detention Center were the evidence of the pressure on him with the aim to suppress his will by means of the torturous detention conditions and force testimonies admitting guilt, so Magnitsky wrote:

"I am convinced that such intolerable conditions are being created for me with my investigators' full knowledge. I am convinced that the only possibility to stop this humiliating treatment is for me to accept false accusations, to incriminate myself and other persons."

Of particular concern are two facts:

*1. On October 16, 2009 Magnitsky made a statement about **the large-scale fraud involving theft of state budget money by high-ranking officials of the Russian Interior Ministry. He gave a detailed description of the fraudulent scheme and named names.***

2. Second, on November 24, the one year in pre-trial detention was due to expire. The investigations did not have sufficient prove of his guilt in order to start the court proceedings."

[ENG Link \(page 4\)](#)

4. **Declaration by Russian President's Human Rights Council.** The official human rights body of the Russian Presidency issued a statement on 4 July 2011 on Sergei Magnitsky's death due to beating:

*"There is a reasonable suspicion to believe that **the death was triggered by Magnitsky being beaten.**"*

[RUS Link](#) & [ENG Link](#) (Page 2)

5. **Murder Complaint Filed by Magnitsky Family in 2011.**

Following the disclosure of official Russian state records showing the use of violence against Sergei Magnitsky, the Magnitsky family filed a murder report with Russian authorities in September 2011. The report contained multiple pieces of evidence pointing to the intentional killing of Sergei Magnitsky and requested the opening of "*a criminal investigation into the mistreatment, torture and intentional killing of Sergei Leonidovich Magnitsky.*"

[ENG Link](#) & [RUS Link](#)

6. **The Council of Europe Report.**

The Council of Europe appointed a special Rapporteur to investigate the death of Sergei Magnitsky. The Rapporteur and his team met with the Russian Government and



independently gathered evidence. The Rapporteur's final report referred to "*the beatings and the manner in which Mr Magnitsky was left alone in a cell in an apparently critical condition...*" immediately prior to his death and concluded that:

"There is no doubt that some of the causes of Mr Magnitsky's death were created deliberately, by identifiable persons."

[ENG Link \(pages 4, 41\)](#)

- 7. Verdict of the European Court of Human Rights ("ECHR").** The ECHR issued its judgment regarding the death of Sergei Magnitsky on 27 August 2019 in which it concluded that Magnitsky's mistreatment was intentional:

"The recording of those injuries, as well as of possible head trauma, in the death confirmation certificate..., together with the reference in the records to the use of a rubber truncheon, should have raised concerns as to the use of force against the first applicant...."

Taking into account the intentional character of the ill-treatment, the nature of the injuries and the level of suffering to which the first applicant was subjected, the Court finds that the act of violence in question amounted to inhuman and degrading treatment (see Kondakov v. Russia, no. 31632/10, § 37, 2 May 2017; Sitnikov v. Russia, no. 14769/09, § 42, 2 May 2017; and Beresnev v. Russia, no. 37975/02, § 112, 18 April 2013)

[ENG Link & RUS Link \(pages 48, 49\)](#)

C. Der Spiegel's Erroneous and Misleading Description of the Commission's Report

- 1. Erroneous Presentation of the Official Account of Magnitsky's Death as the Commission's Account.**

To support the claim that Sergei Magnitsky wasn't killed in police custody, *Der Spiegel* misleadingly presented as the account of the Commission the account of Russian prison officials who claimed that Sergei Magnitsky suddenly panicked in custody, required sedation and then died.

In reality, the Commission rejected testimonies of those Russian officials as unreliable. Specifically, the Commission concluded:

"One thing is clear to us: the reports by doctors contradict each other. It is obvious that they are deliberately concealing the truth."

The Commission also found:

"Statements by various people are conflicting about every detail of the timing of events, his behavior during the psychotic episode, and everything that happened to him after placing him in isolation ward. There is no plausible explanation..."

