

EXHIBIT G

(Translation)

31 bis

Black Case No. 3425-3426/2552

Ruling

Red Case No. 5581-5582/2553

In the Name of HM the King

Appeals Court

24 May 2010

Criminal Litigation

Between

Prosecutor, Office of Attorney General

Plaintiff

and

Viktor Bout or Boris or Viktor But or Viktor

Defendant

Budd or Viktor Bulakin or Vadim Markovich

Aminov

Re: The Extradition Act; the Thailand-US Extradition Act; unlawful detention

The Plaintiff appealed the Criminal Court's order and ruling dated 11 August 2009. The Appeals Court accepted it on 10 November 2009.

The Plaintiff charged that according to the Extradition Act between Thailand and the US, B.E 2533 (1990), an extradition between Thailand and the US must be carried out in accordance with the Extradition Treaty between

Thailand and the US. Article 2 thereof states that an offense shall be an extraditable offense for prosecution only if it is punishable under the laws of both Contracting Parties by imprisonment or other form of detention for a period of more than one year or by greater punishment. The US Government through the US Embassy in Thailand filed a formal extradition request through Diplomatic Note # 1514 dated 1 May 2008 to the Ministry of Foreign Affairs (MFA) requesting an extradition of the Defendant to face trial in the US. In this regard, the Thai government by MFA and Ministry of Interior (MOI) deemed appropriate and therefore asked the Plaintiff to proceed accordingly where the facts can be summarized as follows. The Defendant was allegedly collaborating with the “Fuerzas Armadas Revolucionarias de Colombia Ejercito del Pueblo” (FARC), which, according to the US Department of State, is a terrorist organization that relies upon violent means i.e. bombing, massacre, kidnapping and killing US citizens as well as attacking the US interests to prevent the US from intervening with cocaine distribution and sales. The Defendant has been indicated for:

- (1) Conspiring to kill others – between November 2007 and March 2008, the Defendant et al conspired to supply and accumulate weapons as well as to provide terrorist training to FARC to kill US citizens with a purpose to threaten or forcefully prevent the US from intervening with cocaine production and sales where the Defendant agreed to provide millions of US dollars worth of military-grade weapons to attack US nationals and properties in Colombia.

- (2) Conspiring to kill US officers and employees - between November 2007 and March 2008, the Defendant et al conspired to supply and accumulate weapons as well as provided terrorist training to FARC to kill US officers and their assistants who performed their duties or whose actions were due to their duties with a purpose to threaten or forcefully prevent the US from intervening with cocaine production and sales where the Defendant agreed to provide millions of US dollars worth of military-grade weapons to attack US officers.
- (3) Conspiring to acquire and use anti-aircraft missiles - between November 2007 and March 2008, the Defendant et al conspired to supply, deliver and train the use of military-grade weapons; namely, surface-to-air missiles and their spare parts and accessories to FARC for use against the US with a purpose to threaten or forcefully prevent the US from intervening with cocaine production and sales where the Defendant agreed to provide millions of US dollars worth of military-grade weapons to attack US citizens and properties in Colombia.

With regard to the three actions mentioned above, between 10 January 2008 and 6 March 2008, the Defendant et al discussed supplying air-to-surface missiles via phone calls, face-to-face meetings and e-mails for several times until 6 March 2008 when the Defendant was arrested in Thailand.

- (4) Conspiring to provide material support to a designated foreign terrorist organization – between November 2007 and March 2008, the Defendant et al supplied, delivered and trained the use of military-grade weapons to

FARC for use against the US with a purpose to threaten or forcefully prevent the US from intervening with cocaine production and sales where the Defendant agreed to provide millions of US dollars worth of weapons to attack US citizens and properties in Colombia.

