



# Report: Hungary at the service of the Kazakhstani dictator?

## 1. Introduction. Kazakhstani authorities need mr Kadesov so that he can 'confirm' Zharimbetov's testimony

Yerzhan Kadesov is a former employee of BTA Bank; he is currently facing extradition from Hungary. Kazakhstan is carrying out a politically motivated persecution of Yerzhan Kadesov. At the same time, as evidenced by the facts, **some representatives of the Hungarian authorities are helping the authoritarian regime in Kazakhstan.**

Mr Kadesov is accused within the framework of the criminal case against opposition politician Mukhtar Ablyazov. The case of BTA Bank is a result of a long-standing political conflict between Mukhtar Ablyazov (former head of the bank) and the President of Kazakhstan, Nursultan Nazarbayev. 'Confessions' obtained through blackmail, kidnappings and threats are being used as evidence in the case. On 9 December, 2016, **the French Council of State recognised the political nature of the prosecution** of Mr Ablyazov, and stressed that Kazakhstan had illegally influenced Ukrainian and Russian investigative bodies in the case of BTA Bank.

Following his release, Mr Ablyazov began to revive the Kazakhstani opposition movement, which became another irritant to the Kazakhstani authorities. Kazakhstan intensified the 'hunt' for former top managers and employees of BTA Bank. The purpose of these actions was to force them to give false testimonies which suited the investigative bodies against Mr Ablyazov and his associates.

Kazakhstan presents these testimonies as 'new evidence' in order to justify further criminal prosecution.

Since 2012, Yerzhan Kadesov **has regularly extended his residence permit in Hungary and have never received any notifications of criminal prosecution. It was only in 2016 that Kazakhstani authorities began to need him.** At that time, most former colleagues of Mr Ablyazov had already been granted asylum in the EU. Therefore, the range of persons that the authorities could present as 'members of Ablyazov's criminal group' has been exhausted.

The persecution of Mr Kadesov is closely connected with the case of **Zhaksylyk Zharimbetov**, who was his supervisor during his employment in BTA Bank. In January 2017, the Kazakhstani special services (with the assistance of Turkish special services) abducted Mr Zharimbetov, who enjoys refugee status, from Turkey. After ten days in the Kazakhstani detention facility, he began to 'actively cooperate with the investigative bodies'. Based on Mr Zharimbetov's testimony, the Kazakhstani court sentenced Mr Ablyazov to 20 years' imprisonment (Mr Zharimbetov received a 5-year suspended prison sentence, as he 'exposed Mr Ablyazov's crimes').

It is obvious that the testimony of Mr Zharimbetov who became the 'mouthpiece' of the Kazakhstani authorities, cannot be considered independent. Mr Zharimbetov openly [stated](#): "**I cooperate, I help the investigative bodies. I help [them] to solve some questions. This is my choice, my right.** And I help some people to return now. **And I want them to return to normal life**".

On 14 June, 2017, **Mr Zharimbetov phoned Mr Kadesov in prison**, and suggested that he 'voluntarily agree to extradition'; (at the same time, he offered him 'security guarantees' in Kazakhstan). Mr Kadesov's relatives reside in Kazakhstan, and this fact could also have been used as a pressurising factor. Apparently, this incident broke Kadesov's spirit. He immediately requested that the Hungarian court extradite him to Kazakhstan, and, subsequently, 'agreed' to his extradition to Ukraine.

In November 2016, **representatives of the Kazakhstani authorities visited Mr Kadesov in prison** and demanded that he testify against Mr Ablyazov. They should not have been given access to Kadesov, as, at that time, he enjoyed the status of asylum seeker. For four years, Mr Kadesov legally resided in Hungary, after which the Constitutional Protection Service suddenly considered him '**a threat to national security**'. **The Migration Service of Hungary repeated the propaganda rhetoric of the Kazakhstani authorities verbatim** and refused to take into account the decisions of other EU states that recognised the political context of the persecution of Mr Ablyazov and his colleagues.

