



REPORT:

**THE FACTS WHICH CONFIRM THE FABRICATION
OF THE CASE OF MUKHTAR ABLYAZOV
IN RUSSIA: TATIANA PARASKEVICH AND
ARTUR TROFIMOV'S PROSECUTION**



In line with an agreement made between Putin and Nazarbayev, investigators from the 'Magnitsky List' and representatives of Kazakhstan demanded that Paraskevich and Trofimov sign incriminating testimonies against opposition politician, Ablyazov.

Kazakhstan's lobbyists were striving to ensure that Paraskevich and Trofimov be granted a diluted form of refuge in Austria and the Czech Republic – subsidiary protection.

Currently, Kazakhstan is seeking the cancellation of subsidiary protection status for Paraskevich, thus making attempts to create a dangerous precedent, on the basis of which authoritarian regimes will be able to influence the outcome of cases concerning asylum and extradition in the EU.

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00-580 Warsaw

Aleja Jana Chrystiana Szucha 11a, lok. 21

Phone: +48 22 307 11 22

E-mail: odfoundation@odfoundation.eu

<http://en.odfoundation.eu>

Please contact us for more information:

Project manager:

Lyudmyla Kozlovska lyudmylakozylovska@odfoundation.eu

Author:

Igor Savchenko igor.savchenko@odfoundation.eu

Editing:

Lyudmyla Kozlovska

Translation: Barbara Odrobińska-Dudek

Proofreading: Andrew Sewell

Graphic design: Igor Savchenko

The cover photos depict (left to right): Tatiana Paraskevich, Mukhtar Ablyazov, Artur Trofimov

The sources of the cover photos: the photo of Ablyazov - Tengrinews; the photos of Tatiana Paraskevich and Artur Trofimov - from their home archive

The sources of photos used in the content: the photo of Mukhtar Ablyazov – from his page on Facebook; the photos of Tatiana Paraskevich and Artur Trofimov - from their home archive

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1. INTRODUCTION

Tatiana Paraskevich and Artur Trofimov have been charged in a Russian criminal case against Kazakh opposition politician Mukhtar Ablyazov. Russia accuses them of 'embezzlement of funds of BTA Bank' as part of the 'organised criminal group of Ablyazov'. The same charges have been levied against Paraskevich by Ukraine.

Paraskevich and Trofimov, former colleagues of political refugee Ablyazov, are important sources of information as regards his activities. Kazakhstan is interested in their extradition as access to them would allow the Kazakh authorities to obtain 'the necessary evidence' against Ablyazov.

For the investigators from the 'Magnitsky List', who run the case of Paraskevich, Trofimov and Ablyazov, forcing testimonies is one of the primary 'methods' of gathering evidence. Charges are based on the testimony of those who, subjected to threats, 'confess to the crimes'. Russian investigators demanded that the other defendants 'admit' Ablyazov's guilt not only with regard to the 'embezzlement', but also 'inciting national hatred' and 'attempting to overthrow the government' of Kazakhstan.

The Kazakh authorities have repeatedly offered Paraskevich and Trofimov opportunities to give testimonies which incriminate Ablyazov. In a letter to Paraskevich's counsel, a representative of Kazakhstan's BTA Bank openly stated: in exchange for the 'confession', Kazakhstan can immediately close the criminal cases in Ukraine and Russia.

The offering of such 'opportunities' by Kazakhstan was confirmed by the published correspondence of Kazakh senior officials, which drew the attention of many European media outlets. Russian and Ukrainian investigators received from Kazakhstan final drafts of written allegations. Kazakh representatives questioned the defendants in Russia. Kazakhstan 'indicated' to investigators the 'required' sum of allegedly stolen money. However, varying amounts appear in different documents. According to the released documents, the agreements between the presidential administrations of Kazakhstan and Russia included actions such as the 'control of the litigation' in the case of Ablyazov.

In accordance with the Law on Asylum, the Czech Republic and Austria have granted to Paraskevich and Trofimov subsidiary protection (one of the mechanisms of international protection). Austria refused to extradite Trofimov to Russia. The Czech Republic rejected the Russian and Ukrainian extradition requests for Paraskevich.

Since 2012, in the Czech Republic, which is not party to the case, Kazakh lobbyists have repeatedly appealed to law enforcement agencies and courts in order to bring about a refusal to grant to Paraskevich any kind of international protection, and to sanction her extradition. There is reason to believe that Kazakhstan is currently continuing to exert such influence. In October 2015, the Municipal Court in Prague, at the suite of the Prosecutor's Office of the Czech Republic, overruled the decision of 18 February, 2014 on the granting of subsidiary protection to Paraskevich.

Numerous incidents of unlawful cooperation of Kazakhstan with the Russian and Ukrainian investigative bodies confirm that, if extradited, Paraskevich, Trofimov and Ablyazov would face unfair investigations and trials, interrogations which serve the interests of Kazakhstan, torture and possible transfer to Kazakhstan. However, some European countries turn a blind eye to this. The French government and a Czech court have expressed their utmost confidence in Russia's guarantees regarding respect for the rights of Ablyazov and Paraskevich.

The Municipal Court in Prague believes that improper conditions of detention in Russia 'do not constitute' a threat for Paraskevich. A contrary decision was issued by Austria with regard to Trofimov, who is accused in the same case as Paraskevich. According to the decision of the Austrian authorities, the grounds for granting subsidiary protection to Trofimov are that there is a high risk of ill-treatment in connection with inhumane conditions of detention in Russia.

The Czech court stated: 'It is entirely irrelevant how often torture occurs in Russia, as the exertion of torture on some persons "does not thereby automatically foretell" the exertion of torture upon others.' Reports by international human rights organisations have evidenced the systematic and unpunished use of torture in Russia. However, the Municipal Court in Prague stated that the reports were 'general in nature'.

The French government has also ignored numerous statements by international human rights organisations on the inadmissibility of extradition of Abylyazov. France, a country which joined in with the sanctions of the 'Magnitsky List', in the decision on the extradition, cites the decision of the Russian judge, included in the 'Magnitsky List'. France stood in defence of Ukrainian political prisoners in Russia who were kidnapped, subjected to torture and unfair trials. However, in the case of Abylyazov, the French Government gives credence to the Russian justice system's 'guarantees' of a fair trial for the oppositionist.

When considering asylum and extradition cases, European states should not trust the formal guarantees given unconditionally without examining the essence of a given case. Otherwise, authoritarian states will continue to take advantage of the inertia of the EU justice system. In Paraskevich's case, a dangerous precedent has already been set which paves the way for the deprivation of asylum to political opponents in Europe.

The policy of double standards with regard to authoritarian regimes can have tragic consequences and undermine the system of international human rights treaties.

The next section of the report describes the overall context of prosecution in the case of Mukhtar Abylyazov in Russia. Chapters 3 and 4 provide a chronology of the cases of Tatiana Paraskevich in the Czech Republic and Artur Trofimov in Austria. They also analyse the facts which prove that these cases were fabricated by Kazakhstan.

2. THE PERSECUTION OF MUKHTAR ABLYAZOV: GENERAL CONTEXT AND FACTS PROVING THE CASE'S FABRICATION IN RUSSIA



A) Political contexts of the charges of corruption

Mukhtar Abylyazov - Kazakh opposition politician, political refugee, personal enemy of the President of Kazakhstan Nursultan Nazarbayev.

Mukhtar Abylyazov began his expansion in the sphere of business after the collapse of the Soviet Union. He established a large conglomerate 'Astana-Holding', purchased the national TV channel 'Tan' and several regional TV channels. In 1995, Abylyazov bought a share in Kazakhstan's sugar

industry; however, as he stated, he was forced to leave the business, as it was in conflict with the interests of the president's family. In 1997, Abylyazov began to work in the public sphere; he became president of the KEGOC company. In the years 1998-1999, he held the post of the Minister of Energy, Industry and Trade of the Republic of Kazakhstan. In 1999, Abylyazov resigned from government service,

having noticed that Nazarbayev's methods of governance prevent the implementation of systemic reforms. [\[1\]](#)

In **2001**, Mukhtar Ablyazov became one of the founders of the influential opposition movement '**Democratic Choice of Kazakhstan**', and, following a conflict with President Nazarbayev, he was sent to prison having been convicted of 'abuse of power'. Following pressure from the international community, who recognised the judgement as politically motivated, Ablyazov was pardoned in **2003**. 'Democratic Choice of Kazakhstan' and its successor, the 'Alga!' party, have been banned in Kazakhstan as they were deemed 'extremist'.

In 2005, Ablyazov became the Chairman of the Board of Directors of BTA Bank, of which he was the majority shareholder. **He continued to support and finance the opposition, which led to further conflict with Nazarbayev.** According to Ablyazov, he refused to comply with demands to transfer shares, which constituted the controlling stake in the bank, to representatives of the president.

