

Ukraine assists post-Soviet states with the persecution of political opponents and refugees (2014-2016)

*Through illegal extraditions and violations of the rights of refugees,
the Ukrainian authorities contribute towards the political persecution
by Moldova, Russia, Kazakhstan, Azerbaijan and Belarus*



OPEN DIALOG

The Open Dialog Foundation hereby analyses the support rendered after the Revolution of Dignity by the General Prosecutor's Office of Ukraine, Security Service and Migration Service to the authorities of Moldova, Russia, Kazakhstan, Azerbaijan and Belarus in persecuting their political opponents or contributing to their persecution. This report addresses violations by Ukraine of the rights of refugees and asylum-seekers, namely: illegal expulsions and extraditions; illegal influence on the outcome of extradition cases, as well as groundless refusals to grant asylum.

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The Open Dialog Foundation was established in Poland, in 2009, on the initiative of Lyudmyla Kozlovska (who is currently the President of the Foundation). The statutory objectives of the Foundation include the protection of human rights, democracy and rule of law in the post-Soviet area. The Foundation focuses particular attention on the region's largest countries: Kazakhstan, Russia and Ukraine.

The Foundation pursues its goals through the organisation of observation missions including election observation and monitoring of the human rights situation in the post-Soviet area. The Foundation has extensive expert experience in the field of protection of the rights of political refugees and political prisoners.

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TABLE OF CONTENTS:

1. Introduction	5
2. Cooperation with Moldova: gross violations during the extradition of Vyacheslav Platon (Kobalyev)	8
3. Tolerance of the actions of the Russian regime: Ukraine tramples on the rights of asylum-seekers	14
4. Assistance provided to the Kazakhstani regime in connection with the extradition of political opponents	21
5. Cooperation with Azerbaijan: efforts aimed at extraditing refugees and asylum-seekers	28
6. The cases of citizens from post-Soviet states, who fought in Ukrainian volunteer battalions	32
7. The General Prosecutor's Office of Ukraine: the key institution responsible for extradition remains incorrigible	35
8. Conclusions and recommendations	39

1. INTRODUCTION

Three years after the Revolution of Dignity, the General Prosecutor's Office of Ukraine, the Security Service and the Migration Service continue to employ methods of Viktor Yanukovich, ousted from the office of President in 2014. In particular, Ukraine continues to help post-Soviet states pursue political refugees and asylum seekers.

Established links, common methods of operation and common language of communication — all of this characterises the law enforcement bodies and special services of the post-Soviet states (except the Baltic states). Within the framework of the Commonwealth of Independent States (CIS), agreements on combatting crime and joint search activities are in place.¹

Two years ago, the Ukrainian authorities declared their withdrawal from the CIS.² However, Ukraine is a member of the Minsk Convention on Legal Assistance³, signed, among others, by Azerbaijan, Belarus, Kazakhstan, Moldova and Russia (all of them, save for Moldova, are authoritarian states). It is with these very countries that Ukraine most closely cooperates with respect to matters of extradition.

The victims of such 'legal aid' are often refugees who face politically motivated

criminal prosecutions in their homelands. The problem is systemic in nature, as evidenced by the significant number of such cases (this report presents only the most high-profile cases).

Contrary to international law, in April 2016, the General Prosecutor's Office of Ukraine (GPU) has tried to extradite a refugee and human rights activist Alovzat Aliyev to his country of origin — Azerbaijan. The prosecutor's office has even allowed a visit from an Azerbaijani representative who attended a detention centre in order to threaten Aliyev. It was only due to intervention by the German embassy that the extradition of the human rights defender was prevented.

The GPU did not take into account the information, publicised in 2014, concerning the illegal actions of an investigator of the Ukrainian Interior Ministry who was in charge of the case against Kazakh businessman and opposition politician Mukhtar Ablyazov, as well as his associates. In 2015, the GPU has closed the criminal case against the investigator and continues to ignore the statements of human rights activists and many members of the European Parliament underlining the political context of Ablyazov's case. On 9 December,

¹ There are several mechanisms for multilateral cooperation between the security services of the member states of the Commonwealth of Independent States, namely: the Council of Heads of Security and Special Services of the CIS member-states; the Council of Border Troops Commanders of the CIS member-states; the CIS Anti-Terrorist Centre. On 25 November, 1998, the CIS member states signed the 'Agreement on Cooperation of the CIS Member States in the Fight Against Crime'. — <http://www.fsb.ru/fsb/international.htm>; <http://www.cis.minsk.by/page.php?id=866>

² In March 2014, Andrey Parubiy, the then head of the National Security and Defence Council, announced the beginning of the process of Ukraine's exiting from the CIS. In October 2014, the Ukrainian Foreign Ministry has stated Ukraine's policy of ignoring the most important events in the CIS. On 9 November, 2016, the Ukrainian Parliament registered a draft bill that provides for the termination of Ukraine's participation in the CIS bodies — <http://bit.ly/2gmBoxu>; <http://bit.ly/2gwVdWp>; <http://bit.ly/2gtLT2p>

³ http://zakon2.rada.gov.ua/laws/show/997_009/page

2016, France's Council of State (Conseil d'Etat) recognised the case of Ablyazov as politically motivated. Still, Ukrainian authorities continue to assist Kazakhstan in bringing about the extradition of Ablyazov and his associates.

On 29 August, 2016, Vyacheslav Platon (Kobalyev) was extradited from Ukraine to Moldova in gross violation of the law. He was set to testify about the activity of Vladimir Plahotniuc, who is known as the most powerful oligarch in Moldova and a friend of the President of Ukraine Petro Poroshenko. The law prohibits an extradition being carried out until such time that the deadline for filing an appeal against an extradition order has passed. However, the GPU and the Security Service of Ukraine (SBU) allowed Platon (Kobalyev) no opportunity to exercise his right to appeal to the court.

6

Moreover, Platon (Kobalyev) holds a Ukrainian passport and the Ukrainian Constitution prohibits the rendering of its citizens. And yet, in the absence of any court rulings, the GPU determined that his passport was counterfeit. Thus, Platon's (Kobalyev's) citizenship was recognised as 'invalid', although the citizenship deprivation procedure hadn't been carried out against him.

This case is a dangerous precedent which could be used by the authorities to eliminate their political opponents. Such a mechanism was discussed in the context of Mikheil Saakashvili. In November 2016, Saakashvili has left public office, joined the opposition and began to criticise not only the Government, but also the President of Ukraine. Shortly after, Saakashvili declared that President Poroshenko "gave an instruction to work on preparing the procedure aimed at depriving

me of citizenship by the decision of the court".⁴ This fact was reported by some media, citing sources in the Presidential Administration.⁵ The General Prosecutor denied this information, stating that "Ukraine does not extradite its citizens".⁶ However, as it transpired, in the case of Platon (Kobalyev), this legal provision was ignored.

Extradition issues do not fall within the scope of competence of the SBU, still, the body detained Platon (Kobalyev) and executed a decision on his extradition. In addition, SBU officers abducted Aminat Babayeva (who had requested asylum in Ukraine) from the office of the migration service and forcibly returned her to Russia. This case may be an indication of cooperation between the SBU and Russian special services, despite the fact that the SBU states that cooperation between the two ceased in 2014.⁷

The Migration Service of Ukraine systematically and unreasonably refuses to grant asylum or subsidiary protection to citizens of Russia who are being persecuted for their support of Euromaidan, non-recognition of the annexation of the Crimea and for criticism of Russia's military aggression in the Donbass. In many cases, courts require that the Migration Service reconsider decisions, but officials stand their ground, denying asylum applications numerous times.

In its decisions, the Migration Service of Ukraine refers to Russian legislation and the Constitution, referring to Russia as a 'democratic state of law', where 'torture is not practiced' and 'freedom of peaceful assembly is guaranteed'. It expresses full confidence in the materials of Russian law enforcement agencies. *"The Pro-Ukrainian*

⁴ <https://www.facebook.com/SaakashviliMikheil/posts/1350019951695049>

⁵ <http://www.pravda.com.ua/news/2016/11/18/7127229/>

⁶ <http://interfax.com.ua/news/general/384886.html>

⁷ <http://hromadske.ua/posts/ukrainski-spetssluzhby-vyvezly-aminu-babaevu-na-terytoriiu-rosii-podruha>

position is no more than an attempt to avoid criminal liability for their actions”, — such conclusions are communicated to asylum seekers by Ukrainian officials.

Bureaucratic logic of the Migration Service contradicts the conclusions of international organisations who highlight human rights violations in Russia and the Resolution of the Verkhovna Rada of Ukraine on the recognition of Russia as an aggressor. When considering applications for asylum, Ukrainian officials continue to regard Russia as a reliable partner; as though no Russian military invasion of the Crimea and the Donbass has taken place; as though dozens of Ukrainian citizens haven't been subjected to political prosecution in Russia. This situation serves to render Russians seeking asylum in Ukraine even more vulnerable.

In 2013, Amnesty International published a report on cooperation between the CIS countries (including Ukraine and

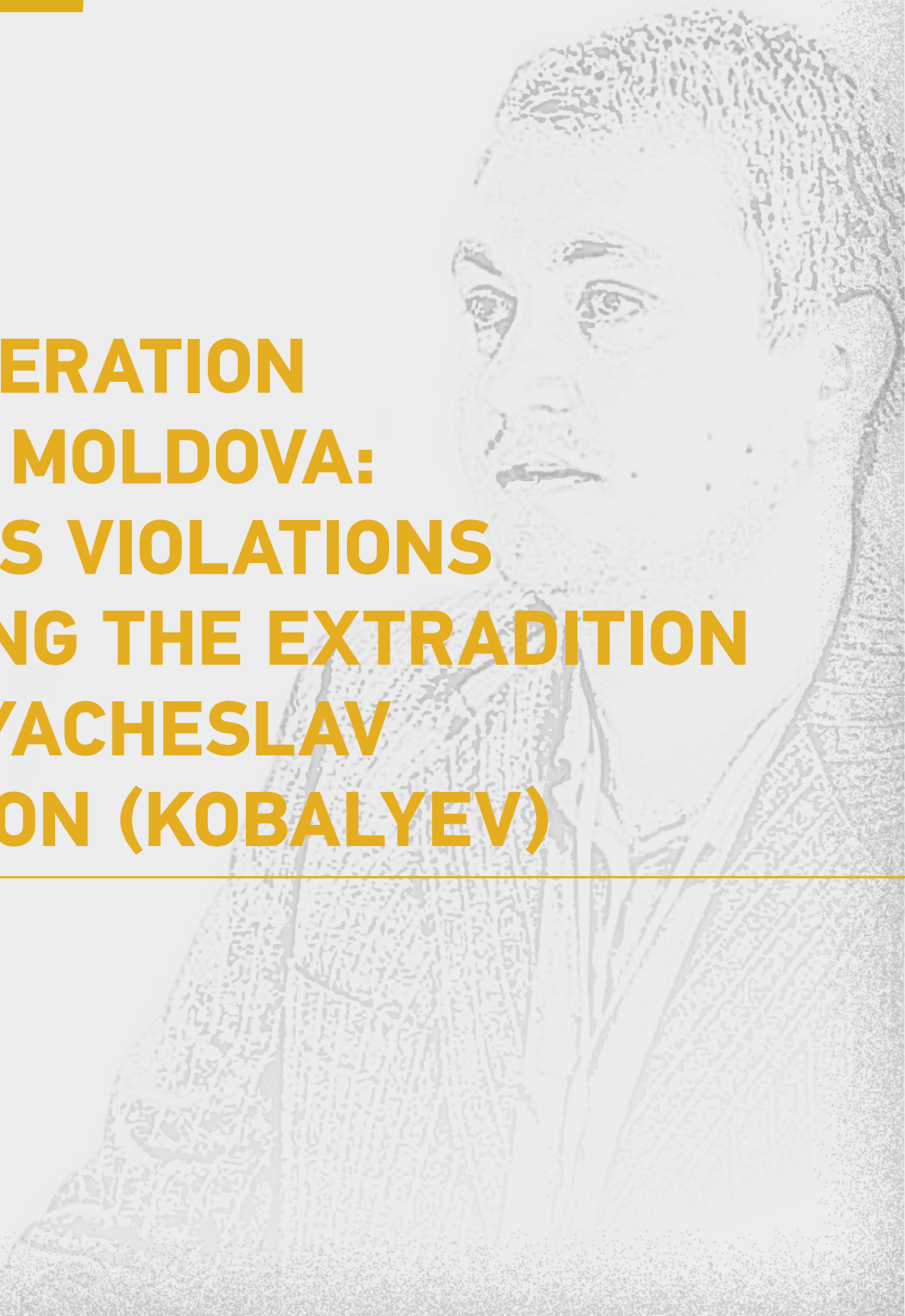
Russia) with respect to illegal extraditions, expulsions and kidnappings of refugees to the countries of Central Asia.⁸ Unfortunately, even after the overthrow of the Yanukovich regime, Ukraine continues the said cooperation.