The international community has repeatedly condemned the actions of the nationalist government of Viktor Orban. On 17 May, 2017, in its [resolution](#), the European Parliament noted the serious **deterioration of the situation with the rule of law, independence of justice and human rights in Hungary**. Parliamentarians are considering the possibility of withdrawing Hungary's right to vote in the EU if a special audit confirms that Hungary has violated the values of the EU Treaty.

In June 2017, the Hungarian authorities stepped up their control over NGOs that receive funding from abroad (previously, a similar law on 'foreign spies' was adopted in Russia). The European Commission, the European Parliament, [the Council of Europe Commissioner for Human Rights](#), [the US State Department](#) and [the United Nations](#) have sharply criticised the decision. In addition, the Hungarian authorities initiated [a xenophobic information campaign](#) that forms [a negative image of asylum seekers](#) in society. It is noteworthy that in 2016, Hungary rejected 91.54% of all applications for asylum.

Analytical centres noted that in Hungary, influential state media frequently [broadcast pro-Russian propaganda](#). The US State Department pointed to the weakening of democratic institutions and the '[systematic erosion of the rule of law](#)' in Hungary.

**Mr Kadesov may become another hostage in the hands of the Kazakhstani authorities.** The Kazakhstani authorities held a court trial **in absentia** against Mr Ablyazov and now, they may do the same with respect to his colleagues and relatives who had been granted protection in the EU. According to the Open Dialog Foundation, **Mr Ablyazov's relatives – the Khrapunov family** (Viktor Khrapunov, Leyla Khrapunova, Ilyas Khrapunov and other members of the family) **may become the next 'target' of the Kazakhstani authorities.** They are opponents of the Kazakhstani regime. It is against them that the 'testimony' of Mr Zharimbetov or Mr Kadesov can be used (should he be extradited).

## **2. The political context of accusations of 'embezzlement'**

Between 2006 and 2009, Mr Kadesov served as Deputy Head of the Bad Loans Department at BTA

Bank. Mr Kadesov does not belong to Mukhtar Ablyazov's circle of associates. However, he became the victim of a politically motivated criminal prosecution of Mr Ablyazov.

Mukhtar Ablyazov is a Kazakhstani opposition politician, former Minister of Energy of Kazakhstan and former Head of Kazakhstan's BTA Bank. In 2001, he became one of the founders of the opposition movement 'Democratic Choice of Kazakhstan' (DCK). Subsequently, the Kazakhstani court banned DCK and its successor (the 'Alga!' Party), having convicted them of 'extremism'.

In 2005, Ablyazov became the head of the non-state BTA Bank. Being an influential politician and businessman, he financed the opposition and non-state media. As a consequence, he fell into disgrace with the President of Kazakhstan, Nursultan Nazarbayev. In 2009, BTA Bank was forcibly nationalised. Prior to the exacerbation of the conflict between President Nazarbayev and Mr Ablyazov, the state authorities had never pointed to any violations on the part of the bank, which topped the rankings of the best banks in Central Asia between 2006 and 2009.

In March 2009, Kazakhstan accused Mr Ablyazov and his colleagues of 'embezzlement of funds from BTA Bank'. The authorities labelled Mr Ablyazov 'the leader of a criminal group', and those who worked with him 'members of a criminal group'. Mr Kadesov was accused of 'complicity with a criminal group in misappropriation and 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) and 'money laundering' (Article 193, section 3 of the CC of the RK).

### **3. Kazakhstan illegally influenced Ukrainian and Russian investigative bodies in the case of BTA Bank**

Kazakhstan has no extradition treaties in place with most EU countries and they therefore addressed the authorities of Ukraine and Russia for help (BTA Bank has representative offices in the aforementioned countries). As a result, Russia and Ukraine also [launched criminal proceedings](#) on the case of BTA Bank. Mr Kadesov is wanted by law enforcement agencies in Kazakhstan and Ukraine. [In Ukraine](#), he is accused of 'forgery of documents' (Article 358, section 3 of the CC) and 'money laundering' (Article 209, section 2 of the CC).

Published pieces of correspondence confirmed that **representatives of the Kazakhstani authorities had drafted written charges for the Ukrainian and Russian investigative bodies and given direct instructions on the case of BTA Bank**. They also indicated the 'convenient' amount of money allegedly stolen. The documents [have reverberated widely](#) within [media](#) and [human rights organisations](#).