In **2009**, BTA Bank was forcibly nationalised, and Ablyazov and his associates (including Paraskevich and Trofimov) were charged with financial crimes. Prior to the conflict between Nazarbayev and Ablyazov, state authorities **had not reported** any violations on the part of the bank, which in the years 2006-2009 occupied first place in the rankings of the best banks in Central Asia. [\[2\]](#), [\[3\]](#)

Ablyazov left Kazakhstan. Later, Kazakhstan accused Ablyazov of 'inciting social hatred', 'preparing an act of terrorism' and 'committing a crime against the peace and security of mankind'. Based on charges of 'extremism' and 'collaboration with Ablyazov', in 2012, a Kazakh court banned the activities of 34 independent media outlets and the opposition party 'Alga!'. [\[4\]](#)

In **2011**, Ablyazov was granted **political asylum** in Great Britain. Meanwhile, BTA Bank, virtually assuming the role of representative of the government of Kazakhstan, sued Ablyazov for the amount of approximately \$ 4.5 billion in **civil lawsuits filed in London's High Court**. Ablyazov refused to disclose his assets to the court, citing the risk of persecution of his associates at the hands of the Nazarbayev regime. In this regard, on **16 February, 2012**, Ablyazov was sentenced to 22 months in prison for contempt of court. The court deprived him of his right to a defence until after he had served his sentence. For fear of being killed in prison on the instructions of Nazarbayev, Ablyazov left Great Britain. Without a trial having taken place, London's High Court ordered Ablyazov to pay US \$ 2.1 billion and US \$ 400 million to BTA Bank. [\[5\]](#)

On the request of Kazakhstan, which isn't party to any extradition treaties with most European countries, **Russia and Ukraine also initiated criminal cases against Ablyazov and his associates** on charges of 'embezzlement of funds from BTA Bank'. In addition, the materials of the Russian investigators stated that Ablyazov, using the 'stolen money', financed a faction of the Russian opposition and was preparing to 'overthrow the government' of Kazakhstan.

Since his detention on **31 July, 2013**, under an Interpol red notice, Ablyazov has been detained in custody in France. Ukraine, which was then governed by Yanukovich, along with Russia, issued extradition requests. **On 4 March, 2015**, a French court finally approved the requests for Ablyazov's extradition to Ukraine and Russia, giving priority to the Russian request. The court's examination of the case was limited solely to verification of the 'compliance of the extradition requests with procedural rules'.

On 17 September, 2015, French Prime Minister Manuel Valls signed a decree on the extradition of Ablyazov to Russia. According to the decree, **France does not consider the charges against Ablyazov to be politically motivated and has complete confidence in Russian international guarantees** as regards adequate conditions of detention and protection from torture. The decree on extradition states nothing about the possibility of a fair trial in Russia, however, it does cite the decision of Russian Judge

Krivoruchko, whose name appears on the **'Magnitsky List'**. Abylyazov intends to appeal against the decision on his extradition.

The rhetoric which points out the 'absence' of political motivation in the case of Abylyazov could have been affected by the conclusions of the American expert, **Martha Olcott**. The former participant of the Carnegie Foundation projects and Central Asia researcher believes that Abylyazov's case is 'exclusively criminal in nature'. According to the correspondence published in the media, on 20 September, 2013, the company Reed Smith LLP, which lobbies the interests of the Kazakh authorities in Europe, suggested that the Secretary of the Ministry of Justice of Kazakhstan, Marat Beketayev, attract Martha Olcott as an expert in the case of the extradition of Abylyazov. At the same time, **according to the information available to the media, Martha Olcott is loyal to the Kazakh authorities and has even been remunerated for her opinions favouring Kazakhstan in some litigation suits.**

In the early 2000s, in her book 'Kazakhstan: Unfulfilled Promise', Martha Olcott criticised the Nazarbayev regime for its defiance of democratic principles. It is noteworthy that in 2003, Olcott cited that Abylyazov, as a member of the group of 'key reformers', had been sentenced to a prison term following the founding of the 'Democratic Choice of Kazakhstan'. [\[6\]](#)

However, as noted by Kazakh Radio Liberty, in the late 2000s, Martha Olcott ceased criticising the Kazakh authorities and even changed the title of her book, putting a question mark at the end ('Kazakhstan: Unfulfilled Promise?'). Olcott told journalists that now, she is guided by the proverb: *silence is golden*, and she explained her reasons in the following way: *"Please do not misunderstand me; I am a scientist who studies political processes. I need to travel to various countries which I am studying. And I would not want to have problems when entering the republic, and certainly do not want to risk my health"*. [\[7\]](#)

The Kazakh online portal 'Respublika' referred to Marat Beketayev's publicised letter of 19 July, 2012. In the letter, the representative of the Ministry of Justice of Kazakhstan encloses an invoice, according to which, the Ministry were to pay 'Professor Olcott' the amount of 90,000 dollars as an 'advance payment' for her expert opinion in the case of the Moldovan businessman Anatoliy Stati. [\[8\]](#)

On 4 February, 2016, the French magazine '*Mediapart*' reported on "suspicions that weigh heavily upon French justice" with regard to the case of the extradition of Abylyazov. And so, on the basis of the publicised correspondence, **French law enforcement initiated a criminal case against the French prosecutor, Solange Legras**, and, furthermore, the authenticity of the published correspondence has been confirmed. It has transpired that representatives of Ukraine: Guillaume Faure; of Russia: Denis Gryunis; of Kazakhstan's BTA Bank: Antonin Levy, who demanded that Abylyazov be extradited, provided the French prosecutor Solange Legras with documents on the case, bypassing the formal procedure. The French prosecutor gave them friendly advice, thus violating the obligation to remain impartial.

The '*Mediapart*' journalists also pointed to the fact that **the Adviser on Legal and Judicial Affairs of the French Embassy in Moscow, Ida Chafai, had edited the speech of the representative of the Russian Prosecutor's Office, Denis Gryunis**, delivered at the hearing on the case of the extradition of Abylyazov in Lyon on 17 October, 2014. In his speech, Gryunis defended the reputation of the investigators from the 'Magnitsky List' who are running the Abylyazov case in Russia. According to him, the Magnitsky case is essentially: *"revenge against the representatives of the Russian justice system"*.

In addition, the '*Mediapart*' article cites information from the published correspondence on the manner in which Kazakhstan was steering the Ukrainian and Russian investigation as regards Abylyazov's case. [\[9\]](#)

The extradition of the opposition politician, Mukhtar Abylyazov, remains one of the main priorities for the Kazakh authorities. On 28 January, 2015, the representative of the Kazakh Prosecutor's Office Andrey Kravchenko noted: *"The General Prosecutor's Office will continue to make attempts to bring about his [Abylyazov's – Ed.] extradition to Kazakhstan"*. [\[10\]](#)

Lest we forget that in 2013, through an employee of the Ministry of Foreign Affairs François Revardeaux, Kazakhstan's General Prosecutor's Office sent to the French Ministry of Justice, three letters, in which it expressed its 'deep concern' over the fact that France had not considered the Kazakh request for the extradition of Ablyazov. **In February 2016, Kazakhstan announced the signing of three agreements with France on extradition, legal assistance and the rendering of sentenced persons.** First Deputy General Prosecutor of Kazakhstan, Johan Merkel, stated that in the framework of the treaties "*Mukhtar Ablyazov shall be extradited to Kazakhstan*" and "*We are working actively in this regard. In the near future, we are going to establish an expert group which will travel to Paris in order to work on these three contracts. It would seem that, for now, they should give their consent to the conclusion of such agreements*". [\[11\]](#)

On 3 November, 2015, 11 members of European Parliament called on France to heed **the statements made by human rights organisations** regarding the inadmissibility of the extradition of the oppositionist. Amnesty International, Human Rights Watch, the International Federation for Human Rights, the French League of Human Rights, the Human Rights Foundation, the Russian and Ukrainian Helsinki Union and other human rights organisations, as well as more than 50 MEPs pointed to the political context of Ablyazov's case. [\[12\]](#)

In 2013, Ablyazov's wife and 6-year-old daughter fell victim to unlawful deportation from Italy to Kazakhstan, but the UN and the European Parliament succeeded in bringing the family back to Europe. Ablyazov's associates and relatives **have been granted asylum or subsidiary protection in the EU:** Zhaksylyk Zharimbetov and Roman Solodchenko - in Great Britain, Muratbek Ketebayev - in Poland, Aleksandr 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, Kuanysh Nurgazin - in Lithuania. Requests for their extradition to Ukraine, Russia and Kazakhstan have been denied. On 26 February, 2016, it transpired that Lithuania had granted political asylum to Syrym Shalabayev, Mukhtar Ablyazov's relative.

B) Facts proving the fabrication of the case of BTA Bank in Russia

Russian investigators and judges who were in charge, or continue to be in charge, of the case of Ablyazov, Paraskevich and Trofimov **are included in the list of those subjected to sanctions in the Magnitsky case** (investigators: Nikolay Budilo, Natalia Vinogradova, Oleg Urzhumtsev, Judge Sergey Podoprigoorov, Elena Stashina, Alexei Krivoruchko, Svetlana Ukhnaeva). On 26 September, 2012, the Kazakh government issued Investigator Budilo with a pistol (CZ 75 B, 9mm Luger, No. 4880V). [\[13\]](#)

In 2014, on the kazaword.wordpress.com portal, unknown persons posted **links to stolen correspondence of senior officials of Kazakhstan.** [\[14\]](#) Also, the Ukrainian news portal Trust.ua published excerpts from correspondence of Ukrainian investigators and representatives of Kazakhstan's BTA Bank. [\[15\]](#) Numerous European media outlets, citing the published correspondence, publicised high-profile incidents of corruption involving the Kazakh authorities. [\[16\]](#)

The published correspondence proved that **representatives of Kazakhstan had produced documents and given instructions to the Russian and Ukrainian investigative bodies with regard to Ablyazov, Paraskevich and Trofimov** as well as other defendants in the case. The investigation of Ablyazov's case was coordinated at the level of senior officials of Kazakhstan, Russia and Ukraine.