According to the results of monitoring of the situation in the years 2014-2016, in this report, the Open Dialog Foundation analyses the support, rendered by Ukraine after the Revolution of Dignity, to the authorities of Moldova, Russia, Kazakhstan, Azerbaijan and Belarus in the prosecution of their political opponents or contributions towards their persecution. We do not consider the question of whether the individuals are guilty or innocent of the crimes that they are accused of. However, we do pay special attention to violations by Ukraine of the rights of refugees and asylum-seekers, namely: illegal expulsions and extraditions; illegal influence on the outcome of extradition cases; groundless refusals to grant asylum.

⁸ <https://www.amnesty.org/en/documents/EUR04/001/2013/en/>

2

COOPERATION WITH MOLDOVA: GROSS VIOLATIONS DURING THE EXTRADITION OF VYACHESLAV PLATON (KOBALYEV)



In 2014–2015, Moldova was high on the list of countries to which Ukraine has extradited individuals. In 2016, 14 people were extradited from Ukraine to Moldova; the country to which the greatest number of people were extradited.⁹ In 2016, the most high-profile extradition case in terms of Ukrainian-Moldovan relations was the case of the businessman Vyacheslav Platon (Kobalyev). He declared his readiness to give evidence about the possible involvement of the powerful Moldovan oligarch Vladimir Plahotniuc in illegal practices.

Vladimir Plahotniuc, who is little known in Ukraine, has great huge influence in Moldova. He is deputy chairman of the Democratic Party of Moldova, part of the ruling coalition. According to Moldovan and Western media, Plahotniuc controls the party, and also has influence over leaders of judicial bodies and the prosecutor's office who are appointed by parliament.¹⁰

One of the former leaders of the National Centre for the Fight against Corruption in Moldova, Mikhail Hoffman stated that Plahotniuc was behind the looting of three major Moldovan banks: Unibank, Sociala and Banca de Economii.¹¹ According to the magazine *Der Spiegel*, Plahotniuc could be involved in the raider attacks on Moldovan banks and insurance companies.¹²

The parliamentary coalition nominated Plahotniuc for the post of prime minister. However, in January 2016, President of Moldova Nicolae Timofti rejected the nomination, stating that there was a 'reasonable suspicion' that 'Vladimir Plahotniuc did not fulfil the criteria of incorruptibility'.¹³

Plahotniuc considers himself a close friend of the President of Ukraine Petro Poroshenko.¹⁴ Vyacheslav Platon's (Kobalyev's) counsels believe that, having influence over both the Moldovan and Ukrainian authorities, Plahotniuc brought about the extradition of Platon (Kobalyev), thus eliminating an inconvenient witness.

THE CASE OF VYACHESLAV PLATON (KOBALYEV)



WWW.FACEBOOK.COM

Vyacheslav Platon (Kobalyev)

Platon (Kobalyev) is a prominent businessman engaged in the banking and insurance industries, and also manages the assets of commercial companies in Moldova, Ukraine and Russia. In 2009, he was elected to the Moldovan Parliament from the party 'Our Moldova' Alliance'. Platon (Kobalyev) labelled himself one of the sponsors of the party.¹⁵

9 www.bit.ly/2fYFloa

10 <http://nyti.ms/2gtOrg0>; <http://bit.ly/2gtMQl0>; <http://bit.ly/2gtP4a2>

11 <http://www.forbes.com/sites/kenrapoza/2016/08/01/billion-dollar-theft-in-moldova-one-rich-bankers-crime-has-a-nation-doing-time/#6cb7b8767a4d>

12 <http://www.spiegel.de/politik/ausland/republik-moldau-nato-warnt-vor-russischer-aggression-a-1020428.html>

13 <http://jurnal.md/ru/politic/2016/1/13/prezident-nikolaj-timofti-otklonil-kandidaturu-oligarha-plahotnuka-na-dolnost-prem-er-ministra/>

14 http://ru.publika.md/plahotnyuk-ukraina-izbrala-prezidenta-v-kotorom-nuzhdalas_1337381.html

15 http://ru.publika.md/predprimatel-vyacheslav-platon-v-peredache-fabrika-tekst-onlayn_425291.html

He is one of the witnesses in the case regarding the siphoning off, from the Moldovan budget, of 1 billion euros which was achieved following declarations of bankruptcy by three Moldovan banks in November 2014. Platon (Kobalyev) declared his readiness to give testimony to American and European investigators concerning the possible involvement of Vladimir Plahotniuc in the case.

Previously, Platon (Kobalyev) had represented investors in a deal in which shares were to be purchased from Plahotniuc, and he later testified against Plahotniuc in a Dutch court. The testimony was given in respect to the case of Victor and Viorel Topa who, in a press conference on 11 August, 2010, stated that Plahotniuc had stolen their bank's assets.¹⁶ Following the statement, the Moldovan authorities brought criminal charges against Victor and Viorel Topa. As stated by counsels, Germany deemed the case against Victor and Viorel Topa politically motivated and denied the Moldovan requests for their extraditions.¹⁷ According to the counsels, Platon (Kobalyev) and his family members received threats in which the demand was made that they were to refuse to testify against Plahotniuc.

Platon (Kobalyev) declared his readiness to publish the testimonies against Plahotniuc, after which, on 22 July, 2016, Moldovan authorities accused Platon (Kobalyev) of fraud and money laundering (Art. 190 and Art. 243 of the Criminal Code of Moldova) in the amount of several hundred thousand dollars (the counsels have not been made aware of the exact amount cited in the charges).

The charges were brought after the questioning of another suspect-businessman Ilan Shor, Plahotniuc's business partner. According

to Shor, he took out loans from two Moldovan banks, however, Platon (Kobalyev) allegedly seized the amounts of these loans. At the same time, it is a well-known fact that on 2 April, 2015, international consulting company Kroll presented the results of its investigation, according to which *"a full forensic trace is required, in order to establish the ultimate beneficiaries of the MDL 8 billion). It is however clear that Ilan Shor, and individuals with which he is associated are strongly implicated in the scheme"*.¹⁸

Shor's interrogation report stated that the testimony 'was given in the Romanian language', even though his counsels are able to confirm with certainty that Shor does not speak Romanian. The protocol constitutes a text, printed in the Romanian language and signed by Shor. On 5 August, 2016, Shor was released from custody and the measure of his restraint was changed to house arrest.

On 23 July, 2016, the Moldovan authorities sent to Ukraine, a diffusion stating that Platon (Kobalyev) was wanted. On 25 July, 2016, SBU officers detained him. According to the counsels, as grounds for detention, the SBU presented a letter from the Ukrainian Interpol Bureau and an electronic copy of a warrant issued by the Chisinau Court for Platon's arrest (in the Moldovan language). However, none of the SBU officers knew Moldovan.

The counsels point out that the SBU officers used brutal force against Platon (Kobalyev), despite the fact that he had not tried to resist arrest. On 28 July, 2016, doctors of Kyiv City Hospital No. 17 diagnosed Platon (Kobalyev) with a chest injury, bruising, a head injury, a soft tissue injury to the face, swelling of the eye (according to Doctor's Certificate No. 1448).

¹⁶ <http://www.infotag.md/reports/763470/>

¹⁷ <http://bit.ly/2fYGhhV>

¹⁸ <http://candu.md/opinii/raportul-kroll/>

In addition, on 28 July, 2016, Judge of the Pecherskiy District Court in Kyiv, Ekaterina Moskalenko, granted the motion of the prosecutor's office to arrest Platon (Kobalyev). The court also instructed Kyiv Regional Prosecutor's Office No. 6, within two weeks, "to conduct an investigation into the circumstances of the infliction of bodily harm" on Platon (Kobalyev) during his arrest. In September, the court informed the lawyers of an "absence of data regarding the implementation of this instruction by the Prosecutor's Office".

The SBU reported that during the arrest of Platon (Kobalyev), his national and diplomatic Moldovan passport had been seized along with a 'counterfeit Ukrainian passport'. The SBU offered no explanation as to why it considers the passport to be counterfeit.¹⁹

According to the counsels, Platon (Kobalyev) held Ukrainian, Russian and Moldovan citizenships. Although Ukraine abides by the principle of single citizenship, its law does not ban the holding of multiple citizenship outright. In accordance with the Law On Citizenship, if a citizen of Ukraine assumes the citizenship of another state, then, within the scope of legal relations with Ukraine, he or she is recognised as a citizen of Ukraine.

In 1992, Platon (Kobalyev) obtained Ukrainian citizenship, as was confirmed by an official notice entered in his Soviet passport. In 2002, he changed his last name to Kobalyev and obtained a Ukrainian passport. In 2012, Ukraine issued a passport to him in the name 'Kobalyev'.

On 26 July, 2016, the Migration Service reported to the SBU that verification of Platon's (Kobalyev's) Ukrainian passport was to be

carried out. On the same day, "a decision on the results of the official investigation" was issued; according to the decision, Platon's (Kobalyev's) Ukrainian passport "was produced in violation of the law" and therefore "should be destroyed". The Migration Service based its decision on "the lack of an application for the issuance of a passport on file" (although it is the state which is responsible for the preservation of such documents) and "a lack of data concerning Kobalyev's assumption of citizenship of Ukraine" (even though he had a taxpayer's identification number). The Ukrainian authorities brought no criminal charges against Platon (Kobalyev) with respect to forgery.

Article 25 of the Constitution prohibits the rendering of a Ukrainian citizen to another state. However, in the absence of any court ruling and merely citing a ruling by the Migration Service, the GPU announced that Platon (Kobalyev) was not a citizen of Ukraine (thus, justifying the extradition process). Under law, the only authority that has the power to issue decisions on the termination of Ukrainian citizenship is the President of Ukraine. According to the counsels, the President was not consulted regarding the decision on the termination of Platon's (Kobalyev's) Ukrainian citizenship.

According to the documents, presented by the counsels, in a letter dated 30 August, 2016, the Ukrainian Interpol Bureau stated that on 8 August 2016, an FBI officer at the US Embassy in Ukraine had filed a request for a meeting with Platon (Kobalyev) in the detention centre, but the GPU did not respond to the request.

On 1 August, 2016, as a citizen of Moldova, Platon (Kobalyev) applied for asylum in Ukraine. According to the counsels, this

¹⁹ <https://ssu.gov.ua/ua/news/1/category/1/view/1503#sthash.Nxnu0ffW.04iPw0XZ.dpbs>

application was filed due to the fact that the authorities had ignored Platon's (Kobalyev's) Ukrainian citizenship and ordered his fast-track extradition. The counsels point out that the asylum application was aimed at suspending the extradition procedure (a person cannot be extradited until his or her application for asylum has been examined).