[ENG Link \(pages 18, 19\)](#)

- 2. Erroneous Presentation of Files Claimed to Have Been Reviewed by the Commission – Which It Had Not In Fact Reviewed.**

Der Spiegel asserted in the article, "*The files analyzed by the commission note the 'use of a rubber baton.'*" However, the Commission did not analyse files discussing the rubber baton



for its December 2009 report. It could not have examined those files, as they were withheld at the time by the Russian government from both the Commission and the Magnitsky family.

The rubber baton files were disclosed by the Russian government only a year and a half later. This disclosure then led the Russian President's Human Rights Council to conclude on beating in its July 2011 report:

*“...there is **reasonable suspicion to believe that the death was triggered by beating Magnitsky**; later his relatives recorded smashed knuckles and bruises on his body. In addition, there is no medical description of the last hour of his life.”*

[RUS Link](#) & [ENG Link](#) (page 2)

CONCLUSION:

Der Spiegel received or had access to all of the above information indicating that the killing of Sergei Magnitsky was intentional, but inexplicably omitted and ignored it in the presentation of how Sergei Magnitsky died.

II. Der Spiegel's Claim: Sergei Magnitsky did not testify against Interior Ministry officers Lt. Col. Kuznetsov and Major Karpov.

Der Spiegel claims that Magnitsky's testimony does not show that he accused Lt. Col. Kuznetsov and Major Karpov in his testimony. According to *Der Spiegel*:

“The protocol itself tells a different story. Magnitsky does indeed mention the names of the two police officers nearly 30 times and describes their role during a search. But at no point does he make a concrete accusation against them personally.”

“In a second protocol of a statement made on Oct. 7, Kuznetsov and Karpov are not mentioned at all.”

Truth: Sergei Magnitsky testified against the Interior Ministry officers.

Sergei Magnitsky's testimony shows that Magnitsky described the Interior Ministry 'search' (raids) as part of the fraud against his client – where corporate documents were unlawfully seized and then used to steal Hermitage Fund's companies and procure fraudulent awards, which were then used to steal \$230 million of taxes paid by Hermitage Fund's companies.

- 1. Magnitsky's Accusation of a Crime.** In his testimony of 5 June 2008, Sergei Magnitsky accused Interior Ministry offices of committing a crime against three Hermitage Fund investment companies – specifically, that documents seized by police were used to steal three Hermitage Fund's companies.

*“Therefore, the above circumstances **objectively demonstrate that the three companies ... were stolen in 2007 along with all their assets, with possible use of records and information seized during the search.**”*

[RUS Link](#) (page 8) & [ENG Link](#) (page 9)

- 2. Discovery and Investigation of Fraud by Sergei Magnitsky.** In his testimony of 5 June 2008, Sergei Magnitsky described how he investigated the fraud and concluded that the documents seized by Interior Ministry officers were used in the fraud.



*“During the search **the police officers also seized the computers** belonging to Firestone Duncan (CIS) Limited, including servers and work stations, which **contained electronic documents** of LLC Kameya, LLC Parfenion, LLC Rilend and LLC Makhaon, specifically, texts of the Articles of Association, Powers of Attorney, Minutes of participants’ meetings and some other documents.*

***In my opinion, to which I came after studying the copy of the revised edition of the LLC Rilend Articles of Association illegally approved by LLC Pluton, which I received afterwards from the tax authorities, it was exactly the electronic files contained in the computers seized from Firestone Duncan (CIS) Limited during the search that may have been used for drawing up the revised edition of the Articles of Association because its text is practically identical with the text stored in the e-files,** which had been prepared by the clients based on their individual peculiarities and was quite specific. The text of the revised edition of the LLC Rilend Articles of Association, we are talking about, even **contains the same spelling and stylistic mistakes** that were made in the originally drawn up documents.”*

[RUS Link](#) & [ENG Link](#) (page 3)

- 3. Identification and Accusation against Lt. Col. Kuznetsov.** In the same testimony, Sergei Magnitsky identified Lt. Col. Kuznetsov as the person responsible for the raid during which documents of Hermitage Fund companies were seized without a warrant and later used to perpetrate the fraud:

*“... in the morning of 4 June 2007 ... I had a call from the offices of Hermitage Capital ... and was informed that a search headed by A.K. **Kuznetsov** was in progress at their branch.”*