On 9 December, 2016, France's Council of State [refused to extradite Ablyazov to Russia](#) and recognised his case as politically motivated. The Council of State stressed that Kazakhstan had exerted pressure on Ukrainian and Russian authorities, demanding that they issue extradition requests.

Under pressure from Zhaksylyk Zharimbetov, the 'mouthpiece' of the Kazakhstani authorities, Mr Kadesov agreed to his extradition not only to Kazakhstan, but also to Ukraine. Mr Kadesov is probably hoping that he would be provided the promised 'security guarantees'. Perhaps he believes that the Kazakhstani authorities will 'convince' the authorities of Hungary to give Kazakhstan priority in the extradition case. However, should Mr Kadesov be extradited to Ukraine, representatives of Kazakhstan in the country will gain access to him and will also be able to obtain 'convenient' testimonies.

**The EU states refused to extradite those accused in the case of BTA Bank not only to Kazakhstan, but also to Ukraine and Russia.**

The case of Arthur Trofimov (whom Austria refused to extradite to Russia); the case of Igor Kononko (whom Great Britain refused to extradite to Ukraine); the case of Roman Solodchenko (whom Great Britain refused to extradite to Ukraine and Russia); the case of Tatiana Paraskevich (whom the Czech Republic refused to extradite to Ukraine and Russia); and the case of Syrym Shalabayev (whom Lithuania refused to extradite to Ukraine and Kazakhstan) are some examples of the EU's position.

#### **4. The arrest of Kadesov in Hungary, where he officially resided for four years**

In 2009, following the nationalisation of BTA Bank, Mr Kadesov, fearing reprisals, left Kazakhstan along with his family. For some time he lived in Ukraine and, in September 2012, moved to Hungary, where he took up business. In October 2012, Mr Kadesov was granted a residence permit in Hungary.

In July 2011, the name of Kadesov first appeared in the materials of the Kazakhstani criminal case of BTA Bank. At the same time, **according to Mr Kadesov, he did not receive any notifications from law enforcement agencies**. He extended his residence permit in Hungary without any obstacles, and also received documents for his children in the Ukrainian embassy. He did not apply for political asylum, as he did not think that he might find himself at risk while in Hungary.

In August 2012, Kazakhstan placed Mr Kadesov on the international wanted list and, in June 2014, on INTERPOL's wanted list. In 2014, Ukraine also issued an arrest warrant for him. Mr Kadesov claims that it wasn't until his arrest that he became aware of the fact that he had been placed on the wanted list.

On 8 February, 2016, Mr Kadesov was detained in the apartment where he officially resided. The reason for his detention was an INTERPOL arrest warrant. Since that time, Mr Kadesov has been held under extradition arrest.

On 4 March, 2016, a month after the arrest of Mr Kadesov, the authorities of Kazakhstan initiated **a new criminal case** against him. There are reasons to believe that this was done **with the aim of strengthening the position of the prosecution and increasing the chances of his extradition**. In the new criminal case, Mr Kadesov is accused of 'active complicity in [Muratbek Ketebayev's](#) illegal activities'. Mr Ketebayev is a Kazakhstani oppositionist and [Ablyazov's ally](#). According to the investigative bodies, Mr Kadesov 'helped the perpetrators, guilty of embezzlement' to go to Kyrgyzstan, where they were allegedly met by Mr Ketebayev. Kazakhstan [has brought similar charges](#) against Mr Ketebayev. In 2013, Poland granted asylum to Mr Ketebayev. In 2015, Spain [refused to extradite him](#) to Kazakhstan, having established the political underpinnings of the prosecution.

In addition, according to Mr Kadesov's wife, in November 2016, **a representative of the Kazakhstani prosecutor's office, Baurzhan Kurmanov, and a Kazakhstani diplomat, Daulet Tulakpaev, paid him a visit in prison**. They demanded that Mr Kadesov give evidence against Mr Ablyazov; however, Mr Kadesov refused to do so. The visit by representatives of Kazakhstan was unlawful as, at that time, Mr Kadesov was seeking political asylum from the authorities of Kazakhstan.

