STATUTORY DECLARATION

I, ANAND DOOBAY of Peters and Peters, 15 Fetter Lane, London EC4A 1BW, United Kingdom, do solemnly and sincerely declare as follows:

1 I am a solicitor of the Supreme Court of England and Wales.

2 I was the solicitor instructed to act for Dmitry Maruev in the proceedings brought in Bow Street Magistrates' Court known as *The Government of the Russian Federation v Dmitry Maruev and Natalya Chernysheva* in which on 18 March 2005 Senior District Judge Workman gave the reasons for his decision refusing the request for the extradition of Mr Maruev and Ms Chernysheva in the form set out in the attached Exhibit AD1.

3 I was the solicitor instructed to act for Ramil Raisovich Bourganov and Alexander Gorbachev in the proceedings brought in Bow Street Magistrates' Court known as *The Government of the Russian Federation v Ramil Raisovich Bourganov and Alexander Gorbachev* in which on 17 August 2005 Senior District Judge Workman gave the reasons for his decision refusing the request for the extradition of Mr Bourganov and Mr Gorbachev in the form set out in the attached Exhibit AD2.

4 Bow Street Magistrates' Court no longer exists and the work of this Court has been transferred to the City of Westminster Magistrates' Court which now deals with all extradition cases in the United Kingdom.

5 On 18 June 2008 a member of my firm attended upon Simon Dulake of the International Office at the City of Westminster Magistrates' Court. Mr Dulake stamped AD1 and AD2 and certified both judgments as true copies of the Court originals.

6 My firm arranged for this statutory declaration and attached exhibits AD1 and AD2 to be translated into Russian by Kern UK Limited, New House, 67-68 Hatton Garden, London EC1N 8JY, United Kingdom.

7 And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1825

Declared at

this day of 2008

Before me,

A Commissioner for Oaths/A solicitor empowered to administer Oaths.

EXHIBIT AD1

IN THE BOW STREET MAGISTRATES COURT

BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION
-v- DMITRY MARUEV and NATALYA CHERNYSHEVA

The Russian Government seek the extradition of these two defendants in respect of conduct which had it occurred within the United Kingdom would have constituted the offences of conspiracy to defraud.

In Mr Maruev's case, it is said that between the 1st November 1997 and 25th December 1997 he conspired together with Natalya Chernysheva, Mikhail Khodorkovsky and others to defraud the Government of Russia.

Miss Chernysheva is similarly charged and in addition faces an allegation that between the 31st December 1993 and the 1st January 1995 conspired together with Mikhail Khordorkovsky and other persons to defraud the Property Foundation of Murmansk.

The proceedings are brought under the Extradition Act 2003 and the Government of Russia is a Category 2 Territory.

Both defendants object to the making of an extradition order on a number of grounds. They include objections under Section 81A and under Article 18 of the European Convention on Human Rights, alleging that the Prosecution in respect of each of them is politically motivated. In a similar and closely connected objection, they maintain under Section 81(b) that they will be prejudiced at their trial or punished or detained by reason of their political opinions.

The Extradition proceedings are challenged also on the grounds that it would now be unjust or oppressive to extradite them by virtue of the passage of time said to have occurred since the Extradition Offences are alleged to have been committed and that in any event the conduct alleged does not amount to an extradition crime.

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[signature] 18/6/08.

I have been provided with a very substantial amount of background material, a bound bundle of some 25 authorities and I have considered a number of expert reports. I have had the benefit of hearing evidence from Professor Bowring, Dr Gladyshev, Professor Pomorski, Professor Sakwa and Professor Chinokaev. All these witnesses gave evidence on behalf of the defendants and the Russian Government has indicated that they do not intend to call evidence in rebuttal.

Although the Extradition Act 2003 sets out a sequence of decisions that this court has to make, I am invited by both the Government and the Defence to give a ruling at this point in connection with the objection raised under Section 81, namely whether the charges to be preferred against these defendants are politically motivated and whether the defendants would be prejudiced at their trial because of their political opinions. I am satisfied that it is right to give this indication at this stage, although should there be any further representations or evidence I would feel obliged to review this decision in the light of any such evidence.

The Prosecution arises out of two separate but connected allegations. Both defendants are charged with the conspiracy to defraud the Government of the Russian Federation, which conspiracy has become known in these proceedings as the "Volgograd allegation". Miss Chernysheva is also charged with a conspiracy to defraud the Property Foundation of Murmansk, which conspiracy has become known as the Apatit allegation. The common feature to both these allegations is that the defendants were senior officials within the Yukos Company which was at the time a flourishing privatized Oil Company with very substantial reserves. The Chief Executive of the Company was Michael Khordorkovsky.

