

INTERNATIONAL COOPERATION IN TRANSNATIONAL CORRUPTION CASES: EXPERIENCE OF KAZAKHSTAN



Presented by Baurzhan Kurmanov, the PGO of Kazakhstan, at the seventh Open-ended intergovernmental expert meeting to enhance international cooperation under UNCAC in Vienna, Austria, on 8 June 2018

10 BILLION \$ = 10 YEARS



**1/6 OF THE NATIONAL FUND OF
KAZAKHSTAN**

SEARCH FOR CRIMINALS AND STOLEN ASSETS

1,5 THOUSAND  **200**

ARE ESCAPING FROM JUSTICE
ABROAD

IN MORE THAN 200
COUNTRIES

➤ **IN SWITZERLAND** – FORMER GOVERNOR OF ALMATY **KHRAPUNOV**
SOLD GOVERNMENTAL LANDS AND TRANSFERRED THE STOLEN MONEY -
300 MILLION USD ABROAD

➤ **IN GREAT BRITAIN**– FORMER GOVERNOR OF ATYRAU REGION **RYSKALIEV**
EMBEZZLED OVER **500 MILLION USD** OF PUBLIC FUNDS

➤ **IN AUSTRIA**– HEAD OF CONSTRUCTION COMPANY **TAIZHANOV**
DECEIVED OVER **2 THOUSAND CITIZENS**, WHO ENTRUSTED HIM **100 MILLION
EURO** FOR HOUSES CONSTRUCTION



**PROSECUTOR GENERAL'S OFFICE
OF THE REPUBLIC OF KAZAKHSTAN**



«STOLEN ASSET RECOVERY» PROJECT





Stolen asset recovery project

Developed:

- **Clear and short guidelines** for the investigators and prosecutors;
- **Unified MLA, FIU requests templates;**

The guidelines and the templates are:

- a) based on the **best international experience** (*UNODC, the StAR initiative, PC-OC of the Council of Europe, UK, Australia, Singapore and other recommendations and databases*).
- b) **locally adapted** to be easily applied by any investigators in Kazakhstan



UNODC

United Nations Office on Drugs and Crime

Stolen asset recovery project

- ✓ **200 investigators and 10 national trainers** were trained with the support of **UNODC** and of the **StAR Initiative**

The StAR initiative support

- **Facilitated our contacts** with different jurisdictions involved in asset recovery.
- Helped us to join asset recovery interagency networks: **CARIN, ARIN AP;**
- Provides assistance in **further development** of our guidelines and templates.



Prosecutor General's
Office of the Republic of
Kazakhstan

SEARCH AND SEIZURE OF THE CRIME PROCEEDS ABROAD

Baurzhan Kurmanov, Unit Head on protection
of state interests abroad

Issatai Zhahanger, Prosecutor of Department of the PGO

**STEP
41**



**Industrialization and
Economic Growth**

4 TOOLS

Egmont

Interagency
Networks

Open
Sources

MLA
requests

TOOL NO 1

REQUESTS VIA EGMONT

EGMONT GROUP: - *exchange of information by financial intelligence units of more than 150 countries*

**Requests are submitted electronically.
Speed of execution is sometimes very
high – 1-20 days**

WHAT CAN BE REQUESTED?

- A) Freeze or suspend alleged crime proceeds transactions
- B) Obtain information on transfers of alleged crime proceeds
- C) Suspicious transactions reports on persons under investigation

How to make: get an approval from General Prosecutor's Office and apply to the Committee on Financial Monitoring

Use request form in the CFM (Annex No 1)

Tool No. 2

Interagency Networks

1. «CARIN» (EUROPE) И ARIN-AP (ASIA)
2. INTERPOL: The Global Focal Point Network on Asset Recovery

It is possible to submit preliminary unofficial request, and:

- 1) Receive certain information;
 - a) *Eg. Information about shareholders and directors of a company*
 - b) *Voluntary witness statements*
- 2) Establish direct contacts with foreign colleagues

TOOL No3

OSINT (Open Source Intelligence)

FOLLOWING INFORMATION CAN BE OBTAINED:

1. On companies, directors, finances (*Opencorporates.com*);
2. About offshore companies and their accounts (*Offshoreleaks.icij.org*);
3. To check photos of addresses (*Google earth*). About photos – date of photo, brand of camera, ip and location through Doxing method (*Iconsquare.com, Tineye.com*);
4. About owner of web-site domain (*Whoisology.com*), to check e-mail addresses (*Hexillion.com, Ip-address.com*) and to find location of user through ip (*Maxmind.com*);
5. Find IIN, date, place of birth, promissory notes through government databases (*Egov.kz, Nationalbank.kz*);
6. Search through meta-systems(*TurboScout.com, Dogpile.com, Exalead.com*);
7. Get information about the person's contacts, work places, interests, movements and a friend through social networks (*Facebook, LinkedIn, Instagram*).
8. Ability to see archived and deleted versions of web pages through (*Archive.org, Waybackmaschine.com, Cachedview.com*).