According to the correspondence, on 11 September, 2012, the Law Firm Quorum, which represented the interests of Kazakhstan's BTA Bank in Russia, informed the General Prosecutor's Office of the Republic of Kazakhstan, Ulukbek Maksatbekuly as follows: '*In June 2009, the President of the Republic of Kazakhstan Nursultan Nazarbayev, during a personal meeting, appealed to the Chairman of the Russian Government V.V. Putin with a personal request to conduct an impartial and full investigation into the activities of Ablyazov and his accomplices within the territory of Russia*'. The letter also stated: '(...)

employees of the Russian Interior Ministry received documents relating to a number of loans granted by the Bank of Russia; however, (...) they did not succeed in gathering sufficient materials for a criminal investigation’.

It is noteworthy that in September 2010, **a year and a half after the initiation of the criminal case, BTA Bank still didn’t consider itself an aggravated party in the case.** [\[17\]](#)

According to the published documents, in June 2013, the Minister of Internal Affairs of the Russian Federation Vladimir Kolokoltsev reported to Vladimir Putin on the course of the investigation. It follows from the correspondence that the Kazakh side held meetings with Russian presidential aide Yevgeny Shkolov, First Deputy Prime Minister of the RF Igor Shuvalov and Moscow’s Mayor Sergei Sobyanin. In particular, on 5 November, 2013, Yevgeny Shkolov supported the proposals to *‘appoint curators of the issue of BTA Bank in the Supreme Arbitration Court of the Russian Federation and the Federal Service of Court Bailiffs in order to **control litigation**, ensure objective consideration and decision-making’.* The Russian side has promised to ensure *‘recognition by the Russian Federation of the judgements, handed down in the Republic of Kazakhstan’* in the case of Ablyazov.

According to the correspondence, consultations for the Russian investigators were provided by the lawyer Andrey Pavlov, a representative of BTA Bank in Russia, one of the individuals included in the ‘Magnitsky list’. **In Russia, representatives of Kazakhstan themselves interrogated the defendants in the case, threatened them and forced them to sign witness testimonies.**

For example, on 19 May, 2010, an agent of the Kazakh Foreign Intelligence Shakizat Amzeyev informed the administration of the President of Kazakhstan of the fact that he had questioned Lev Rakovskiy, and also talked with Zhaksylyk Zharimbetov: *‘He is ready to cooperate, and what is more, we intend to arrest his friends Savchenko (CEO of ATTA IPOTEKA) and Dmitriy Pak, if he doesn’t mislead us’.*

On 26 November, 2013, representative of BTA Bank, Andrey Pavlov reported to the General Prosecutor’s Office of the Republic of Kazakhstan and stated that the participants in the case of Ablyazov, namely: Volkov, Bondarenko, Belov and Vorotyntcev had been sentenced to 8-9 years’ imprisonment. Pavlov informed the office that Putin had ‘discussed’ the course of the investigation regarding these individuals with Nazarbayev, **‘supported the court sentences, handed down against the defendants and took the case “under his personal control” ’.** As it transpired, under pressure from investigators, **Aleksandr Volkov ‘confessed to the crimes’ and gave incriminating testimony against Trofimov and Paraskevich.**

Lawyer Yelena Tishchenko, a defendant in the case of Ablyazov, also decided to ‘cooperate with the investigative bodies’. On 10 October, 2013, whilst held in the Russian detention centre, Ms. Tishchenko wrote a letter to the General Prosecutor of Kazakhstan Askhat Daulbayev, expressing her willingness *‘to provide any assistance to law enforcement authorities of the Republic of Kazakhstan’.* In November 2013, representatives of the Kazakh prosecutor’s office questioned her in a Moscow detention centre. In a letter dated 29 November, 2013, Andrey Pavlov stated that during the period from 15 November, 2013 to 29 November, 2013, *‘Y.Y. Tishchenko gave detailed and comprehensive testimony regarding all the members of the criminal group’*, which allowed the bringing of justice to Ablyazov’s partners. According to Pavlov, Tishchenko *‘gave details of Ablyazov’s illegal political activities, his role in organising mass riots, inciting ethnic hatred in the Republic of Kazakhstan (...)’.* [\[18\]](#) In December 2013, Tishchenko was amnestied.

In 2015, the Russian opposition nationalist Aleksander Potkin, who had contacted Kazakh activists, was reclassified as a defendant having previously been a witness in the Ablyazov case. The Russian investigation accuses Potkin not only of ‘legalisation of property that Ablyazov acquired by criminal means’, - **the investigators insist that the legalised funds were used for ‘incitement of national hatred’ and ‘changing of the political system’ in Kazakhstan.**

According to Potkin, on 8 October, 2015, Investigator Rustem Shaydullin threatened to kill him with a screwdriver having visited him in the detention facility to conduct an interrogation. On the night of 9 October, 2015, Investigator Shaydullin sent text messages to Potkin's counsel Ivan Mironov. **The investigator threatened to 'break Potkin's neck' and 'kill him with a screwdriver or an ice pick'** were he to fail to sign the protocol of familiarisation with the case file within a week. [\[19\]](#), [\[20\]](#)

3. THE CASE OF TATIANA PARASKEVICH



A) Consideration of requests for extradition and attempts to cancel the international protection

Tatiana Paraskevich – a Russian citizen, former chief of the administrative and financial management of the Russian company Investment and Industrial Group Eurasia.

Russian and Ukrainian prosecutor's offices initiated a criminal case against Paraskevich which followed precisely the same pattern: she was accused of involvement in Aplyazov's 'organised criminal group'.

According to **Russian investigators**, Paraskevich '*managed the money of the criminal group*' of Aplyazov in Russia, and '*controlled the funneling of funds to offshore companies*'. Paraskevich was accused of fraud (Art. 159, section 4 of the CC of the RF), money laundering (Art. 174.1, section 3 of the CC of the RF) and causing damage to property (Art. 165, section 2 of the CC of the RF). Investigators claim that in Russia, 'Aplyazov's criminal group' caused damage to BTA Bank in the amount of 3,274,032,086 dollars.

According to the published correspondence, on 5 September, 2013 and 6 September, 2013, Russian investigator Nikolay Budilo sent to the representative of Kazakhstan's BTA Bank Andrey Pavlov a draft document detailing written charges in the cases of Paraskevich, Aplyazov, Trofimov and others accused. The investigator requested that **the names of companies and initials of the accused be 'verified', and that the value of the damage caused be specified.**

In Ukraine, Paraskevich is accused of misappropriation of property (Art. 191, section 5 of the CC of Ukraine) through participation in transactions favouring companies controlled by Aplyazov. According to the **Ukrainian investigative bodies**, 'Aplyazov's criminal group' embezzled funds of BTA Bank in the amount of 167,180,000 dollars.

On **10 April, 2012**, Ukraine issued an international arrest warrant for Paraskevich, on the basis of which, on **12 May, 2012**, she was detained in the Czech Republic. On 7 June, 2012, Ukraine sent an extradition request for Paraskevich.

On **5 October, 2012** and **2 January, 2013**, the Regional Court in Plzeň issued a decision, deeming the extradition of Paraskevich to Ukraine inadmissible due to the threat of torture and of her being subjected to an unfair trial. However, on **21 February, 2013**, the Supreme Court in Prague sanctioned the extradition of Paraskevich, expressing confidence in the guarantees of the Ukrainian prosecutor's office. The Constitutional Court upheld the decision.

On 14 June, 2013, Russia also sent a request for the extradition of Paraskevich.

On **9 April, 2013**, Paraskevich applied for political asylum in the Czech Republic. According to the Czech law on asylum, there are two forms of international protection: asylum and subsidiary protection. [\[21\]](#)

On 18 February, 2014, the Czech Interior Ministry granted Paraskevich subsidiary protection for a period of 1 year. Subsidiary protection is granted when it is considered that a person would be in danger in the country whose citizenship he or she holds. The Czech Interior Ministry stated that in Russia, Paraskevich would be at risk of torture and inhumane treatment due to the poor conditions of detention there.

On **18 March, 2014**, the Czech Republic's Ministry of Justice banned the extradition of Paraskevich to Ukraine. On **20 March, 2014**, she was released from custody. On **28 March, 2014**, the Regional Court in Plzeň, having taken into account that Paraskevich had been granted additional protection, ruled her extradition to Russia inadmissible.

On **11 April, 2014**, the Czech Republic's General Prosecutor's Office filed a lawsuit in the Municipal Court in Prague **with a demand that the decision of the Ministry of Internal Affairs dated 18 February, 2014, on the granting of subsidiary protection to Paraskevich be annulled.** According to available information, this was for the first ever filing of such a motion by the prosecutor's office. The General Prosecutor's Office of the Czech Republic considered the threat of torture with regard to Paraskevich to be unproven and expressed confidence in Russia's guarantees that the accused would not be subjected to ill-treatment and further rendering to Kazakhstan. The Ministry of Internal Affairs, as the defendant, refused to give a comment, leaving the assessment of the case to the court's discretion.

