

ISRAILOV Case – Vienna trial

Summary of Day 15 (24 May 2011)

At the beginning of the day the presiding judge distributed a translation of the recorded part of a meeting between Umar Israilov and Artur Kurmakaev, which took place on 8 June 2008 at the Danube island in the presence of two further men. The conversation itself was recorded with a mobile phone and is still on the phone of Umar Israilov, which his widow inherited. The judge announced that the recording would be publicly played in the courtroom, so that the three indicted persons have the possibility to listen to the original conversation, and that a Chechen-German translator in the courtroom can check whether the translation done by the police is correct.

The presiding judge also told the court that the request to the Russian Federation Prosecutor General's Office regarding the provision of legal aid was still unanswered, and that there also was no answer to the urgency letter. He said that he also spoke the same morning with someone in the Ministry of Justice, who confirmed that the Ministry did not receive any from Russia either. His contact in the Ministry assumed that no reaction would come. He said the court has therefore to assume that no answer will come until the end of the trial.

Otto Kaltenbrunner's defence lawyer, Rudolf Mayer, commented, that, in light of Russian President Medvedev's remark that Western courts are meddling into internal Russian affairs, it is to be assumed that no reaction will come from them.

The judge also announced that there will be another possibility for additional questioning of the indicted persons during the day. He asked if there were any further requests for additional evidence, which was answered negatively.

Otto Kaltenbrunner's defence lawyer told the court that his client wanted, from now on, to make use of his right not to give further testimony, which was confirmed by Kaltenbrunner, who added that he wanted to make a statement at the end of the trial. Turpal-Ali Yeshurkaev's lawyer requested the same for his client, which was confirmed by Yeshurkaev. Only Dadaev said that he was still ready to answer questions.

Playing of the recording of part of the meeting between Umar Israilov and Artur Kurmakaev on 8 June 2008¹

Regarding the translation of the recording, the judge said that it was done by the anti-terrorism police at the request of the court. The translator is a trustworthy person, which identity the anti-terrorism police does not want to disclose, for security reasons.

Because of some technical complications, the Chechen-German translator of the court was first given time to review the translation in a separate room, comparing the existing translation and the recording, before coming to the public hearing. She was asked to take notes on the written translation should there be some mistakes and submit these corrections to the court during the public hearing.

After the lunch-break, the tape was finally played. The interpreter corrected some minor mistakes and approved the correctness of the recording's translation. Afterwards, the corrected translation of the conversation was read out by the presiding judge and his assessor. The judge commented at the end that, from how the conversation went, it was clear that a part of the discussion was missing before and after what was recorded.

¹ An English translation of the recording of the discussion between Umar Israilov and Artur Kurmakaev is available on the FIDH website.

Continuation of the questioning of Suleyman Dadaev

The prosecutor asked Dadaev when exactly, on 12 January 2009, he talked with Lecha Bogatirov about Israilov? Dadaev said he met Bogatirov in the afternoon of 12 January before they entered Kaltenbrunner's house. Bogatirov was supposed to drive to Vienna on his own behalf, but after their talk, they drove to Vienna together. He said that, when Bogatirov dealt with his business, near Westbahnhof, he stayed in the car. Afterwards they drove to Israilov's house. He said Bogatirov was not very interested in Israilov on 12 January. This interest, so Dadaev, only came when Bogatirov saw him the next day.

To the question why, if Bogatirov was not so interested in Israilov on 12 January, they decided to leave Sankt Pölten that early in the morning on 13 January, Dadaev answered „I don't know. Maybe he did not have anything else to do.“

Dadaev confirmed having spent quite some time in Kaltenbrunner's flat, but said he could not remember about what exactly they spoke. He said he remembered, though, that Kaltenbrunner was not present when they talked, because he and Bogatirov went out frequently to smoke and Kaltenbrunner went in and out to take care of the food. The prosecutor referred to an earlier statement of Dadaev in which he said that there were other guests present in Kaltenbrunner's house in the afternoon of 12 January, and asked whether these guests were Kosum Yeshurkaev and Bukhari Salamov; Dadaev answered that he did not see them there.

