

"Lack of trust is the result of what happened to the Skripal. Today in the British courts, soon around the world»

A year after the poisoning, the official investigation into the Skripal case does not give any new information. There is no news from Sergey Skripal himself – representatives of the Russian Embassy in Great Britain sent him a request for a meeting but did not receive an answer. However, British Ambassador Laurie Bristow in an interview to Interfax confirmed that Skripal and his daughter are alive.

Lawyer Nick Vamos, partner of law firm Peters & Peters Solicitors LLP¹ in London, and former Head of Special Crime and Head of Extradition at the Crown Prosecution Service, told "Novaya" about the prospects of the case and its consequences for Russia.

-At what stage now is the investigation of the case of the poisoning of the Skripal? Who are the suspects?

-The Official suspects are two named men who are shown on video from Salisbury, -Petrov and Boshirov (*British police say they are probably not real names, ed.*). They were formally charged with conspiracy to murder. It is pointless to request their extradition from Russia², but a warrant for their arrest has been issued.

- There was information about the third person involved in the poisoning of Skripal, allegedly Sergey Fedotov. Is he now also a suspect?

-If the police think they have enough evidence, he will be called the suspect, like those two. However, there is no such evidence yet. It is unlikely that he is still in Britain.

-Why is it pointless? What should happen in order for Russia to extradite them?

-We have a precedent with Andrei Lugovoy. Britain requested his extradition, but Russia rejected the request. The reason was this: he is a citizen of Russia, according to the constitution he cannot be extradited to a foreign state before the court. Russia then added: If you give us evidence, we ourselves will investigate the involvement of Lugovoy or anyone else to the crime. If Russia had decided to try Lugovoy, it would have staged a show trial, and Lugovoy would have been acquitted. After that, Lugovoy could not have been prosecuted anywhere in the world. Why ask Russia to extradite these two men if you know the answer? In addition, Britain suspects that the Russian state is behind this poisoning.

That is why Britain does not trust Russia to investigate the Skripal case. And it turns out: Russia does not extradite; Britain does not give evidence. A vicious circle.

Britain went the other way: asked Interpol to issue "red notice". This means that outside of Russia, suspects will be detained and sent to Britain. In theory they cannot leave the territory of Russia by official documents now. Of course, they can take a chance and go back with the fake ones. If Britain suspects that they are going abroad, they will report it and they are going to be extradited from any other country.

¹ Peters & Peters is one of the leading law firms in the UK, specializing in Russia-related cases in particular.

² In August 2018, The Guardian published with a reference to its sources the information that the British prosecutor's Office is preparing a request for the extradition of two suspects. The British MFA called these reports "speculation".

-Why is the refusal of cooperation with Russia rational? Maybe it would have been better to give the documents to Russia?

-Prime Minister Theresa May and the police have officially stated that very high officials from Russia are responsible for conducting the operation on the poisoning of the Skripal, but Russia denies it. And in response accuse that Britain poisoned Skripal.

In this situation, the development of the case will be likely the same as in the case of Litvinenko. Now the case is at the stage of criminal investigation. When it does not produce any results, the Coroner's Court will inherit it. When Britain realized that Lugovoy would never appear on its territory to prosecute him, they handed the case to the Coroner's Court. And there are no prospects in the Skripal case, most likely.

The duty of a judge in the Coroner's Court is to investigate the causes of death when there is doubt that it occurred by natural causes. This is a very long-standing system that has existed in this country for hundreds of years. The investigation of the Coroner's Court is different from the criminal one in that it will not tell whom to accuse in what happened. It can't decide who the offender is. Its duty is to establish who died and how.

What happened to Litvinenko's case? When the Coroner's Court opened its investigation (inquest), they could not by law, obtain the top-secret information collected by MI5 and MI6. So, they opened a public investigation. The rules of public investigation allow to demand disclosure of secret documents, but the purpose of both investigations is the same one - to find out the cause of death. I guess the same thing will happen to the Skripal case. They both survived, but a few months later the lady died (Dawn Sturgess). So, the cause of her death will be investigated, which is associated with poisoning using the same substance that was used in Skripal poisoning. The police have already reported that it is convinced that Sturgess died of "Novichok" poisoning, but the intention was to kill Skripal, she's just a random victim.

A public investigation will link her death to an attempt to poison Skripal.

A report will be issued on the basis of a public inquiry explaining why investigators have reasons to believe that Russian senior officials are responsible for this poisoning. I think it will be very similar to Litvinenko's case report.

-What are the consequences of such an investigation for Russia?