#### **5. The Hungarian authorities, which had previously had no claims against Kadesov, stated that he 'poses a threat to national security'**

The Counter Terrorism Centre in Hungary had no objection to Mr Kadesov's stay in the country.

However, on 24 April 2017, the Constitutional Protection Office stated that Mr Kadesov 'poses a threat to Hungary's national security'.

It is yet to be known what the reasons for such a decision were, as the decision is confidential. The only information revealed is that the Service for the Protection of the Constitution considered that Mr Kadesov does not deserve protection under Article 1 F (c) of the Convention on the Status of Refugees ('persons guilty of acts contrary to the purposes and principles of the United Nations').

It is suspicious that the Hungarian authorities, which had had no claims against Mr Kadesov for four years, have completely changed their position. There is reason to believe that Kazakhstan's authorities played a significant role in capturing Mr Kadesov. According to Hungarian law, refuge or subsidiary protection is not granted to a person who 'poses a threat to national security'. A few days after the issuance of the decision by the Constitutional Defence Service, Mr Kadesov was denied asylum.

## **6. The migration service denied the granting of asylum to Kadesov and repeated the propaganda rhetoric of the Kazakhstani authorities**

On 2 May, 2017, Mr Kadesov was denied asylum and subsidiary protection. In its decision, the Hungarian Migration Service expressed full confidence in the information given by the Kazakhstani authorities and, at the same time, ignored the facts reported by human rights organisations and other EU states.

- The Migration Service believes that there is no state arbitrariness in the actions of the Kazakhstani authorities in the case of Mr Kadesov. However, in fact, **Kazakhstani investigative bodies did resort to openly unlawful methods**. Under pressure from investigators, more than 40 former employees of the bank 'repented' and gave testimonies, 'convenient' for the investigative bodies. Based on this, Kazakhstani courts handed down sentences against more than 30 former colleagues of Mr Kadesov. The basis for the **in absentia** judgment against Mr Ablyazov was the testimony given by Mr Kadesov's former colleague Zhaksylyk Zharimbetov. He had been abducted by the Kazakhstani intelligence services from the territory of Turkey, after which he began to 'actively collaborate with the investigative bodies'.

The Migration Service repeated verbatim the position of the Kazakhstani authorities, according to which the British courts allegedly 'proved' Mr Ablyazov's guilt in economic crimes. In 2009, in Great Britain, BTA Bank initiated civil proceedings against Mr Ablyazov, claiming the embezzlement of \$ 4.5 billion. British lawyers who formally represented BTA Bank in court, in fact, worked for the State of Kazakhstan, which confirms the political motivation behind the lawsuits.

Mr Ablyazov refused to provide the London Court with full information about his assets, citing the danger of persecution of his associates by the Nazarbayev regime. In connection with this, on 16 February, 2012, Mr Ablyazov was sentenced to 22 months' incarceration for 'contempt of court'. The London court deprived him of his right to defence until he serves his punishment. British police warned Ablyazov of the threat of his assassination or kidnapping for political reasons. Fearing for his life, he left Great Britain in 2012. Therefore, the London court issued a default judgment, **failing to consider the merits of the case or arguments of the defence**. In addition, the processes were civil, not criminal.

- In May 2013, Mr Ablyazov's wife, Alma Shalabayeva, along with her 6-year-old daughter, were abducted from Italy to Kazakhstan (they were detained on the basis of a request filed by the

Kazakhstani authorities). The Hungarian Migration Service repeated the propaganda of the Kazakhstani authorities, noting that 'formal charges weren't brought against Mrs Shalabaeva' and she and her daughter 'were able to return freely to Italy'. In fact, in Kazakhstan, Mrs Shalabayeva was accused of 'forging a passport'. It was only due to the intervention of human rights organisations, the UN and the European Parliament that the family managed to return to Europe.