[RUS Link](#) & [ENG Link](#) (page 2)

- 4. Identification and Accusation against Major Karpov.** Again in the same testimony, Sergei Magnitsky identified Major Karpov as the person who kept custody of the illegally seized materials during the time they were used to perpetrate the fraud:

*“An attorney... repeatedly requested of P.A. **Karpov** that documents unrelated to his investigation be returned, but such return was being continuously delayed.”*

[RUS Link](#) (page 2) & [ENG Link](#) (page 3)

- 5. Magnitsky Supported Hermitage’s Complaint about the Fraud.** In his 5 June 2008 testimony, Magnitsky supported his client’s complaints of 3-10 December 2007 to the Russian authorities that outlined the fraud and specifically described the complicity of Interior Ministry officers:

*“Assets of those companies were **stolen through a series of frauds**, occurring in the period between July and September 2007, consisting of **the falsification of evidence in court proceedings and the manipulation of data within the Unified Registrar of Legal Entities (UGRUL)**. These frauds occurred with **the possible assistance and participation of officers of the Investigative Department of the Moscow Branch of the Interior Ministry** and some judges of the Arbitration Court of St. Petersburg and the Leningrad Region.*

This large-scale fraud involving court judgments intended to steal assets from Russian companies based on the falsification of statutory documents,



*corporate resolutions and UGRUL records **could not have been possible without the malicious or at least negligent assistance of the law enforcement agencies and courts.***”

[ENG Link & RUS Link \(pages 2, 4-5\)](#)

- 6. Magnitsky Provided a Second Testimony, Confirming His First, and Identifying the Tax Fraud.** On 7 October 2008, Sergei Magnitsky provided a second testimony in which he confirmed his first testimony (in which Lt Col Kuznetsov and Major Karpov were identified multiple times), expressly stating:

“I confirm my testimony of 5 June 2008.”

In this second testimony, Sergei Magnitsky stated that the same group which stole the Hermitage Fund’s Russian companies (by illegally re-registering them and filing fake claims against them using documents seized in the raids) also stole \$230 million (over 5 billion rubles) of taxes paid by his client’s companies:

*“... the subsequent discovery of the embezzlement of budget funds in excess of Five Billion rubles (RUB 5,000,000,000 [\$230 million]), which had obviously been **committed by the same group** ... that had used **illegal reregistration** of the Parfenion ..., Makhaon ..., and Rilend [Hermitage Fund’s companies] and **filed claims against those companies as a tool for embezzling money from the state treasury.**”*

[RUS Link & ENG Link \(page 4\)](#)

CONCLUSION:

Der Spiegel misled the readers by falsely stating that Sergei Magnitsky did not accuse Interior Ministry officers of committing crime in furtherance of the fraud. On the contrary, he made these accusations clearly in his first testimony of June 2008 and further confirmed it in his October 2008 testimony.

III. *Der Spiegel’s Claim: Sergei Magnitsky was not a lawyer, and Mr Browder’s description of Magnitsky as a lawyer is false.*

Der Spiegel claimed that Sergei Magnitsky was not a lawyer because he did not go to a law school and that Mr Browder’s description of Magnitsky as his lawyer is false.

“Cymrot asked: Was Magnitsky a lawyer or a tax expert?”

“... he didn't go to law school and didn't have a law degree”

Truth: Sergei Magnitsky was qualified to give legal advice on Russian law and provided legal advice and representation for his clients, including appearing on behalf of his clients in Russian courts.

- 1. Sergei Magnitsky was qualified to provide legal advice and represent clients in courts.** Sergei Magnitsky obtained legal qualifications in accordance with the Russian law No. 307-FZ “*On Auditing*” which authorised him to practice law in civil proceedings. Part 7 of Article 1 of Law No. 307-FZ states:

“...individual auditors may render:



(5) legal assistance ..., including consulting on legal issues, representation of the interests of clients in civil and administrative court proceedings, in tax and customs legal matters...”