The prosecutor asked Dadaev why he would reveal that he had been receiving orders from Kurmakaev, something that he would not even tell many friends, to Bogatirov, a person whom he had never seen before (as he confirmed himself). Dadaev confirmed that he did not see Bogatirov before meeting him in Vienna, but that he had already heard a lot about him and that both of them were very drunk on this day. He repeated that it was the first time he drank alcohol. (The prosecutor asked: „Why did you drink alcohol for the first time?“) - Dadaev: „An interesting question for me.“ - (The prosecutor: „And you were still driving to Vienna on this day?“) - „I was not so drunk that I could not walk or drive, but I was so drunk that I could not hold my tongue.“ („For the first time in your life you were drinking. Why?“) - „Maybe for a bad reason.“ („And which one?“) „Israilov and Kurmakaev.“ („But what was the direct catalyst? You dealt with this story already for quite some time, already since summer 2008. It is very eye-catching that on 12 January you are so aggrieved and excited that you drink alcohol for the first time in your life. And on 13 January Israilov dies?“) - „I don't know.“

The civil parties lawyer, Nadja Lorenz, then pointed at the contradictory fact that Dadaev said that Bogatirov only showed interest in Israilov when he saw him, whereas he also said earlier that Bogatirov had shown interest in Israilov already the evening before. Dadaev answered there was no contradiction, because in the evening Bogatirov showed interest, but not a lot. This only came when he saw him the next day.

The civil parties lawyer then repeated the unanswered question of the prosecutor, questioning on whose initiative it was, to drive to Vienna on 12 January 2009. He answered that they went because of a concern expressed by Bogatirov; when they were on the way to Vienna they agreed to drive to Israilov's place after finishing Bogatirov's business. Asked why they left to Vienna so early on the 13th January when there was yet no real interest in Israilov from the side of Bogatirov, he answered that he did not know on whose initiative they had left so early and added: „If you want to hear it concretely: There was no murder planned for this day, not at 4 am, not at 5 am, not at 8 am.“

Mag. Lorenz then questioned Dadaev on his contradicting statements relating to Kurmakaev's order. In a first statement, Dadaev said that Kurmakaev's order was simply to ask Israilov to hand over the money, but later he said that the order was to take the money from Israilov. Dadaev answered: „I don't see a difference in requesting him to give back the money and to take it. I don't want to make a secret out of the fact that it was foreseen that some pressure would be needed, but murder was never mentioned.“

The civil parties' lawyer asked what type of pressure was supposed to be used. Dadaev answered that it was planned to take the money from Israilov, but nothing was said about the way to do so. He added: „After repeated requests to give back the money without satisfactory answer I thought to blackmail him.“ (Nadja Lorenz: „How?“) Dadaev: „First verbally, to intimidate and frighten him. This did not function. On the 12th January, I told Bogatirov the whole thing, and then happened what happened.“ (Lorenz: „Is Bogatirov

involved in this blackmail?“) Dadaev: „Yes, of course.“ (,You said before that you did not know Bogatirov personally, but that you had heard about him. What did you hear?“) “I heard several times that he was working for someone as a killer. I wanted to use his name in order to apply pressure on a person. At the end it turned out that the two were old acquaintances, and that there had been in an old struggle.“

Lorenz asked next why Dadaev, who had his own agenda with Israilov, on the 13th January, gave Bogatirov a clear coast to act. Dadaev answered that when Bogatirov saw Israilov, he said that he would not leave. Dadaev then said to Bogatirov that this should stay a matter between Israilov and Bogatirov, before taking off. The prosecutor commented: „First you wait for several hours for Israilov to show. Then he comes and you say 'I am off then'?“ - Dadaev: „Yes.“

Dadaev's lawyer, Michael Schnarch, asked his client since when he knew that Alikhan's name was Umar Israilov. Dadaev answered that it was only when he spoke to him that he knew his first name was Umar; he knew his family name was Israilov only after the killing.

Reading of the minutes of the accused' separate questionings to all indicted persons

In accordance with a provision of the Austrian Penal Procedural Code, the judge read out the minutes of the separate questionings of the three indicted persons, and the Russian language interpreter translated it for the three accused. He started with Kaltenbrunner's statement in the morning (which took about one hour), and continued in the afternoon with Dadaev and Yeshurkaev's statements.