The incidents took place in the Netherlands, Denmark, Russia, Romania and Columbia. The Defendant's actions are violating the US laws for conspiring to kill others, conspiring to kill US officers and employees, conspiring to provide and use anti-aircraft missiles and conspiring to provide material support to a foreign terrorist organization which is in violation of Title 18 of the United States Code, Sections 2332 (b) and 3238; Title 18, Sections 1114 and 1117 and 3238; Title 18, Sections 2332g (a) (1) (b) and 3238 and Title 18, Sections 2339(B) (a) (1), (d) (1) and 3228, with an imprisonment of more than one year or greater. This can be punishable according to the Thai laws in comparison with offences under the Criminal Code, Section 135/1 to Section 135/3. The case remains within its statute of limitation and it's not either a political or military offense. Besides, the US authorities indicted the Defendant under these offenses at the Southern District Court, which has issued an arrest warrant against him since 27 February 2008. The Defendant has not been indicted, judged or released for such offenses either in the US or Thailand. Nor has he been prosecuted in Thailand under the Extradition Act. As a result, it is an offense Thailand and the US may extradite the Defendant between each other. Subsequently, the Defendant was arrested on 9 April 2008. On the same day, the Plaintiff submitted a motion for a temporary detention. The Court of First Instance allowed two months' temporary detention of the Defendant from the day an order under Criminal Case, Black Case No. Jor 5/2551 requesting the Court to issue an order

under the Extradition Act, B.E 2472 (1929), Sections 3, 4, 6, 7, 8, 11, 12, 15 in accordance with the US-Thailand Extradition Treaty to detain the Defendant to stand trial in the US was issued.

The Defendant submitted and later amended his opposition that his case was a political case or specifically related to military; that the US wanted to extradite him in order to prosecute him in other cases aside from the case under which he was requested; that the Plaintiff's charge was ambiguous since there was no indication of time, date and place of incident enough for the Defendant to understand and therefore could fully defend himself. In addition, necessary evidence and a formal request was not presented to the Court within a deadline required by the Thai laws, international agreements, and covenants made under the Extradition Act, B.E 2472 (1929) and B.E 2533 (1990) as well as agreements under an extradition treaty between the requesting government and the requested country. The Defendant did not carry any name as the requesting government had notified the Court. Nor had he committed any offense. He had never been to the US or Colombia, either. If the Defendant is extradited, this will jeopardize a good relationship between countries concerned. This was not an extraditable case as claimed by the requesting country because both the requesting and requested countries did not have any sovereignty over Colombia and other countries mentioned as a place of incident in such a request. The Plaintiff's submission of the request failed to be in line with Section 11 of the Extradition Act, B.E 2472 (1929) as the extradition request was made although an investigation had not yet completed, which means there was not any investigation and therefore was against Section 120 of the Criminal Procedures Code. Besides, the Defendant's arrest at his hotel room in Sofitel

Hotel was not legal as the arrest took place in a private property, which required both arrest and search warrants. But when the Defendant was arrested, there was only an arrest warrant and not otherwise. The requesting country and Russia was hostile against each other politically and administratively. The US had never declared that Russia Federation or Russian nationals were terrorists or provided support to terrorism. All counts as charged by the Plaintiff took place outside the US, which means the US shall never have any authority to act upon the Defendant. The request shall be dismissed.

The Court of First Instance conducted a trial and ordered that the Plaintiff's request be dismissed and the Defendant be released within 72 hours from the time the order was read unless the Plaintiff expressed his intent to appeal within the timeframe.

The Plaintiff expressed his intention to appeal and subsequently appealed.

The Appeals Court looked over a case file. During the trial, the Plaintiff presented evidence that on 5 March 2008, Ministry of Foreign Affairs (MFA) issued a letter to Ministry of Interior (MOI) that the US Embassy in Thailand had requested a temporary detention of the Defendant, who was a Russian national, for extradition. This was according to MFA's letter, Exhibit Jor 8, dated 6 March 2008. MOI issued a letter to the Office of Attorney-General (OAG) requesting it to act according to the Extradition Act where the Court shall be requested to issue an arrest warrant against the Defendant according to Exhibit Jor 9. On 9 April 2008, the police arrested the Defendant. Prosecutors submitted a motion to temporarily detain him.