[ENG Link](#)

2. Sergei Magnitsky appeared in various courts on behalf of his clients, including:

- **Mr Mathew Clotir vs Moscow Registration Chamber:** Magnitsky represented the plaintiff in the Federal Arbitration Court of Moscow District ([06.12.2000, Case No. KA-A40/5479-00](#));
- **Mr Robert Field vs the Ministry of Taxes, Inspectorate No. 6 of Moscow:** Magnitsky represented the plaintiff in the Federal Arbitration Court of Moscow District ([27.07.2001, Case No. KG-A40/3887-01](#));
- **ZAO Mega-West vs the Ministry of Taxes, Inspectorate No. 26 of Moscow:** Magnitsky represented Plaintiff in the Federal Arbitration Court of the Moscow ([17.12.2001 under case no. KA- A40 / 7255-01](#));
- **The Children Educational Centre vs the Ministry of Taxes, Inspectorate No. 36 of Moscow:** Magnitsky represented the plaintiff in the Federal Arbitration Court of Moscow District ([21.11.2002, Case No. KA-A40/7661-02](#)); and
- **Corpotrade (Cyprus) Limited vs the Ministry of Taxes, Inspectorate No. 47 of Moscow:** Magnitsky represented Plaintiff in the Ninth Arbitration Appellation Court ([17.07.2006, Case № 09AII-6503/2006](#)).

3. Sergei Magnitsky described his professional activity as “providing advice on Russian law” in official testimony to law enforcement authorities.

- i. In his testimony of 5 June 2008 to the Russian State Investigative Committee, Sergei Magnitsky identified his professional activity as follows:

“As a matter of my professional activities, I provide advice on Russian law. In the past few years, I had the following companies among my clients: Kameya LLC, Parfenion LLC, Reland LLC and Makhaon LLC”

[ENG Link](#) & [RUS Link](#)

- ii. In his testimony of 12 November 2009, Magnitsky stated that all independent lawyers including himself, who were hired by Hermitage to investigate \$230 million fraud, came under attack:

*“Investigator Silchenko does not want to identify the other persons, who made this fraud He wants the lawyers of the Hermitage Fund, who pursued and continue to pursue attempts for this case be investigated, **be forced to emigrate from their country...or like me be detained in custody.**”*

[ENG Link](#) & [RUS Link](#)

4. Sergei Magnitsky was known as a lawyer to Russian authorities, including President Putin. Russian President Putin publicly referred to Sergei Magnitsky as a lawyer:

“Mr Magnitsky was not some human rights activist, he was not fighting for the rights of all. He was a lawyer for Mr Browder.”

[ENG Link](#)



CONCLUSION:

Der Spiegel was aware of the information regarding Magnitsky's professional qualifications, but ignored it in the article, causing readers to conclude that Mr Browder had misrepresented Sergei Magnitsky's profession.

IV. *Der Spiegel's Claim: Major Karpov was not involved in the fraud Sergei Magnitsky denounced.*

In its article, *Der Spiegel* published a denial by Mr Karpov of his involvement in the fraud identified and denounced by Sergei Magnitsky, without questioning this denial or requiring that it be substantiated with any evidence.

"Karpov, the policeman, denies any involvement in the fraud or Magnitsky's death. 'Browder is a liar,' he says."

Truth: Major Pavel Karpov played a key role in the fraud.

1. Major Karpov had custody of the Hermitage Fund materials used in the fraud at the time the fraud was being perpetrated.

i. **Major Karpov had custody of the documents, stamps and seals of the Hermitage Fund investment companies seized during the raids** of Hermitage's office and its law firm's office in Moscow on 4 June 2007.

[RUS Link](#) & [ENG Link](#)

ii. **The use in the fraud of materials seized in the raids and kept in custody of Major Karpov was identified** in the 3 December 2007 complaint filed by the Hermitage Fund with Russian authorities there weeks before \$230 million were stolen.

