



# Report: Kazakhstan pursues former top managers of BTA Bank in order to obtain their testimonies against Mukhtar Ablyazov

**France recognised the political nature of the prosecution of Mukhtar Ablyazov, a longtime opponent of Nursultan Nazarbayev. The need to obtain ‘additional testimonies’ against Ablyazov led to the intensification of a ‘hunt’ for former top managers of BTA Bank. In particular, the Kazakhstani authorities have kidnapped Zhaksylyk Zharimbetov from Turkey and are seeking the extradition of Anatoliy Pogorelov and Roman Solodchenko.**

## 1. Introduction

The criminal case of BTA Bank is the result of a long-standing political conflict between President Nursultan Nazarbayev and opposition politician Mukhtar Ablyazov.

In 2001, Mukhtar Ablyazov, a former energy minister, became one of the founders of the opposition movement ‘Democratic Choice of Kazakhstan’. Being an influential politician and businessman, Ablyazov advocated liberal reforms and supported the opposition and independent media outlets. For this reason, President Nazarbayev considers Ablyazov his personal enemy. A Kazakhstani court banned the opposition parties ‘Democratic Choice of Kazakhstan’ and ‘Alga!’ as well as 34 non-state media outlets, having convicted them of ‘extremism’ and ‘cooperation with Ablyazov’.

The case of BTA Bank is a typical example of how an authoritarian governor uses the public system for the purpose of taking revenge against its principled opponent.

In 2009, following the conflict between Nazarbayev and Ablyazov, Kazakhstan’s strategic BTA Bank was forcibly nationalised. Former managers of the bank, Mukhtar Ablyazov and Zhaksylyk Zharimbetov were labelled ‘leaders of the criminal group’, while those who worked with them – ‘members of the criminal group’. They were accused of ‘embezzlement of the funds of BTA Bank’.

This report analyses **the origins of the case of BTA Bank in Kazakhstan**, when the Kazakhstani investigative bodies coerced the bank's former top managers to give incriminating testimonies by a means of threats and blackmail. **Following the recognition of Abylazov's case as politically motivated by France and its refusal to extradite him, Kazakhstan has intensified the prosecution of the bank's former top managers** (in particular, Anatoliy Pogorelov, Zhaksylyk Zharimbetov and Roman Solodchenko, whose cases are presented in this report). The purpose of the actions, taken by Kazakhstan, was to receive 'additional testimonies' in order to use them for propaganda purposes, as well as further prosecution of Abylazov, his family members and colleagues in the EU, including Great Britain.

The criminal case of BTA Bank was based on Article 65 of the Criminal Code of Kazakhstan, which provides for 'exemption from criminal liability due to active repentance'. Investigators threatened the accused that they 'have to admit their guilt, or they will be sentenced to prison terms'. More than 40 former employees of BTA Bank 'repented'. The authorities used them in order to obtain testimonies against Abylazov. One of the victims was Anatoliy Pogorelov who has been placed on the international wanted list and, therefore, he can be extradited to Kazakhstan.

As a result of two trials, more than 30 employees of BTA Bank were convicted in Kazakhstan. Most of them were sentenced to 5 to 8 years' imprisonment. These sentences are used as collateral estoppel in the prosecution of Mukhtar Abylazov and his associates. In Kazakhstan, there is no court decision regarding Abylazov. But, at the same time, the Kazakhstani court sentenced those who 'aided and abetted Abylazov in the embezzlement'. Thus, the authorities have 'automatically' found Abylazov guilty of embezzlement.

In addition, Abylazov's former business partner, Zhaksylyk Zharimbetov, is currently in the hands of the authorities. Great Britain granted him refugee status in relation to Kazakhstan. However, on 21 January, 2017, Kazakhstani secret services kidnapped Zharimbetov from Turkey on a chartered plane. Thus, one of the basic norms of international law: the principle of non-refoulement of a refugee to the country of origin, was breached. Zharimbetov was held in a detention centre of the National Security Committee for 10 days. After that, he stated that he had 'voluntarily surrendered to the authorities', and began to testify against Abylazov.

It can be argued that, **using Zharimbetov as a hostage, Kazakhstani authorities will be able to obtain any testimony from him**. After the kidnapping of Zharimbetov, the Kazakhstani authorities reported about 'the obtained additional evidence of wrongful acts, committed by Abylazov and his accomplices'. In addition, on 10 February, 2017, the investigative bodies stated that 'Abylazov's new accomplice has been determined'. The new accomplice allegedly '[laundered part of the funds, embezzled from BTA Bank through the newspaper 'Tribuna'](#)'. According to the authorities, it was the editor-in-chief of the opposition newspaper, Zhanbolat Mamay, who was immediately detained by the police. A search was carried out in the newspaper's office. There is reason to believe that in these cases, the authorities are relying on testimonies, obtained from Zharimbetov.

Thus, the Kazakhstani authorities use openly unlawful measures, creating the appearance of 'adminstrating justice'.

In 2009, in Great Britain, the nationalised BTA Bank filed civil lawsuits against Abylazov. British lawyers who formally represented BTA Bank, in fact, were working for the government of Kazakhstan. Thus, **BTA Bank misled the British court, claiming that the civil suits 'have no political grounds'**.