The Migration Service informed the counsel that the examination of the application was scheduled for 22 August, 2016. On the same day, the Migration Service issued a refusal to grant asylum to Platon (Kobalyev). However, the decision itself was not presented to Platon (Kobalyev) until 29 August, 2016.

In addition, on 29 August, 2016, the prosecutor of the Kyiv Prosecutor's Office, Marina Kim presented to Platon (Kobalyev) a ruling on his extradition to Moldova; the ruling was signed by Deputy General Prosecutor of Ukraine Eugene Enin. In the evening of 29 August, 2016, SBU officers Platon (Kobalyev) and transported him to Kyiv International Airport (Zhuliany), from where he was extradited to Moldova by chartered plane. According to the counsels, it was a Gulfstream G200 aircraft which the Moldovan authorities had paid 40,000 dollars to charter. At the same time, the counsels noted that the Moldovan side initially chartered another plane, but at the last moment, for reasons unknown, they changed it to the Gulfstream G200.²⁰

According to Art. 590, section 3 of the CCP of Ukraine, in the case of issuing a ruling on extradition, *"if, within ten days from the issuance of the ruling, an appeal is not filed in court, the rendering of that the said individual to the competent authorities of a foreign state*

is to be carried out". However, the SBU carried out the extradition on the very same day that the extradition decision was issued, failing to allow Platon (Kobalyev) any opportunity to exercise his legitimate right to an appeal. At the same time, Prosecutor Marina Kim stated that she was unable to identify elements of the crime defined as 'Kidnapping of an individual' in the actions of the SBU".²¹

It is significant that the Security Service took an active role in the case of Platon (Kobalyev), namely: detained and transported him to the airport from where he was extradited (although extradition matters do not fall within the scope of competence of the Security Service). The counsels believe this constitutes evidence that the outcome of the case was decided at the political level during negotiations between the Ukrainian and Moldovan authorities. At the same time, in a letter dated 13 October, 2016, Deputy Head of the SBU, Sergey Bazyuk stated that the SBU "did not carry out the extradition" of Platon (Kobalyev).

In Moldova, Platon (Kobalyev) is being detained in the basement of Chisinau Penitentiary Facility No. 13. He has stated that his room is poorly ventilated and that little daylight enters his cell, there are problems with the water supply and the walls are covered with mould. Responding to the statement made by Platon (Kobalyev), on 7 September, 2016, representatives of Amnesty International tried to visit Penitentiary Facility No. 13, but they were not permitted to enter the prison which constitutes a violation of Moldovan legislation.²² The ECHR has repeatedly issued decisions regarding the inhuman conditions of detention in the facility.

²⁰ <http://bit.ly/2fYGuld>

²¹ <https://www.facebook.com/alexey.shevchuk.963/posts/10208421054016774>

²² <http://amnesty.md/ro/media/penitenciariul-13-inchisoarea-contrastelor/>

In addition, in September 2016, the administration of Facility No. 13 repeatedly refused the counsels' requests to visit Platon (Kobalyev) under various pretexts: shorter working hours, sanitation works at the premises etc. Both Platon's (Kobalyev's) wife and his counsels have received an anonymous tip off that he could be assassinated, possibly by means of a staged suicide.

The court refuses to satisfy the motions filed by Platon's (Kobalyev's) counsels. The case against Platon (Kobalyev) is supervised by Head of the Anti-Corruption Prosecutor's Office Viorel Moraru, who, according to the counsels and some from the Moldovan media environment, belongs to Plahotniuc's circles.

In addition, according to the counsels, they received confirmation that in early November 2016, the GPU granted its consent to the law enforcement authorities of Moldova to bring new criminal charges against Platon (Kobalyev) which are not specified in the extradition request.

On 11 October, 2016, in their declaration, 21 members of the PACE labelled the extradition of Platon (Kobalyev) 'illegal', one of the key witnesses regarding the activities of the tycoon Vladimir Plahotniuc.²³

In October 2016, the Moldovan attorney Anna Ursachi, which protects the interests of Platon (Kobalyev) and other opponents of

Vladimir Plahotniuc, has become the victim of a politically motivated prosecution in Moldova. Vladimir Plahotniuc, who uses his influence on law enforcement agencies of Moldova and a huge media resource, may be a true mastermind behind the prosecution. Anna Ursachi cannot return to Moldova due to the risk of arrest.²⁴

In addition, in November 2016, the information about the prosecution of Plahotniuc's another opponent, Alexander Machedon, a businessman who supports activists and opposition movements in Moldova, was made public. In October 2016, Machedon was notified by law enforcement authorities of the Odessa Province that a criminal case under Art. 156 of the CC ('corruption of minors') was initiated against him.

Details of the criminal case and the procedural status of Alexander Machedon is unknown. Machedon claims that his last visit to Ukraine took place in March 2016 and lasted less than two hours, which is confirmed by documents from the Moldovan border guard. Machedon stated that the criminal case against him was fabricated and is connected with his political activity. Investigators suggested that Machedon come to Ukraine in order to testify; however, given the example of Vyacheslav Platon (Kobalyev), Machedon fears contacting Ukrainian law enforcement agencies.²⁵

²³ <http://bit.ly/2fYKHFr>

²⁴ <http://bit.ly/2gtQXDH>

²⁵ <http://bit.ly/2gtYnqJ>

3

TOLERANCE OF THE ACTIONS OF THE RUSSIAN REGIME: UKRAINE TRAMPLES ON THE RIGHTS OF ASYLUM-SEEKERS



Until 2014, Russia was a strategic partner of Ukraine. Cooperation between law enforcement agencies and intelligence services of both countries was particularly close. An illustrative example of this close cooperation was the case of Russian oppositionist Leonid Razvozzhaev who was kidnapped near the Kyiv office of the United Nations High Commissioner for Refugees on 19 October, 2012. His kidnapping was allegedly carried out by the Russian security services. The next day, he found himself in Moscow, where after some time, he was sentenced to 4.5 years in prison. The perpetrators of the illegal expulsion of the oppositionist have yet to be punished.

Compared to other countries, Russia issues to Ukraine the largest number of extradition requests (33 requests in 2014, 25 requests in 2015 and 20 requests in 2016).²⁶ The GPU, in turn, actively cooperates on extradition cases. For example, in 2014, 32 people were extradited from Ukraine to Russia.²⁷ **Despite the annexation of Crimea by Russia and its participation in the hostilities in the Donbass, the Ukrainian state authorities continue to tolerate the actions of the Russian regime and cooperate with it.**

THE CASE OF AMINAT BABAYEVA

On 9 September, 2016, Russian citizen Aminat Babayeva was detained by Ukrainian border guards in the transit area of Kharkov airport where she had arrived on a flight from Istanbul. In Turkey, where a state of emergency has been in place since July, Babayeva was suspected of having links with the terrorist

organisation 'ISIS'. According to counsels, the Turkish authorities uncovered no evidence against Babayeva before expelling her from the country. She decided to fly to Ukraine in order to seek asylum there.²⁸

On 9 and 10 September, 2016, Ukrainian border guards refused to allow a counsel to visit Babayeva. On 11 September, 2016, Babayeva was released after a representative of the Ombudsman of the Kharkiv Province had arrived at the airport.

On 12 September, 2016, Babayeva submitted an application for refugee status in the department of Migration Service, but authorities there refused to issue documents to her having found a problem with her application. Shortly after, at approx. 8:00 p.m., several SBU officers entered the premises of the Migration Service and bundled Babayeva into a car. She tried to contact a lawyer, but the abductors threw her phone out of the car's window. On that same day, Babayeva was forcibly deported to Russia.²⁹

On 13 September, 2016, the SBU stated that a decision had been issued to 'forcibly expel Babayeva from the territory of Ukraine', after which she 'voluntarily left [the country], heading for Russia'.³⁰ Babayeva's friend, Yulia Vorontsova, reported that the SBU officers escorted Babayeva to a border crossing point in the Kharkiv Province. Soon after, she found herself on Russian territory. Currently, she is in Dagestan under surveillance from Russian special services".³¹

Her counsel has filed a report on her kidnapping by the SBU with the police.

²⁶ <https://dostup.pravda.com.ua/news/publications/z-pochatku-roku-henprokuratura-otrymala-74-zapyty-na-ekstradytsiiu-naibilshhe-z-rosii>

²⁷ https://dostup.pravda.com.ua/request/iekstraditsiia_dodatkovii_zapit#incoming-21713

²⁸ <https://hromadskeradio.org/programs/rankova-hvylya/prymusove-povernennya-babayevoyi-krychushchyy-vypadok-pravozahysnyca>

²⁹ <http://bit.ly/2fYlIXg>

³⁰ <https://ssu.gov.ua/ua/news/1/category/2/view/1844#sthash.YLWJFqW.hdzBxSQn.dpbs>

³¹ <http://hromadske.ua/posts/ukrainski-spetssluzhby-vyvezly-aminu-babaiyevu-na-terytoriiu-rosii-podruha>

THE CASE OF PETR LYUBCHENKOV



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Petr Lyubchenkov

16

Petr Lyubchenkov is a civic activist from Krasnodar (Russia) who actively supported Ukraine's Euromaidan through social networks before being subjected to administrative detention for 10 days.³²

In 2014, Lyubchenkov moved to Odessa and on 7 July, 2014, he filed an application for asylum in the local office of the Migration Service.

While on the territory of Ukraine, Lyubchenkov posted pictures in support of the 'March for the federalisation of Kuban' on social networks (the march was never held). Because of this, the Russian authorities accused him of 'inciting separatism' (Art. 280.1, section 2 of the CC of the RF) and declared him wanted by Interpol. Lyubchenkov faces up to 5 years in prison. Activist Darya Polyudova who

reposted the picture created by Lyubchenkov, was sentenced by a Russian court to two years in prison for 'incitement to extremism and separatism' in December 2015.³³

On the website of the Russian Federal Service for Financial Monitoring, Lyubchenkov is included in the list of 'active terrorists and extremists'.³⁴

The Ukrainian Migration Service has repeatedly refused to grant asylum to Lyubchenkov, citing Russian legislation and the Constitution, according to which Russia is a 'democratic state' in which 'there is no torture or inhuman treatment, as 'no law provides for the right to use such measures'.³⁵

Three times — in February 2015, March 2015 and May 2016 — a court upheld a complaint filed by Lyubchenkov, overturning decisions of the Migration Service. In its latest decision, the court directly ordered that the Migration Service grant asylum to Lyubchenkov which is unprecedented as, ordinarily, Ukrainian courts only demand that cases be re-examined'.³⁶ Widespread publicity in the media could have affected the positive decision of the court. However, the Migration Service is yet to grant asylum to Lyubchenkov.

In addition, the GPU has received a request, issued by Russia, to extradite Lyubchenkov and on 7 December, 2015, it requested that the Prosecutor's Office of the Odessa Province "file a motion in court regarding Lyubchenkov's extradition arrest" should there be no obstacles hindering his rendering.³⁷ Thus far, he hasn't been arrested.

³² <http://vse.media/petr-lyubchenkov-mogu-god-prosidet-v-sizo-poka-shokin-reshit-vyidavat-menya-rossii-ili-net/>

³³ <http://www.svoboda.org/a/27438432.html>

³⁴ <http://fedsfm.ru/documents/terrorists-catalog-portal-act>

³⁵ <http://bit.ly/2fYHupl>

³⁶ <http://dumskaya.net/news/odesskiy-sud-obyazal-migratsionnuyu-službu-pred-058296/>

³⁷ <http://fakty.ua/217172-petr-lyubchenkov-v-rossii-menya-vklyuchili-v-sписок-ekstremistov-i-terroristov-i-obyavili-v-rozysk>

THE CASE OF SERGEI ANISIFOROV



[HTTPS://HROMADSKERADIO.ORG](https://hromadskeradio.org)

Petr Lyubchenkov

Sergei Anisiforov is a Russian actor, residing in Odessa. He is afraid to return to Russia for fear of prosecution for his participation in Euromaidan and his criticism of Russia's military aggression in Crimea and the Donbass.