In 1994 Miss Chernysheva together with Mr Khordorkovsky and Mr Lebedev and other entered into an agreement to purchase 20% of the shares of a public company called Apatit. That shareholding would have given them control of the company. The agreement provided for the purchase of the shares at a substantially reduced value but with the additional undertaking and commitment to invest a very substantial amount of money in the Apatit Company. The tender was accepted and the shares transferred. From the evidence before me it is apparent that some of the investment took place but a substantial amount of the promised funds were not invested in Apatit. However, I am satisfied on the documentation presented to me

that there was no attempt to hide or disguise the finances of the company, and indeed the matter was the subject of civil proceedings, which were settled.

It was some 8 years later that it seems that President Putin became involved and I have seen a report prepared by the Prosecutor and dated April 2003 advising the President that there were no grounds for taking action. Despite that decision, a prosecution was launched 2 months later. I have not been advised of any new evidence that had come to light between April 2003 and June 2003, and I have reached the inevitable conclusion that President Putin directed that Miss Chernysheva and Mr Khordorkovsky should be prosecuted. Although this finding would amount to cogent evidence that the Prosecution was politically motivated, it could not be regarded as conclusive and it is necessary to examine the background to the events leading to the liquidation of the Yukos Company.

The case against the two defendants is that they were part of a group, which included Mr Khordorkovsky, who fraudulently obtained 76 billion roubles by means of fictitious agreements, causing loss to the Russian Government, or to the local Authority of Volgograd. Mr Eadie, on behalf of Mr Marugev, most expertly guided me through a complicated set of transactions, the essence of which was to establish that no loss had been sustained to the Russian Government because the appropriate sum had been paid by tax and that no loss had been sustained by Volgograd who had been paid by promissory notes and oil products to the same value. Although this issue may be relevant to consideration of whether the conduct amounts to an extradition offence, it is relevant at this stage because it is submitted on behalf of the Defence that the Russian Government has deliberately concealed certain facts which would otherwise have demonstrated that there was no offence committed. In doing so it is suggested that this omission is further evidence that the Prosecution is not in good faith and is politically motivated.

I am satisfied from the documentation that a full investigation was opened into the Volgograd matter in 1998 and that it concluded in March 1999 with a finding that no criminal offences had been committed.

In 2000 President Putin publicly announced his intention to "liquidate the Oligarchs as a class" but by the year 2003 Mikhail Khordorkovsky and his Yukos company had

become financially and politically influential. It was in the autumn of 2003 that the Russian Government demanded from Yukos sums of over 40 billion dollars by way of tax for the years 2000-2003 and, in 2004 having raised these assessments, immediately instructed the bailiffs to seize the assets of the company. The assets were then sold at a substantially reduced value to a company that was the sole bidder in an auction. That Company then sold the assets on to the Government. In October Mr Khordorkovsky was arrested. The offices of Yukos' lawyers were searched and other Yukos employees; in particular Mr Pichugin and Mr Lebedev were arrested. All were denied bail.

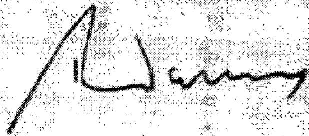
I am satisfied on the evidence of Professor Bowring and the evidence of Dr Gladyshev that Mr Khordorkovsky was seen as a powerful political opponent of Mr Putin. In view of the facts that I have outlined I am satisfied that it is more likely than not that the Prosecution of Mr Khordorkovsky is politically motivated. As the allegation against these defendants is on the basis of a conspiracy with Mr Khordorkovsky, in my view it is the inevitable conclusion that the Prosecution of these two defendants is also politically motivated.

I have then to consider whether they will be prejudiced at their trial by reason of their political opinions. Such a finding would give rise to a bar to extradition under Section 81(b). Professor Bowring gave clear and unequivocal evidence, stating that it was his view that the defendants "would most certainly not" receive a fair trial in Russia. I found support for his view in the two reports to the Council of Europe whose rapporteurs had been monitoring Russia's obligations. In 1996 Russia entered into a commitment to transfer the whole of the prison system to the Ministry of Justice. In 2002 the rapporteurs noted that certain Institutions, particularly the Lefortovo Prison had not been transferred to the Ministry of Justice and remained under the control of the FSB. In a report dated November 2004 the Legal Affairs and Human Rights Committee of the Council of Europe found that Mr Pichugin and Mr Lebedev were being detained in Lefortovo Prison. The Council of Europe found that lawyers had been prevented contact with their clients, denied access to courtrooms during the hearing and had had their offices searched and documents seized. I attach great weight to this report, which is demonstrably measured and objective.

Those findings have been corroborated by the evidence that I have heard from Professor Bowring, Professor Gladyshev and Professor Pomorski. Having reached those conclusions in relation to other Yukos employees who are subject to detention and trial, the overwhelming conclusion is that if these defendants were returned they would be highly likely to be treated in a similar manner, in breach of their human rights and with grave prejudice to the preparation of their defence.