On 6 May 2008, MFA issued a letter to MOI requesting that the Defendant be extradited as seen in Exhibit Jor 10. MOI subsequently informed the OAG to act accordingly, according to Exhibit Jor 11. Mr. Robert Zachariasiewicz, a DEA agent, was the person who gathered evidence relating to the Defendant's weapon business from various sources around the world in a form of witnesses, documents and conversations. He found that the Defendant was the world's largest supplier of military-grade weapons i.e. missiles and rifles. The Defendant gathered cargo planes to transport weapons to conflicting zones around the world. He also provided weapons to terrorist organizations including FARC so one organization could fight against another or for one organization to fight against a legitimate government with a purpose to profit from such weapon business. FARC is a leftist organization in Colombia that has been fighting against the Colombia Government for several decades with a purpose to topple the democratically-elected government. FARC controls cocaine-growing areas and distributes 75% of cocaine around the world where incomes are channeled to support its fighting with the Colombia Government to protect its cocaine business. FARC commits various terrorist acts such as kidnapping, bombing, murder and others, which are considered criminal acts. Its actions are focused at US civilians. FARC has also been listed as a terrorist organization by the US Department of State for more than ten years. The Defendant knew that FARC was a terrorist organization and that it provided weapons to protect its cocaine business and to commit terrorism acts with a focus at the US interests and US nationals. The Defendant discussed with US Confidential Sources (CS), whom he believed were FARC officers. At an opening of a meeting, the Defendant expressed sympathy to the death of a senior FARC officer and said he was fed up with US helicopters flying around Columbia.

When the CS told the Defendant that rifles could not shoot at these helicopters, only surface-to-air missiles could; the Defendant said he was ready to immediately provide hundreds of such missiles. Although the Defendant knew that FARC would use such weapons to kill US nationals, he came to the meeting with FARC documents printed from the internet. These evidentiary witnesses were kept at Mr. Robert Zachariazewicz's office in Virginia, USA. In addition, there were evidentiary witnesses from court-approved wiretappings resulted from collaborations with Romania and Curacao police where phone conversations were recorded with a recorder given to the CS to record conversations between the CS and the Defendant. There were also CDs recording the Defendant's meetings, copies of e-mails between the Defendant and the CS and phone conversations conducted in Romania and Curacao. The Defendant's actions therefore are in violation of the US laws for conspiring to kill US nationals, conspiring to kill US officers, conspiring to provide weapons to kill US nationals in Colombia and conspiring to provide weapons to FARC for terrorism acts. In terms of Thai laws, these actions are under the Criminal Code, Section 135/1, 135/2 and 135/3.

The Defendant presented evidence that he had not committed any crime as alleged. The Defendant owned an air transport and construction business. He traveled to Thailand for pleasure where he planned to meet Mr. Navee, who would help him coordinate. The reason he was interested enough to come to Thailand was because Thailand and Russia had had a good relationship. The Defendant landed at Suvarnabhumi Airport on 6 March 2008 at around 9.00 hours. He reserved a room at Sofitel Hotel for seven days. The Defendant arrived at the hotel around 11.00-noon before checking in at Room No.

1420. Then, he called Mr. Andrew Smulian, who would take him to meet a foreign investor who had expressed an interest to buy aircraft. The meeting was to be convened at the hotel's meeting room that Mr. Smulian had rented the room from the hotel for two hours as Mr. Smulian was taking four foreigners to meet the Defendant. After 15 minutes into the meeting, six US government officers and three Thai men with weapons stormed into the meeting room and asked the Defendant to raise his arms before handcuffing him and informing that he was charged of terrorism according to the Criminal Code but without presenting any document to him. The Defendant was subsequently taken to his room to search for illegal items but only his personal belongings were found. The Defendant was later taken to the Crime Suppression Division (CSD). There, the US Government officers tried to convince the Defendant to travel to the US but to no avail. The Defendant also refused to say anything during an inquiry unless his lawyer and Russian Embassy representatives were present. On the following day, he was inquired but without US Government officers. The Defendant denied the allegation. On 8 March 2008, the Defendant was sent to the Court and detained at a prison. In September 2008, prosecutor decided not to prosecute the Defendant in this case, details of which are in a notice to release the Defendant, Exhibit Lor 14. On 9 April 2008, a US Government officer and an interpreter informed him a charge, which requested that the Defendant be extradited. The first case under which the Defendant was arrested was a terrorism case while the second case was an extradition case. However, he was arrested in the same case as laws in these two cases were related. The Defendant has been arrested in this case as a result of the Thai Court's arrest warrant issued in accordance with the Southern District of New York's arrest warrant dated 24 April 2008 and an arrest warrant dated 27 February