In Ukraine, Anisiforov has been denied asylum three times. The Migration Service pointed to the absence of any threat of torture or political persecution, since '*the Russian Constitution states that Russia is a lawful state*'.³⁸ Also, the Migration Service does not consider indicative the fact that a Russian court has already convicted at least two active members of Euromaidan, namely: Oleksandr Kostenko and Andriy Kolomiyets.³⁹

In the case of Sergei Anisiforov, 7 rulings have already been handed down in Ukraine. In the aftermath of each and every ruling, the Ukrainian court supported the activist

and ordered the Migration Service to review his case.⁴⁰ Now, Anisiforov's application has again been returned to Odessa officials.

THE CASE OF ALEKSEY VETROV



[WWW.FACEBOOK.COM](http://www.facebook.com)

Aleksey Vetrov

Aleksey Vetrov is a civic activist from Nizhny Novgorod (Russia), a former businessman. Russian police have repeatedly detained him for participation in rallies in support of Ukraine and against rigged elections in Russia. After one of the rallies, he learned that a criminal case had possibly been opened against him, and in May 2014, he moved to Ukraine.

In December 2014, the Vinnytsia Migration Service refused to grant asylum to Vetrov, having deemed Russia: 'a democratic and law abiding state'. Furthermore, Ukrainian officials cited many administrative cases opened against Vetrov in Russia in which it is stated that Vetrov 'resisted police officers' and 'committed arbitrariness'.

³⁸ <https://hromadskeradio.org/ru/programs/Kyiv-donbas/odesskaya-migracionnaya-sluzhba-rukovodstvuetsya-zakonami-rf-grigoriy-frolov>

³⁹ http://nv.ua/opinion/frolov_h/rossijskoe-pravosudie-odesskoj-gms-225361.html

⁴⁰ <http://www.svoboda.org/a/26698071.html>

The Appellate and Cassation Courts upheld the decision of the Migration Service and dismissed Vetrov's complaint.⁴¹

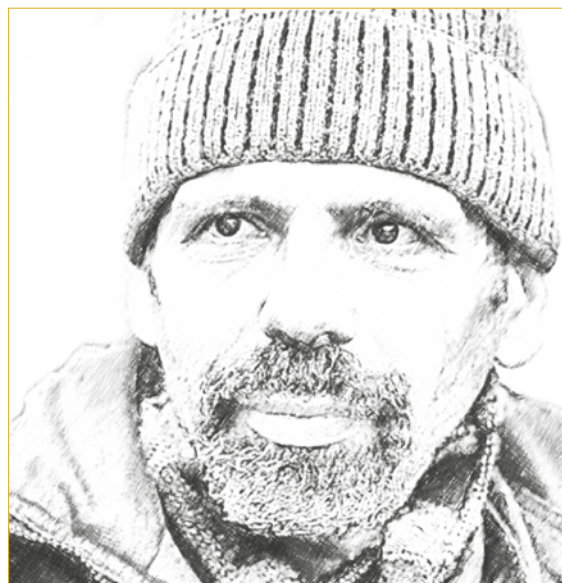
According to Vetrov, UNHCR recognised him as a refugee in need of protection and declared the inadmissibility of his expulsion.⁴² However, from a legal point of view, Vetrov does not enjoy this status as he can't legally gain employment and he is at risk of deportation to Russia.

THE CASE OF PAVEL SHEKHTMAN

Pavel Shekhtman is a civic activist from Moscow who participated in anti-war and pro-Ukrainian actions in Russia.

On 30 September, 2014, Russia accused Shekhtman of 'inciting hatred and hostility' (Article 282 of the CC of the RF) which is punishable by imprisonment of up to 5 years. The grounds for the initiation of the criminal case was a Facebook post in which Shekhtman criticised journalists of pro-Kremlin Russian media, including the Ukrainian journalist Andrey Stenin who died in Ukraine. A Russian court has ordered that Shekhtman remain under house arrest. On 14 February, 2015, it became known that he had fled to Ukraine.⁴³ On 17 February, 2015, the Russian authorities added his name to their list of 'terrorists and extremists'.⁴⁴

The Ukrainian Migration Service rejected Shekhtman's asylum application, citing Russian legislation which "guarantees the right to freedom of peaceful assembly" and



WWW.FACEBOOK.COM

Pavel Shekhtman

noting that by his post, Shekhtman "offended the dignity of a certain group of people". Ukrainian officials believe that Shekhtman "isn't at risk of torture in Russia" and his *"pro-Ukrainian position is no more than an attempt to evade criminal liability for his actions"*.⁴⁵

The Administrative Court upheld the position of the Migration Service, however, in January 2016, the Appellate Court took Shekhtman's side and ordered Ukrainian officials to reconsider his case.⁴⁶

THE CASE OF SERGEI SAKHARCHUK

Sergei Sakharchuk is a civic activist; he worked in the field of protection of the rights of consumers and disabled persons in Russia where he also faced administrative charges of insulting a public official. In parallel, the

⁴¹ http://www.bbc.com/ukrainian/politics/2016/02/160208_asylum_seekers_russia_ukraine_sd

⁴² <https://hromadskieradio.org/programs/Kyiv-donbas/ya-reshil-iskat-ubezhishche-v-ukraine-potomu-chto-tut-byt-maydan-oppozicioner-iz-rf>

⁴³ <https://www.novayagazeta.ru/news/2015/02/14/110124-aktivist-pavel-shehtman-pokinul-rossiyu-iz-za-ugolovnogo-dela>

⁴⁴ <http://fedsfm.ru/documents/terrorists-catalog-portal-act>

⁴⁵ <https://www.facebook.com/pavel.sehtman/posts/993085524083654>

⁴⁶ <http://rusmonitor.com/pavel-shekhtman-vyigral-u-delo-u-migracionnoj-sluzhby-ukrainy-v-appelyacionnom-sude.html>



WWW.ODCRISIS.ORG

Sergei Sakharchuk

authorities ordered that Sakharchuk undergo a forced psychiatric examination.⁴⁷ Subsequently, he fled to Kazakhstan where he played an active part in Euromaidan.

On 25 January, 2016, in Odessa, during a protest action near the Russian consulate, Sakharchuk burned his Russian passport.

On 30 January, 2015, Sakharchuk was refused asylum in Ukraine. In addition, the Migration Service demanded in court that Sakharchuk be forcibly expelled. In December 2015, he filed a second application for asylum detailing new circumstances: his participation in the anti-Russian protests and threats of prosecution he faced in connection with the burning of his Russian passport. The Migration Service refused to accept his application.⁴⁸

On 20 October, 2016, the Migration Service once again underlined the 'ungroundedness' of Sakharchuk's application and refused to grant him asylum. On 1 November, 2016, Sakharchuk noted that the threat of his deportation has become real.

THE CASE OF ZELIMKHAN BELKHAROYEV

Russian citizen, a native of Ingushetia. Previously a member of the Russian Greco-Roman wrestling team. Belkharoyev is a Salafi Muslim. Salafism is not officially banned in Russia, however, its followers are often harassed by Russia's special services. Belkharoyev has also been a victim of such harassment.



WWW.RUS-ANTITERROR.LIVEJOURNAL.COM

Zelimkhan Belkharoyev

Fearing persecution, Belkharoyev left the territory of Russia. For a while, he lived in Turkey and Egypt. In April 2015, he arrived in Ukraine. By that time, his Russian passport had already expired and he produced a fake passport. After that, he decided to go to one of the Arab countries, however, at passport control at Borispol airport he was unable to give the name contained in the passport he was carrying. Therefore, Belkharoyev was sent to a detention centre for illegal immigrants in the city of Chernigov. After

⁴⁷ <http://www.odcrisis.org/migracionnaya-sluzhba-ne-reshaet-problemy-bezhencev-sozdaet-im-novye/>

⁴⁸ <https://www.youtube.com/watch?v=kQyszWZfec>

that, his true identity was determined and the SBU intervened in the case.

In November 2015, the press service of the SBU reported on the detention of a 'member of an Islamist terrorist organisation' who had allegedly participated in the military conflict in Syria as part of the group *Jaish al-muhajirin-wal-Ansar*, and whose name appears on the international wanted list.⁴⁹ Belkharoyev was declared wanted by Russia where he faced charges of 'participation in an illegal armed formation abroad contrary to the interests of the Russian Federation' (Art. 208.2 of the CC of the RF), as well as 'participation in training in order to carry out terrorist activity' (Art. 205.3 of the CC of the RF).

According to Belkharoyev's defenders, in Ukraine, he was arrested on other charges, unrelated to the Russian accusations, namely: 'knowingly giving false information about security threats to citizens', 'destruction or damage of property' (Article 259 of the CC of Ukraine) and 'creation of illegal paramilitary or armed groups' (Art. 260 of the CC of Ukraine). Belkharoyev's defenders stated that he had never been to Syria, and also pointed to the fact that he had arrived in Ukraine 4 months before the organisation *Jaish al-muhajirin wal-Ansar* had been declared a terrorist group.⁵⁰

In December 2015, Zelimkhan Belkharoyev submitted an application for asylum to the Migration Service of Ukraine, pointing to the possibility of persecution in Russia for religious and political reasons, but he was refused asylum.

The Ukrainian court sanctioned the extradition of Belkharoyev to Russia, however, the ECHR intervened in the case following a request to do so from the Russia's citizen's defence organisation. On 7 November, 2016, pursuant to Rule 39 of the Rules, the ECHR decided not to pursue the extradition of Belkharoyev to Russia until 5 December, 2016, i.e. the date on which the Court is to consider the case of Belkharoyev. In view of the threat of extradition, the case was given priority status.⁵¹

Currently, Zelimkhan Belkharoyev is being held in a detention centre in Kharkov. The GPU initially claimed that they had not received a letter detailing the ECHR's decision.⁵² However, when human rights activists began to talk about this case, the department admitted that the ECHR's judgment regarding Belkharoyev had been received.⁵³ It is possible that if it hadn't been for the public backlash, Belkharoyev could have been clandestinely extradited to Russia.

⁴⁹ http://www.sbu.gov.ua/sbu/control/uk/publish/article;jsessionid=0201309EEA54CD232BEC741C81E395EE.app1?art_id=167999&cat_id=39574

⁵⁰ Such decision was adopted by the UN Security Council on 6 August, 2015. — <http://bit.ly/2fYIkCv>

⁵¹ <http://bit.ly/2fYKy4V>

⁵² <http://bit.ly/2f9WS12>

⁵³ <https://www.facebook.com/anwar.derkach1/posts/1420140331348643>

4

ASSISTANCE PROVIDED TO THE KAZAKHSTANI REGIME IN CONNECTION WITH THE EXTRADITION OF POLITICAL OPPONENTS



Kazakhstan recognised the Crimean 'referendum' as 'a free expression of will of the people' and regarded 'with favour Russia's decision to annex the Ukrainian territory'.⁵⁴ Petro Poroshenko meets periodically and holds telephone conferences with Nursultan Nazarbayev, expressing his interest in bilateral cooperation. Ukrainian authorities do not want to spoil relations with Kazakhstan. The reasons behind this relate not only to economic interests but also the opportunity to have at least some influence on Vladimir Putin through his closest ally — Nazarbayev.