- The Migration Service of Hungary refused to take into account the decisions of the EU member states regarding the defendants in the case of BTA Bank. **Mr Ablyazov's colleagues and relatives have been granted asylum or subsidiary protection in the EU and the US.** These include, in particular: Zhaksylyk Zharimbetov and Roman Solodchenko – in Great Britain; Alexander Pavlov – in Spain, Alma Shalabayeva and Alua Ablyazova – in Italy; Tatiana Paraskevich – in the Czech Republic; Artur Trofimov – in Austria; Gaukhar Kusainova – in the USA; Kunysh Nurgazin and Syrym Shalabayev – in Lithuania; Muratbek Ketebayev – in Poland; Botagoz Zhardemali – in Belgium; Zaire Akpenbetova – in Hungary. Some of them (Zharimbetov, Solodchenko, Akbenbetova) are former colleagues of Mr Kadesov and are involved in the same criminal case.

The Migration Service stated that these cases 'cannot be compared' with the case of Mr Kadesov. Still, this position contains a clear contradiction. Previously, the migration service of Hungary granted political asylum to Zaire Akpenbetova, Mr Ablyazov's and Mr Kadesov's colleague. **And now, the same body claims that there is 'no political motivation' behind the case of Mr Ablyazov.** In addition, France recognised the political nature of the prosecution of Mr Ablyazov, the main defendant in the case of BTA Bank. Still, the Hungarian Migration Service believes that this decision 'does not apply to Kadesov's case', 'as Mr Kadesov didn't engage in political activities'. However, Mr Ablyazov's and Kadesov's colleagues didn't engage in politics, either, and still they became victims of political persecution, and were therefore granted asylum in the EU.

- Mr Kadesov insists that he is solely a citizen of Ukraine. Ukraine granted him, as an investor, citizenship. The Migration Service of Hungary confirmed the legality of Mr Kadesov's Ukrainian passport and, at the same time, considers him also a citizen of Kazakhstan (referring to the information of the Ministry of Internal Affairs of Kazakhstan). In fact, Mr Kadesov submitted a statement in which he renounced his Kazakhstani citizenship. The General Prosecutor's Office of Kazakhstan indicates that Mr Kadesov holds Kazakhstani passport No. 5056063 issued on 4 September, 2006. However, the passport is 'invalid due to the renunciation of citizenship' – as indicated in the certificate of 18 February, 2016 ('information exchange system of law enforcement and special bodies of the Republic of Kazakhstan'). The Kazakhstanis prosecutor's office itself attached the certificate to the extradition request.

## **7. Zharimbetov's phone call to prison: under pressure, Kadesov agreed to 'voluntary extradition'**

Mr Kadesov's wife and counsel stated that, on 14 June 2017, his former colleague Zhaksylyk Zharimbetov phoned Mr Kadesov in prison. On 21 January 2017, Kazakhstani intelligence services kidnapped Mr Zharimbetov from Turkey. The transfer of Mr Zharimbetov to Kazakhstan violated international law, as Great Britain had granted him asylum against Kazakhstan. Mr Zharimbetov was placed in a Kazakhstani detention centre, after which he began to 'contribute to exposing Mr Ablyazov's crimes'. He also denied that he had been kidnapped. He stated that he found himself in Kazakhstan, as 'it was written in the stars'. Mr Zharimbetov began to broadcast the propaganda of the Kazakhstani authorities, which is disseminated with the aim of blackening Mr Ablyazov's reputation. For example, Mr Zharimbetov labels Mr Ablyazov 'vain', 'obsessed with power', 'not a patriot', etc.

According to Mr Kadesov's wife, during the telephone conversation, Mr Zharimbetov suggested that Mr Kadesov 'voluntarily agree to extradition'. Also, Mr Zharimbetov promised Mr Kadesov that in Kazakhstan, he 'would be given guarantees of protection' in exchange for confirming all of Mr Zharimbetov's testimonies against Mr Ablyazov.

It is noteworthy that, on that day, the Hungarian authorities permitted Mr Zharimbetov to phone Mr Kadesov from Kazakhstan and, at the same time, refused representatives of the Open Dialog Foundation a meeting with Mr Kadesov.