In addition, using illegal influence, Kazakhstan has brought about the initiation of criminal proceedings on the case of BTA Bank in Ukraine and Russia. Should Abylazov and his colleagues

be extradited to any of those countries, Kazakhstan will get access to them. According to documents, published by the media, representatives of the Kazakhstani authorities were preparing drafts of written accusations for the Ukrainian and Russian investigative bodies on the case of BTA Bank and indicated the 'correct' amounts of the allegedly stolen money.

International human rights organisations, representatives of the UN and the European Parliament stated [the political context](#) of the case of Ablyazov. The EU Member States have already adopted more than 10 decisions to refuse to extradite Ablyazov's colleagues to Kazakhstan, Russia and Ukraine. They have been granted asylum or subsidiary protection in the EU countries. Despite this, Russia and Ukraine continue to seek their extradition, in cooperation with Kazakhstan, thereby abusing the Interpol mechanisms.

## **2. Following the conflict between Nazarbayev and Ablyazov, BTA Bank was nationalised**

Mukhtar Ablyazov began his expansion in the sphere of business after the collapse of the Soviet Union. In the period between 1993-1997, he established and became the head of the conglomerate 'Astana Holding', which acquired a stake, among others, in banks and the media.

In 1997, Ablyazov began to work in the public sphere. In the years 1998-1999, he held the post of the Minister of Energy, Industry and Trade of Kazakhstan. In 1999, he rejected the offer of President Nazarbayev to continue to work in the government. Ablyazov noticed that strengthening of the power of the President and his family's influence on all spheres of the economy prevented the implementation of systemic liberal reforms. Ablyazov crossed over to the opposition, and, consequently, fell into disgrace of the President of Kazakhstan. In 2001, Ablyazov became one of the founders of the opposition movement 'Democratic Choice of Kazakhstan'. After that, the authorities initiated a criminal case against him. On 18 July, 2002, Ablyazov was sentenced to 6 years' imprisonment, having been convicted of 'abuse of power'. Due to the pressure from the international community, which recognised the verdict as politically motivated, Nazarbayev pardoned Ablyazov on 13 May, 2003. The '[Democratic Choice of Kazakhstan](#)', as well as its successor - the 'Alga!' party, were accused of 'extremism' and banned by the Kazakhstani court (in 2005 and 2012, respectively).

In 2005, Ablyazov became the head of the Board of Directors of BTA Bank (a private bank). According to Ablyazov, in 1997, he established a consortium of Kazakhstani investors which won the tender for the purchase of the bank's shares. In the period between 2006-2009, BTA Bank [topped the rankings](#) of the [best banks in Central Asia](#). In 2008, the Bank owned 30% of all loans, granted to legal entities in Kazakhstan.

Ablyazov continued to support the opposition and independent media, which triggered a new conflict with Nazarbayev. In addition, according to Ablyazov, he refused to comply with the demands to transfer the controlling stake in BTA Bank to the President's representatives.

**After that, the state authorities began to point to irregularities in the bank's operation.**

In early 2008, the Financial Supervision Agency stated that BTA Bank has a policy of risky lending. As noted by Ablyazov, on 29 January, 2009, the Agency demanded that the bank create additional reserves of approximately \$3.5 billion **within one working day**.

On 2 February, 2009, at a government meeting, a decision was issued to nationalise BTA Bank and dismiss its managers, Mukhtar Ablyazov and Zhaksylyk Zharimbetov. Ablyazov labelled the events 'illegal takeover by the State, which will lead to serious consequences'. [According to him](#), as a result of the change of ownership, foreign creditors obtained the right to claim from the

bank, early repayment of all international liabilities in the amount of \$12 billion.

### 3. Ablyazov and his colleagues face criminal charges

On 2 March, 2009, Kazakhstani authorities initiated a criminal case against Ablyazov and those who worked with him. The investigative bodies stated that the BTA Bank's funds were 'stolen by the organised criminal group, headed by **Mukhtar Ablyazov** and **Zhaksylyk Zharimbetov**'. Zharimbetov held the positions of Chairman of the Bank's Credit Committee (from 25 September, 2006), Deputy Chairman of the Board (from 21 December, 2006), and First Deputy Chairman of the Board (from 4 March, 2008).

According to the decision to present charges, Ablyazov 'appointed people, associated with him, to senior positions in the bank,' as they 'agreed to provide loans on favourable terms without proper examination'. The investigative body alleges that the companies which received loans 'were controlled by Ablyazov'. The Kazakhstani authorities believe that Ablyazov 'used the funds for his own benefit in his business operations'.

As a result, Kazakhstan accused Mukhtar Ablyazov of 'embezzlement of another's property' (Article 176, section 3 of the CC of the RK); 'fraud' (Article 177, section 3 of the CC of the RK); 'money laundering' (Article 193, section 3 of the CC of the RK); 'illegal use of the bank's funds' (Article 220, section 1 of the CC of the RK); 'abuse of power' (Article 228 of the CC of the RK); 'leadership in a criminal group' (Art. 235, section 4).

On various occasions, Kazakhstani prosecutor's office indicated different amounts of financial means, 'embezzled by Ablyazov and Zharimbetov's criminal group' - from \$5 billion to 7.5 billion.