In the era of Yanukovych's regime, cooperation between Kazakhstan and Ukraine was established within the framework of the criminal prosecutions of Kazakhstan's opposition politician and refugee Mukhtar Ablyazov and his associates. Documents published in the media have confirmed the existence of Kazakhstan's illegal influence on the Ukrainian investigative bodies.⁵⁵ This practice hasn't ceased since the Revolution of Dignity and old corruption schemes continue to be successfully implemented.

THE CASE AGAINST MUKHTAR ABLYAZOV AND HIS ASSOCIATES

Mukhtar Ablyazov is a Kazakh opposition politician, businessman, former Minister of Energy of Kazakhstan, one of the founders of the opposition movement 'Democratic Choice of Kazakhstan'. In 2009, following a conflict with President Nazarbayev, Ablyazov was accused of 'embezzlement of BTA Bank funds'. He was granted refugee status in Great Britain.⁵⁶

The political context of the case Ablyazov and inadmissibility of his extradition has been



WWW.TENGRINEWS.KZ

Mukhtar Ablyazov

stated, in particular, by human rights organisations such as Amnesty International, Human Rights Watch, Human Rights Foundation, the International Federation of Human Rights, the French Human Rights League, the Ukrainian and Russian Helsinki Unions as well as over 60 members of the European Parliament.⁵⁷ Austria, Belgium, Great Britain, Spain, Italy, Lithuania, Poland, the United States and the Czech Republic have granted asylum or subsidiary protection to Ablyazov's colleagues and relatives.

Kazakhstan does not have extradition agreements in place with most EU countries and therefore uses illegal cooperation with Russia and Ukraine in order to gain access to Ablyazov and his family members. As a result, Ukraine and Russia have also initiated criminal cases against 'Ablyazov's criminal group'. Great Britain, Lithuania and the Czech Republic refused to extradite four of Mukhtar Ablyazov's associates Igor Kononko, Roman Solodchenko, Tatiana Paraskevich and Syrym Shalabayev to Ukraine.

⁵⁴ http://news.liga.net/news/politics/1028522-kazakhstan_priznal_referendum_i_podderzhal_anneksiya_kryma.htm%20http://archive.today/yY47r;http://archive.is/yY47r

⁵⁵ <http://en.odfoundation.eu/a/6139,report-the-case-of-mukhtar-ablyazov-in-ukraine>

⁵⁶ <http://ru.odfoundation.eu/a/7320,otchet-fakty-fabrykacii-dela-muhtara-ablyazova-v-rosii-presledovanie-tatyany-paraskevich-i-artura-trofimova>

⁵⁷ <http://en.odfoundation.eu/a/6264,international-community-calls-on-france-to-prevent-extradition-of-opposition-politician-mukhtar-ablyazov>

On 31 July, 2013, Mukhtar Ablyazov was detained in France on the basis of an Interpol red notice. Ukraine and Russia have both issued requests for his extradition. On 4 March, 2015, a French court finally approved the extradition to Ukraine and Russia, giving priority to the Russian request. In September 2015, the French Prime Minister signed a decree to extradite Ablyazov to Russia. However, on 9 December, 2016, France's Council of State (Conseil d'Etat) annulled the decree. The Council of State found that the Russian request to extradite Ablyazov is politically motivated, and that Kazakhstan had exerted pressure on the Ukrainian and Russian authorities, demanding that they send their requests to extradite the opposition politician.⁵⁸ On 9 December, 2016, after having been kept in custody for over 3 years, Ablyazov was released.

Correspondence of Kazakhstani officials, published in 2014 on the portal kazaword.wordpress.com which contains evidence of the fabrication of Ablyazov's case, attracted widespread publicity. The Kazakhstani authorities are attempting to prohibit the dissemination of the correspondence through legal action.

On the basis of the correspondence, made public in France, criminal proceedings were instituted against the French prosecutor Solange Legras, who, bypassing procedure, gave 'advice' to representatives of Ukraine, Russia and Kazakhstan's BTA Bank and received from them, documents pertaining to Ablyazov's case. In April 2016, in a letter to the French Government, a renowned Russian human rights activists provided the most revealing documents from the correspondence which constitute evidence that the case against Ablyazov was fabricated.⁵⁹

According to the leaked documents, investigator of the MIA of Ukraine Maksym Melnyk received from the Kazakhstani party (the law firm Ilyashev and Partners) lists of criminal charges, questions to be posed during interrogations and other instructions concerning the case of Mukhtar Ablyazov and his associates: Tatiana Paraskevich, Syrym Shalabayev, Igor Kononko and Roman Solodchenko).⁶⁰ On 9 April, 2014, the High Court in London refused to extradite to Ukraine **Igor Kononko**, noting that Ukrainian investigator Melnyk "*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*".

In addition, the Ministry of Internal Affairs investigator Maksym Melnyk granted 'permission' to French lawyers from the firm 'Winston & Strawn LLP' to represent Ukraine in the extradition proceedings against Ablyazov in France. At the same time, no agreement with the Ministry of Justice of Ukraine was in place. In addition, the publicised correspondence confirmed that BTA Bank paid French lawyers for representing Ukraine at the extradition proceedings. It was only due to widespread publicity that a criminal case was initiated against Melnik by the Prosecutor's Office on 30 July, 2014 in relation to charges of abuse of power, and that Melnyk was subsequently withdrawn from Ablyazov's case.

However, in July 2015, the Prosecutor's Office closed the criminal case against investigator Melnyk. According to the published documents, the Kazakhstani side was able to influence the representative of the Kyiv Prosecutor's Office, Sergey Khodakovskiy who made several attempts to close the case against Melnyk. By means of legal

⁵⁸ <http://www.conseil-etat.fr/Actualites/Communiqués/Decision-d-extradition>

⁵⁹ <http://en.odfoundation.eu/a/7508>, prominent-russian-human-rights-activists-called-for-preventing-the-extradition-of-mukhtar-ablyazov

⁶⁰ <http://en.odfoundation.eu/a/6139>, report-the-case-of-mukhtar-ablyazov-in-ukraine



WWW.OCCRP.ORG

Syrym Shalabayev

action, the Open Dialog Foundation brought a criminal case against Khodakovsky, but in September 2015, Kyiv's Prosecutor's Office closed the case against its employee. Activists and MPs have called for analysis of the correspondence to be made public and for it to be admitted as evidence in the criminal proceedings against the investigators; however, the Prosecutor's Office has chosen to ignore the appeals.

Contrary to the position of human rights organisations, in 2015, the GPU sought the extradition of Ablyazov's relative **Syrym Shalabayev**.⁶¹ A conclusion about the 'existing grounds' for his prosecution was arrived at by infamous Prosecutor Vladimir Guzyr.⁶² As a result, on 29 July, 2016, Lithuania granted asylum to Shalabayev and refused to extradite him to Ukraine or Kazakhstan.

In 2014, the Czech Republic refused to extradite **Tatiana Paraskevich**, Ablyazov's colleague, both to Ukraine and Russia. However, in 2016, Ukraine and Russia almost



PERSONAL ARCHIVE

Tatiana Paraskevich

simultaneously issued repeated requests for her extradition. The same documents that the Czech Republic had already considered in 2014 were attached to these requests. And so, a new extradition procedure was initiated with respect to Paraskevich.⁶³

On 17 October, 2016, Ukrainian human rights organisations stated that such 'concerted' efforts on the part of Russia and Ukraine can be attributed to the illegal and political influence of Kazakhstan, the true mastermind behind this persecution.⁶⁴ It is noteworthy that representatives of the Kazakhstani authorities made a proposal to Paraskevich: that they would 'close the criminal cases in Ukraine and Russia' if she testified against Ablyazov.

Amnesty International, the Czech Helsinki Committee and parliamentarians of EU countries have repeatedly underlined the inadmissibility of extraditing Paraskevich who has become a victim of persecution due to her ties to Ablyazov.

⁶¹ <http://bit.ly/2fYMOEl>; <http://bit.ly/2fYIoSI>

⁶² <http://bit.ly/2fYNC0c>

⁶³ <http://bit.ly/2fYIrhM>

⁶⁴ <http://bit.ly/2fYlpGd>



WWW.INTERPOL.INT

Ilyas Khrapunov

In addition, in November 2016, the Swiss media reported that Ukraine had sent to Switzerland a request for the extradition of **Ilyas Khrapunov**, Mukhtar Ablyazov's son-in-law. Ilyas Khrapunov is actively engaged in campaigning in support of Ablyazov. His father, Viktor Khrapunov (former Minister of Energy of Kazakhstan) and mother Leila Khrapunova (businesswoman and former head of the state-owned TV Corporation) have fallen out of favour with President Nazarbayev. Kazakhstan declared the Khrapunov family members wanted on charges of money laundering and establishment of a criminal group. According to the Kazakhstani side, Ilyas Khrapunov was heading a criminal group in Kazakhstan in 1997, when he was 14 years old and a pupil at a Swiss school. Switzerland has twice refused to extradite Viktor Khrapunov to Kazakhstan.

According to the Swiss media,⁶⁵ Ukraine accused Ilyas Khrapunov of 'hacking activity committed against Ukrainian lawyers of the Kazakhstani BTA Bank'. In all likelihood, they mean the correspondence of the legal firm

'Ilyashev and Partners' which was made public. The leaked correspondence attracted media publicity and attested to the fabrication of Ablyazov's case.

The Ukrainian charges are seemingly rather dubious as Kazakhstan is still striving to identify the unknown hackers by initiating lawsuits both in the United States and New Zealand. Kazakhstan also filed a petition in a US court to have all publications containing analysis of the correspondence which had been made public from the Kazakh online portal 'Respublika' removed, but the motion was unsuccessful. A renowned organisation Electronic Frontier Foundation (EFF) which defends 'Respublika' stated (based on the results of its own investigation) that the owners of 'Respublika' as well as relatives and counsels of Mukhtar Ablyazov had been victims of cyber-attacks carried out via e-mail. On the basis of available evidence, the EFF believes that these attacks were carried out on behalf of the Government of Kazakhstan.⁶⁶

THE CASE OF NATALIA AND AIDOS SADYKOV: THE THREAT OF KIDNAPPING OR EXTRADITION

For several years, Kazakh journalist Natalia Sadykov and her husband, Kazakh oppositionist, Aidos Sadykov, have been subjected to persecution in their homeland due to their professional and social activities.

In the period 2005–2010, Aidos Sadykov was one of the leaders of the opposition party '*Nastoyashchiy Ak Zhol*' ['The True Ak Zhol'] (later, the party was renamed '*Azat*'), the civil movement '*Gastat*' and the oil workers' trade union '*Narazylyk*'. From 2010–2012, he

⁶⁵ Schweiz // Liebesgrüsse aus Kiew. Die Ukraine schaltet sich mit dem Vorwurf der Cyberkriminalität in die Kasachstan-Affäre ein, 06 November 2016

⁶⁶ <http://bit.ly/2FYHLIJ>



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Natalia and Aidos Sadykov

spent almost two years in prison, having been found guilty of 'resisting a representative the authorities'; a criminal charge which has been recognised by human rights activists as politically motivated. Currently, Aidos Sadykov is a co-chair of the Kazakhstani Social Liberal Party 'Zhusan'.

Natalia Sadykova worked at the Kazakhstani TV channels Rika TV, Channel 7, and, from 2010–2016, she was a journalist of the opposition online portal Respublika. Sadykova published journalistic investigations into corruption and human rights violations in Kazakhstan. In March 2014, a criminal case was initiated against Natalia Sadykova on charges of defamation (based on the statement of a businessman and a member of the lower house of Parliament, Maral Itegulov). In connection with this charge, Sadykova is facing up to three years in prison.⁶⁷

On 9 March, 2014, Natalia and Aidos Sadykov, along with their two young children (born in 2010 and 2012) left Kazakhstan and arrived in Kyiv on 10 March, 2014. On 17 March, 2014, a Kazakhstani court declared Sadykova wanted and seized her apartment. The Sadykovs

sought asylum in Ukraine, and in November 2014, they were granted refugee status.