2008. Yet, in a case file, only the arrest warrant dated 24 April 2008 was found, which was after the Defendant had already been arrested in Thailand. The warrant therefore was issued after the Defendant had been arrested. The Defendant understood that the US wanted to accuse the Defendant in order to arrest him because at the time the arrest warrant was issued, the Defendant was still in Russia. If [the US] had wished to arrest the Defendant, it could have sent the warrant to arrest him in Russia but instead enforced it by arresting him in Thailand. The intention of arresting the Defendant here therefore was to create a conflict between the US and Russia and to prevent Thailand from having a flourishing relationship with Russia. The Defendant had never traveled to Colombia or the US. As for FARC which was a conflicting group in Colombia, the US had intervened by taking side with the Colombia Government. With regard to an allegation that the Defendant supplied weapons to FARC, that's not true, either, because the Defendant had never met or talked with any FARC representative. As for the US's allegation that the Defendant had committed a crime, why can't the US present evidence to Russia but instead sent it to Thailand 6-7 days before the Defendant's travel here although the Thai police, international affairs departments between Russia and the US had a good relationship between one another? In addition, the Defendant only owned one Russian passport according to Exhibit Lor 4. During the past two years, the Defendant traveled to Albania once or twice only as well as other countries as seen in the Russian Embassy's letter with translation, Exhibit Lor 15. With regard to the US Embassy's claim in its letter that the Defendant owned a UK passport, it was not the Defendant's passport since he had never had any nationality aside from Russian.

The Appeals Court, having considered the issue, found preliminary facts as follows. The Defendant is a Russian national. Thailand and the US has executed the US-Thailand Extradition Treaty, which, based on the Act on the US-Thailand Extradition Act, B.E 2533 (1990), requires that an extradition between Thailand and the US be carried out in accordance with the Treaty. Article 2 of the Treaty provides that: "An offense shall be an extraditable offense for prosecution or for the imposition of a penalty or detention order only if it is punishable under the laws of both Contracting Parties by imprisonment or other form of detention for a period of more than one year or by any greater punishment." Article 3 provides that "extradition shall not be granted when (a) the offense for which extradition is sought is a political offense; or (b) it is established that extradition is requested for political purposes; or (c) the offense for which extradition is sought is exclusively a military offense." Regarding this case, on 5 March 2008, MFA notified MOI in writing that the US Embassy had asked for a temporary detention of the Defendant for extradition purpose for his offenses to provide weapons to terrorist organizations. As the Defendant was subsequently arrested, MFA issued a letter dated 6 May 2008 to MOI in which it notified that the US Embassy in Thailand had issued a request to extradite the Defendant as the Defendant was a subject under a sealed indictment dated 27 February 2008 and a sealed indictment dated 24 April 2008 under which the US Southern District Court of New York, USA, issued an arrest warrant against the Defendant on a charge of conspiring to kill US nationals, which was in violation of Title 18 of the United States Code, Section 2332(B); conspiring to kill US officers and employees, which was in violation of Title 18, Sections 1114 and 1117; conspiring to acquire and use anti-aircraft missiles, which was in violation of Title 18, Sections 2332g; and conspiring

to provide supporting weapons to a terrorist organization, which was in violation of Title 18, Sections 2339(B). All the four charges are offenses with imprisonment of more than one year.

The Plaintiff filed a complaint in this case at the time the Extradition Act, B.E 2472 (1929) remained in effect. However, during the trial, the Extradition Act, B.E 2551 (2008) became effective. Section 33 of the Extradition Act, B.E 2551 (2008) provides that: "Extradition cases that prosecutors have already filed to the Court before or on the date this Act comes into force shall proceed according to provisions under the Extradition Act, B.E 2472 (1929) until all is completed." As such, this case has to be pursued according to the Extradition Act, B.E 2472 (1929). Section 17, paragraph 2 provides the Appeals Court's ruling authority as follows. "If there is any evidence as to the facts found by the lower Court to justify the order made, the Appeals Court has no power to interfere. The Appeals Court will only see that the lower Court has such evidence before it as to give it authority and jurisdiction to make the order and, for this purpose, [the Appeals Court] may review the evidence and consider arguments:

