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Press Release
regarding judgment F-4866/2018 of 31 August 2020

Naturalisation rejected

The Swiss Federal Administrative Court confirms the decision by the State Secretariat for Migration to reject the ordinary naturalisation application of the son of an ex-minister of Kazakhstan. The reason for this is the existence of ongoing legal proceedings pending against him.

Ilyas Khrapunov has been living in Switzerland since 1998. He is the son of the ex-mayor of Almaty, who also held various ministerial positions, and the son-in-law of a notorious opponent to the Kazakh regime. The Kazakh regime accuses him of helping his parents laundering many millions of Swiss francs that were embezzled during his father's time in office. The State Secretariat for Migration (SEM) initially suspended the naturalisation application in 2006 and then rejected it in 2018, on the grounds that the applicant had not respected the Swiss legal order. Furthermore, it held the view that any approval of naturalisation in the applicant's favour would prejudice bilateral relations between Switzerland and Kazakhstan. Ilyas Khrapunov appealed against this decision to the Swiss Federal Administrative Court (FAC).

Ongoing legal proceedings
One of the conditions of naturalisation is compliance with Swiss and international legal orders, as long as offences committed abroad are also punishable in Switzerland. Consequently, naturalisation cannot in principle be granted if legal proceedings, particularly of a criminal nature, are pending against an applicant in Switzerland or abroad.

In this instance, a criminal proceeding is pending in Switzerland against the Khrapunov family for money laundering. In addition, numerous proceedings regarding the return of embezzled funds have been opened against the Khrapunov family in various locations around the world, particularly in the US and England. Based on an English judgment, debt enforcement proceedings were recently initiated against the appellant in Switzerland. However, the latter disputes the enforceability of this judgment.

Political persecution argument rejected
The appellant principally argues that, because of his family ties to individuals who previously held positions of power and who have publicly indicated their opposition to the current regime, the Kazakh authorities would have, without just

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cause, brought criminal proceedings and civil actions worldwide in order to harm him and his family.

In the FAC's view, although this argument does not appear to be at first glance completely without foundation, it is worth noting that some legal proceedings did (initially) result in findings against the appellant and that in light of a number of factual elements, the FAC is not at liberty to ignore proceedings which are still pending. For example, the appellant received several million dollars from his mother under circumstances that are unclear. In this context, it makes no difference that he submitted his application for naturalisation as far back as 2006. Given the information recorded on his Swiss criminal record and the criminal investigations which are currently pending, the SEM had the right to suspend naturalisation proceedings. Therefore, the FAC rejects the appeal of the appellant.

This judgment is final and may not be appealed to the Federal Supreme Court.

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About the Federal Administrative Court
Located in St. Gallen, the Federal Administrative Court (FAC) was established in 2007. With its staff of 355 employees (300.8 FTE) and its 74 judges (66.25 FTE) it is the largest federal court in Switzerland. The Federal Administrative Court has jurisdiction to hear appeals against decisions rendered by Swiss federal administrative authorities. In specific matters, the FAC may grant review on decisions rendered by cantonal authorities. Recourse actions are also reviewed by the Court. The FAC is composed of six divisions. It renders an average of 7,500 judgments every year.