On 16 February, 2015, Ministry of Internal Affairs of the Czech Republic extended Paraskevich's subsidiary protection for two more years – until 16 February, 2017. Amnesty International has issued a statement in support of the decision.

On **26 May, 2015**, The Constitutional Court examined one of Paraskevich's complaints, filed back in 2014. [\[22\]](#) In the complaint, Paraskevich demanded that she be released from custody, and that the very matter should have been a subject of consideration for the Constitutional Court. Still, to the surprise of Counsel Marina Makhitkova, in its ruling, the Constitutional Court deemed the decision of the Ministry of Interior of 18 February, 2014, on the granting of subsidiary protection to Paraskevich 'unlawful'.

The Constitutional Court holds that *'the possible presence of defects in the justice system and in the prison system'* in Russia and Ukraine *'does not constitute an immediate barrier'* preventing extradition to those countries. As subsidiary protection concerns Paraskevich's home country - Russia, in the opinion of the court, her extradition to Ukraine is possible. The Constitutional Court cited the rulings of the British courts in the case of Ablyazov, although these rulings were handed down in a civil case and the arguments of the defence were not taken into account when arriving at these decisions, and never was there a mention of Paraskevich in any of these rulings. [\[23\]](#)

The General Prosecutor's Office of the Czech Republic cited the decision of the Constitutional Court as another argument in a lawsuit brought to revoke Paraskevich's subsidiary protection. On **30 October, 2015, the Municipal Court in Prague granted the complaint: the decision of 18 February, 2014 on the granting of subsidiary protection was annulled and the case was referred back to the Ministry of Internal Affairs for reconsideration.** Trusting the guarantees of the Russian prosecutor's office, the court ruled that Paraskevich's concerns about the threat of torture in Russia and the possible rendering to Kazakhstan *'have no sufficient grounds'*. The Court noted that the evidence in the form of reports of human rights organisations (including Amnesty International and the Open Dialog Foundation) and statements issued by MEPs are merely: *'general in nature'*.

It is noteworthy that the Municipal Court in Prague agreed that in Russia *'conditions of detention in detention centres or prisons (...) continue to be very harsh and that forcing someone to stay there may*

constitute inhumane treatment'. However, the court does not believe that Paraskevich would be subjected to ill treatment: *'... even proven and confirmed ill treatment of an individual in one case is not proof that other persons will be subjected to the same treatment'*. The court upheld the view that when assessing the risk of torture in relation to a specific person, *'it is completely irrelevant (...) how often such violations occur in a given country'*.

It should be noted that, according to Czech law, an appeal against a decision to grant international protection is only possible in cases of serious public interest. According to the counsel, the lawsuit of the prosecutor's office, in fact, flew in the face of public interest in terms of respect for human rights. However, the Municipal Court in Prague disagreed with this statement, noting that the lawsuit of the prosecutor's office concerns the need to observe the law in granting international protection. Counsel Marina Makhitkova intends to appeal against the decision of the Municipal Court in Prague. The UNHCR, in response to the letter from the counsel, promised to monitor the attempts of the Czech prosecutor's office to cancel Paraskevich's subsidiary protection.

B) Proposals to sign incriminating evidence against Abylazov in exchange for the closure of criminal cases

According to Paraskevich's relatives, Investigator Budilo threatened to beat Tatiana's son until his mother signed incriminating testimonies. Russian police officers intimidated Paraskevich's daughter, warning that she could be expelled from the university, kidnapped or subjected to criminal prosecution.

On 19 November, 2012, in Pilsen, Investigator Budilo questioned Paraskevich and openly threatened her counsel Marina Makhitkova, stating that if the case was being heard in Russia, he would make sure that she was put behind bars.

On 4 September, 2012, Counsel Marina Makhitkova received a letter from Vojtěch Trapl, representing the interests of BTA Bank in the Czech Republic. To the letter, Vojtěch Trapl attached an inquiry, which, according to him, had been passed on by Roman Marchenko, an employee of the law firm Ilyashev and Partners, which represents the interests of BTA Bank in Ukraine. In addition to information about the prosecution of Paraskevich, the inquiry includes the following sentence: *'We offer our cooperation with the investigative bodies and BTA Bank JSC, **by giving truthful testimony concerning the acts of M. Abylazov connected with the misappropriation of assets of BTA Bank JSC.** Should T. Paraskevich agree to cooperate with the investigative bodies, BTA Bank as a civil claimant in criminal proceedings may apply to law enforcement bodies **to discontinue the criminal prosecution of T. Paraskevich in this regard in Ukraine and the Russian Federation**'*. [\[24\]](#)

In his letter, Vojtěch Trapl stressed that in this 'offer', Paraskevich should have been notified 'literally verbally', without transferring the offer into her hands. Vojtěch Trapl informed Paraskevich's counsel: *'We can assume that, in the case of a positive decision in favour of your Client, **law enforcement authorities of both Ukraine and the Russian Federation would officially contact her in order to bring about the ultimate termination of the criminal case, which is being carried out against your Client in Ukraine and the Russian Federation**'*. According to Trapla, he was 'not against meeting' Paraskevich personally, but there was a 'lack of legal grounds' to do so. [\[25\]](#)

C) Kazakhstan's influence on the Czech authorities

Officially, Kazakhstan's BTA Bank is not party to the extradition proceedings nor to the case on the granting of international protection to Paraskevich. Despite this, representatives of Kazakhstan, through lobbyists, have exerted (and may continue to exert) significant influence on the Czech prosecutor's office, the Interior Ministry and the court **in order to bring about a refusal to grant international protection to Paraskevich and to authorise her extradition**. Given the fact that in Kazakhstan there is

no criminal case underway against Paraskevich, these facts once again confirm that the true masterminds behind the allegations of Russia and Ukraine are the Kazakh authorities.

It transpired from the published correspondence that, representative of Kazakhstan's BTA Bank in the Czech Republic Jan Vaníček, met with the Czech prosecutor Vera Čechová in 2012 and **persuaded her to file an appeal** should the court refuse to extradite Tatiana Paraskevich to Ukraine: *'I convinced them to promise me that Ms. Čechová will, in such circumstances, file an official complaint against the ruling (similar to an appeal) so that the case will be transferred to the High Court in Prague for a final ruling'*.

Indeed, Prosecutor Vera Čechová challenged the decision of the Regional Court in Plzen on the inadmissibility of the extradition of Paraskevich after which the Supreme Court in Prague sanctioned her extradition to Ukraine. In addition, **for over one and a half years, Prosecutor Čechová delayed Paraskevich's release from detention by regularly filing appeals**, which sometimes lacked any logical sense. [26]

As can be seen from the correspondence, in 2012, the representative of Kazakhstan's BTA Bank Jan Vaníček also contacted the vice-chairman of the District Court in Plzen: *'I summarised the case and pointed out that even if we (BTA Bank) are not party to extradition proceedings, we have significant legal interest in the outcome of the case'*.

On 8 October, 2013, at the premises of the Ministry of Internal Affairs of the Czech Republic Counsel Marina Makhitkova discovered documents from a representative of the Kazakh side, Jan Vaníček. It transpired that on 7 October, 2013, **Jan Vaníček brought to the Interior Ministry, a package containing documents in order to bring about the refusal of Paraskevich's international protection**. Vaníček also filed an inquiry with the Department for Refugees and Migration Policy of the Ministry of Internal Affairs, in a bid to obtain information about the status of Paraskevich's case and whether or not the documents he had provided would be taken into consideration.

Among the documents, provided by Vaníček, were not only materials of the Ukrainian criminal case, but also the ruling of the Supreme Court in Prague on the admissibility of the extradition of Paraskevich. The ruling was not made public, and only Paraskevich's counsel and the court had access to it. **Therefore, it is not clear how representatives of Kazakhstan obtained this document.**

D) Facts confirming fabrication of a criminal case in Ukraine

Paraskevich noted that she was never an employee of BTA Bank and never worked within the territory of Ukraine. According to Paraskevich's counsel, evidence for the Ukrainian criminal case was obtained by unknown persons, and its examination was carried out by Kazakhstan's prosecutor's office. In its judgement of 2 January, 2013, the Regional Court in Pilsen noted that the facts described in the decision to institute criminal proceedings in Ukraine are *'very indistinct'*, but the Czech court could not assess whether the criminal case corresponds with Ukrainian legislation.

The published correspondence confirms that **Kazakhstan controlled the actions of Ukrainian investigators** through a private law firm Ilyashev and Partners, which officially represents the interests of the nationalised Kazakh BTA Bank. At the same time, even lobbyists of the interests of Kazakh authorities admitted that Ukraine *"is not the aggravated party"* in the case of Ablyazov. On 13 October, 2015, the employee of Ilyashev and Partners, Roman Marchenko stated: *"Ukraine, as a state, is not an aggravated party, thus, it is deprived of the opportunity to file a claim for compensation against Mukhtar Ablyazov and his accomplices"*. [27]

According to the published correspondence, employees of Ilyashev and Partners Arseniy Gerasymiv and Roman Marchenko prepared for the Ukrainian Interior Ministry investigator Maksim Melnik, extradition requests and an order to bring charges against Tatiana Paraskevich, questions to be asked during

interrogations and a request to place her on Interpol's wanted list. The investigator signed and used these documents. For example, on 2 August, 2012, the investigator received instructions from the Kazakh side, stating that the questioning of the defendants in the case *'must establish'* that Paraskevich was one of the *'Ablyazov people'* who allegedly *'managed offshore companies'*.

