



OPEN DIALOG

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26 May 2015, Brussels

**Ms Věra Jourová,
European Commissioner for Justice, Consumers and Gender Equality**

Dear Ms Jourová,

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, law enforcement, as well as the EU data protection systems by non-democratic countries. Its implications for the safety of individuals residing in the EU, and risking extraditions to the persecuting regimes are extremely serious. 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 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 in the report is that of Mr Mukhtar Ablyazov, Kazakh businessman, opposition politician and co-founder of the Democratic Choice of Kazakhstan political party. When still in Kazakhstan, in 2002-2003, he served a 14-months jail term and suffered from torture while in detention. Fearing for his life and that of his family, Mr Ablyazov fled Kazakhstan, seeking protection in Europe. He received political asylum from the United Kingdom in 2011. On 31 July 2013, he was arrested in France on the basis of an Interpol Red Notice. Mr Ablyazov is now awaiting possible extradition to Russia or Ukraine (extradition request issued during the time of ex-President Mr Viktor Yanukovich), while in reality Kazakhstan is the state leading his international persecution. He is protected from being directly sent to Kazakhstan because of the political asylum status.

Mr Ablyazov, as a vocal critic of the regime of the autocratic Kazakh President, Mr Nursultan Nazarbayev, and thereby one of his main political opponents, along with his family members and ex-



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colleagues have been direct victims of politically motivated misuse of Interpol and the EU Member States' judicial and law enforcement systems. Mr Ablyazov is accused i.a. of 'inciting social discord', 'participation in an organized criminal group in order to overthrow the government' and 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 certain 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 (currently nationalised and, therefore, a tool of the Kazakh authorities), which is accusing Mr Ablyazov. Recently, French media have also revealed close cooperation between the French diplomats and the Kazakh embassy and lobbyists in the case of Mr Ablyazov.

Another case, we would like to draw your attention to, is the case of Mrs Tatiana Paraskevich, Russian citizen and ex-colleague of Mr Ablyazov. Mrs Paraskevich was seeking protection in the Czech Republic from politically motivated persecution by Russia and Ukraine, while her persecution has in reality been orchestrated by Kazakhstan. The fact that her name was placed on the Interpol Red Notice also resulted in her name being put by Germany, in the Schengen Information System (SIS), labelling her as an "undesirable alien". This provoked further complications, preventing her from receiving residence and travel documents for over a year after having been granted subsidiary international protection by the Czech Republic. The case of Mrs Paraskevich serves as an example of serious breach of the third-country citizen personal data, and therefore rights, through the improper use of Interpol's data, by an EU Member State, and with the help of the national SIRENE Bureau.

The role of DG Justice and Consumers, as well as of relevant EU agencies and bodies, such as European Union's Judicial Cooperation Unit (Eurojust), European Union Agency for Fundamental Rights (FRA) and European Data Protection Supervisor (EDPS), in keeping the discussion on the misuse of Interpol and the EU Member States judicial, law enforcement, as well as the EU data protection systems by non-democratic countries high on the agenda is essential. Mounting international interest is needed in order to



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engage in a multilateral dialogue with Interpol, other EU institutions, specialized agencies and bodies, and the EU Member States' authorities, and jointly look for a holistic solution. In this regard, DG JUST can be of particular importance. A number of aspects central to the problem are highly pertinent to the work of your body. We believe that an exchange of information and requests for explanation between you and these actors, on the above-mentioned issue and cases, 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's authorities, as well as with the EU Member States, particularly, the French, which should be further sensitized to the risks that politically motivated Interpol notices and other misused national and European instruments can bring about. In our opinion, DG JUST's intervention and support in the case would be highly motivated as the essential interest in providing such assistance is clearly demonstrated, both with regard to the general problem, as well as the concrete cases of Mr Ablyazov and Mrs Paraskevich. Both EU 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 Eurojust, FRA and EDPS, in order to draw their attention to the worrying cases of Mr Ablyazov and Mrs Paraskevich, as clear examples of misuse of the Interpol system, judicial and law enforcement systems of the sovereign EU Member States: France, the Czech Republic and Germany, as well as the EU data protection system. Such improper use of the above-mentioned instruments has been aimed at facilitating the Kazakh authorities in persecuting Mr Ablyazov and Mrs Paraskevich around Europe. We believe that the legal irregularities in the extradition case of Mr Ablyazov and the improper use of personal data in the case of Mrs Paraskevich require further investigation from the side of Eurojust and EDPS, 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 considered by Members of the European Parliament and such international organizations as the Parliamentary Assembly of the Council of Europe (PACE), which will produce a report on this topic, as well as the Organization for Security and Co-operation in



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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.

Yours Sincerely,



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 article: *Legal analysis of the directions of recommended INTERPOL reform aimed at preventing the abuse of Red Notice mechanisms* – published in March 2015
3. The Open Dialog Foundation report: *Report on misuse of the INTERPOL system* – published in October 2013
4. 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 March 2015
5. The Open Dialog Foundation report: *The case of Mukhtar Ablyazov in Ukraine* – published in March 2015
6. The Open Dialog Foundation infographic: *Kazakhstan's illegal activities, aimed at extraditing Mukhtar Ablyazov*
7. The Open Dialog Foundation article: *The Czech authorities refused to extradite Tatiana Paraskevich to Ukraine and Russia. As of today, Interpol hasn't removed her from the wanted list* – published in October 2014 (ed. since that time the Open Dialog Foundation successfully advocated for an extension of international protection for Mrs Paraskevich in the Czech Republic for another two years and a removal of her personal data from the Interpol wanted list)