The complaint had a section describing the complicity of Interior Ministry officers in the fraud entitled "*Assistance on the part of law enforcement officers and court officials*", which said:

*"The large scale **falsification of documents** of title, authority of representatives, information in the Unified State Registry of Legal Entities **and court rulings** is virtually impossible without a deliberate or accidental **assistance of law enforcement officers** and arbitration court officials."*

*Individuals who falsified documents for the court could not have done it successfully **without access to the original founding documents, seals and information** about accounts and financial operations of LLC Makhaon, LLC Parfenion and LLC Rilend **seized in the course of the investigation of criminal case No. 151231.**"*

[RUS Link](#) (page 13) & [ENG Link](#) (page 13)

2. Documents seized in the raids and kept in custody of Major Karpov were submitted by perpetrators to courts to obtain fraudulent awards, used to steal \$230 million in fraudulent tax refunds.

i. Perpetrators used the Gazprom share registry certificates seized in the 4 June 2007 raids from the Hermitage's law firm to obtain fraudulent court awards used to steal \$230



million. The Tatarstan Arbitration Court specifically referred to Gazprom share registry certificate as a basis for its decision on 16 November 2007:

'Decision case No A65-26689/2007.... 16 November 2007.... Share ownership is confirmed by Excerpt No 72211 from depo account No 679555 in regional depository ... of Gazprombank. ...Satisfy the Claim. ... in the amount of 13,880,521,978 rubles...in favour of Grand-Aktiv.'

[RUS Link & ENG Link](#)

- ii. The Gazprom certificates were in custody of Major Karpov after they were seized during the 4 June 2007 raids. Two months prior to the fraudulently obtained award against the Hermitage Fund company which relied on Gazprom certificates, these certificates were reviewed by Major Karpov, as shown by the protocol of examination of **19 September 2007**:

*"Protocol of Examination of items (documents), 19 September 2007
Senior Investigator ... P.A. Karpov ... conducted an examination of documents seized during the search of Firestone Duncan...
[Item No] 115. Excerpt No 72211 from depo account No 679555"*

[RUS Link & ENG Link](#)

- iii. Court records show that the Gazprom certificate was submitted to the court by Mr Andrei Pavlov, a friend and travel companion of Major Karpov. Mr Pavlov personally advanced the fraudulent claims and presented the certificate in court.

"Certificate No 72211 from DEPO ACCOUNT 679555 ... Copy is true, rep. of Claimant A. Pavlov."

[RUS Link & ENG Link](#)

- iv. Major Karpov was a travel companion of Andrey Pavlov both before and after the fraud (London, UK, January 2007), (Larnaca, Cyprus, May 2007), (Istanbul, Turkey, January 2008) and (Madrid-Barcelona, Spain, January 2009).

[ENG Link & RUS Link](#)

3. **Magnitsky directly linked the seized materials kept by Major Karpov to the theft of the Hermitage Fund investment companies.** In his 5 June 2008 testimony, Sergei Magnitsky described that seized electronic files were used to perpetrate the theft of the Hermitage Fund's Russian companies. Magnitsky stated:

"During the analysis ... it became clear that it [a fake Article of Association document produced by perpetrators] was fully identical with the text of the previous edition of ... Rilend Articles of Association, which was stored as an electronic file on the computers seized during the search in the office of the Firestone Duncan ..."

"... three [Hermitage Fund's Russian] companies ... were stolen in 2007 along with all their assets, with possible use of records and information seized during the raid."

[RUS Link](#) (page 5) & [ENG Link](#) (page 5)



4. **Major Pavel Karpov's unexplained wealth.** Major Karpov's official income during the period from 2004 to 2008 was less than \$10,000 per annum. During this time Major Karpov became an owner of:
- Luxury apartment in Moscow valued at \$930,000 (registered to his pensioner mother);
 - Land plots in Moscow region valued at \$234,000 (also registered to his pensioner mother);
 - A fleet of luxury cars:
 - Mercedes-Benz E320 valued at: \$65,052;
 - Mercedes-Benz E280 valued at: \$72,601;
 - Audi A3 valued at: \$48,546; and
 - Porsche 911 valued at: \$50,000
 - Other extravagant expenses, including worldwide travel, watches and other luxury items.

