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By Electronic Mail

To: Marat Beketayev - Ministry of Justice of the Republic of Kazakhstan
Almat Madaliyev - Ministry of Justice of the Republic of Kazakhstan

Case No.: Ablyazov

File No.: 745351.00023

Date: 21 February 2014

Subject: **Mukhtar Ablyazov**

We have been asked to provide an update in relation to the various steps being taken regarding Mukhtar Ablyazov.

Extradition

On 9 January 2014, the Aix-en-Provence Court of Appeal issued two decisions in favour of Ablyazov's extradition to Russia and the Ukraine, and directed that priority should be given to Russia. Extradition decisions are rendered by the Aix "Court of Appeal", rather than the first instance court, so the extradition requests have automatically been subjected to a higher level of scrutiny by the French judiciary.

Ablyazov exercised his right to appeal the decisions of the Aix Court of Appeal on 13 January 2014. The appeal has been made to the Supreme Court. Ablyazov is only entitled to appeal on process and form, not the merits, which is no doubt why Ablyazov's lawyers made arguments about alleged breaches of procedure during the hearing in December.

We have seen reference in articles on Ablyazov's website and on Interfax to the fact that Ablyazov has now engaged Mark Feigin, a Russian lawyer and human rights activist, to defend him against extradition to Russia. According to statements made by Feigin, detailed grounds of appeal were due to be filed on 17 February 2014. The basis of the appeal, according to Feigin, is that this is a politically motivated case, driven by Kazakhstan, and that Ablyazov will seek political asylum in France.

This approach is likely to be unsuccessful for two principal reasons, namely:

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PR issues

As discussed at the meeting on 31 January 2014, we have been working with Jonathan Hawker of FTI to engage an NGO to prepare a report on Ablyazov's criminal activities, to draw attention to the fraud and away from his allegations of political persecution. An independent report by a recognised NGO will be effective in enforcing this message. We have met with a representative of the Organised Crime Observatory ("OCO"), who would be very pleased to assist. We are finalising the details of the project with OCO, but essentially, the objective is for OCO to produce an independent report on Ablyazov and the frauds he has perpetrated.

The report will be a joint report prepared by OCO and a French NGO, GRASCO, which is associated with the University of Strasbourg and is affiliated with the European Union. Jonathan Hawker is working with OCO to finalise the messages that should come from the report, but essentially the focus will be on fraudsters abusing the asylum protections of Western States and hiding behind the cloak of political persecution, with Ablyazov as a current example of this trend and with details about his criminal activities. We expect a first draft of the report to be produced by the end of March 2014.

The report will then be published and disseminated to a selected audience. This will be discussed and agreed with OCO and FTI once we have seen the first draft, to ensure that it has maximum impact.

Concurrently with the production of the report, the representative of the OCO recommends "search engine optimisation" (SEO) to counter Ablyazov's powerful internet campaign. The OCO's advice is that Ablyazov's internet proliferation should be countered; the objective will be to use SEO to change the results generated when one searches "Mukhtar Ablyazov" in search engines such as Google from "persecuted political dissident" to "fraudster who stole US\$10bn from a bank and abused the protections of Western Europe". Work needs to be done on this straightaway to lay the groundwork for the dissemination of the report so that by the time it is released, the public messaging will already be that of "fraudster" rather than "political persecution". We will write to you separately in this regard with further details.

The ultimate aim of both the report and the SEO is that both have maximum impact around the time that the French Government is likely to be considering whether to issue an extradition decree sending Ablyazov to Russia; this may be around June or July 2014, depending on when the Supreme Court processes the appeal. The French Government's decision will be a political decision, and we are advised by FTI and OCO that this would be the most effective way to seek to turn public opinion in France against Ablyazov and ensure that the extradition decree is issued.

UK criminal proceedings and SFO interaction

A meeting took place with the SFO on 6 February 2014, attended by Belinda Paisley, James Lewis QC and Anna Buch. It was a perfectly amicable meeting and the team met with a Principal Intelligence Officer (Colin Croucher), and Intelligence Manager, Liz Downing. In summary:

1. The files are still with the SFO and Croucher showed that he had some knowledge of the detail of the criminal claims against Ablyazov.