I have heard a substantial amount of evidence about the concerns over the independence of the Judiciary, particularly in Moscow City. Professor Bowring gave evidence of his research into the attitudes of Judges and in particular of the existence of a no acquitals policy. I have noted also the concerns about the Judicial President of the Moscow City Court and the very strong influence that she brings to bear, which suggests that judicial independence has been substantially eroded. I have to bear in mind that the Federation of Russia is designated a Part II Territory and it must therefore be a presumption that the courts in Russia do exercise that judicial independence. However, in respect of this particular case, I am satisfied that it is so politically motivated that there is a substantial risk that the Judges of the Moscow City court would succumb to political interference in a way which would call into question their independence. I have therefore after very careful consideration come to the conclusion that a fair trial of these two defendants is likely to be prejudiced by their political opinions and the opinions of those associated with them.

On the basis of these findings and subject to any further representations or evidence, I am minded to hold that these extradition proceedings are barred by virtue of Section 81 of the Extradition Act 2003.



Tim Workman
Senior District Judge

18th March 2005

CONTINUED

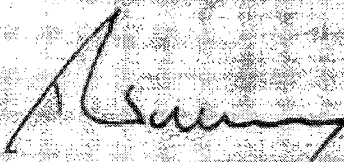
Having given the reasons for this decision I am now invited by all parties to proceed to the technical criteria contained in Section 78 Subsection 4.

I am satisfied that the defence have received all the documents required under Section 78 and that the defendants are the persons being sought by the Government of the Russian Federation.

I am satisfied that the allegations contained in the request are allegations which if proved would constitute crimes both here and in the Russian Federation and would therefore amount to extradition crimes.

For the reasons I have just given I am satisfied that extradition in this case is barred under Section 81 and under Section 79 in that the request for extradition is made for the purpose of prosecuting them on account of their political opinions and that they might be prejudiced at their trial by reason of those political opinions. As such there is a risk that if returned they would not receive a fair trial.

The application for extradition is therefore refused and the defendants are discharged.



Tim Workman
Senior District Judge

18th March 2005

EXHIBIT AD2

JUDGMENT

IN THE BOW STREET MAGISTRATES' COURT

THE GOVERNMENT OF THE RUSSIAN FEDERATION -v- RAMIL RAISOVICH BOURGANOV and ALEXANDER GORBACHEV

The Government of the Russian Federation seek the extradition of these two defendants on conduct which, had occurred in the United Kingdom, would have constituted the offensive of conspiracy to defraud and conspiracy to steal. The allegations arise out of proceedings connected with the Yukos oil company and Mikhail Khodorkovsky.

The proceedings are brought under the Extradition Act 2003 and the Government of the Russian Federation is a category 2 territory.

In this preliminary ruling I am invited to consider whether these proceedings should be stayed as an abuse of process of court.

The basis of the argument stems from the agreed fact that on the 18 April 2005 the Secretary of State for the Home Office granted each of the defendants asylum based upon a well founded fear of persecution in the Russian Federation.

The first issue is whether this court should entertain at this stage in the proceeding an argument on abuse of process. Mr Hardy on behalf the Government argues that the Extradition Act 2003 provides a statutory framework for the conduct of extradition proceedings and that the issue that has been raised should be considered at the appropriate stage of the proceedings when the court is considering bars against extradition. He submits that by following the statutory framework the court can properly deal with the issues that have been raised which would then give the court the authority to discharge the case were it to find in favour of the defendant. A successful abuse argument would result in the hearing being stayed. The defence have indicated that they would be content for the proceedings to be stayed.

Whilst I agree that the Act sets out a framework of sequential decisions I am satisfied that the framework does not prevent the court from exercising its inherent jurisdiction to entertain a submission that there is an abuse of process

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at any stage that appears to be appropriate. The abuse argument is mounted upon one agreed fact. It is therefore unnecessary for me to proceed through the framework before having sufficient information to rule upon the argument. I can see no purpose in delaying this decision until after all the other arguments have been advanced. Indeed the proceedings may be more expeditiously resolved with a substantial reduction in the costs. I am therefore entertaining the application at this stage.

The next issue is whether the argument comes within the limitations outlined in the case of Kashamu. I accept that there is a valid argument that those limitations have been reduced since the coming into force of the 2003 Act. However the nature of argument advanced in this case is such that when I apply the Kashamu principles it is clear that the abuse argument should be entertained.

The point is a short one: in the light of the agreed fact that both these defendants have been granted political asylum it is inevitable that extradition would not be granted. If such a conclusion is inevitable and obvious then the insistence of the Government to pursue these proceedings must be an abuse of the process of this court.

I have been referred to Article 3 of the 1951 Geneva Convention relating to the Status of Refugees and to Lord Bingham's judgement in the case of Roma Rights. I am satisfied that it would be unlawful for the United Kingdom to return a refugee to a state where the Secretary of State has determined that they have a well founded fear of persecution. Extradition therefore cannot be ordered in this case and I consider it would be an abuse of process for this case to continue any further. The proceedings against both defendants are therefore stayed.

TIM WORKMAN
Senior District Judge
Bow Street Magistrates' Court

17 August 2005