[ENG Link](#)

5. **The U.S. Department of Justice has independently identified Major Karpov as a key member of the crime group responsible for the \$230 million fraud scheme.** The Department of Justice investigated the \$230 million fraud and described it in court filings, identifying Major Karpov 11 times (and Lt Col Kuznetsov 17 times) for the key role in perpetrating the \$230 million fraud:

“Planning of \$230 Million Fraud Scheme and Fraudulent Re-Registration of Hermitage Companies

22. *On information and belief, the \$230 Million Fraud Scheme began on or about April 28, 2007, when key members of the Organization flew to Larnaca, Cyprus to plan the crime. On that date, ARTEM KUZNETSOV, then a Lieutenant Colonel in Russia's Interior Ministry, flew with DMITRY KLYUEV, a convicted fraudster, the owner of the Russian bank Universal Savings Bank (“USB”), and on information and belief the mastermind of the Organization, from Moscow to Larnaca on a private jet. On information and belief, they were met in Larnaca two days later by PAVEL KARPOV, then a Major in Russia's Interior Ministry, as well as two lawyers, ANDREY PAVLOV and his wife YULIA MAYOROVA, all of whom flew together from Moscow on Aeroflot SU-487. PAVLOV had known KLYUEV since 2001 and had provided him legal services from time to time.*

23. *On May 5 and 6, 2007, the Interior Ministry officers KUZNETSOV and KARPOV, and the lawyers PAVLOV and MAYOROVA, returned to Moscow....*

In denying requests from Hermitage to return the corporate documents and seals, the Russian Interior Ministry subsequently confirmed that these documents and seals, which were seized in the searches led by KUZNETSOV, remained in the custody of his colleague KARPOV.”

[ENG Link](#)

6. **Sanctions Designation of Mr Karpov.** Mr Karpov has been sanctioned by the US Treasury for his role in the Magnitsky case.

[ENG Link](#)



7. **UK Arrest Warrant for Mr Karpov.** Six years ago, in October 2013, a libel lawsuit filed by Mr Karpov was struck off by the UK court as an abuse of court process. Mr Karpov was ordered by the UK court to pay Hermitage's legal costs. Later, in May 2017, the UK court issued a warrant for Mr Karpov's arrest for being in contempt of court and failing to pay the court-ordered costs to Hermitage.

The warrant for Mr Karpov remains outstanding and Mr Karpov is evading payment.

[ENG Link](#)

CONCLUSION:

Der Spiegel received or had access to the above information but ignored it in the article, misleading readers and causing them to conclude that Major Karpov was not involved in the fraud.

Breach of Journalistic Standards

Before the publication, *Der Spiegel* was asked twice by Hermitage for an opportunity to check facts given the significant number of documents that had been provided to it for review. The first request on 21 November 2019 stated: "*Prior to your publication, please could you check with us, giving us a reasonable time, all facts/any alleged facts you intend to print?*"

The second request on 22 November 2019 stated: "*you have not addressed my second question in relation to the fact checking matters. Could you please confirm that you will send and give us reasonable time to check all facts/any alleged facts you intend to print?*" *Der Spiegel* twice ignored the requests.

Der Spiegel further misinformed Hermitage about the timing and urgency of the article. It stated on 22 November 2019 that no publication date was set: "*At the moment, we haven't made a decision on the timing of a possible publication on the issues linked these questions*".

It also stated that the answers to the questions could be provided the following week: "*happy to read your answers next week as well*". Despite those statements, *Der Spiegel* published the article on the same day, 22 November 2019, preventing a review of its claims for accuracy.

Basic journalistic principles, contained in the German Press Code, require journalists to report accurately and not distort facts³, however, these principles were violated by *Der Spiegel* in the article on Sergei Magnitsky, in which it failed in duty to safeguard the truth.

Sincerely,

Hermitage Capital Management

³ The German Press Code reads, *Research is an indispensable instrument of journalistic due diligence. The publication of specific information in word, picture and graphics **must be carefully checked in respect of accuracy** in the light of existing circumstances. Its sense **must not be distorted or falsified** by editing, title or picture captions.* <https://www.presserat.de>.