Referring to the published correspondence, on 9 April, 2014, the High Court in London refused to extradite Igor Kononko to Ukraine as he is involved as a defendant in the same criminal case as Paraskevich. The court expressed its concern over the fact that Ukraine had not summoned to Britain its investigator, Melnik, to testify: *'Be that as it may, the reason why Mr Melnik was not brought over to give evidence may be apparent from the bulk of emails which state in terms that he was being presented with documents which needed to be signed and he, on the face of it, took no part at all in deciding whether the prosecutions were, indeed, valid and should be brought, nor what should be the terms of them'*.

The facts of the published correspondence attracted publicity and, under public pressure, on 30 July, 2014, **a criminal case was initiated against the MIA investigator Maksim Melnik on charges of abuse of power.** Investigator of the Prosecutor's Office of Kiev, Sergey Khodakivskiy has repeatedly made attempts to close the case against Investigator Melnik. Khodakivskiy's actions could have been orchestrated by representatives of the Kazakh government (according to the published correspondence).

On 23 July, 2015, 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 Prosecutor's Office of Kiev closed the case against its investigator. To date, the Open Dialog Foundation, the complainant in the case, **has not even been notified of the case's closure.** [28] The Ukrainian prosecutor's office ignored the presence of materials published in the media, which confirm the possibility of acts of corruption on the part of Investigator Khodakovskiy.

In Ukraine, Ablyazov's relative, **Syrym Shalabayev** has been accused in the same criminal case as Tatiana Paraskevich. Lithuania granted Shalabayev political asylum in order to provide him with protection from Kazakhstan. In Lithuania, trials are pending as regards Ukraine and Kazakhstan's potential extradition of Shalabayev. On 7 December, 2015, it became known that the basis for the filing of the request by Ukraine for the extradition of Syrym Shalabayev was a decision issued by Volodymyr Guzyr, the former Deputy General Prosecutor, implicated in corruption scandals.

The Extradition Department of the Prosecutor's Office of Ukraine requested that investigators provide an appropriate and more detailed justification of the request for the extradition of Shalabayev. Volodymyr Guzyr sent to the Extradition Department a report, according to which all rights of Syrym Shalabayev are being 'observed', the criminal case 'bears no trace of political motive' and Ukraine 'has not violated' international guarantees in this case. The head of the International Legal Cooperation Directorate of GPU, Oleksandr Kovalenko informed the Open Dialog Foundation that Ukraine has sent to Poland, a similar request for the extradition of Syrym Shalabayev, but 'received a denial'.

The political context of the case of Paraskevich and the inadmissibility of her extradition has been highlighted by Amnesty International [29], the Czech Helsinki Committee, the Czech public organisation Spolek Salamoun; MEPs: Piotr Borys, Nicole Kiil-Nielsen, Ska Keller, Marek Migalski, Miroslav Poche, Judith Sargentini, Graham Watson, as well as about 20 Czech, Polish and Italian parliamentarians. [30]

4. THE CASE OF ARTUR TROFIMOV



A) Gross violations during the issuance of the international arrest warrant for Trofimov

Artur Trofimov – a Russian citizen, former head of the Astana Bank and former employee of the Russian company ‘Eurasia Logistics’.

Russian investigators accused Trofimov of ‘fraud’ (Art. 159.4 of the CC of the RF) and labelled him ‘*the second most important person in Ablyazov’s organised criminal group*’. Investigators state that in Russia, Trofimov ‘*engaged Paraskevich in activities of Ablyazov’s criminal group*’.

Trofimov is charged with the embezzlement of 731,080,416 dollars from BTA Bank by the improper lending of funds to Seychelles companies. According to the indictment act, the fraudulent acts were committed in 2006 and 2007, through the company Eurasia Logistics. **However, during that period of time, Trofimov did not work for Eurasia Logistics.** From April 2006 to December 2007, on the initiative of Ablyazov, Trofimov headed Astana Bank (a strategic partner of Kazakhstan's BTA Bank). It was only in 2008 that Trofimov became an elected member of the Board of Eurasia Logistics.

The documents, submitted by counsels, confirm that on 8 October, 2010 and 19 October, 2010, investigators summoned Trofimov for questioning, but in the first case, in the summons to report, Trofimov’s address was not indicated, and in the second case, an incorrect address was indicated. Under Russian law, international arrest warrants should be annulled at the point when the whereabouts of the subject is determined. [31] Since March 2011, Trofimov **has repeatedly notified the Russian investigators of his residential addresses** in London and Vienna, and also expressed his willingness to answer questions.

Despite this, on **28 October, 2011**, the Russian Ministry of Internal Affairs made a decision to issue an international arrest warrant for Trofimov, stating that: ‘Trofimov and other members of Ablyazov’s criminal group had *caused damage to BTA Bank in the amount of over \$ 3.2 billion, 4 billion rubles and 64 million euros*’. At the same time, in **the decision to present Trofimov with charges, the amount of allegedly misappropriated funds is different** – 731,080,416 dollars. In addition, in the international arrest warrant, the Interior Ministry accused Trofimov under articles of the Criminal Code, in relation to which he was never charged, namely, Art. 327, section 3 of the CC of the RF, Art. 174 of the CC of the RF and Art. 165, section 3 of the CC of the RF. Moreover, **Article 165 of the CC of the RF does not contain section 3.**

At that time, the arrest warrant was already in force, although it had no legal basis. On **18 March, 2010**, the Interior Ministry sent a request to the Border Guard of the Russian Federation for the arrest of Trofimov. This request specified that the investigator had filed a motion with the court to arrest Trofimov. However, the documents in the case confirm that it was only on **8 November, 2011**, that investigator P. Zhesterov filed a motion with the Tver District Court in Moscow to arrest Trofimov.

On 9 November, 2011, in the Tver District Court of Moscow Judge A. Kovalevskaya expressed her doubts over whether there was sufficient evidence for arrest *in absentia*. But the following day, i.e. on **10 November, 2011**, without explanation, Judge Kovalevskaya was replaced by another judge - Alexey

Krivoruchko, a person named in the 'Magnitsky list'. Judge Krivoruchko ruled to arrest Trofimov *in absentia*. For 28 days, the management of the court did not issue the minutes of the hearing to the counsels, although this should have been done within 3 days (according to Art. 259, section 6 of the CCP of the RF). Perhaps the minutes were compiled after the fact, as they contained gross errors (for example, it stated that on 9 November, 2011, Trofimov was present in court, even though he was abroad at that time).

B) The granting of subsidiary protection and rejection of Russia's extradition request

On **22 October, 2012**, Trofimov applied for political asylum in Austria, but soon after, on **23 November, 2012**, he was arrested by Austrian police on the basis of Russia's extradition request to INTERPOL. On **19 December, 2012**, Russia filed a request for his extradition.

On **22 February, 2013**, Trofimov was released from custody on bail.

Austrian law on the status of refugees, similarly to Czech law, provides for two forms of international protection: asylum and subsidiary protection. On **4 December, 2013**, the Federal Office for Refugees refused to grant asylum to Trofimov, **but instead granted him additional protection**. Trofimov's additional protection and his right to reside in Austria has been extended until 4 December, 2016.

On 28 January, 2014, the Land Criminal Court of Vienna, citing Trofimov's additional protection status, **rejected Russia's request for his extradition**.

Trofimov appealed against the refusal to grant asylum. In April 2015, the Austrian court granted the appeal and ordered the reconsideration of Trofimov's case, noting that in the decision of 4 December, 2013, not all circumstances had been taken into account. At the moment, the Federal Office for Refugees **is re-considering Trofimov's application for asylum**.

Within the framework of cooperation with Russia in the field of law enforcement and in accordance with Art. 65 of the Criminal Code, the Austrian authorities should carry out their own investigation into the charges against the person whom they have refused to extradite. Thus, on **15 October, 2014**, on the basis of the charges, brought by Russia, the Austrian prosecutor's office initiated a criminal case against Trofimov under Art. 153 of the Criminal Code of Austria ('Abuse of trust') and Art. 278 of the Criminal Code of Austria ('Criminal association'). The case is under preliminary investigation. Trofimov is fully cooperating with the prosecutor's office.

Despite numerous signs of the case's fabrication, the procedures aimed at verifying the charges as well as communication between Austrian and Russian prosecutors have been overly prolonged. Thus, Russia is abusing Austrian legislation in a bid to impose significant restrictions on Trofimov.

C) Facts confirming the fabrication of the criminal case in Russia

On 9 September, 2010, Nikolay Varenko, the then deputy chairman of BTA Bank, stated that he had **'no complaints' against Eurasia Logistics**, as *'on the BTA Bank's balance sheet there are no outstanding loans'* owed by this company. [32], [33] Despite this, Russian investigators accused Trofimov and Eurasia Logistics of the theft of the bank's money.