TOOL NO 4

MUTUAL LEGAL ASSISTANCE REQUESTS

What can it give to you?:

A. An opportunity to use in court information received informally in the framework of tools No. 1,2,3.

B. Request searches, seizures, interrogations, etc.

B. Obtain information that constitutes banking secrecy

C. To request the seizure / confiscation of crime proceeds

Use request form – Annex

Recommendation No 1

USE TOOLS No 3 (Open Sources), No 1 (EGMONT) and No 2 (EXCHANGE NETWORKS) TO SUPPLEMENT MLA REQUESTS (No4)

Why:

- a) MLA requests must contain specific information about the subject of the request (numbers of bank accounts, location of assets);
- b) In most cases, requests "to seize any bank accounts of a suspect" **will not be enforced in EU, US, Canada and other countries.**

EXAMPLE of an unsuccessful request: "Mr. X is suspected of taking bribes. Please provide a complete list of accounts that he has in your country, and immediately arrest them. "

The real answer from Switzerland:

"We ask you to provide us correct information about bank accounts and real estate. Information can be provided only if you give either the name of the depositor and the bank or the account number and the bank. Otherwise, we cannot process your request."



IT IS IMPORTANT TO UNDERSTAND THAT THE INFORMATION RECEIVED WITHIN TOOLS No. 1, 2, 3 IS INTELLIGENCE. IT CANNOT BE USED IN A COURT

RECOMMENDATION No 2

USE SIMPLE SENTENCES IN YOUR REQUESTS

WHY:

Complex sentences are difficult to translate. As a result, foreign colleagues may not understand them

THE WAY YOU SHOULD NOT DO:

Having left the borders of our state, V.I. Nikolayev and other individuals formed an organized criminal group from among the citizens of the Republic of Kazakhstan and other countries whose activities are aimed at the committing illegal acts on the legalization of money and assets obtained through criminal means in the neighboring countries and beyond.

THE WAY YOU SHOULD DO:

V.I. Nikolaev fled the Republic of Kazakhstan. Then V.I. Nikolayev established an organized criminal group. The criminal group was created to legalize (launder) funds and assets obtained by criminal means. Illegal money and assets were legalized (laundered) in the neighboring countries and beyond. The criminal group included citizens of the Republic of Kazakhstan and other countries.

CASE STUDY: BTA BANK



Why did we choose
this case?



- » It is **the biggest fraud** in the history of Kazakhstan.
- » In 2009 **more than 7.5 billion USD** were embezzled by a former top-manager of the BTA Bank – **Mukhtar Ablyazov**.
- » Mainly through loans to offshore companies **he secretly owned and controlled**




