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Kazakhstan's Transnational Repression across Belgium and the United States:

The Case Against Lyudmyla Kozlovska and the Open Dialogue Foundation

In 2022, Kazakhstan's special services orchestrated a collective criminal complaint in Belgium against the Open Dialogue Foundation and its President, human rights activist Lyudmyla Kozlovska. The operatives, filing complaints on behalf of their minor children, accused the Foundation and its President in harassment, slander and cyberbullying, posed as victims, and demanded the removal of social media videos published by the Foundation that documented their involvement in political repression, torture and killings in Kazakhstan.

The Belgian court ultimately dismissed the proceedings against the Foundation and its President, ruling that Belgium lacked territorial jurisdiction over the alleged offences. Belgian court documents reveal that Kazakh authorities, using these operatives who posed as ordinary citizens while being active members of Kazakhstan's police and security services, sought extensive personal surveillance data on both the Foundation and Kozlovska across Belgium and the United States, including:

1. Kozlovska's complete passport data and travel history, particularly her movements between Belgium and the U.S.
2. Details of her flights and border crossings at Belgian airports within the Schengen zone.
3. Comprehensive financial information, including:
    - Hotel bills from Miami and Washington,
    - Complete bank account transactions,
    - Funding sources for her travel and accommodation.
4. Private email correspondence between Kozlovska and the Foundation during her stays in the USA and Belgium.
5. Internal operational details of the Foundation, including how Kozlovska managed activities whilst travelling; and
6. Technical data from videos recorded by Kozlovska, including:
    - Raw media files, recordings and photographs,
    - Creation and publication dates,
    - Equipment ownership and funding details,
    - Names of technical staff. [Attachment 1]

The Belgian investigating judge explicitly stated that these requests appeared designed "to use Belgian justice to collect the maximum amount of personal and private data on Kozlovska for purposes other than simply revealing the truth in this case." [Attachment 2]

Claude Monique, former intelligence officer of France and current head of the European Strategic Intelligence and Security Center (ESISC) [1] —a private intelligence and lobbying firm in Belgium—played a pivotal role in these proceedings. On 1 July 2022, Monique filed the criminal complaint against Kozlovska and the Open Dialogue Foundation, acting as legal representative for the Kazakhstani police officers and their children through a power of attorney from a Kazakhstani lawyer.

[1] http://www.esisc.org/about-us/our-mission

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The case files show that Monique's involvement facilitated these extensive data collection requests. The legal actions coordinated by Monique were strategically designed to shield Kazakhstani security agents and law enforcement officials from international scrutiny regarding human rights abuses while simultaneously gathering intelligence on human rights defenders operating in Western democracies.

In the 13 December 2023 court decision, the Belgian investigating judge specifically noted that some investigative actions requested by the “victims” appeared intended to "instrumentalize Belgian justice" for purposes beyond establishing relevant facts. [Attachment 2]

It's worth noting that Monique's organization, ESISC, was previously investigated for alleged corruption within the Parliamentary Assembly of the Council of Europe (PACE) during 2017-2018 regarding illegal lobbying for Azerbaijan (the "caviar diplomacy" case). [2]

The case demonstrates a concerning pattern of abuse of the Financial Action Task Force (FATF)’s AML/CFT framework and urgent need of its reform:[3]

1. **Weaponization of Financial Transparency Requirements**: The Kazakhstan-linked parties attempted to use allegations loosely framed around suspicious financial activity as a pretext to demand extensive financial records. This represents a direct attempt to misuse the principles behind FATF Recommendations 10 (Customer Due Diligence) and 20 (Suspicious Transaction Reporting) for politically motivated surveillance rather than legitimate financial crime concerns.
2. **Abuse of Cross-Border Information Sharing Mechanisms**: The request for detailed banking records and transactional activities exploits the international cooperation mechanisms established under FATF Recommendations 37 and 40, which were designed for legitimate law enforcement purposes rather than targeting dissidents.
3. **Misappropriation of Counter-Terrorism Financing Framework**: The court documents show that standard financial control mechanisms designed to prevent terrorism financing were being repurposed to monitor human rights defenders, directly undermining the intended purpose of FATF Recommendation 6.
4. **Exploitation of Jurisdictional Gaps**: The attempt to use Belgian legal channels to access U.S. financial data reveals how authoritarian regimes exploit differences in national implementation of FATF standards to forum-shop for the most advantageous jurisdiction.
5. **Politically Exposed Person (PEP) Framework Inversion**: Rather than using enhanced due diligence to monitor corrupt officials (as intended), the case shows how the PEP framework can be inverted to allow those officials to target their critics at such jurisdictions as Belgium and U.S.

