



OPEN DIALOG

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01 April 2015, Brussels

European Union's Judicial Cooperation Unit (Eurojust)

Mr Michèle Coninx,
President

Mr Francisco Jiménez Villarejo,
Vice President

Mr Ladislav Hamran,
Vice President

Dear Mr President,

Dear Mr Vice Presidents,

I am addressing you on behalf of the Open Dialog Foundation in order to draw your attention to the important issue of misuse of Interpol and the EU Member States' judicial and law enforcement systems by non-democratic countries, as well as its implications for the safety of individuals residing in the EU and risking extraditions to the persecuting regimes. The Open Dialog Foundation has long been denouncing cases of individuals that suffer politically motivated persecution from autocratic governments, while seeking help and safety in the EU Member States.

It is my pleasure to be able to furnish you with a copy of the Foundation's most recent report on the above-mentioned issue, entitled: *The INTERPOL system is in need of reform*. The report lists over 44 high-profile political cases originated in the Eastern Europe, Central Asia, Latin America, Northern Africa, Middle East and the Southeast Asia. It points to the systemic weaknesses of the current Interpol system but also provides very concrete conclusions and recommendations on how to improve it.

One of the cases described there is this of Mr Mukhtar Ablyazov, Kazakh businessman, opposition politician and co-founder of the Democratic Choice of Kazakhstan political party, who himself, faced 14 months jail term and torture in the years of 2002-2003. Fearing for his life and that of his family, Mr Ablyazov fled Kazakhstan and on the 31st July 2013, on the basis of the Interpol Red Notice, was arrested in France. Mr Ablyazov now is awaiting extradition to Russia or Ukraine (an extradition request issued during the time of ex-President Mr Viktor Yanukovich), while the state behind his persecution is in reality Kazakhstan, from which he is directly protected by a refugee status received in 2011 from the United Kingdom.





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Mr Ablyazov as a vocal critic of the regime of autocratic Kazakh President Mr Nursultan Nazarbayev, and thereby one of his main political opponents, along with his family members have been direct victims of politically motivated misuse of Interpol and the EU Member States' judicial and law enforcement systems. Mr Ablyazov is accused of financial crimes, which along with the allegations of terrorism and hooliganism are the most often used in similar cases by the persecuting regimes.

The case of Mr Ablyazov in France is additionally worrying due to the irregularities identified in the first phase of the legal proceedings regarding his possible extradition. The initial decision of the Court of Appeal in Aix-en-Provence was reviewed by the Court of Appeal in Lyon, after *inter alia*, the use of fabricated evidence and a close and illegal cooperation between the French judicial authorities and the Ukrainian law firm 'Ilyashev and Partners', representing the BTA Bank, which is accusing Mr Ablyazov.

The role of Eurojust and other relevant EU agencies, such as the European Police Office (Europol), European Police College (CEPOL), European Asylum Support Office (EASO), European Union Agency for Fundamental Rights (FRA) and the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), in keeping the discussion on the misuse of Interpol and the EU Member States judicial and law enforcement systems by non-democratic countries high on the agenda is essential. Mounting international interest is needed in order to engage in a multilateral dialogue with the Interpol, EU and the EU Member States' authorities, and jointly look for a holistic solution. In this regard, Eurojust can be of particular importance. A number of aspects central to the problem are highly pertinent to the work of your body, and could be discussed with Interpol, on the basis of the Memorandum of Understanding (MoU), signed on 15 July, 2013, as well as your contact points in the non-members countries like Ukraine and Russia, in relation to the particular case of Mr Ablyazov. We believe that an exchange of information and requests for explanation between you and these bodies, on the above-mentioned issue and case, would help in raising general awareness both on an international level but also within the EU Member States and Interpol itself.

With the present letter, we would like to kindly ask you to address the issues directly with the Interpol, Europol, CEPOL, EASO, FRA and the eu-LISA's authorities, as well as with the EU Member States and, particularly, the French authorities, which should be further sensitized to the risks that politically motivated Interpol notices and other misused national instruments can bring about. In our opinion, Eurojust's intervention and support in the case would be highly motivated as the required essential interest in providing such assistance is clearly demonstrated, both with regard to the general problem, as well as the concrete case of Mr Ablyazov. Both the EU

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citizens, as well as individuals coming from third countries, seeking in the EU protection from politically motivated and, often ruthless, persecution are affected, their lives often being put at risk.

Moreover, we would like to ask you to address your contact points in Ukraine and Russia, in order to draw their attention to the worrying case of Mr Ablyazov, as a clear example of misuse of the Interpol system, as well as the judicial and law enforcement systems of the sovereign EU Member State France, in order to help in political persecution for the purposes of the authorities of Kazakhstan. We believe that the legal irregularities in the extradition case of Mr Ablyazov require further investigation from the side of Eurojust, in order to prevent such situations in the future and with regard to other similar cases of opposition politicians, civil society activists and journalists persecuted for the political reasons.

So far, the issue of misuse of Interpol and the EU Member States' judicial and law enforcement systems, and the need for stronger legal safeguards has been undertaken by the Members of the European Parliament and such international organizations as Council of Europe's Parliamentary Assembly (PACE), which will produce a report on this topic, as well as the Organization for Security and Co-operation in Europe (OSCE). The voice and actions of the EU institutions and its specialized agencies would add a strong message of support to the battle that many individuals and NGOs, including the Open Dialog Foundation, carry on in raising the general awareness and pushing for a comprehensive reform of Interpol aimed at stopping abuse of the EU Member States legal structures, and thereby providing more respect for human rights.

Sincerely Yours,

Anna Koj

Head of the EU Office
Open Dialog Foundation

Attachments:

1. The Open Dialog Foundation report: *The INTERPOL system is in need of reform* – published in February 2015
2. The Open Dialog Foundation report: *The case of Mukhtar Ablyazov. Evidence of the fabrication of the extradition request with regard to the opposition politician* – published in October 2014
3. The Open Dialog Foundation report: *The case of Mukhtar Ablyazov in Ukraine* – published in March 2015
4. The Open Dialog Foundation infographic: *Kazakhstan's illegal activities, aimed at extraditing Mukhtar Ablyazov*