The investigators divided 'members of the criminal group' into two categories:

- Persons who had a 'relationship of trust' with Ablyazov and Zharimbetov, and participated in 'the division and appropriation of the embezzled funds'. These included Ablyazov's ally, **Roman Solodchenko**, who worked at the bank from 19 October, 2005.
- Employees of the bank who 'were not included in the number of Ablyazov and Zharimbetov's trusted persons', 'did not participate in the division and appropriation of the stolen funds', but 'executed criminal orders' due to their official duties. **Anatoliy Pogorelov**, who worked at the bank from 1997 to July 2006, was placed in this category by investigators.

### 4. More than 40 people signed confessions in exchange for the release from criminal liability

**Article 65 of the Criminal Code of Kazakhstan** provides for 'exemption from criminal liability due to active repentance'. This article applies to those who 'turned themselves in and were instrumental in solving the crime'. In particular, the testimonies given under this article, were actively used during the politically motivated lawsuits against the oil workers of [Zhanaozen](#) and opposition leader [Vladimir Kozlov](#).

On 13 November, 2009, when answering a question about his opponents and former officials who 'stumbled', President Nazarbayev [stated](#): "I'm willing to forgive those who repent for their mistakes and state that they are ready to stand on our side and correct their mistakes'.

As noted by Anatoliy Pogorelov, **investigator Saken Ikhsangaliyev openly stated that the proceedings on the case of BTA Bank are political in nature**, and so 'everyone must admit guilt pursuant to Article 65, or they will be sentenced to prison terms'.

According to our calculations, **43 former employees of BTA Bank** gave 'confessions' in exchange for being released under Article 65 of the CC. The investigative bodies stated that these persons "repented and assisted in naming other accomplices of the crimes".

## 5. The results of the trials on the case of BTA Bank in Kazakhstan

Confessions formed the basis of **the first court trial against 12 former employees of BTA Bank**. On 25 December, 2009, the Almalinskiy District Court of Almaty found them guilty of 'embezzlement of another's property' (Art. 176, section 3 of the CC of the RK) and 'money laundering' (Art. 193, section 3 of the CC of the RK) 'as part of an organised criminal group'.

According to the verdict, members of BTA Bank received the following punishments:

- 8 years' imprisonment: Bagdatgali Tasibekov, Ermek Dikanbayev, Aidos Mukatayev, Askhat Estayev, Zhanibek Dzumamukhambetov.
- 5 years' imprisonment: Ermek Zhanybekov, Zhanna Bekbayeva, Alexey Domashenko, Erlan Beysekeyev.
- 2 years' imprisonment: Ablakhat Kebirov, Daulet Dashev.
- 5 years' imprisonment (suspended sentence): Genrig Kholodzinskiy.

At that time, Kazakhstan intensified the persecution of Ablyazov in the British courts by filing civil lawsuits against him. Most likely, the Kazakhstani authorities needed additional, more 'convincing testimonies' against Ablyazov. This may explain the fact that in early 2010, the authorities abolished the decision to apply Article 65 in respect of the employees of BTA Bank. **Some of those who had 'repented' and had been released, were again subjected to criminal prosecution.** The second criminal case was initiated against **a wider range of people**. Thus, the investigative bodies 'increased' the number of members of the 'organised criminal group'.

**During the second court trial, 21 people** (former employees of BTA Bank and employees of companies which had been granted loans) **appeared in the dock**. On 24 May, 2012, the Medeuskiy District Court of Almaty recognised them as 'members of an organised criminal group', who are guilty of 'complicity in appropriation and embezzlement of another's property' (Art. 28, section 5, Art. 176, section 3 of the CC of the RK) and 'illegal use of the Bank's funds in order to deliberately grant irrecoverable loans' (Art. 220, section 2 of the CC of the RK).

According to the verdict, the defendants received the following punishments:

- 6 years' imprisonment: Zhanna Akhmedyarova.
- 5,5 years' imprisonment: Nazgul Kozhali.
- 5 years' imprisonment: Genrig Kholodzinskiy, Raimkhan Uzbekgaliyev, Saule Bulatkhanova, Andrey Kovsharov, Baurzhan Isenov, Ainar Ilyasov, Murat Murzatayev, Dmitriy Solodukhin, Ermek Adilbekov, Baurzhan Karimov, Talgat Yskak, Dastan Nurpeisov, Timur Surapbergenov, Bagdatgali Tasibekov, Ermek Dikanbayev (with regard to Tasibekov and Dikanbaeva, the sentence of 8 years' imprisonment, issued in the first trial, was upheld).
- Released under amnesty: Serik Sadykov, Edge Nurkhydarov, Dina Abdykalykova.
- Released in connection with the expiration of the statute of limitations for criminal responsibility: Daulet Abzhanov.

It should be noted that **9 people** (Akhmedyarova, Uzbekgaliyev, Bulatkhanova, Isenov, Ilyasov, Murzatayev, Solodukhin, Abdykalykova, Abzhanov) **were convicted despite the fact that previously, the criminal prosecution against them was discontinued pursuant to Article 65 of the CC.** In particular, Akhmedyarova and Solodukhin returned to Kazakhstan, believing in the promises of the authorities to cease the prosecution in exchange for their testimonies. On 1 August, 2012, in a letter to President Nazarbayev, **Akhmedyarova and Solodukhin stated that they had been deceived.** Moreover, Akhmedyarova was also found guilty of '[money laundering](#)' (Art. 193, section 3 of the CC of the RK).