On 11 October, 2016, Natalia and Aidos Sadykov created a news online portal 'Bәse' (translation from Kazakh: 'Really?!').⁶⁸ Kazakhstani authorities shut down independent media outlet and sentenced inconvenient journalists and bloggers to terms of imprisonment for their professional activities, posts and reposts on social networks.⁶⁹ Therefore, the aim of the portal 'Bәse' has become: communication of objective information about human rights violations and corruption in Kazakhstan. From the very first days of its existence, the portal gained popularity, but soon become the subject of powerful DDoS-attacks. Currently, only the portal's Facebook page remains in operation.⁷⁰

For the Kazakhstani authorities, the emergence of a new independent medium has become another reason for the intensification of the persecution of the Sadykovs. In particular, a new phase of persecution began after Natalia Sadykova took part in a telephone interview with the Kazakhstan's opposition figure Mukhtar Ablyazov, held in an extradition

⁶⁷ http://ru.odfoundation.eu/a/3320_zhurnalisty-prosyat-ukrainu-i-evrosoyuz-o-zashchite-ot-presledovaniy-kazhastanskih-vlastey

⁶⁸ <http://base-kz.info/>

⁶⁹ <http://bit.ly/2fYHS77>; <http://bit.ly/2fYFmxM>

⁷⁰ <https://www.facebook.com/basekz/>

detention centre in France.⁷¹ 'Bəse' is also actively covering the trial of Kazakh political prisoners Maks Bokayev and Talgat Ayan, who face criminal charges for participating in peaceful protests in Kazakhstan.⁷²

In October, Natalia Sadykova received information from a reliable source that the Kazakhstani authorities will seek her extradition to Kazakhstan. Her refugee status protects her from extradition to Kazakhstan, but the Kazakhstani authorities may use third countries (such as Russia) to submit a request for her extradition. Also, the Sadykovs have received information about the threat of their abduction from the territory of Ukraine. In light of the long-term co-operation between law enforcement bodies

of Ukraine and Kazakhstan in Ablyazov's case, there is every reason to fear for both the safety and well-being of the Sadykovs in Ukraine.

It is noteworthy that, in August 2016, the Sadykovs filed an application for a refugee travel document which would allow them the right to travel abroad, but the Ukrainian Migration Service hasn't issued the said document to date.

Given the public importance of the case, Counsel Dmitriy Morgun and his colleagues from the attorneys' law firm 'Morgun and Partners' have agreed to defend the Sadykovs in Ukraine on a *pro-bono* basis.⁷³

⁷¹ <https://www.youtube.com/watch?v=SWyBFz4XmPI&feature=youtu.be>

⁷² <http://en.odfoundation.eu/a/7944>, report-oppression-of-participants-in-rallies-against-land-reform-in-kazakhstan

⁷³ <http://www.uristrong.com.ua/>

5

COOPERATION WITH AZERBAIJAN: EFFORTS AIMED AT EXTRADITING REFUGEES AND ASYLUM-SEEKERS



In July 2016, the presidents of Ukraine and Azerbaijan signed an agreement to strengthen cooperation in the fields of the arms trade, oil transportation and support for Azerbaijani investors in Ukraine. The Ukrainian side confirmed the non-recognition of Nagorno-Karabakh, while Azerbaijan declared the same position in relation to the Crimea.

In 2015, Azerbaijan requested extraditions from Ukraine five times, and in 2016 — four times.⁷⁴

THE CASE OF ALOVSAT ALIYEV

Alovsat Aliyev — Azerbaijani human rights activist, whom Azerbaijan issued a wanted notice for via Interpol in connection charges of theft and forgery. Germany has granted Aliyev asylum.

On 17 April, 2016, at a Ukrainian airport, Aliyev produced a refugee travel document of the Federal Republic of Germany, which, according to the Refugee Convention, was a legitimate document permitting him to cross the border. However, Ukrainian border guards considered it insufficient to enter Ukraine and asked him to produce another document. After producing a foreign passport of the Republic of Azerbaijan, Alovsat Aliyev was arrested as a person whose name appeared on the international wanted list.⁷⁵

Boryspil local prosecutor's office of the Kyiv region ignored Aliyev's refugee status and filed a request for his arrest, which was approved by a court on 19 April 2016.

Pursuant to Part 14 of Article 584 of the Code of Criminal Procedure, the prosecutor



Alovsat Aliyev

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is to immediately inform the United Nations High Commissioner for Refugees of the arrest of a refugee upon request by the state in relation to which asylum has been granted. Nevertheless, the prosecutor's office informed Aliyev that they refused to do so, as "no such provision exists in law."

According to Aliyev, he was detained in a Ukrainian prison in unsanitary conditions with 26 or 27 other inmates although the cell was designed to contain only 20 persons. Despite his refugee status which protected Aliyev against the actions of the Azerbaijani authorities, the prosecutor's office allowed representative of the Interior Ministry of Azerbaijan, Shahin Godzhayev, to visit him in prison. At the same time, no one ever asked Aliyev for his consent to the meeting. Godzhayev convinced the detainee that the matter of his extradition to Azerbaijan had 'already been settled,' and offered to submit an application for a simplified extradition procedure.

On several occasions, both the German embassy and consulate drew the attention

⁷⁴ <https://dostup.pravda.com.ua/news/publications/z-pochatku-roku-henprokuratura-otrymala-74-zapyty-na-ekstradytsiiu-naibilshe-z-rosii>

⁷⁵ <http://glavcom.ua/news/v-glavkom-pres-konferencya-postmaydanna-ukrana-spvpracya-z-specsluzhbami-avtoritarnih-kran-triva-350837.html>

of the Prosecutor General of Ukraine to this matter, informing him of Aliyev's refugee status. It was probably the intervention of the German side that saved the human rights activist from extradition. On 6 May, 2016, the Court of Appeal of Kyiv region released Aliyev from detention. On 10 May, 2016, the Shevchenko District Court of Kyiv refused the prosecutor's office's request to subject Aliyev to extradition arrest. On the same day, the Prosecutor General of Ukraine decided to refuse to extradite Aliyev to Azerbaijan. The Prosecutor General set out this decision in an official letter, however, his lawyers are yet to be furnished with a copy of the said letter.

THE CASE OF EMIN AHMEDBEKOV



Emin Ahmedbekov

WWW.YOUTUBE.COM

Emin Ahmedbekov — former employee of the Main Directorate of the Ministry of internal Affairs of Azerbaijan. In 2003, he was dismissed from his post. Ahmedbekov labelled his dismissal 'illegal' and appealed to human rights defenders. His case received widespread public attention. In order to avoid loss of reputation, in 2006, the leadership

of the Ministry of Internal Affairs reinstated Ahmedbekov, yet without taking into account the enforced idleness required by law. Ahmedbekov also received zero financial compensation.

Due to this fact, Ahmedbekov appealed to the court winning his case, but the appellate and cassation instances cancelled the ruling and took the side of the Ministry. Subsequently, Ahmedbekov appealed to the European Court of Human Rights. This was the first time in the history of Azerbaijan that a police officer (a public servant) had filed a complaint with the ECHR.

The authorities began to exert pressure on Ahmedbekov in order to force him to withdraw his complaint to the ECHR. In December 2009, criminal proceedings were instituted against Ahmedbekov for battery of a traffic police officer. Azerbaijani human rights activists pointed to the 'trumped up' nature of the charges. An Azerbaijani court sentenced Ahmedbekov to three years in prison. In connection with this incident, Ahmedbekov filed another complaint with the ECHR. His wife, Nigar Ahmedbekova, who publicly defended Ahmedbekov, was also persecuted (she had worked at the clinic of the Ministry of Internal Affairs, but was fired). After his release from prison, Emin Ahmedbekov and his family left Azerbaijan.

In December 2012, Ahmedbekov moved to Ukraine where he applied for political asylum. The family settled in Ivano-Frankivsk (Western Ukraine). The special services of Azerbaijan have acquired their address and telephone number and have threatened them, demanding Emin Ahmedbekov withdraw his complaint to the ECHR. Due to the constant threats, Ahmedbekova's daughter (Dilara Ismayilova) now suffers from severe depression. In order to avoid any further harassment from the Azerbaijani special services, the family has moved to the Kyiv region.

They have been refused asylum by the Migration Service of Ukraine.

When anti-government protests (Euromaidan) erupted in Ukraine, Emin Ahmedbekov played an active role in the events. According to him, at the end of December 2013 in Kyiv, he was approached by a man who introduced himself as a relative of the Azerbaijani Consul in Ukraine. He demanded that Ahmedbekov withdraw his complaint to the ECHR and also stated that the matter of his deportation to Azerbaijan had 'already been settled' with the Ukrainian authorities. Following this incident, the Migration Service refused to renew the family's residence permit which allowed them to reside in Ukraine.

Not feeling secure in Ukraine, in January 2014, the family moved Bulgaria where they also applied for political asylum. According to Emin Ahmedbekov, the Bulgarian Agency for Refugees said that he and his family would not be granted asylum in Bulgaria as the Bulgarian authorities closely cooperate with Azerbaijan and wanted to avoid initiating a conflict. In May 2015, the family was refused asylum. Ahmedbekov later appealed to the Bulgarian court, but the original ruling was upheld.

In September 2015, Dilara Ismayilova — Nigar's minor-aged daughter from her first marriage — was kidnapped from Bulgaria. The girl was taken away from the country by her father who left her mother when she was six months old. Dilara did not have a travel document allowing her to leave the territory of Bulgaria. However, the Azerbaijani embassy issued her a so-called 'certificate of return to Azerbaijan' which allowed her to cross the border. Nigar Ahmedbekova learned about the whereabouts of her daughter just after her arrival in Azerbaijan. The Ahmedbekov family reported the kidnapping of Nigar's daughter, but Bulgarian law enforcement authorities responded by pointing to the lack of statutory features of a prohibited act.

Currently, Emin Ahmedbekov is a deputy editor-in-chief of the opposition Azerbaijani TV channel 'Azerbaijan Saati.' He and his family face the threat of deportation to Azerbaijan.

Human rights organisations — Human Rights Watch, Amnesty International, Reporters Without Borders, Committee to Protect Journalists, International Federation for Human Rights, and Freedom House — expressed their support for the granting of refugee status to the family.

6

THE CASES OF CITIZENS FROM POST-SOVIET STATES, WHO FOUGHT IN UKRAINIAN VOLUNTEER BATTALIONS



In August 2015, Ukrainian human rights organisations drew the attention of the President of Ukraine to systematic refusals to grant asylum or additional protection to citizens of Belarus, who participated in Euromaidan.⁷⁶ Citizens of Belarus, who fought in Donbas as part of Ukrainian volunteer battalions, are also denied refuge.

The Migration Service takes such decisions despite the fact that in Belarus, these people may be accused of terrorism, which is punishable by the death penalty.⁷⁷ It is well known that the Belarusian authorities have already filed more than 130 criminal cases against its citizens for participating in military combat in Eastern Ukraine.⁷⁸

THE CASE OF DMITRY BELOGORTSEV AND RUSTAM DOK

Dmitry Belogortsev and Rustam Dok (defendant) — citizens of Belarus who fought in the 'Donbas' volunteer battalion. After two years of litigation, the Migration Service refused to prepare documents for their legal residence in Ukraine. Belogortsev reported that his Belarusian passport was burned during fighting to which the Migration Service replied that he could "go to Belarus to renew his passport". The State Security Committee of Belarus warned that his family may encounter certain problems. The family members of Rustam Dok were summoned for questioning by the State Security Committee. At the same time, the Ukrainian Migration Service has repeatedly threatened them with deportation.