- (1) as to the nationality of the accused;
- (2) that the crime charged is not extraditable;
- (3) that the offence is of a political character; or that the request is in fact made with a view to punish the accused for a political offence;
or
- (4) that there is no evidence before the lower Court upon which such Court could exercise its discretion whether to make the order or not

The case therefore has to be decided based on the Plaintiff's very first appeal as to whether or not the charge is considered an extraditable offense. The Court is of the following opinions. According to the Extradition Treaty between Thailand and the US, Article 2 of the Treaty states that an offense shall be an extraditable offense for prosecution only if it is punishable under the laws of both Contracting Parties by imprisonment or other form of detention for a period of more than one year. In this case, the Plaintiff filed a charge and presented evidence that the Defendant has been indicted by the US Southern District Court of New York for four counts and the US Court has already issued an arrest warrant against the Defendant. The four counts are conspiring to kill US nationals, conspiring to kill US officers and employees, conspiring to acquire and use anti-aircraft missiles and conspiring to provide weapons to support a terrorist organization, all of which are offenses that carry an imprisonment of more than a year. The question in point is whether these offenses are punishable according to the Thai laws. To decide this matter, a comparison has to be made as to whether or not the charge is also deemed a criminal offense under the Thai laws. This is not to decide whether or not the Thai Court can punish the Defendant for his action. In this case, the four counts are in violation of the Thai Criminal Code, Section 135/1, 135/2 and 135/3, especially Section 135/1 (1), which concerns an action that may cause fatality with a purpose to threaten foreign governments to act or otherwise with a purpose to cause tremendous damage; and Section 135/2 (2), which concerns accumulation of weapons for terrorism purpose or offense committed as part of a terrorism plan. Section 135/3 meanwhile concerns punishment of those supporting crime committed under Section 135/1 and Section 135/2. The offenses are subject to an imprisonment of more than one year. Based on the allegation, although

the Defendant's action did not take place in the US, the Criminal Code of Thailand provides that offenses taken place outside Thailand can be punishable in the Kingdom as provided in Section 7 of the Criminal Code. Section 7 in fact also includes offenses in violation of Section 135/1, 135/2 and 135/3. The Thai Court therefore may punish offenders under such a charge who have committed their crime outside Thailand. As such, the offenses the Defendant has been charged of therefore are extraditable.

Next, there is a question that needs to be decided based on the Plaintiff's appeal as to whether or not the offenses that the Defendant is accused of are political. The Plaintiff by Mr. Robert Zachariasiewicz, a US DEA special agent, testified that the Defendant was one of the world's largest weapon dealers selling missiles and rifles. Based on evidence gathered by him, the Defendant was found collecting cargo planes and flew them to various conflicting areas around the world. The Defendant provided weapons for one organization to fight against another or for one organization to fight against a legitimate government to enjoy profits from weapon sales. Based on the witness's investigation, an organization that the Defendant had a contact with in order to sell weapons thereto was FARC, which is a leftist organization in Colombia. FARC has been fighting with the Colombia Government for several decades to topple the democratically-elected Colombian government. FARC sells 75 per cent of the world's cocaine where incomes from the cocaine are to support fighting against the Columbian Government to protect FARC's cocaine business and to fight against the government. FARC therefore committed several terrorist acts such as kidnapping, bombing and murdering. The US Department of State has listed FARC as a terrorist organization for more than ten years. The

organization also focuses at crimes against US nationals where it killed US citizens in Colombia. The Defendant has been indicted on four counts. Mr. Weerachai Palasai, Director-General of Department of Treaties and Legal Affairs, MFA, testified that from his Department's point of view, selling weapons had nothing to do with a political issue. The Defendant however testified that he had never been to the US or Colombia. FARC meanwhile was a conflicting group in Colombia. The US intervened by taking side with Colombia Government. The Court deems that in this regard, the Defendant is not a member of FARC, which acts against the Colombia Government. Besides, the Colombia Government is not a requesting country to extradite the Defendant in relation to FARC's actions, which will be considered a political offense, either. The Defendant is accused of conspiring to kill US nationals, US officers and employees as well as conspiring to acquire and use anti-aircraft missiles and to provide supporting weapons to the terrorist organization, which are considered criminal offenses in general and they are offenses of both the Requesting Country and the Requested Country. As a result, this is not a political offense whatsoever. As for the Court of First Instance's opinion that what the Defendant had done was to support political actions, the Appeals Court does not agree with the opinion. The Plaintiff's appeal in this case therefore is admissible.