## 6. Violations during the trials on the case of BTA Bank in Kazakhstan

Observers noted that both court trials did not conform to [the principles of a fair trial](#). In particular, **journalists and counsels have noted the following violations:**

- The investigative bodies considered the entire amount of money which the bank had granted as loans, as 'embezzled'. At the same time, it was not taken into account that part of the loans was repaid. Arrears on loans were considered as the bank's losses. In addition, some companies were unable to repay their liabilities due to the fact that investigators blocked their bank accounts following the nationalisation of the bank.
- The counsels offered to conduct accounting expertise in order to determine the market value of the collateral and to answer the question whether damage was caused to the bank; however, the court dismissed the motions.
- The lawyers noted that **similar actions of the bank were considered by inspectors, in some case, as a violation, while in other cases - as the absence of elements of a crime.** Anatoliy Pogorelov explained it in the following way: "From the total loan portfolio of the transactions, the investigative bodies chose those transactions to which Ablyazov or Zharimbetov, or their friends and relatives could be tied in any way, and just labelled these loan transactions 'embezzlement'".
- Business relationships of the bank's employees were presented by investigators as a 'hierarchy of the criminal group'.
- The decisions to present criminal charges indicate **different amounts of funds**, allegedly stolen by 'Ablyazov's criminal group'.
- The prosecutor alleges that defendants who refuse to admit their guilt, "are making attempts to evade responsibility in this way".
- The verdict of the court is a **verbatim duplication** of the indictment act.

## 7. The case of Anatoliy Pogorelov: the bank's employee has become a victim of the criminal prosecution of Mukhtar Ablyazov

From 2002 to 2006, Anatoliy Pogorelov held the post of the Chairman of the Credit Committee of BTA Bank (subsequently, the post was taken by Zhaksylyk Zharimbetov).

Pogorelov faced the same criminal charges, which led to the conviction of 21 employees of BTA Bank in 2012, namely: 'complicity in embezzlement of another's property' (Article 28, section 5, Article 176, section 3 of the CC of the RK) and 'illegal use of the bank's funds' (Art. 220, section 1 of the CC of the RK) as 'part of a criminal group'. Kazakhstani investigative bodies accused Pogorelov of 'executing Ablyazov's instructions' and signing of documents of the Credit Committee 'in the interests of the criminal group'.

Pogorelov claims not to be well acquainted with Ablyazov and denies being one of his associates. According to Pogorelov, he resigned from his post of the chairman of the Credit Committee 9

months after Ablayzov became the head of the bank, as he could not work well together with the new head.

In 2009, Pogorelov **gave 'self-incriminating testimony' under Article 65 of the CC**. Otherwise, the investigator threatened him with imprisonment. According to Pogorelov, he signed the wording proposed by the investigator: **"I plead guilty to agreeing to issue a loan to a company, not knowing that the part of the funds will not be used for the intended purpose (it will be siphoned off from the company)"**. However, the decision to present criminal charges quotes a different content of Pogorelov's testimony. Investigators claim that Pogorelov admitted that "loan privileges were only granted to companies affiliated with the bank, Ablayzov and his people"; "Investment Committee under the leadership of Ablayzov exerted pressure on the members of the Credit Committee".

The bank employees who 'repented', were promised release from custody under Article 65 of the CC. However, in 2010, the authorities reversed the decision and **re-initiated criminal proceedings against several persons, in particular, Anatoliy Pogorelov**. He realised that it is not safe for him to continue to reside in Kazakhstan and in June 2010, he left the territory of the country. Kazakhstan issued an international arrest warrant for Pogorelov.

## **8. Kazakhstan's special services kidnapped Zharimbetov and held him in detention for 10 days, after which he began to give 'self-incriminating testimony'**

Kazakhstani authorities stated that Zharimbetov and Ablayzov 'were the heads of a criminal group'. According to investigators, Zharimbetov 'implemented decisions, made by Ablayzov'.

On 10 January, 2012, Zharimbetov was granted refugee status in Great Britain. The British authorities cited the information that Zharimbetov was a close associate of oppositionist Ablayzov and Kazakhstan demanded that he testify against Ablayzov.

In November 2012, Zharimbetov informed the British court that the Kazakhstani authorities threatened him to 'make the life of his family members difficult', if he refuses to testify against Ablayzov.

At the same time, Zharimbetov himself expressed his readiness to 'cooperate with the investigative bodies' in exchange for withdrawal of the criminal charges. This is evidenced by the correspondence, published in the media. And so, on 5 October, 2013, Zharimbetov wrote a letter to the Agency of the Republic of Kazakhstan for Fighting Economic and Corruption Crimes . **"I addressed the law enforcement agencies, starting in 2010, with a collaboration proposal, but did not find understanding for various reasons. (...) I want to say that I was misled by Ablayzov, like many other employees of the bank "**, - Zharimbetov wrote. However, the management of BTA Bank believed that Zharimbetov was striving to **"bargain with the Kazakhstani party, while continuing to support Ablayzov" and "failing to recant his political statements"**.