In August 2016, the family applied for asylum in Poland. Currently, they are living in a closed centre for refugees in the city of Przemysl.⁷⁹

Similar problems were also faced by citizens of other post-Soviet states who fought in Eastern Ukraine.

THE CASE OF SHAVKAT MUHAMMAD



Shavkat Muhammad

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Shavkat Muhammad — citizen of Uzbekistan and an active participant of Euromaidan. He also fought in Eastern Ukraine as a member of the 'Aidar' volunteer battalion.⁸⁰

On 18 January, 2016, the Uzbekistan Embassy in Ukraine stated that Uzbek citizens, who were involved in military operations on the territory of Ukraine, would be subjected to criminal liability under the 'Mercenaries'

⁷⁶ https://humanrights.org.ua/material/pravozahisniki_zaklikali_poroshenka_zahistiti_biloruskih_aktivistiv

⁷⁷ <http://bit.ly/2fYMv1j>

⁷⁸ <http://www.zviazda.by/be/news/20160324/1458836474-25-gadou-spaunyaecca-adnamu-z-samyh-vyadomyh-padrzdzyalennyau-mus>

⁷⁹ <http://belsat.eu/ru/news/volontery-belorusy-ne-dozhdalis-ukrainskih-dokumentov-i-poprosili-ubezhishhe-v-polshe/>

⁸⁰ http://www.bbc.com/ukrainian/society/2016/03/160202_uzbek_fighter_from_aidar_vs

article (punishable by up to ten years in prison). The embassy warned that “*any such signals are subject to scrutiny by enforcement authorities and specialised government agencies of Uzbekistan.*”⁸¹

However, the Migration Service of Ukraine turned a blind eye to these facts, as well as the fact that Shavkat Muhammad had publicly declared his opposition to the Uzbek regime. Muhammad was refused asylum by Ukrainian officials three times. On 1 November, 2016, he said that he would continue to seek refugee status in Ukraine.⁸²

⁸¹ <http://www.uzbekistan.org.ua/ru/pressa/2208-dlya-vnimaniya-grazhdan-respubliki-uzbekistan.html>

⁸² http://www.bbc.com/ukrainian/news_in_brief/2016/11/161101_vs_uzbek_aidar_stays?ocid=socialflow_facebook

7

THE GENERAL PROSECUTOR'S OFFICE OF UKRAINE: THE KEY INSTITUTION RESPONSIBLE FOR EXTRADITION REMAINS INCORRIGIBLE



According to Art. 545 of the Criminal Procedure Code of Ukraine, the GPU “shall request international legal assistance in criminal proceedings during pre-trial investigations and consider relevant requests of competent foreign authorities.” Therefore, the prosecutor’s office plays a major role in the extradition process.

In the Ukrainian law enforcement system, the prosecutor’s office has established itself as the most corrupt and incorrigible body. In autumn 2015, the US Ambassador to Ukraine, Jeffrey Payette, openly accused the Prosecutor General’s Office of sabotaging reforms and pointed to corruption within the agency.⁸³ In February 2016, Vitaliy Kasko — one of the representatives of the reform team — voluntarily resigned from the position of Deputy Prosecutor General. “*This place is not ruled by law, but by arbitrariness and lawlessness*”,⁸⁴ Kasko said when explaining his decision.

Acting for decades as the ‘general supervisor of legality,’ the prosecutor’s office has become an authority which monitors all spheres of life in the state. This created conditions for abuse and turned the authority into a bastion of corruption and a powerful tool of political influence.

After the triumph of the Revolution of Dignity, there was an attempt to reform the General Prosecutor’s Office. In October 2014, under pressure from the international community, the Ukrainian Parliament adopted a new act: ‘On the Prosecutor’s Office.’ The aim of the act was to deprive the prosecutor’s office of its supervisory function and to change the structure of the body. Currently, the main functions of the office should be to support public prosecution in court and to

supervise law enforcement agencies with respect to their observance of the law. The act also provided for the establishment of local offices with new employees (instead of district prosecutor’s offices), as well as for the creation of a Specialised Anti-Corruption Prosecutor’s Office.⁸⁵

The international community positively assessed the new law. However, due to the negligence and inaction of leaders of the Prosecutor General’s Office, Vitaliy Yarema and Viktor Shokin, the act did not enter into force in the wording in which it was positively assessed. First, the enactment of the law was postponed, and then amendments started to be introduced to extend the powers of the prosecutor’s office and dilute the process of the reform.

The most recent example of this was bill 5177 which provided for the partial restoration of the function of general supervision and empowered the Prosecutor General to determine which cases were to be investigated by the Office, and which were to be the responsibility of the National Anti-Corruption Bureau of Ukraine (NABU).⁸⁶ The bill was initiated by a group of deputies from the pro-presidential party ‘Petro Poroshenko Bloc’ and supported by the Prosecutor General’s Office. As of the publication date of the report, the bill is still pending in parliament.

Since the Prosecutor General is appointed by the President of Ukraine, the agency has always been a powerful tool of political influence in the hands of the President. For example, the current Prosecutor General, Yuriy Lutsenko, previously headed the pro-presidential party in parliament. It is the pro-presidential forces who develop with

⁸³ <https://ukraine.usembassy.gov/statements/ambpyatt-odesa-finforum-09242015.html>

⁸⁴ <http://nv.ua/ukraine/politics/zamgenprokurora-kasko-podal-v-otstavku-97362.html>

⁸⁵ <http://zakon2.rada.gov.ua/laws/show/1697-18>

⁸⁶ <http://bit.ly/2f9XNYA>

the largest number of ‘initiatives,’ designed to dilute reform processes. There is evidence to suggest that the President and his associates are not interested in truly reforming the prosecutor’s office which would curtail the powers of the agency.

As of the end of 2016, reform of the prosecutor’s office has only been partially implemented. The Law of Ukraine ‘On Prosecutor’s Office’ was adopted and the necessary changes to the Constitution of Ukraine were made.⁸⁷ However, this has not prevented attempts to amend legislation in order to restore the Prosecutor General’s Office’s ‘old’ powers. The main problem is that it was not possible to replace the agency’s personnel. As a result of the so-called re-validation, only 10% of prosecutors were dismissed and many of them were reinstated by a court. In fact, only 3% of the ‘new’ personnel were professionals who have never worked for the prosecutor’s office before and not a single expert from outside the system was assigned to a leadership position in local prosecutor’s offices.⁸⁸ In other words, instead of replacing staff, a rudimentary rotation of officials took place.

At the beginning of 2016, those who were considered the driving force behind the reforms — Davit Sakvarelidze and Vitaliy Kasko — left the agency which virtually marked the end of attempts to reform the prosecutor’s office.

Since the Revolution of Dignity, the prosecutor’s office has not pursued a single high-profile case against a member of the Yanukovich regime. The only distinguishing

features of the Office are frequent leader changes following pressure from both the international and Ukrainian communities (Yuriy Lutsenko has been appointed Prosecutor General four times in two-and-a-half years) as well as frequent corruption scandals:

- In December 2014, a scandal broke with respect to the process of unfreezing bank accounts of the Yanukovich regime representative Sergei Arbuzov and his wife. It is believed that senior employees of the Prosecutor General’s Office were involved.⁸⁹
- Many senior officials of the prosecutor’s office (Nikolai Frantovsky, Pavel Bogutsky, Yuriy Viytev, Vladimir Orlov and Valentin Valendyuk⁹⁰) continued to hold onto their positions despite the Law ‘On the cleansing of power’ requiring their dismissal.
- The General Prosecutor’s Office, led by Vitaliy Yarema, has provided representatives of the Yanukovich regime — Nikolay Zlochevsky and Sergei Klyuyev — with letters stating that there were no criminal charges against them in Ukraine. These letters were later produced in support of the argument for the lifting of sanctions against those persons in the EU.^{91, 92}
- In July 2015, the Security Service conducted searches involving the First Deputy Head of the Main Investigation Department of the General Prosecutor’s Office, Vladimir Shapakin, and Deputy Prosecutor of Kyiv region, Alexander Korniyts. This search led to the discovery and seizure of a large amount of money (approximately 500 000

⁸⁷ <http://zakon2.rada.gov.ua/laws/show/1401-19>

⁸⁸ <http://www.radiosvoboda.org/a/27481016.html>

⁸⁹ http://censor.net.ua/resonance/314378/svolochi_chast_2_kak_arbuzovu_vernuli_arestovannyye_scheta_tendentsioznye_voprosy_k_genprokuroru_yarema

⁹⁰ http://ru.odfoundation.eu/a/5957_dostizheniya-vitaliya-yaremy-itogi-deyatelnosti-generalnoy-prokuratury-ukrainy-god-posle-evromaydana

⁹¹ http://dt.ua/UKRAINE/leschenko-kolishni-visokoposadovci-otrimovali-indulgenciyi-vid-yaremi-171940_.html

⁹² <http://www.pravda.com.ua/rus/news/2015/05/27/7069312/>

dollars) as well as items of jewellery. Due to this fact, the case became known as the 'Case of the diamond prosecutors'.⁹³ The search was overseen by Davit Sakvarelidze who represented the General Prosecutor's Office. Instead of conducting an effective investigation into the sources of Shapakin and Korniyts's income, the General Prosecutor's Office initiated a criminal case against Sakvarelidze who was forced to leave the ministry a few months later.

- In August 2016, a conflict broke out between the General Prosecutor's Office and the National Anti-Corruption Bureau of Ukraine.⁹⁴ Apparently, the reason for the conflict was the initiation of criminal proceedings by NABU against the prosecutor of the General Prosecutor's Office, Konstantin Kulyk. Soon after NABU began to summon Kulyk for questioning, the investigation team of the General Prosecutor's Office suddenly appeared at NABU's office to conduct a search which resulted in mutual accusations of corruption against the two agencies.⁹⁵

Such actions of the Prosecutor General's Office can probably be explained by the fact that for many years, NABU has been violating the unspoken Ukrainian code of the 'untouchability of law enforcement officials' which prevalent particularly at the highest level. For example, it is hard to enforce the prosecutors' obligation to investigate cases of torture, corruption or malfeasance involving law enforcement officials. Prosecutors refuse to open criminal proceedings against employees of the prosecutor's office and the Ministry of Internal Affairs and charges are usually dropped due to 'lack of evidence.'

Representatives of non-governmental organisations have criticised the work of the current Prosecutor General, Yuriy Lutsenko, in particular for his attempts to expand his powers, for the conflict with NABU and for the lack of results of the investigation of crimes against Euromaidan. In November 2016, MP and Head of the Parliament Committee on Combatting Corruption, Yegor Sobolev, initiated Yuriy Lutsenko's dismissal.⁹⁶

⁹³ <http://www.pravda.com.ua/news/2015/07/6/7073592/>

⁹⁴ National Anti-Corruption Bureau of Ukraine — a law enforcement agency, established in April 2015. The main tasks of the Bureau include prevention, suppression and detection of corruption offences.

⁹⁵ <http://www.pravda.com.ua/articles/2016/08/11/7117432/>

⁹⁶ <http://bit.ly/2fYJJsU>; <http://bit.ly/2fYKPF7>; <http://bit.ly/2fYMXfW>

8. CONCLUSIONS AND RECOMMENDATIONS

Ukkraine has ratified the European Convention on Extradition, the UN Convention against Torture and the Convention on the Status of Refugees which prohibit the extradition of persons in the event of threat of torture, or should political context underlie criminal charges. It is forbidden to extradite a refugee to a country from which he or she has been granted protection in the form of asylum. Failure to meet these requirements is a direct violation of the international obligations of Ukraine.