The leader of the campaign in support of justice in the case of Magnitsky, William Browder, said that investigators from the 'Magnitsky list' are running the case of Trofimov: *'Given my own experience of persecution by these individuals, I believe that Mr. Trofimov will meet the same fate as Sergei Magnitsky, if he is extradited to Russia. Until the officials implicated in the Sergey Magnitsky case face justice in accordance with the law, no objective investigation can take place in Russia'*. Earlier, the Russian

Federation repeatedly placed Browder on the wanted list, but Interpol has since recognised those requests as being politically motivated and has subsequently dismissed them. [\[34\]](#)

The decision to bring charges against Trofimov was one of those documents that the Russian investigator Nikolay Budilo sent to the representative of Kazakhstan's BTA Bank Andrey Pavlov on 5 September, 2013 and 6 September, 2013, asking that the latter *'verify the names of the companies'* and *'indicate the amount of damages'*.

The human rights organisation 'Memorial' stated that the charges against Trofimov **'are based solely on the testimonies of a small number of persons, collaborating with the investigation'**. *The practice of fabrication of prosecution evidence in accordance with the same scheme is characteristic of the Russian investigative bodies in general, and especially of manifestly political cases'*.

In particular, the dictated accusatory testimony against Trofimov was given by Aleksandr Volkov, convicted in the case of BTA Bank. It transpired from the published correspondence that initially, Volkov denied his guilt, but later agreed to *'cooperate with the investigative bodies'*. On one occasion, Volkov's questioning was postponed as there was a need to **'agree on the answers' with the representative of the Kazakh BTA Bank, Pavlov**. Volkov signed the testimony, according to which *'Trofimov was definitely close to Ablyazov'* and *'was engaged in the structuring of financial flows'*.

According to Attorney Andrey Krupenik, investigator Nikolay Budilo offered Artur Trofimov a chance to **'cooperate with the investigation', which meant defaming Ablyazov**. In exchange, Trofimov was promised a simplified procedure for the trial and a *'more lenient punishment'*.

Artur Trofimov reported that on 9 May, 2013, in Vienna, in close proximity to his home, he was approached by Toksan Adykenov, who, according to Trofimov, is closely linked to the Kazakh special services. The man stated that Trofimov would soon fear for his life and the lives of his loved ones, should he fail to give incriminating evidence against Ablyazov.

Dmitriy Kharitonov, the counsel of Artur Trofimov, was not allowed to participate in the case within 6 months, while he had all the necessary documents and permits. Also, Investigator Budilo refused, for a long time, to admit Ablyazov's Russian counsel, Mark Feigin, to the case.

Kazakh authorities, who run the Russian investigation into the case of Trofimov, have already demonstrated their 'methods' during high-profile court trials in Austria with regard to the case of Rakhat Aliyev. Let us remind ourselves that on 24 February, 2015, it transpired that Rakhat Aliyev was found dead in Austria's Josefstadt prison in a solitary confinement cell, where he had been placed at his own request. The Austrian court rejected Kazakhstan's charges against Aliyev. [\[35\]](#)

In the ruling regarding the defendants in the case of Aliyev, the Regional Court of Vienna stressed the political nature of the criminal prosecution in Kazakhstan: *"The fact that the Kazakh authorities did not proceed on the basis of the rule of law at least at an earlier point in time already ensues from the testimony of the witnesses interrogated to date. ...the Kazakh authorities initially carried out their investigations into a completely different direction, took innocent people into detention, manipulated or eliminated, respectively, evidence and exerted pressure on individuals for incorrect statements, for which reason the question arises why it should now be sufficiently sure that these Kazakh authorities would now act in accordance with the law"*.

These very methods are used by Russia in the case of Artur Trofimov, in collaboration with Kazakhstan.

Human rights organisations and members of the European Parliament have recognised the political nature of the case of Trofimov and urged Austrian authorities to grant him asylum. In particular, Russian human rights organisations: **'Memorial'** and **'For Human Rights'**, prominent attorney **Mark Feigin**; Kazakh filmmaker and civil activist **Bulat Atabayev**; the Kazakh opposition leader who has been granted asylum in Poland **Muratbek Ketebayev**; Members of the Polish Parliament Marcin Świąćicki, Krzysztof

Maciejewski, Tadeusz Woźniak, Adam Rybakowicz and Andrzej Lewandowski as well as leader of the campaign in support of the justice in the case of Magnitsky, William Browder, took a stand in defence of Trofimov.

5. CONCLUSIONS AND RECOMMENDATIONS

Facts prove that, in the case of Paraskevich and Trofimov, Interpol hasn't been used for the purpose of investigation, but rather with the aim of restricting their freedom of movement

Russian investigators continue to 'pursue' Trofimov through Interpol, despite the fact that Trofimov has repeatedly reported his residential address. Over a long period of time, Trofimov has been seeking the withdrawal of his name from Interpol's wanted list.

The law firm Ilyashev and Partners, which represents the interests of Kazakhstan's BTA Bank, in an inquiry, transferred to Paraskevich's counsel, gave the true motives of the request sent to Interpol: *'Even in the event that the law enforcement bodies of Ukraine refuse to extradite T. Paraskevich from the Czech Republic, she is internationally wanted on the basis of the request filed by Russian law enforcement agencies, and she will continue to be wanted by Ukraine which will hinder her movement and her residence within the EU and other countries'.*

On 31 March, 2014, Counsel Makhitkova filed an application with Interpol, requesting that Paraskevich's name be withdrawn from the wanted list. Thus far, i.e. for about two years, Interpol has offered no reply to the counsel's request. Paraskevich's name was removed from the Interpol public wanted list following numerous statements by human rights activists and European politicians on the political context of her wanted status. However, there is a risk that Paraskevich's name is still included in the non-public Interpol list. In addition, according to available information, Kazakhstan is striving to initiate another criminal case against Paraskevich in Russia, which serves as a reason for re-issuing an international arrest warrant for her. On 31 March, 2015, the Czech Interior Ministry issued a passport to Paraskevich.

The publicised documents have confirmed the fabrication of politically motivated cases against Paraskevich and Trofimov. By providing the materials of these criminal cases, Kazakhstan, through its representatives and through the Russian authorities, was striving to bring about the granting of a diluted type of asylum to Paraskevich and Trofimov in Austria and the Czech Republic – subsidiary protection. Taking into account the fact that the incidents of Kazakhstan's illegal influence received wide publicity, we hereby urge the Austrian and Czech authorities to grant Artur Trofimov and Tatiana Paraskevich political asylum.

In addition, we hereby call on the Czech authorities to prevent Kazakhstan's lobbyists from bringing about conditions necessitating further reconsideration of the decision to grant subsidiary protection to Paraskevich. Representatives of Kazakhstan are creating a dangerous precedent, in which authoritarian regimes, with the use of their vast resources, are able to bring about the cancellation of refugee statuses in the EU and affect the outcome of extradition cases. We would like to draw the attention of the UNHCR to the urgent need to develop mechanisms in order to tackle this problem.

In its decision on the case of Rakhat Aliyev, the Regional Court of Vienna pointed to the methods of a politically motivated prosecution by the authorities of Kazakhstan: forcing people to give 'convenient' testimonies, placing innocent people in prison, trampling on the principles of the rule of law. The Russian investigation, controlled by Kazakhstan, uses the same methods in the case of Trofimov.

The case of Trofimov illustrates a new method of persecution used by authoritarian regimes. Charges with obvious signs of fabrication are brought against opponents of the regime. The authoritarian regime seeks to ensure that the charges lead to the initiation of criminal proceedings on the territory of the EU

(thus abusing the laws of some European countries). Due to these actions, persons who have been granted international protection are subjected to prolonged restrictions on their movement and are hindered when attempting to open a bank account and when seeking accommodation or employment.

The criminal case against Artur Trofimov in Austria was initiated on the basis of Russian materials which are of questionable validity. We, therefore, hope that the Austrian authorities will carefully and objectively examine all the circumstances of the case, give attention to the published evidence of the political motivation of the case, and take into account Kazakhstan's previous attempts to abuse the justice system in Austria.

On 5 February, 2016, Nazarbayev instructed the head of the Kazakh intelligence *'to increase efforts aimed at protecting the interests of Kazakhstan abroad'*. [\[36\]](#) In practice, this means that Kazakhstan will increase its efforts to lay its hands on its political opponents in the EU.