On 17 January, 2017, Zharimbetov was detained at the Istanbul airport. Zhaksylyk Zharimbetov's wife, Akmaral Zharimbetova, addressed the Open Dialog Foundation for help. She stated that Kazakhstani authorities were planning to kidnap her husband. On **21 January, 2017**, it was reported that **Kazakhstani special services transferred Zharimbetov from Turkey on a chartered plane**.

On 23 January, 2017, in an official inquiry to the Turkish authorities, the Open Dialog Foundation asked why, in violation of international agreements, the Turkish authorities rendered Zharimbetov to Kazakhstan in respect of which he had been granted refugee status; and why he

was not provided with a legal counsel. The response to the inquiry is yet to be received.

It is still unknown, which legal procedure - deportation or extradition – was applied during the rendering of Zharimbetov to Kazakhstan, and which authority has issued the decision. Facts give reason to describe the incident as ‘kidnapping’, carried out by Kazakhstani secret services in cooperation with the Turkish secret services.

For several days, Zharimbetov’s whereabouts were undetermined. **On 30 January, 2017**, Zharimbetov and his counsel Nurlan Ustemirov [appeared at the press conference](#) in Astana. Zharimbetov stated that he had been arrested by the Turkish authorities on charges of ‘holding a forged passport’, and then **decided to ‘voluntarily’ surrender to the authorities of Kazakhstan**. From 21 January, 2017 to 30 January, 2017, he was held in a detention facility of the National Security Committee; currently, he is under ‘house arrest’.

Zharimbetov believes that he arrived in Kazakhstan, because ‘it was written in the stars’: “If I had not been detained in Turkey, maybe I would be walking somewhere else now. I would be afraid. (...)They say, it takes three days to get used to hell. That is, one can get used to anything”.

It is noteworthy that during his speech, **he repeated the phrase that in his case** “there’s no political motivation” **as many as four times**. “I know that some people like Mukhtar Ablyazov, and non-governmental organisations, such as the Open Dialog, try to politicise the situation”, - Zharimbetov stated. It is unknown how, while in prison, he became aware of the fact that the Open Dialog published a [statement](#) about his kidnapping.

Zharimbetov agreed to ‘[cooperate with the investigative bodies](#)’: “This will help me, those people who have already been convicted, and those who are still at large outside Kazakhstan”. He spoke harshly about Ablyazov, stating that he is ‘obsessed with power’, ‘pursued some personal interests’ and ‘the bank and its employees were his tools’. Zharimbetov’s counsel stressed that “Mr. Ablyazov gave the instructions to grant loans”.

## **9. Kazakhstan’s illegal influence on Ukrainian and Russian investigative bodies and abuse of the Interpol mechanisms**

Kazakhstan does not have extradition treaties in place with most EU countries. Therefore, the Kazakhstani authorities made agreements on the provision of mutual ‘assistance’ with Russia and Ukraine. Kazakhstan’s BTA Bank had representative offices in Ukraine and Russia. As a result, Russia and Ukraine also initiated criminal proceedings against Ablyazov and his associates on charges of ‘embezzlement of BTA Bank’s funds’ as part of an ‘organised criminal group’.

In 2014, the kazaword.wordpress.com portal published the correspondence of Kazakhstani officials and their representatives. These documents received broad reverberation among the European media [1], [2], [3], [4], [5] and [human rights organisations](#). The Kazakhstani authorities declared that email accounts of government officials had been hacked. Thus, the authenticity of the correspondence was confirmed.

The published correspondence confirmed that **representatives of the Kazakhstani authorities were [producing draft written charges](#)** for Ukrainian and Russian investigative bodies to be used against Ablyazov and his associates, as well as requests for placing their names on the Interpol list; they gave direct instructions on the case and indicated the ‘[convenient](#)’ amounts of the allegedly stolen funds.

- In **Ukraine**, a criminal case against Mukhtar Ablyazov, Zhaksylyk Zharimbetov, Roman



- Solodchenko, Tatiana Paraskevich, Igor Kononko and Syrym Shalabayev was initiated.
- **Russia** brought criminal charges, in particular, against Mukhtar Ablyazov, Artur Trofimov, Roman Solodchenko and Tatiana Paraskevich. Russian investigators and judges, who were engaged or continue to be engaged in the case of BTA Bank, are included in the list of sanctions within the framework of the Magnitsky case.

Kazakhstan is interested in extraditing these persons to Russia or Ukraine, as this would allow representatives of Kazakhstan to have access to them and obtain testimonies against Ablyazov. The EU Member States refused to extradite them and granted to them, a residence permit. The authorities of Kazakhstan, Russia and Ukraine are aware of their current whereabouts. Therefore, there is every reason to believe that **in these cases, Interpol is not used for the purpose of pursuit, but rather with the aim of limiting Ablyazov and his associates' freedom of movement, the opportunity to open bank accounts, find accommodation etc.**

In 2016, Interpol removed Artur Trofimov's name from the wanted list. Roman Solodchenko's name was removed from the wanted list on the request of Kazakhstan. As for the Ukrainian and Russian requests on the case of Solodchenko - Interpol has suspended them for the time of verification.