The final issue that this Court needs to decide based on the Plaintiff's appeal is whether or not there is enough evidence to extradite the Defendant. In this regard, Mr. Robert Zachariasiewicz, the Plaintiff's witness, testified about a reason why the Defendant had been indicted at the Southern District Court of New York, USA, as described above. He also testified that he had been compiling evidence relating to the Defendant's military-grade weapon

business. Evidence came from the Defendant's own mouth that the Defendant knew that FARC was a terrorist organization and weapons were provided to protect FARC's cocaine business with a target at the US interests and US nationals. The witness was ready to reveal evidence and a memorandum the Defendant had done with the US confidential sources, whom he believed was FARC officers. The Defendant said that he was fed up with seeing US aircraft flying Colombia troops around Colombia. The CS said if American pilots died, Americans may leave Colombia but rifle could not do this job, only air-to-surface missile could. The Defendant responded by saying that he had hundreds of missiles immediately available for FARC. In addition, the witness testified that he had various types of information gathered from various countries such as witnesses and recorded conversations. Documents and evidence were kept at the witness's workplace in the US. A copy of the documents had been submitted to the DA Office in New York, prompting the New York DA to file a charge against the Defendant. In addition, Mr. Satawut Kulvanich, Diplomatic Officer, Level 6, of MFA, testified that MFA had submitted the US's request to extradite the Defendant together with required documents to the Office of Attorney-General as seen in Exhibit Jor 3 and Jor 4. The Court examined Exhibit Jor 4 and found that they were several documents relating to the Defendant's allegation such as the US Embassy in Thailand's diplomatic note; an indictment against the Defendant filed at the Southern District of New York, USA; a witness's affidavit to support a request to extradite the Defendant to the US and the District Court's arrest warrant, all of which were certified true and correct copy by relevant persons including the Southern District of New York's judge. These documents therefore are believed to be true documents. Together with the witness's testimony and

such evidence, it shall be considered that there is already enough evidence to order a detention of the Defendant for extradition purpose. As for the Defendant's denial during the trial that he had never sold weapons to FARC and that he had never committed any crime as accused, that's a matter to consider during a trial of a jurisdiction court in the US since the Extradition Act, B.E 2472 (1929) does not give any authority for the Thai Court to decide whether or not the Defendant violates a criminal law of a particular country. The Plaintiff's appeal in this case is also admissible. Based on these considerations, this case therefore is qualified for the Court to issue an order to detain the Defendant for extradition purpose according to the Extradition Act, B.E 2472 (1929), Section 12 and Section 15.

Meanwhile, during the trial at the Court of First Instance, the Defendant submitted a motion requesting the Court of the First Instance to issue an order that the Defendant's detention was unlawful according to the Criminal Procedures Code, Section 90. The Court of First Instance dismissed such motion. The Defendant later appealed by submitting a motion. The lower court however ordered that the Defendant submit a correct appeal within 15 days. Subsequently, the Defendant submitted a motion to withdraw his own appeal. The Court of First Instance ordered that the motion be forwarded to the Appeals Court instead. The Appellate Court considers the motion and deems that since the lower court did not issue any order to accept the Defendant's appeal, as a result, there is no need for the Appeals Court to issue an order regarding the Defendant's motion to withdraw his own appeal, either.

The ruling therefore is reversed. The Defendant shall be detained for extradition to the US. If he is not extradited within three months from the day the ruling is heard, he shall be released according to Section 15 of the Extradition Act, B.E 2472 (1929).

[Appeals Court's seal]

Mr. Amnaj Puangchompoo

Mr. Somkiat Tangsakul

Mr. Sunai Manomai-udom