**Following the phone call, Mr Kadesov completely changed his position.** On 16 June 2017, at the court session, Mr Kadesov stated that he 'agrees to his voluntary extradition' to Kazakhstan. On the same day, it became known that Ukraine also sent a request for Mr Kadesov's extradition. On 10 July, 2017 Mr Kadesov told the court that he also 'agrees' to be extradited to Ukraine.

## 8. Conclusions

The case of Mr Kadesov may end in the same manner as the case of Mr Zharimbetov. The authorities employ illegal methods in order to bring former employees and top managers of BTA Bank back to Kazakhstan. Under pressure, they state that they 'voluntarily' returned to Kazakhstan, and give 'incriminating testimonies' against Mr Ablyazov.

Within a few days, the Hungarian Ministry of Justice will decide whether Mr Kadesov will be extradited and, if so, to which country. We hereby call on the Hungarian authorities to pay attention to the following facts:

- The case of BTA Bank is an instrument for the Kazakhstani authorities to achieve the political goal of neutralising the oppositionist Mukhtar Ablyazov, whom President Nazarbayev regards as his personal enemy. The Hungarian authorities must take into account the fact that the EU states, as well as human rights organisations, have concluded that the prosecution of persons who are involved in the same case as Mr Kadesov has political overtones. Kazakhstan, Ukraine and Russia were denied extradition of these individuals. In addition, the case of BTA Bank is being used with the aim of prosecuting activists and journalists. And so, on the basis of Mr Zharimbetov's testimony, journalist Zhanbolat Mamay was arrested on 11 February 2017, and charges were brought against him in the case of BTA Bank. Human rights organisations, including 29 member organisations of [the global IFEX network](#), noted the political nature of Mamay's prosecution in the case of BTA Bank. The Kazakhstani court banned 34 non-state media, having convicted them of 'extremism' and 'collaboration with Mr Ablyazov'.
- Mr Kadesov's 'voluntary consent' to extradition is a result of unprecedented pressure. This is another example of how the case of BTA Bank in Kazakhstan is being built. Previously, Mr Kadesov had refused to testify against Ablyazov and had sought asylum. However, following Mr Zharimbetov's phone call, Mr Kadesov ceased his contact with human rights activists. The Hungarian authorities must investigate the blatant instances of pressure exerted on Mr Kadesov by representatives of the Kazakhstani authorities.
- Mr Kadesov's extradition would violate Hungary's international obligations to respect human rights. In its decision, the Migration Service cites data on torture, inappropriate conditions of detention and the absence of independent justice in Kazakhstan. However, 'there is no risk that all this could happen to Mr Kadesov', the migration service stated. The Hungarian authorities must cease denying the seriousness of the situation. In addition, given the illegal cooperation of Kazakhstani and Ukrainian law enforcement agencies in the case of BTA Bank, Mr Kadesov's extradition to Ukraine is also inadmissible.

If the Hungarian authorities turn a blind eye to the aforementioned facts, this will be tantamount to its direct cooperation with the authoritarian regime of Kazakhstan in its implementation of a political prosecution. There is reason to believe that Kazakhstan is influencing the Hungarian authorities in the case of Mr Kadesov.

We hereby call on the international community to closely monitor the case of Mr Kadesov. It is necessary to prevent the next case in which Hungary, guided by its economic or other interests, might extradite a person to an authoritarian state, ignoring the political context of the request for extradition. This was the case with Ramil Safarov (the murderer of an Armenian officer). Hungary extradited Mr Safarov to Azerbaijan to continue to serve his sentence, but Azerbaijani authorities did not fulfil their promises, and instead pardoned Mr Safarov.

We hereby call on the Commissioner for Fundamental Rights to initiate an investigation into the visit paid to Mr Kadesov by Kazakhstani authorities, and Mr Zharimbetov's phone call to Mr Kadesov. The officials responsible for these illegal actions must be held accountable.

The Open Dialog Foundation hereby calls on the Ministry of Justice, the Ombudsman and other competent Hungarian authorities to take urgent measures and reject requests for the extradition of Yerzhan Kadesov in connection with their political motivation.

**All those willing to support our demands are kindly asked to contact the following persons and institutions:**

Contacts in Hungary:

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