## **10. The case of Roman Solodchenko: Great Britain granted him asylum and refused to extradite him to Ukraine and Russia**

Roman Solodchenko worked in BTA Bank from 19 October, 2005, occupying the post of Member of the Board, Deputy Chairman of the Board and Chairman of the Board. According to investigators, he 'agreed decisions with Ablyazov and Zharimbetov' and signed documents 'in the interests of the criminal group'.

On 10 January, 2012, Solodchenko was granted refugee status in Great Britain. The British authorities took into account, the evidence that **the criminal prosecution of Solodchenko was connected with his close ties with the opposition politician Ablyazov.** Instances when the Kazakhstani authorities exerted pressure on Solodchenko's relatives, demanding that he stop supporting Ablyazov and return to Kazakhstan, were noted.

On 1 March, 2016, Westminster Magistrates' Court refused to extradite Solodchenko to Ukraine, citing the risk of an unfair trial. The court also pointed to the serious pressure on the part of Kazakhstan in this case. On 30 November, 2016, the Court also rejected Russia's extradition request. The decision reads that Russia did not present to the court, sufficient evidence to substantiate the criminal charges against Solodchenko.

## **11. The case of Tatiana Paraskevich: the Czech Republic refused to extradite her to Ukraine and Russia. Kazakhstan's lobbyists are striving to bring about the cancellation of subsidiary protection status**

Tatiana Paraskevich is Mukhtar Ablyazov's former colleague who currently lives in the Czech Republic.

On 4 September, 2012, her counsel received a letter from Vojtěch Trapl who represents the interests of BTA Bank in the Czech Republic. He explicitly stated that in exchange for a 'testimony regarding the activities of Mukhtar Ablyazov', **Kazakhstan can ['apply for termination of Tatiana Paraskevich's criminal prosecution in Ukraine and Russia'](#)**. Paraskevich refused to give the incriminating testimony.

In 2014, the Czech Republic refused to extradite Paraskevich to Russia and Ukraine. However, Russia and Ukraine have expressed their protest against the decision. **In 2016, these countries almost simultaneously sent repeated requests for the extradition of Paraskevich.** The same documents which the Czech Republic had already considered in 2014, have been attached to the requests.

On 18 February, 2014, the Czech Republic granted to Paraskevich, subsidiary protection for a period of one year. On 16 February, 2015, the status was extended for another two years. Paraskevich filed an application for another extension of the status. The lawyers of Kazakhstan's nationalised BTA Bank have **repeatedly appealed to the Czech law enforcement authorities to prevent the granting international protection to Paraskevich.** Currently, the General Prosecutor's Office of the Czech Republic is striving to cancel the status with regard to Paraskevich through legal action (this is the first such case in the Czech Republic). There is reason to believe that Kazakhstan's lobbyists [can be influencing these processes](#).

## **12. France recognised the political nature of the case of Ablyazov and noted Kazakhstan's illegal influence on Ukraine and Russia**

On 31 July, 2013, Mukhtar Ablyazov was arrested in France on the basis of a 'red notice', issued by Interpol.

On 9 December, 2016, France's State Council (Conseil d'Etat) [refused to extradite Ablyazov](#), the main accused in the case of BTA Bank, to Russia.

The decision of the State Council reads as follows: "**Whereas it appears from the documents brought before this Court that Mr Ablyazov is an opponent of the political regime in Kazakhstan and that he has been recognized as a political refugee by the British authorities to protect him against the risks he would incur in his homeland. ...The evidence brought forth shows that the Kazakh authorities, who had previously pressured the Ukrainian authorities to request the extradition of Mr Ablyazov sought to pressure Russia to initiate criminal prosecution against Mr Ablyazov and pressure the Russian authorities to request the applicant's extradition to Russia. (...) whereas all circumstances in this case show clearly that Mr Ablyazov's extradition to Russia was sought for a political purpose**".

The decision of the State Council is final and cannot be appealed.

In addition, in France, criminal proceedings were instituted against French Prosecutor Solange Legras. According to [the published correspondence](#), the prosecutor gave friendly pieces of advice to representatives of Ukraine, Russia and Kazakhstan's BTA Bank on Ablyazov's extradition case.

## **13. The EU member states refused to extradite Ablyazov's colleagues to Kazakhstan, Ukraine and Russia**

Over the past few years, the EU Member States **refused to extradite the accused in the case of BTA Bank.** In various cases, the reasons for refusal were the following: recognition of the political context of the case; insufficient substantiation of allegations; indication of the risk of torture and an unfair trial.

- On 28 January, 2014, Austria refused to extradite Artur Trofimov to Russia.
- On 9 April, 2014, Great Britain refused to extradite Igor Kononko to Ukraine.
- In 2014, the Czech Republic refused to extradite Tatiana Paraskevich to Ukraine and Russia.

- Poland and Spain refused to extradite Muratbek Ketebayev to Kazakhstan in 2013 and 2015, respectively.
- In 2015, Spain refused to extradite Alexander Pavlov to Kazakhstan.
- On 1 March, 2016, Great Britain refused to extradite Roman Solodchenko to Ukraine. On 30 November, 2016, his extradition to Russia was denied.
- On 28 June, 2016, Lithuania refused to extradite Syrym Shalabayev to Kazakhstan and Ukraine.