This case offers concrete evidence of how the international financial regulatory system faces exploitation not to combat financial crime, but to facilitate transnational repression and undermine the very rule of law these frameworks were designed to protect.

It also demonstrates that once data requests enter the judicial system, privacy of the U.S. and Belgium citizens and residents is already at risk. True protection requires privacy-focused preventive measures:

[2] https://assembly.coe.int/Communication/IBAC/IBAC-GIAC-Report-EN.pdf
[3] https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf

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1. **Tiered Data Access Protocol and Establishing a "Red List" of Jurisdictions Under the Monitoring of AML/CFT abuses:** Implement a staged approach to sensitive financial and personal data where initial judicial review only authorizes access to minimal, anonymized metadata. Beside that establish the monitoring **of AML/CFT abuses**, if the country is noticed previously with abusive practice of the AML/CFT laws for domestic and transnational repression, particularly abusing international mechanisms like INTERPOL or extradition, - they must be "red listed". This list will naturally include autocratic regimes. It will also include weak democracies that cooperate with autocratic regimes on these tactics. This is important to develop regulatory mechanisms to prevent cases of transnational repression "by proxy. " This prevents the fishing expeditions seen in the Belgian case initiated by Kazakhstan's agents where comprehensive data was requested before establishing any valid basis.
2. **Prior Notification Requirement**: Establish mandatory notification to individuals when their financial data is being requested through international cooperation mechanisms, with adequate time to present privacy objections before data is shared. This would have allowed Kozlovska to challenge the legitimacy of Kazakhstan's requests before any data was compromised.
3. **Data Minimization Principle Enforcement**: Codify strict limitations on the scope of financial information that can be shared internationally, requiring specific justification for each category of requested data rather than allowing broad surveillance requests. This would have prevented the attempt to obtain comprehensive records of Kozlovska's movements, communications, and financial activities.

These privacy-focused remedies address the fundamental vulnerability: preventing unwarranted access to private data rather than merely establishing procedural hurdles that still potentially expose sensitive information. By treating privacy as the default position that must be overcome with specific, legitimate justifications, these measures provide substantive protection against authoritarian fishing expeditions.

As a result, this case exemplifies at least two sophisticated forms of transnational repression:

1. **Strategic Lawsuit Against Public Participation (SLAPP)** —legal action designed to intimidate, financially drain, or silence critics, human rights defenders, journalists, and others expressing public positions. Authoritarian regimes frequently deploy SLAPPs for transnational repression, aiming to silence critics and prevent the dissemination of sensitive information. Such cases typically lack legitimate legal foundation and instead serve to divert attention from the plaintiff's activities whilst restricting freedom of speech. They are calculated to exhaust defendants through protracted litigation or investigation and resource depletion.
2. **Weaponization of FATF's AML/CFT Frameworks in the U.S. and/or in Belgium by Kazakhstan -** the case demonstrates how Kazakhstan has tried to exploit (a) international legal assistance mechanisms and (b) international legislation on children's rights online protection in Belgium and (c) FATF's financial regulatory frameworks to target human rights activities conducted on US and Belgian territory. Court documents reveal that Kazakhstan attempted to use Belgium's legal system as a vehicle to access extensive financial and personal data about Kozlovska's activities while physically present in both Belgium and the United States. As documented in the Belgian court records, the requests explicitly sought detailed financial information about activities on US soil, including hotel invoices from Miami and Washington DC, bank account movements, and funding sources for activities conducted while in the United States. This represents a direct attempt to apply surveillance to protected activities occurring in the U.S. through the misuse of AML/CFT mechanisms.

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Kazakhstan's political persecution of Kozlovska and the Open Dialogue Foundation represents a serious threat to the rule of law, judicial integrity, and financial systems in the U.S., Belgium, and other Western democracies.

Attachments:

1. *ORDINANCE Art. 61 quinquies C.I.Cr.* Complementary Investigative Acts - refusal by the Court of First Instance of Brussels to provide Kazakhstani secret services with requested personal, travel and financial data in Belgium and the U.S. – and its English translation.
2. Decision of the Court of First Instance of Brussels and its English translation.

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