-Obviously, there will be diplomatic consequences. It is a question to the respective governments, how far they will go. Remember, after the poisoning of Skripal, England asked for support from other countries in punishing Russia in a diplomatic sense? A new wave of sanctions, diplomatic conflicts will follow. It will not be a legal procedure, rather, you can say it will be a return to the Cold War. However, these are just my assumptions.

-What outcome of the investigation will be satisfactory for the British authorities?

-Perhaps there will be evidence of who ordered the murder-at a higher level, how the operation was organized. Then the debate will come to the political arena. And then the international consequences will be obvious.

Perhaps the investigation will decide that these guys are really just tourists, but it's unlikely. But what the police and the prime minister said does not necessarily have to be confirmed by the investigation.

Lugovoy refused to take part in the investigation. Russia could take part by proxy and provide evidence which could change the course of the case. I think in our case the same thing can happen again.

-If our suspects still leave the territory of Russia, what will happen?

-From any other country they will be extradited to England. As soon as they get to its territory, they will be brought to court, where they will be charged. Criminal proceedings will commence. They will need to find lawyers, a long period of preparation will take place, most likely they will be imprisoned. The substantive proceedings will commence within six months of their entry into England.

-Well, this is a hypothetical scenario, and it's unlikely to happen. When will the case be closed?

-The active phase of the investigation may end, but the intention to prosecute these two suspects or others, if they emerge in this case, will remain. The case will never be closed. Even if they leave Russia in 50 years, if they are still alive, we will still try to bring them to justice.

-As well as Lugovoy?

-Absolutely correct. If he thinks to leave Russia, we will have a chance to do it immediately.

-Why did Skripal never give any comments?

-The British authorities cannot restrict his freedom of expression, so he prefers not to do it himself.

-We have very little official information about the ongoing investigation. British Ambassador Bristow stated that the results of the investigation could not yet be published in order not to affect the court. What does he mean?

-We have a rule in Britain that in anticipation of proceedings, we must try to get as little information about the case in the media as possible. If the journalists before the trial will write with the assumptions who is guilty, it immediately gives rise to prejudice.

In contrast to the Russian authorities, who in some high-profile cases have been known to declare the defendant guilty before the trial, our politicians are cautious in this sense, they do not comment on such loud cases, saying: This is a decision of the court, not ours.

Secondly, if we say too much about the evidence we have, it will enable the Russian authorities to criticize the investigation. This would undermine the credibility of the future process.

-What if the investigation confirms that the woman died from "Novichok"? Not within Skripal case, does her family have any way to get justice and compensation?

-One way to achieve this is to open a civil case in court against the Russian Federation. The family may claim damages. This happens in many countries, for example, when victims of terrorist attacks demand damages from the state they believe to be responsible.

-Can you apply to the ECHR? The right to life has been violated.

-I absolutely agree with you. The Court may decide that Russia is potentially responsible for the incident. But again — even a positive decision will not give any chance that the people who have committed it would answer before the Court and incur punishment.

-But it is an attempt to establish justice.

-Yes, perhaps the European court will even oblige Russia to pay compensation. But it will not be very soon. The consequences for Russia now are more important — in other courts. Despite the fact that the investigation is only underway, there is no decision in the case, many judges already refer to this case. And it does not support Russia. For example, in extradition cases before the British courts.

If Russia asks for the extradition of Russians who are in the territory of England. Judges are saying: "We cannot trust Russia that it will ensure a fair trial and keep promises about the conditions of detention."

The consequences are already visible to us, and perhaps soon in the courts of other countries around the world. The lack of trust is the result of what happened to Skripal. Now it has complicated Russia's task for cooperation with other countries in the future.

If the Russian Federation and its senior officials really stood behind the incident, they framed themselves, how can they now be trusted by other countries?

-Are there specific cases in British courts?

One case in Scotland, they have a separate legal system. Russia has asked to extradite Alexander Shapovalov (former general director of the Scientific Center of Applied Chemistry in St. Petersburg, convicted for fraud). In April, the British Court of Appeal agreed with the Scottish judge that Russia's promises cannot be trusted³.

Another case where we are engaged with a colleague. The High Court in London refused to extradite a businessman from Penza Alexei Shmatko to Russia. The grounds refer to serious deterioration in relations between the UK and the Russian Federation after the poisoning in Salisbury⁴.

It will be the best we can do. If direct consequences are not possible, it will be collateral consequences for the country.

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³ https://www.bailii.org/scot/cases/ScotSC/2018/%5b2018%5d_SC_35.html

⁴ <https://www.bailii.org/ew/cases/EWHC/Admin/2018/3534.html>