#### **14. Kazakhstani authorities were true masterminds behind the civil lawsuits in Great Britain and lobbied for the cancellation of Ablyazov's refugee status**

In 2009, Kazakhstan's BTA Bank filed civil lawsuits against Mukhtar Ablyazov in Great Britain, claiming damage of approx. \$4.5 billion. BTA Bank misled the British court, claiming that the civil lawsuits have no political motivation. **British counsels who formally represented BTA Bank in court, were, in fact, working for the government of Kazakhstan.** The Kazakhstani state bodies (the National Welfare Fund 'Samruk-Kazyna', General Prosecutor's Office, Ministry of Justice) developed the strategy of prosecution of Ablyazov in Great Britain and monitored its implementation.

Kazakhstan's lobbyists managed to delay the granting of refugee status to Ablyazov. During this time, the London court ruled on the lack of political motivation in the BTA Bank's civil suits.

In the process of preparation for the consideration of the lawsuits, Ablyazov refused to give to the London Court, full information about his assets, citing the risk of his associates' persecution by the Nazarbayev regime. In this regard, on 16 February, 2012, Ablyazov was sentenced to 22 months' imprisonment for 'contempt of court'. The London Court deprived him of the right to a defence in the civil cases until he has served his term.

Ablyazov received warnings from British police about the threat of his assassination or kidnapping for political reasons. Fearing for his life, he left Great Britain in 2012. After a year, Ablyazov's wife, Alma Shalabayeva with 6-year-old daughter, were kidnapped in Italy. When Ablyazov left Great Britain, the **London Court issued decisions on the civil suits without conducting the examination of the merits of the cases and failing to take into account arguments of the defence (default judgment).**

The case against Ablyazov in a British court was run by the law firm '**Hogan Lovells**'. According to the published correspondence, on 16 August, 2013, member of the Kazakhstani government, Almat Zhamiyev instructed the head of BTA Bank, Pavel Prosyankin to prepare, jointly with 'Hogan Lovells', a 'road map' on the prosecution of Ablyazov in Great Britain. On the same day, Prosyankin informed him about the existing risks: "**Producing such a document would threaten the possibility of criminal proceedings against Ablyazov in the UK, since, contrary to the official position of the Bank, it would be obvious that the criminal prosecution of Ablyazov, as well as the extradition activity, is a result of the coordinated actions of the Bank and the State of Kazakhstan. That is, it would constitute actual proof of Ablyazov's statement that the Bank is a tool used by the state to persecute him**".

The work of the Kazakh government and BTA Bank with the British consultants was coordinated by the law firm '**John Howell & Co Ltd**'. The firm reported to the Prime Minister of Kazakhstan and the head of 'Samruk Kazyna', and received informal approval from them for further actions in the London Court.

It is noteworthy that **British consultants addressed representatives of Kazakhstan's state bodies, when it was necessary to resolve the issue of payment for the services rendered.**

For example, in April 2010, John Howell ('John Howell & Co Ltd') asked Head of the National Welfare Fund 'Samruk-Kazyna', [Kairat Kelimbetov](#), when the overdue debt would be paid to the law firm 'Hogan Lovells' for the services rendered on the case of BTA Bank.

The online portal 'Respublika' published the correspondence, according to which, on 19 July, 2012, one of the leaders of BTA Bank, Ulukbek Maksatbekuuly, was analysing a note on the value of services rendered by 'Hogan Lovells'. The correspondence read that BTA Bank was increasingly "**involved in commercially unreasonable trials in England**", and the amounts of remuneration received by 'Hogan Lovells' is "**the envy of the entire legal sector in London**". It was reported that, for the period until November 2013, the bank's costs may amount to approx. **£20 million**. Maksatbekuuly received information that BTA Bank has spent £3 million on litigation with Ablyazov's colleague, A. Ereschenko; however, it still lost the case.

Another lobbyist was the London firm '**Reed Smith**', working at the Ministry of Justice of Kazakhstan. According to the published correspondence, in July 2013, the 'Red Smith' employee Belinda Paisley informed the lawyers of 'Hogan Lovells' and BTA Bank that the Prime Minister of Kazakhstan, Karim Masimov, is interested in causing Ablyazov to serve the prison term, appointed by the British court, as it would create a new opportunity to continue his prosecution.

According to the documents owned by the Financial Times, the legal company 'Reed Smith' and 'Ronald Fletcher Baker' **lobbied for the decision to cancel refugee status, granted to Ablyazov on 7 July, 2011**. According to Ablyazov's counsels, the correspondence on this subject [was carried out](#) between Ronald Fletcher Baker and the British Ministry of Internal Affairs, as well as between the Government of Kazakhstan and the Government of the United Kingdom, which was illegal. The counsels pointed out that the question of depriving Ablyazov of the refugee status was discussed at the meeting of representatives of 'John Howell & Co Ltd', 'Reed Smith', as well as employees of the Ministry of Justice of the United Kingdom and the General Prosecutor's Office of Kazakhstan on 31 January, 2014.

