

Russian National Charged by DOJ With Acting as a Russian Agent Under Section 951

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Late last month, the U.S. Department of Justice (DOJ) announced its filing of a complaint charging Russian national Vladimirovich Cherkasov with several counts, including conspiracy to act as an agent of the Russian government without notifying the Attorney General in violation of 18 U.S.C § 951 (Section 951). According to the Complaint, Cherkasov, a national of the Russian Federation, began operating as an illegal agent in 2012 as an agent for the Russian Intelligence Service (RIS) under the Brazilian alias of Victor Muller Ferreira. According to DOJ, while in the U.S., Cherkasov “developed his cover story, gained a U.S. degree, built his legend, collected intelligence, and passed this intelligence to RIS.” For instance, the Complaint alleges that:

- “Starting in or about January 2020, CHERKASOV, using the FERREIRA alias, applied for numerous job positions in the United States, the District of Columbia, and elsewhere. CHERKASOV applied to positions in several international organizations, including the United Nations and the ICC; sensitive positions at U.S. companies that required a security clearance; U.S. universities; U.S. think-tanks; U.S. financial institutions; a U.S. media outlet; and a position in the U.S. government.”
- CHERKASOV drafted an electronic message about U.S. persons (USP) on Thumb Drive 2. CHERKASOV summarized a discussion with USP 13—the CEO and cofounder of TT2—about USP 13’s article and the Russian military buildup near Ukraine. CHERKASOV stated that USP 13 “is a valuable contact and it is a good sign that [USP 13]50 is replying to our questions and thoughts” on the current Ukrainian crisis.

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By way of background, Section 951 targets activities undertaken by foreign agents in the United States. It provides criminal penalties for certain agents of foreign governments who act in the United States without first notifying the Attorney General. Section 951 cases, like Cherkasov's, generally involve espionage-like or clandestine behavior, information gathering, or procurement of technology on behalf of foreign governments or officials. Section 951 is centered on criminal enforcement of violations and has no formal administrative registration system.

Although similar, Section 951 is a separate and distinct statute from the Foreign Agents Registration (FARA). There are several key differences between the two statutory regimes. FARA is a disclosure statute with its primary purpose being transparency, and not criminal prosecution like Section 951. Furthermore, while the definition of foreign principal under Section 951 is limited to foreign governments and officials, FARA defines foreign principals more broadly, also including foreign companies and foreign individuals. Nonetheless, registration under FARA serves as the requisite notice under Section 951. Moreover, like Section 951, FARA does authorize criminal penalties for violations. Again, however, FARA's main purpose is transparency, and not criminal prosecution.

In his statement regarding the Complaint, U.S. Attorney Matthew M. Graves emphasized that undercover operatives sent by foreign adversaries will be found and prosecuted to the fullest extent of the law. Cherkasov is currently being held in Brazil and was convicted of several counts of fraud and sentenced to 15 years imprisonment. The Russian government is seeking Cherkasov's extradition, and according to U.S. officials, Cherkasov's recent indictment is an attempt to preempt Russia's extradition attempt.

This recent Complaint demonstrates DOJ's continued focus on aggressively enforcing foreign agent laws through use of statutory tools like Section 951 and FARA. These and other recent enforcement actions involving foreign agents reinforce the importance of ensuring maximum compliance with U.S. foreign agent laws.

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April Song, a Trade Analytics Specialist at Wiley Rein LLP, contributed to this alert.