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PARTICIPANT IN CORRUPTION SCANDALS VLADIMIR GUZYR PREPARED CONCLUSIONS ON THE 'LAWFULNESS' AND 'JUSTIFICATION' OF SYRYM SHALABAYEV'S EXTRADITION REQUEST

Syrym Shalabayev, a relative of the Kazakh opposition politician Mukhtar Ablyazov, is accused in the criminal case concerning the 'embezzlement of funds of BTA Bank'. Human rights organisations have underlined the political context of the case. In Lithuania, requests from Kazakhstan and Ukraine for the extradition of Syrym Shalabayev are being considered.

The basis for the Ukrainian request for the extradition of Shalabayev was a letter written by the infamous prosecutor, Vladimir Guzyr, whom journalists accused of covering up acts of corruption in the General Prosecutor's Office. **Vladimir Guzyr formulated a conclusion about the 'justification' of the criminal prosecution of Shalabayev and stated thusly in a letter to Vitaliy Kasko**, Deputy General Prosecutor, who had been involved, in particular, in issues of international legal cooperation. Kasko himself has recently resigned, having declared that: 'an exhaustion of possibilities had been reached in the fight against large-scale corruption and collective responsibility in the General Prosecutor's Office of Ukraine (GPU) '.

The head of the of International Legal Cooperation Department of the GPU, Aleksandr Kovalenko stated that his department only performs a 'mediatory function' and 'does not verify' the existence of grounds for extradition requests. According to him, the department requested that an appropriate justification for the criminal prosecution of Shalabayev be provided.

As a result, Deputy General Prosecutor Vitaliy Kasko ordered that the grounds for the request for the extradition of Shalabayev be verified. In response, on **1 July, 2015**, Vladimir Guzyr (the then Deputy General Prosecutor) in a letter, informed Vitaliy Kasko about the 'conclusion', according to which: *'during the study of the criminal case, no violations of the Criminal Procedure Code of Ukraine have been identified (...) and the request for extradition of S.B. Shalabayev is lawful and justified'*.

Subsequently, on **19 August, 2015**, Vitaliy Kasko signed a request to the Lithuanian authorities for the extradition of Syrym Shalabayev.

Guzyr's letter, which became the basis for the request for Shalabayev's extradition, was published on 15 February, 2016 by Kasko himself in response to an inquiry from MP Yegor Sobolev. **On the very same day, Vitaliy Kasko resigned, stating:** *'It is not justice and the law that prevails here, but arbitrariness and lawlessness ... Under the guise of a supposedly reformed body, all the same political guardianship, direct and absolute pressure on investigators and prosecutors, intentional professional degradation, inaction and impunity are lurking. With its present management, the law enforcement agency ... has ultimately become a tool of political intimidation and a source of income. I cannot, and I do not want to be part of a body, which, instead of upholding the law, commits and tolerates total lawlessness'*.¹

Kasko was one of those on whom the EU pinned its hopes in the fight against corruption in the Ukrainian Prosecutor's Office. He led the investigation into the high-profile case of the 'diamond prosecutors'; in July 2015, the deputy head of the Investigative Department of the GPU, Vladimir

¹ <http://nv.ua/ukraine/politics/zamgenprokurora-kasko-podal-v-otstavku-97362.html>

Shapakin and the deputy prosecutor of Kiev Province, Alexandr Korniyets, were arrested on charges of bribery. During searches of their homes, diamonds and cash in the amount of approx. 500 thousand dollars were found.² **Soon after, it transpired that the General Prosecutor Viktor Shokin and his deputy Vladimir Guzyr had exerted pressure on subordinates of Vitaliy Kasko** who were investigating the case of the 'diamond prosecutors'.³

In particular, criminal cases were initiated, searches of the offices of subordinates of Kasko were ordered and they were also threatened with dismissal from their posts. Vitaliy Kasko confirmed that **one of the initiators of these activities was Vladimir Guzyr**.⁴ Guzyr's actions attracted widespread publicity, following which he resigned. On 16 February, 2016, President Petr Poroshenko urged General Prosecutor Viktor Shokin to resign as the prosecutor's office: *'had lost the confidence of society'*.⁵ Currently, Shokin is officially 'on leave'.

On 16 November, 2015, the human rights organisations: Centre for Civil Liberties, Information Centre of Human Rights, the Open Dialog Foundation and the Kazakhstani International Bureau for Human Rights and Rule of Law have pointed to **the apparent political context of Syrym Shalabayev's prosecution, carried out as part of the case against opposition politician Mukhtar Ablyazov**. *'The true masterminds behind Ukraine's request to extradite Syrym Shalabayev are the Kazakh authorities'*,⁶ - human rights activists stated.

According to the published correspondence cited by the European media: **through a law firm, 'Ilyashev and Partners', Kazakhstan prepared for the Interior Ministry investigator Maksim Melnik, procedural documents** pertaining to Mukhtar Ablyazov, Syrym Shalabayev and other defendants in the case. These facts were addressed by a British court in its decision to deny Ukraine's extradition request for Igor Kononko, who is implicated in the same case as Shalabayev.⁷

Following public pressure, on 30 July, 2014, **a criminal case was initiated against Investigator Melnik** on charges of abuse of power. Investigator of the Prosecutor's Office of Kiev, Sergey Khodakovskiy, has repeatedly made attempts to close the case against Investigator Melnik. He may have been influenced by representatives of the Kazakh side (according to the published correspondence).

The Open Dialog Foundation, by legal process, brought about the initiation of a criminal case against Khodakovskiy on charges of abuse of power. Still, on 30 September, 2015, the Kiev Prosecutor's Office closed the case against its own investigator. To date, the Open Dialog Foundation, **(the complainant in the case) has not even been notified of the decision to close the case**.

On 14 January, 2016, Member of Parliament and one of the authors of the law on lustration, Yegor Sobolev, inquired with the General Prosecutor as to why human rights defenders haven't been notified of the case's closure and whether the published correspondence had been added to the case file. The GPU refused to justify its decision and **ignored the comments about materials disclosed in the media which may confirm that the investigator committed the alleged acts of corruption**.

Yegor Sobolev also asked the GPU whether the statements made by human rights organisations and the European Parliament on the political nature of the case of Ablyazov and Shalabayev have been taken

² <http://www.pravda.com.ua/rus/news/2015/07/6/7073592/>

³ <https://www.facebook.com/leshchenko.ukraine/posts/877392595664743>

⁴ http://news.liga.net/interview/politics/6185781-vitaliy_kasko_sledstvie_po_shapakinu_i_korniytsu_pytayutsya_dobit.htm

⁵ <http://www.president.gov.ua/en/news/zvernennya-prezidenta-ukrayini-36744>

⁶ <http://ru.odfoundation.eu/a/7036,pravozashchitniki-prizyvayut-vlasti-litvy-zashchitit-syryma-shalabaeva>

⁷ In addition, the Czech Republic refused to extradite Tatiana Paraskevich, who is a defendant in the same case, as Shalabayev and Ablyazov, to Ukraine. - <http://en.odfoundation.eu/a/6869,report-analysis-of-documents-in-the-case-of-ablyazov>

into consideration. The GPU did not provide a response to this question, noting only that cooperation on matters of extradition is conducted 'in full compliance with international agreements'.

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