The Kazakh authorities have officially announced their intention to extradite Ablyazov to Kazakhstan on a number of occasions. Therefore, it is difficult to come to a conclusion as to what motives the French government was driven by when it stated that Russia, being the closest ally of Kazakhstan, 'will not render' Ablyazov to the Kazakh authorities. The Czech court, citing the Russian Constitution, expressed confidence that Paraskevich 'will not be rendered' to Kazakhstan. It should be noted that in December 2015, legislative amendments were adopted in Russia containing provisions which allow Russia to ignore the decisions of the ECHR and other international courts, which 'contradict the Russian Constitution'. Illustrative is the statement by Russian Judge Aleksey Kravtsov: *'Russian people don't want to fulfill the ECHR's decision, including with regard to the Yukos case'*. [\[37\]](#)

The way Russia intends to 'fulfill' its obligations is demonstrated by the following fact: in December 2015, a former manager of BTA Bank Veronika Yefimova was extradited from Russia to Kazakhstan, where she is currently being questioned by investigators. The counsel pointed to the genuine threat that Yefimova's 7-year-old daughter may be sent to an orphanage. [\[38\]](#)

Russia does not fulfill its obligations assumed under the Minsk agreements and has eliminated the priority of international law for itself. This is a signal to the West that Moscow is not going to fulfill its obligations. With the tightening of Russia's authoritarian regime, the number of violations will only increase. The example of Eston Kokhver serves to confirm that EU citizens may also face unfair trials in Russia.

Ungrounded statements by the authorities of individual EU Member States on the 'compliance of Russia with international guarantees in the case of Ablyazov' are inconsistent with the findings of human rights defenders, representatives of the EU institutions and the results of investigations conducted by European media. Decisions related to the rights of refugees, cannot be issued on the basis of political or economic interests.

We hereby urge the Austrian, French and Czech authorities to pay attention to the political context of the prosecution of Ablyazov, the scale of the impact of Kazakhstan's illegal influence, as well as the lack of independence of the Ukrainian and Russian investigative bodies in the running of the case. We hope that the EU countries will not succumb to the manipulation of Kazakh and Russian special services, and will not become involved in the political persecution conducted by authoritarian regimes.

We also stress the need for Austria, France and the Czech Republic to carry out an examination and to conduct a public investigation into the publicised incidents of Kazakhstan's illegal interference in the activities of law enforcement agencies of European states.

We hereby appeal to the Government of France, stressing the need to take into account the stance of European partners and human rights organisations as regards the inadmissibility of the extradition of Ablyazov.

We also address the Commission for the Control of Interpol's Files with an appeal to take into account the apparent political motivation behind the criminal proceedings and, as in the case of oppositionist and Ablyazov's colleague, Muratbek Ketebayev, to remove the information regarding Tatiana Paraskevich and Artur Trofimov from the international wanted list given that a violation of Art. 3 of the Constitution of Interpol has been committed.

All those wishing to support our demands are welcome to send their statements to the following persons and institutions:

Regarding the case of Tatiana Paraskevich:

- Pavel Zelman, General Prosecutor of the Czech Republic – 4 Jezuitská Street, 660 55 – Brno, the Czech Republic, phone: +420 542 512 111, fax: +420 542 512 227, e-mail: podatelna@nsz.brn.justice.cz;
- Lubomir Zaoralek, Minister of Foreign Affairs of the Czech Republic – 5 Loretánskénáměstí, 118 00 Prague 1, the Czech Republic, phone: +420 224 181 111, e-mail: podatelna@mzv.cz;
- Robert Pelikán, Minister of Justice of the Czech Republic – 16 Vyšehradská Street, 128 10 Prague 2, the Czech Republic, phone: +420 221 997 106, +420 221 997 111, fax: +420 224 919 927, e-mail: posta@msp.justice.cz;
- Jakub Machačka, Head of the Government Council for Human Rights in the Czech Republic – 4 Edvarda Beneše Embankment, Prague 1, the Czech Republic, PSČ 118 01, phone: +420 224 002 111, e-mail: machačka.jacub@vlada.cz;

Regarding the case of Artur Trofimov:

- The Central Prosecutor's Office for criminal cases involving economic crimes and corruption (Zentrale Staatsanwaltschaft zur Verfolgung von Wirtschaftsstrafsachen und Korruption (WKStA), Department 9 (Geschäftsabteilung 9) – Dampfschiffstraße 4, 1030, Vienna, Austria, phone: +43 1 521 52 5930, fax: +43 1 521 52 5920;
- Federal Office for Aliens and Refugees (Bundesamt für Fremdenwesen und Asyl) – Regionaldirektion Wien, Hernalser Gürtel 6-12, 1080 Vienna, Austria, e-mail: michael.oberauer@bmi.gv.at; bfa-rd-w-team-05@bmi.gv.at;
- Wolfgang Brandstetter, Federal Minister of Justice - Museumstraße 7, 1070 Vienna, Austria, phone: +43 152 15 20, fax: +43 152 152 27 30, e-mail: minister.justiz@bmi.gv.at;
- Johanna Mikl-Leitner, Federal Minister of Interior - Herrengasse 7, 1010 Vienna, Austria, phone: +43 153 12 60, e-mail: ministerbuero@bmi.gv.at;
- Sebastian Kurz, Federal Minister of Europe, Integration and Foreign Affairs – Minoritenplatz 8, 1010 Vienna, Austria, phone: +43 050 11 500, fax +43 050 11 590;
- Austrian Ombudsman Board - Singerstrasse 17, P.O. Box 20, 1015 Vienna, Austria;

Regarding the cases of Tatiana Paraskevich, Artur Trofimov and Mukhtar Ablyazov:

- Commission for the Control of INTERPOL's Files - 200 Quai Charles de Gaulle, 69006 Lyon, France, phone: +33 4 72 44 70 00; fax: +33 4 72 44 71 63; e-mail: CCF@interpol.int
- Zeid Ra'ad Al-Hussein, UN High Commissioner for Human Rights – Palais des Nations, CH-1211 Geneva 10, Switzerland, phone: +41 22 917 9220;
- Federica Mogherini, EU High Representative for Foreign Affairs and Security Policy – Rue de la Loi / Wetstraat 200, 1049 Brussels, Belgium, phone: +32 2 584 11 11; +32 0 2 295 71 69, e-mail: federica.mogherini@ec.europa.eu;
- Stavros Lambrinidis, EU Special Representative (EUSR) for Human Rights - phone: +32 2 584 230, e-mail: stavros.lambrinidis@ext.eeas.europa.eu;
- Martin Schulz, President of the European Parliament – Bât. Paul-Henri Spaak 09B011, Rue Wiertz / Wiertzstraat 60, 1047 Brussels, Belgium, phone: +32 2 28 45503; e-mail: martin.schulz@europarl.europa.eu;
- Elmar Brok, Chair of the European Parliament Committee on Foreign Affairs – Bât. Altiero Spinelli 05E240, Rue Wiertz / Wiertzstraat 60, 1047 Brussels, Belgium, phone: +32 2 28 45323, e-mail: elmar.brok@europarl.europa.eu;
- Elena Valenciano, Chair of the European Parliament Subcommittee on Human Rights - Bât. Altiero Spinelli 11G354, Rue Wiertz / Wiertzstraat 60, 1047 Brussels, Belgium, phone: +32 2 28 45846, e-mail: elena.valenciano@europarl.europa.eu;

- Thorbjorn Jagland, Secretary General of the Council of Europe - phone: + 33 3 88 41 20 00, e-mail: thorbjorn.jagland@coe.int;
- Pedro Agramunt, President of the Council of Europe Parliamentary Assembly – phone: +33 88 41 23 41, e-mail: pedro.agramunt@senado.es; mark.neville@coe.int;
- Ilkka Kanerva, President of the OSCE Parliamentary Assembly – phone: +358 9 432 3055; +358 9 432 3529, e-mail: ilkka.kanerva@parliament.fi;
- Isabel Santos, Chair of the OSCE PA General Committee on Democracy, Human Rights and Humanitarian Questions - phone: +351 21 391 9628, a form for online requests: <https://www.parlamento.pt/DeputadoGP/Paginas/EmailDeputado.aspx?BID=2103>;
- Hon. Michael Turner, President of the NATO Parliamentary Assembly – 3 Place du Petit Sablon, 1000 Brussels, Belgium, tel: +32 2 513 28 65, a form for online requests: <http://www.nato-pa.int/Default.asp?SHORTCUT=2098>.

List of sources:

1. Open Dialog Foundation / The story of 'The Democratic Choice of Kazakhstan' opposition movement - <http://en.odfoundation.eu/a/7250,the-story-of-the-democratic-choice-of-kazakhstan-opposition-movement>
2. BTA Bank / BTA Bank JSC labelled the best bank in Kazakhstan in 2008 - http://btbank.ua/rus/bank_media.php?news_id=5
3. Banker.kz / BTA Bank JSC awarded the title 'World's Best Trade Finance Bank in Kazakhstan 2009' by the international magazine 'Global Finance' - <http://forum.banker.kz/topic/24470-ao-bta-bank-udostoeno-zvanija-luchshii-bank-po-t/>
4. Open Dialog Foundation / Court hearings in the case against the following mass media outlets: the newspapers 'Vzglyad', «Respublika» as one mass media outlet, the «stan.tv» internet portal, the «K+» TV channel as well as the unregistered party «Alga!» - <http://en.odfoundation.eu/a/988,court-hearings-in-the-case-against-the-following-mass-media-outlets-the-newspapers-vzglyad-respublika-as-one-mass-media-outlet-the-stan-tv-internet-portal-the-k-tv-channel-as-well-as-the-unregistered-party-alga>
5. Open Dialog Foundation / Report: Analysis of documents in the case of Ablyazov - <http://en.odfoundation.eu/a/6869,report-analysis-of-documents-in-the-case-of-ablyazov>
6. Carnegie Endowment for International Peace / The War on Terrorism in Central Asia and the Cause of Democratic Reform - http://carnegieendowment.org/pdf/files/olcott_031403.pdf
7. Radio Azattyk / Stalin loses out to the Kazakh leadership, which hired American experts - http://rus.azattyq.org/content/Olkott_OSCE_Kazakhstan/1868761.html
8. Respublika / Martha Olcott in the pay of the Akorda - <http://www.respublika-kz.info/news/politics/44726/>
9. Mediapart / L'oligarque kazakh Ablyazov dénonce une justice française à l'écoute de Moscou - <https://www.mediapart.fr/journal/international/140216/loligarque-kazakh-ablyazov-denonce-une-justice-francaise-lecoute-de-moscou>
10. Astana.tv / Kazakhstan's request for the extradition of M. Ablyazov is still in the French Ministry of Justice - <http://astanatv.kz/news/show/id/32273.html>
11. Matritca.kz / General Prosecutor's Office of the RK will conclude an agreement with France regarding the extradition of Mukhtar Ablyazov - <http://www.matritca.kz/topnews/29534-genprokuratura-rk-podpishet-s-franciey-dogovor-ob-ekstradicii-muhtara-ablyazova.html>
12. Open Dialog Foundation / International community calls on France to prevent extradition of opposition politician Mukhtar Ablyazov - <http://en.odfoundation.eu/a/6264,international-community-calls-on-france-to-prevent-extradition-of-opposition-politician-mukhtar-ablyazov>
13. According to the information issued by the Embassy of the Republic of Kazakhstan in the Russian Federation, on 26 September, 2012, on the territory of the Embassy, Investigator Budilo was rewarded with a gun. The award was presented on the basis of the Resolution of the Republic of Kazakhstan dated 31 January, 2012 No. 177 for official use only . - <https://onlytruth9999.wordpress.com/>
14. Open Dialog Foundation / Kazakhstan: The oppression of journalists and bloggers - <http://en.odfoundation.eu/a/7228,kazakhstan-the-oppression-of-journalists-and-bloggers1>

15. Links to the documents, published on the portal Trust.ua: <http://www.trust.ua/news/91613-korupciya-i-partnery.html>; <http://www.trust.ua/news/92332-korupciya-i-partnery-chast-2.html>; <http://www.trust.ua/news/93202-korupciya-i-partnery-chast-3.html>; <http://www.trust.ua/news/95807-korupciya-i-partnery-chast-4-novye-detali-v-dele-ablyazova.html>; <http://www.trust.ua/news/99142-korupciya-i-partnery-chast-5.html>; <http://hate.trust.ua/korruption/2014/09/17/151/Korupciya-i-partneri-Chast-6/>
16. In particular, the published correspondence was referred to by Le Temps, Mediapart, Le Nouvel Observateur, RFI, Atlantico, NZZ, Yahoo France, L'Espresso, La Provence, El Pais: <http://www.mediapart.fr/journal/international/250415/comment-la-dictature-kazakhe-recrute-en-france-ses-soutiens>; http://www.letemps.ch/Page/Uuid/eff006b2-1439-11e5-96f4-d5eb39d18cde/Le_Kazakhstan_enr%C3%B4le_un_expert_genevois_dans_sa_campagne_dinfluence_occulte; http://www.letemps.ch/r/Le_Temps/Quotidien/2015/01/22/Suisse/ImagesWeb/Memo%20FTI.pdf
17. The news agency 'Regnum' / BTA Bank can repay debts through negotiations - <http://regnum.ru/news/economy/1328789.html>
18. The letter was sent to the following addresses : e_molshanova@bta.kz, yemolchanova@bta.kz. - <http://obozrevatel.com/crime/91247-kto-kak-i-dlya-chego-davil-na-elenu-tischenko.htm>; <http://www.respublika-kaz.info/news/politics/39350/>
19. MK RU / Belov-Potkin, suspected of extremism, accused investigator's deviant behaviour - <http://www.mk.ru/moscow/2015/10/22/podozrevaemyy-v-ekstremizme-belov-potkin-obvinil-sledovatelya-v-deviantnom-povedenii.html>
20. Life News / Following the scandal regarding the case of nationalist Belov-Potkin, investigator was changed - <http://lifenews.ru/news/169021>
21. Zákon kterým se mění zákon č. 325/1999 Sb., o azylu a o změně zákona č. 283/1991 Sb., o Policii České republiky, ve znění pozdějších předpisů, (zákon o azylu), ve znění pozdějších předpisů, a některé další zákony - <http://www.senat.cz/xqw/webdav/pssenat/original/36481/30830>
22. On 17 March, 2014, Paraskevich appealed the decision of the Supreme Court in Prague of 5 March, 2014, which denied her release from custody.
23. In addition, the evidence, recently published in the media, confirmed that the nationalised BTA Bank is not an independent entity, but it fulfills the political will of the Kazakh authorities - <http://en.odfoundation.eu/a/6857,report-political-persecution-of-syrym-shalabayev>
24. Open Dialog Foundation / The case of Tatiana Paraskevich: with the use of Ukrainian and Russian law enforcement agencies, Kazakhstan intends to compel the accused to testify against Mukhtar Ablyazov - <http://en.odfoundation.eu/a/1295,the-case-of-tatiana-paraskevich-with-the-use-of-ukrainian-and-russian-law-enforcement-agencies-kazakhstan-intends-to-compel-the-accused-to-testify-against-mukhtar-ablyazov>
25. Open Dialog Foundation / The case of Tatiana Paraskevich: with the use of Ukrainian and Russian law enforcement agencies, Kazakhstan intends to compel the accused to testify against Mukhtar Ablyazov - <http://en.odfoundation.eu/a/1295,the-case-of-tatiana-paraskevich-with-the-use-of-ukrainian-and-russian-law-enforcement-agencies-kazakhstan-intends-to-compel-the-accused-to-testify-against-mukhtar-ablyazov>
26. Open Dialog Foundation / Tatiana Paraskevich was granted international protection, but is still in custody due to the prosecutor's suspicious persistence - <http://en.odfoundation.eu/a/3139,tatiana-paraskevich-was-granted-international-protection-but-is-still-in-custody-due-to-the-prosecutor-s-suspicious-persistence>
27. 112.UA / Ukraine is not the aggravated party and cannot file a claim for compensation for damage against Ablyazov and his accomplices – the counsel stated - <http://112.ua/obshchestvo/ukraina-ne-yavlyaetsya-poterpevshey-storonoy-i-ne-mozhet-podat-isk-o-kompensacii-ushherba-ablyazovu-i-ego-podelnikam-advokat-264655.html>
28. Open Dialog Foundation / Yegor Sobolev calls for an investigation into the corrupt acts of Ukrainian investigators in the Mukhtar Ablyazov and Syrym Shalabayev cases - <http://en.odfoundation.eu/a/7246,yegor-sobolev-calls-for-an-investigation-into-the-corrupt-acts-of-ukrainian-investigators-in-the-mukhtar-ablyazov-and-syrym-shalabayev-cases>
29. Amnesty International / Urgent Action. Woman faces torture if extradited - <http://www.amnestyusa.org/sites/default/files/uaa29513.pdf>
30. Italian parliamentarians: Alessandro Gozi, Lia Quartapelle, Manuela Serra, Giovanni Claudio Fava; Czech MP Jaromír Štětina; Polish MPs: Robert Biedroń, Maciej Wyrzyński, Małgorzata Gosiewska, Artur Górczyński, Artur Dębski, Ligia Krajewska, Łukasz Krupa, Tomasz Makowski, Maciej Mroczek, Michał Pacholski, Paweł Sajak, Marcin Świącicki, and others.

31. In accordance with paragraph 153.1 of the Instruction of Interior Ministry on the organisation of informational support for cooperation via Interpol (No. 786/310/470/454/333/971 of 6 October, 2006).
32. Tengri News / Mukhtar Ablyazov lost ground, but he can emerge dry from the water - <http://tengrinews.kz/news/mukhtar-ablyazov-poteryal-zemlyu-mojet-vyiyti-suhim-vodyi-64295/>
33. The news agency 'Regnum' / BTA Bank can repay debts through negotiations - <http://regnum.ru/news/economy/1328789.html>
34. Interpol / Interpol cannot be used by the Russian Federation to seek the arrest of Mr William Browder - <http://www.interpol.int/en/News-and-media/News/2013/N20130726>
35. Open Dialog Foundation / Relatives and associates of Rakhat Aliyev reject the suicide account - <http://en.odfoundation.eu/a/5968,relatives-and-associates-of-rakhat-aliyev-reject-the-suicide-account>
36. Zakon.kz / Nazarbayev: Kazakhstan should increase its efforts to protect its interests abroad - <http://www.zakon.kz/4773405-nazarbaev-kazakhstan-dolzhen-ukrepit.html>
37. Independent / Vladimir Putin signs law allowing Russia to ignore international human rights rulings - <http://www.independent.co.uk/news/world/europe/vladimir-putin-signs-law-allowing-russian-court-to-overthrow-international-human-rights-rulings-a6773581.html>
38. Respublika / Yefimova's 7-year-old daughter became a hostage - <http://www.respublika-kaz.info/news/politics/40011/>