1. The appeal to the Supreme Court is on formal or procedural grounds only, not on the merits of the decision. The Aix Court of Appeal has already heard and rejected arguments about Kazakhstan allegedly being behind Russia's request and about the request being politically motivated.
2. Ablyazov should not be able to get asylum in France whilst his status in the United Kingdom remains extant. If he claims asylum in France, he should be directed back to the UK. If, however, the French authorities recognise Ablyazov's asylum status as giving him asylum status in France, this should not stop his extradition to Russia or Ukraine because his asylum is granted in respect of Kazakhstan, not Russia or Ukraine.

We are seeking further information on Ablyazov's grounds of appeal, although the information available is limited, because the documents are not public. The appeal is against the French State, so BTA Bank does not have the same standing and access to information as it had in the Aix Court of Appeal.

Going forward, a Magistrate will review Ablyazov's submissions, draft a report summarising the case and the legal arguments, and prepare an opinion regarding the outcome. The Report and Opinion are provided to the criminal registry of the Supreme Court. The Report is sent to the General State's Office and an Advocate General is appointed to prepare written submissions to assist the judges. A panel of five judges will consider Ablyazov's appeal at a public hearing. There will be no oral arguments or further pleadings. The Attorney General's submissions are presented to the Court and the panel of judges will discuss the merits of the appeal. A decision is usually rendered the same day.

The general timeframe for consideration of the appeal is between 3 and 5 months (so between April and June 2014). This accords with what Ablyazov's lawyers have said to the press.

During our meeting on 31 January 2014, we referred to two diagrams setting out the different stages the extradition process goes through, and Ablyazov's likely appeals. These are attached for ease of reference.

If the appeal is unsuccessful, the matter is referred to the French Government to issue the extradition decree. The Government has discretion and is not obliged to follow the decision issued by the Aix Court of Appeal. Invariably however, the Government follows the decision of the Court. We are only aware of one instance where the Government did not follow the relevant Court of Appeal's decision and issue an extradition decree.

We suspect the statements being made by Ablyazov's representatives in the press are targeted at the European Court of Human Rights ("ECHR"). We understand that representatives from Ablyazov's camp have been in Strasbourg recently, but we are not aware of what they have been doing (although we understand that enquiries are being made in this regard). If you have any further information in this regard, please let us know. In any event, it suggests that Ablyazov believes his extradition will ultimately be authorised by the French Government and his appeal will fail, and as such, he is gearing up his campaign in support of an appeal he intends to make to the ECHR.

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2. The challenge for the SFO is that Ablyazov is presently in France, and therefore not within the jurisdiction of the English courts, and he is facing extradition to either Russia or Ukraine. From the matters discussed, it appeared that the UK did not want Ablyazov back "at all costs" but rather had a "watching brief" on what is happening in France.
3. The impression was that the SFO would not seek to interfere in any way (by the issuance of an European Arrest Warrant) in the event that the French courts ultimately find that Ablyazov should be extradited to either of Russia or Ukraine.
4. The immediate issue for the SFO is whether they should devote any real resource to the matter now, given that Ablyazov may not find his way back to the UK for many years (after serving sentences in Russia and/or Ukraine).
5. The matter is to be referred to senior director level as to whether the SFO should take this matter further now (by way of a full investigation).
6. Overall, the impression was that the SFO will keep a watch on what is happening in France, will not investigate the matter in the meantime, and will not take any steps to interfere in the event that Ablyazov is to be extradited.
7. The SFO did not know anything about the possible revocation of Ablyazov's asylum or about his possible deportation to the UK in the event the French courts refuse to extradite him. They said they would make enquiries and revert to us if they had any further information they could share with us.

James Lewis QC has tried to contact the SFO but has not yet been able to speak further to Colin Croucher to obtain an update. As soon as we have further information in this regard, we will let you know.

We have discussed whether the UK authorities would be willing to prosecute Solodchenko in the UK rather than extradite him to Kazakhstan. James Lewis QC has advised that whilst this is a possibility, the SFO are unlikely to agree to prosecute Solodchenko in isolation to Ablyazov as (i) there is less compelling evidence against him, (ii) his likely defence will be that he was following Ablyazov's instructions, and (iii) the fact that the SFO would have to devote considerable time and resource to preparing the entire case against him. James Lewis QC's view is that there are much better chances of Solodchenko being extradited to Kazakhstan, than a prosecution against him in the UK. Notwithstanding this view, he is making enquiries of the SFO and we will confirm their position as soon as possible.

If you require any further information, please let us know.

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