In 2013, the UNHCR labelled Ukraine: ‘a state which is dangerous for refugees and asylum-seekers’.⁹⁷ Unfortunately, three years hence, the situation has not improved. In June 2016, the UNHCR has once again emphasised the need to improve the Ukrainian asylum system in order to bring it into line with international standards.⁹⁸

In the case of an unjustified refusal of asylum, a violation of extradition procedures or the expulsion of an individual to a State that does not comply with extradition guarantees, Ukraine shall bear responsibility for the possible use of torture, unjust conviction and/or death of the persecuted individual.

Human rights organisations and members of the European Parliament have repeatedly called on Ukraine to cease assisting undemocratic regimes in their pursuit of political opponents. However, Ukraine continues to provide these ‘services’ to post-Soviet states and, in particular, to Russia.

Dozens of Ukrainian citizens have been subjected to politically motivated prosecutions in Russia and remain in custody there. Still, the prosecutor’s office, the Security Service and Migration Service continue to collaborate with this aggressor country. At the same time, Ukraine demands from other states that they continue their policy of sanctions against Russia. This policy of double standards compromises the Ukrainian authorities, it has a damaging effect on the international campaign for the defence of Ukrainian political prisoners in Russia, and could serve as an argument for lifting the sanctions currently in place against Russia. In light of these examples, Western countries may refuse to grant Ukrainian requests for the rendering of representatives of the Yanukovych regime.

Despite the adoption of a number of progressive laws, Ukrainian law enforcement bodies remain unreformed at their core. The

⁹⁷ <http://bit.ly/2fYJSfW>; <http://bit.ly/2fYKh1Y>

⁹⁸ <http://bit.ly/2RtQKna>

president plays a key role in the appointment of both the General Prosecutor and the Head of the SBU. Practice has shown that, with respect to appointments to those posts, the President is not guided by the criterion of professional standards, but rather the extent to which the person is loyal.

The head of the SBU, Vasiliy Grytsak, has long been familiar with the President and has been appointed to senior positions by him,⁹⁹ and the current General Prosecutor, Yuriy Lutsenko, is a former head of the pro-presidential party in parliament. The principle of appointing close political partners to the post of General Prosecutor has led to serious personnel errors, as in the case of Vitaliy Yarema and Viktor Shokin.

The president and his entourage are not interested in losing their powerful influence over the GPU and the Security Service and, consequently, in reforming these bodies. An element of the elite harbours no political will to carry out reforms but rather has a vested interest in maintaining the old rules of the game which allow them to employ illegal practices with impunity.

Another reason for the lack of reform is strong opposition on the part of the bureaucratic system. The state bodies have failed to replace old personnel with new personnel having the desire and opportunity to implement reforms. Most Yanukovich era officials in the prosecutor's office, the SBU and the Migration Service remain in place despite the fact that they were important cogs in the previous corrupt machine.

In April 2015, President Petro Poroshenko made a promise to initiate the adoption of the law 'on the simplification of procedures for granting

Ukrainian citizenship to Russians who faced politically motivated persecution in their homeland'.¹⁰⁰ However, the matter ultimately yielded promises, but not results. Russians have difficulty not only in obtaining Ukrainian citizenship, but even in obtaining refugee status when there is every reason for granting the status.

The cases of gross violations of extradition and asylum procedure, presented in this report, should be thoroughly investigated and the perpetrators should be made to face justice.

We hereby call on the **Ministry of Justice of Ukraine, the General Prosecutor's Office of Ukraine, the Ukrainian Security Service, the National Anti-Corruption Bureau of Ukraine, the Specialised Anti-Corruption Prosecutor's Office, the State Migration Service of Ukraine and the Commissioner for Human Rights in Ukraine** (within their respective powers and competencies) to:

IN THE CASE OF ALOVSAT ALIYEV:

- Bring to justice those workers of the Prosecutor's Office who initiated extradition proceedings against Alovzat Aliyev and permitted a representative of the Ministry of Internal Affairs of Azerbaijan to visit Aliyev in a detention facility, thus ignoring the fact that Aliyev was granted refugee status in relation to Azerbaijan.

IN THE CASE OF MUKHTAR ABLYAZOV AND HIS RELATIVES:

- Investigate the inactivity of the prosecution bodies which have consistently ignored publicised information about corrupt activities

⁹⁹ http://censor.net.ua/news/394445/glava_sbu_grytsak_rasskazal_o_svoih_otnosheniyah_s_poroshenko_i_o_tom_kak_popal_na_voyinu

¹⁰⁰ <http://www.radiosvoboda.org/a/news/26951570.html>

of investigators who conducted the cases against Mukhtar Ablyazov and his associates as well as those who closed the criminal cases against the investigators.

- Investigate the legitimacy of sending, to the authorities of the Czech Republic, the second request for the extradition of Tatiana Paraskevich, as well as Kazakhstan's possible illegal influence on the General Prosecutor's Office which led to the issuance of the said request.
- Investigate politically motivated extradition requests issued by Ukraine. Thus, Great Britain, Lithuania and the Czech Republic refused to extradite Mukhtar Ablyazov's four associates (Igor Kononko, Roman Solodchenko, Tatiana Paraskevich and Syrym Shalabayev) to Ukraine due to a lack of guarantees with respect to the implementation of extradition obligations and the political context of the criminal cases. Despite this, the GPU continues to participate in these political cases. Following the recognition of the case of Ablyazov as political and cancelling the request for his extradition to Russia by the Counsel of State (Conseil d'Etat), a representative of the Kazakhstani side, Roman Marchenko, enunciated that "now, the process of considering Ukraine's request by France may be launched".¹⁰¹ In addition, the GPU seeks the extradition of Tatiana Paraskevich and Ilyas Khrapunov, thereby undermining EU countries' confidence in Ukraine, which, as a partner, is obliged to adhere to the rule of law when dealing with matters of extradition.

IN THE CASE OF AMINAT BABAYEVA:

- Hold accountable the SBU employees who are guilty of the abduction of Aminat Babayeva.

- Investigate into the possible use of pressure on the staff of the Migration Service by the SBU in the case of Vyacheslav Platon (Kobalyev) and Aminat Babayeva.

IN THE CASE OF VYACHESLAV PLATON (KOBALYEV):

- Assess the situation in the case of Vyacheslav Platon (Kobalyev) and officially respond to the declaration of the PACE members on the case.
- Determine why the SBU carried out the extradition of Vyacheslav Platon (Kobalyev) on the very same day that the decision on his extradition was issued, without allowing him any opportunity to file an appeal.
- Determine why a citizen of Ukraine, against whom no procedure of deprivation of citizenship had been carried out, was rendered to another country.
- Take the necessary steps to return Vyacheslav Platon (Kobalyev) to Ukraine and conduct a review of his case in accordance with Ukrainian legislation.

REGARDING THE ACTIONS OF THE MIGRATION SERVICE OF UKRAINE:

- Assess the actions of employees of the Migration Service of Ukraine, who, in official correspondence and during court trials, referred to Russia as 'a democratic and legal state', contrary to the decision of the Verkhovna Rada of Ukraine on the recognition of Russia as an aggressor, as well as numerous statements of the MFA

¹⁰¹ <http://kommersant.ru/doc/3168291>

of Ukraine on human rights violations in Russia.

When issuing a decision on granting asylum or subsidiary protection, **the State Migration Service of Ukraine** should take into account the human rights situation in the country of origin of asylum seekers. The Migration Service must fulfil UNHCR recommendations in order to improve the asylum system and bring it into line with international standards.

In addition, we hereby urge the **President of Ukraine** to fulfill his promise regarding the simplification of procedures for obtaining Ukrainian citizenship for Russian citizens who face political persecution in Russia. We also believe that there should be a simplified procedure for granting asylum or subsidiary protection to asylum-seekers.

42

The Open Dialog Foundation hereby calls on the Ukrainian and international human rights organisations to generate maximum publicity with respect to violations of the extradition procedure and the rights of refugees and asylum-seekers as referred to in this report. We also implore the PACE, OSCE, UN, EU institutions and governments of democratic states to take all necessary steps and adopt all necessary measures to ensure that such important cases as these are monitored. We consider it necessary to exert pressure on the Ukrainian authorities, and, in particular, the law enforcement bodies, in order to bring an end to cooperation with non-democratic regimes in the persecution of political opponents.

THOSE WILLING TO SUPPORT OUR DEMANDS ARE KINDLY ASKED TO ADDRESS THE FOLLOWING PERSONS AND INSTITUTIONS:

CONTACTS IN UKRAINE:

- Head of the Administration of the President of Ukraine Petro Poroshenko, Igor Rainin — 01220, Kyiv, 11 Bankova Street, e-mail: glava_apu@apu.gov.ua;
- Minister of Justice of Ukraine Pavlo Petrenko — 01001, Kyiv, 13 Gorodetsкого Street, e-mail: themis@minjust.gov.ua;
- General Prosecutor of Ukraine, Yuriy Lutsenko — 01011, Kyiv, 13/15 Reznitskaya Street, e-mail: zvern@gp.gov.ua, phone: +38 (044) 200 76 24;
- Head of the Security Service of Ukraine (SBU) Vasiliy Gritsak — 01601, Kyiv, 16 Malopodvalnaya Street, e-mail: call-center@ssu.gov.ua;
- Head of the National Anti-Corruption Bureau of Ukraine, Artem Sytnik — 03035, Kyiv, 3 Vasilya Surikova Street, phone: +380 800 503 200;
- Head of the Specialised Anti-Corruption Prosecutor's Office of Ukraine, Nazar Kholodnitskiy — 01135, Kyiv, 17 Isaakyana Street, e-mail: zvern@gp.gov.ua, phone: +38 (044) 200 49 08;

- Head of the State Migration Service of Ukraine, Maksim Sokolyuk — 01001, Kyiv, 9 Vladimirska Street, e-mail: sokoliuk@dmsu.gov.ua, тел: +38 (044) 278 50 30;
- Ukraine's Parliamentary Commissioner for Human Rights Valeriya Lutkovskaya — 01008, Kyiv-08, p/o box 3, 21/8 Institutska Street, e-mail: hotline@ombudsman.gov.ua, phone: +38 (044) 253 75 89;
- UNHCR Representative in Ukraine Pablo Mateu — 01015, Kyiv, 16 Lavrska Street, phone: +38 (044) 288 9710

INTERNATIONAL CONTACTS:

- PACE President Pedro Agramunt — e-mail: pedro.agramunt@senado.es, tel: +33 88 41 23 41;
- OSCE PA Presidente Christine Muttonen — e-mail: christine.muttonen@parlament.gv.at, tel: +43 (1) 401 10 3660, +43 (1) 401 10 3444;
- OSCE PA Chair of the Committee on Democracy, Human Rights and Humanitarian Questions Ignacio Sanchez Amor — e-mail: cristina.casado@gps.congreso.es, tel: +34 91 390 6919;

- European Parliament President Martin Schulz — 1047 Brussels, Belgium, Bât. Paul-Henri Spaak 09B011, Rue Wiertz / Wiertzstraat 60, e-mail: martin.schulz@europarl.europa.eu, tel: +32(0)2 28 45503 (Brussels), +33(0)3 88 1 75503 (Strasbourg);
- EU High Representative for Foreign Affairs and Security Policy Federica Mogherini — 1049 Brussels, Rue de la Loi / Wetstraat 200, e-mail: federica.mogherini@ec.europa.eu, tel: +32 2 584 11 11; +32 (0) 2 295 71 69;
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- United Nations High Commissioner for Refugees Filippo Grandi — Case Postale 2500 CH-1211 Genève 2 Dépôt, Switzerland, tel: +41 22 739 8111.

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