In addition, the Kazakhstani authorities used the services of the companies 'FTI Consulting' and 'Portland' in order to carry out **a negative PR campaign against Ablyazov**. And so, in January 2014, 'FTI Consulting' presented a plan under which the case of Ablyazov was to be presented as "**a financial crime on a large scale**" and "**Ablyazov's statements regarding Kazakhstan being the true mastermind behind Russia and Ukraine's extradition requests must be refuted**". At the same time, 'Portland' reported to BTA Bank about articles, presenting arguments on the case of Ablyazov in favour of BTA Bank, which were published in popular English-, French- and Italian-speaking media.

## 15. Conclusions

Facts prove that, in the case of BTA Bank, investigation is fully 'controlled' and operates on the basis of political expediency. Criminal prosecution and harsh sentences against the bank's employees are aimed at creating an atmosphere of fear and send a clear message that all of Ablyazov's colleagues and associates may face imprisonment.

For the second time, managed to kidnap Ablyazov's associates in order to force them to testify against him. In May 2013, Ablyazov's wife, Alma Shalabayeva and her 6-year-old daughter were illegally transferred from Italy to Kazakhstan. It was only due to the efforts of the international community that the family managed to return to Europe.

Recently, Kazakhstani secret services kidnapped Zhaksylyk Zharimbetov in order to obtain additional incriminating testimony. Zharimbetov fears for the safety of his family members. In addition, he may be interested in being amnestied, released under Article 65 of the CC or

released from prison early due to reduction of the prison term. Previously, Zharimbetov has already discussed with the Kazakh investigators, the possibility of such 'cooperation'. Most likely, Kazakhstan will publish Zharimbetov's statements in order to tarnish Ablyazov's image. It is possible that a public 'trial' of Zharimbetov will be organised for this purpose.

The Open Dialog Foundation hereby addresses the international community with the following recommendations:

**To the EU Member States, European Parliament, OSCE, UN:**

- To pay attention to the intensification of the persecution of former top managers of BTA Bank and to address the Kazakhstan government with the statement about the inadmissibility of the use of testimonies, obtained as a result of kidnapping, exerting pressure, and threatening.
- To prevent attempts by Kazakhstani lobbyists to bring about the cancellation of Paraskevich's subsidiary protection status (in the Czech Republic) and Ablyazov's refugee status (in Great Britain).

**To the competent authorities of Great Britain:**

- To take into account the decision of the State Council of France regarding the political nature of the case.
- To give a proper assessment of attempts, made by Kazakhstani authorities, to manipulate the British justice in the case of Ablyazov.

**To the Commission for the Control of Interpol's Files:**

- To consider the question of removing the names of Mukhtar Ablyazov and his colleagues from the wanted list (following the example of Artur Trofimov, in respect of which a Red Notice has been canceled). Anatoliy Pogorelov, Roman Solodchenko and Tatiana Paraskevich are being prosecuted in connection with their membership in a particular group of persons who have professional relationships with Mukhtar Ablyazov. The case of Anatoliy Pogorelov is a prime example of this approach. Investigators have given him a choice - either a prison term, or 'cooperation with the investigative bodies'. Having given the testimony, convenient for the investigative bodies, he was still subjected to prosecution and forced to leave the country. Ablyazov's colleagues are being prosecuted within the framework of the case, recognised by France as politically motivated. Therefore, the continued presence of these persons' names in the wanted list constitutes an abuse of Interpol mechanisms and violation of Art. 3 of the Charter of the organisation.

**All those wishing to support our appeals are requested to address the following persons and institutions:**

- European Parliament President Antonio Tajani - 1047 Brussels, Belgium, Bât. Paul-Henri Spaak 09B011, Rue Wiertz / Wiertzstraat 60, tel: +32(0)2 28 45503 (Brussels), +33(0)3 88 1 75503 (Strasbourg);
- The Head of the European Parliament Committee on Foreign Affairs David McAllister - 1047 Brussels, Belgium, Bât. Altiero Spinelli 05E240, Rue Wiertz / Wiertzstraat 60, tel: +32(0)2 28 45323 (Brussels), +33(0)3 88 1 75323 (Strasbourg);
- The Head of the European Parliament Subcommittee on Human Rights Elena Valenciano - 1047 Brussels, Belgium, Bât. Altiero Spinelli 11G354, Rue Wiertz / Wiertzstraat 60, e-mail: [elena.valenciano@europarl.europa.eu](mailto:elena.valenciano@europarl.europa.eu), tel: +32(0)2 28 45846 (Brussels), +33(0)3 88 1 75846 (Strasbourg);

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- OSCE PA Presidente Christine Muttonen — e-mail: [christine.muttonen@parlament.gv.at](mailto:christine.muttonen@parlament.gv.at), tel:+43 (1) 401 10 3660, +43 (1) 401 10 3444;
- The President of the European Commission Jean-Claude Juncker– 1049 Brussels, Belgium Rue de la Loi / Wetstraat 200, e-mail: [president.juncker@ec.europa.eu](mailto:president.juncker@ec.europa.eu);
- United Nations High Commissioner for Refugees Filippo Grandi - Case Postale 2500 CH-1211 Genève 2 Dépôt, Switzerland, тел: +41 22 739 8111;
- OSCE PA Chair of the Committee on Democracy, Human Rights and Humanitarian Questions Ignacio Sanchez Amor – e-mail: [cristina.casado@gps.congreso.es](mailto:cristina.casado@gps.congreso.es), tel: +34 91 390 6919;
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