**CREATION OF A TRANSNATIONAL SCHEME OF
EMBEZZLEMENT AND OF MONEY LAUNDERUNG**



THE DAMAGE WORTH
OVER **7 BILLION US**
DOLLARS



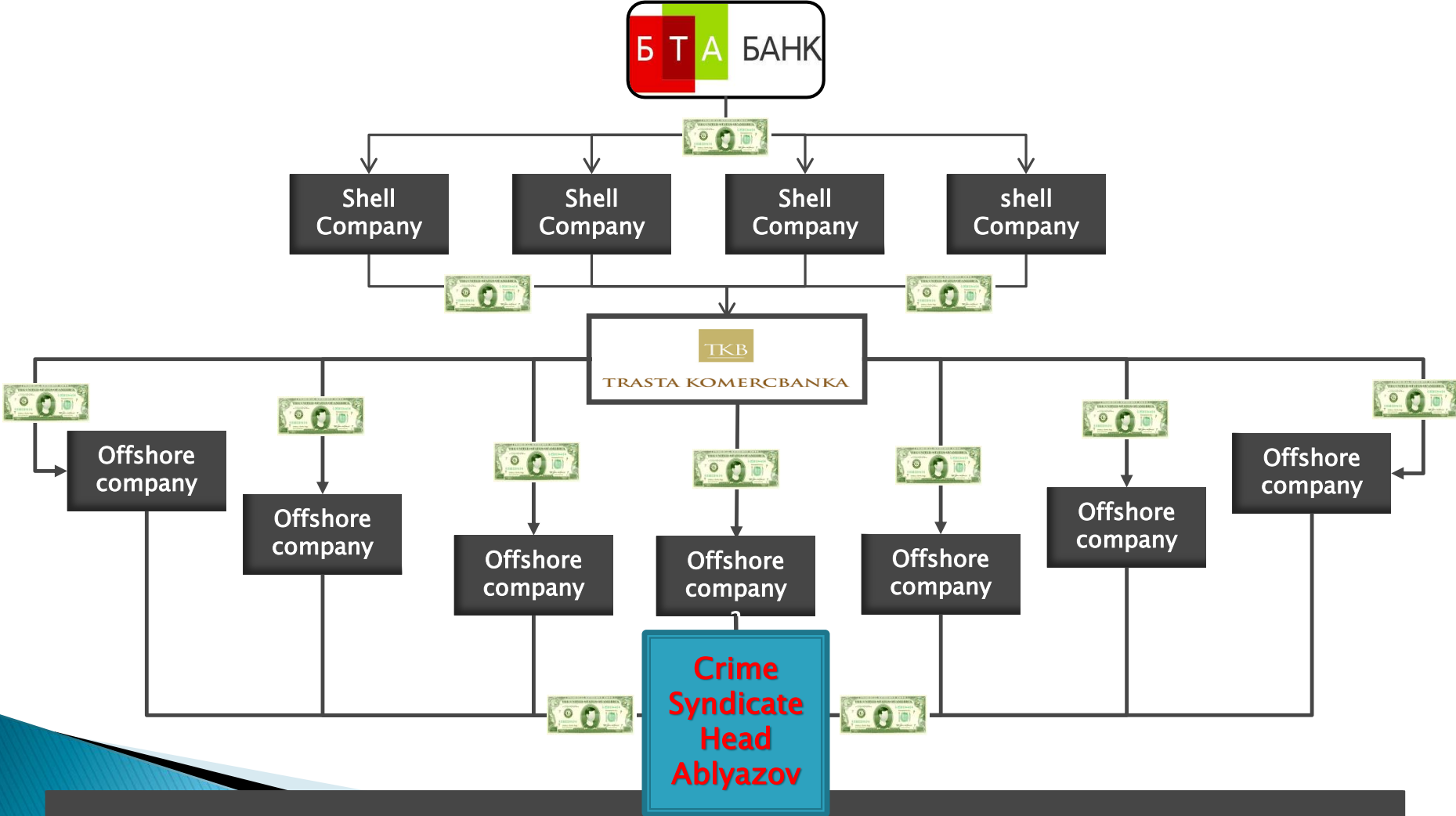
6% OF
KAZAKHSTAN'S GDP

- » It were the money of **citizens and of foreign investors.**
- » The Government had to rescue the bank **using public funds.**
- » That is why it was extremely important to recover stolen assets. 



What was the international cooperation and asset recovery **STRATEGY?**

Embezzlement scheme of the BTA Bank's funds





Difficulties

- ▶ The crime Syndicate **laundered** the stolen money via **thousands of shell companies** in numerous jurisdictions around the world
- ▶ It was almost impossible to establish a link between **the predicate crime** and the **stolen assets**



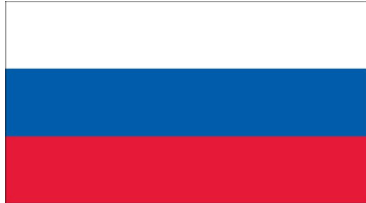
Role of the Law enforcement

- ▶ Law enforcement via MLA requests gathered evidence and **froze** assets of the crime syndicate where it was possible.
- ▶ More than 400 MLA requests were filed around the world.

ASSISTANCE BY OUR COLLEAGUES

- ▶ Most of the involved jurisdictions provided assistance
- ▶ Special gratitude to the **Prosecutor offices of:**

RUSSIA



UAE (DUBAI)



UKRAINE



who provided us evidence and froze assets very fast

- ▶ It allowed to prevent the **dissipation of assets**

Role of the BTA Bank

- BTA as a victim **filed civil claims** against Ablyazov and other members of the criminal enterprise to recover damages
- In London BTA filed claims of fraud in excess of **4 billion dollars**

British courts judgments against criminal enterprise members



High Court of London



In 2010-2012 the High Court of Justice of London, in its decisions (Drey, AAA and Granton) found that Ablyazov embezzled Bank's money by fraud

Justice **Teare**: "... This is a fraud on a global scale"

Asset recovery results

Assets worth more than **1 billion of USD** were recovered in UK, Russia, Ukraine and other jurisdictions