

U.S. Department of Justice

United States Attorney Southern District of New York

The Silvia J. Mollo Building One Saint Andrew's Plaza New York, New York 10007

November 10, 2016

SMB

SUBMITTED BY HAND

Hon. Richard M. Berman
United States District Judge
Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

Re:

United States v. Reza Zarrab et

S2 15 Cr. 867 (RMB)

Dear Judge Berman:

Clerk to docket + file.

SO ORDERED

Richard M. Burnan

Regard M. Berman, U.S.D.J

Pursuant to the Court's Order dated November 10, 2016, the Government writes in opposition to the defendant's application for authorization to provide to the Ministry of Justice of the Republic of Turkey the affidavit in support of an application for a search warrant dated September 24, 2014 (the "September 2014 Affidavit"), which is covered by the protective order entered in this case on June 1, 2016 (the "Protective Order").

As the defendant himself notes, the Turkish Investigative Report is publicly available online. To the extent that the defendant believes it is necessary for the Turkish Ministry of Justice to opine on the validity of the Report, the Ministry of Justice can review the Report itself. By contrast, the Turkish Ministry of Justice has no ability to evaluate "how the U.S. government used the document," which is entirely a question of U.S. law and for the Court to decide. In addition, the Turkish government's present opinions about even the original Turkish Investigative Report are entirely irrelevant to the inquiry the defendant's motion puts before the Court, which concerns whether the affiant of the September 2014 Affidavit recklessly omitted information from that application. Nothing that the Turkish Ministry of Justice would opine now, in 2016, could possibly have been recklessly omitted from the September 2014 Affidavit, because it could not have been known to the affiant at the time.

In light of the lack of relevance of the Turkish Ministry of Justice's opinions about the September 2014 Affidavit to any question before the Court, the only purpose that could be served by providing it to the Turkish government is to further recent attempts to interfere in this prosecution by the Turkish government. The press has reported that in late September 2016, Turkish President Recep Tayyip Erdogan told Turkish journalists that he had raised the defendant's prosecution with U.S. Vice President Joseph Biden, requesting Zarrab's release from prison and accusing the prosecution of being based on unspecified "ulterior, motives." See, e.g., Ayla Jean

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Page 2

Yackley, Erdogan sees 'ulterior motives' in U.S. case against gold trader, Reuters (Sep. 25, 2016) (available at http://www.reuters.com/article/us-turkey-us-prosecution-idUSKCN11V0FR) ("Private broadcaster NTV quoted Erdogan as telling a group of reporters he had raised Zarrab's detention in talks with U.S. Vice President Joe Biden in New York last week. . . . Erdogan said he told Biden that Turkey's justice and economy ministries have investigated Zarrab and determined he was innocent, as had Iranian authorities. He added that he would not remain 'indifferent' to the detention of a Turkish national in the United States."). Erdogan also reportedly claimed to have accused the representatives of the U.S. Department of Justice involved in the case of having been "wined and dined" by followers of Turkish cleric Fetullah Gulen. Id.; see also Fikret Bila, Erdogan says he asked US VP Biden about arrest of Iranian-Turkish businessman Zarrab, Hurriyet Daily News (Sep. 25, 2016) (available at http://www.hurriyetdailynews.com/erdogan-says-he-asked-us-vp-biden-about-arrest-of-iranian-turkish-businessman-zarrab.aspx).

In addition, it is this Office's understanding that approximately two weeks ago, the Turkish Minister of Justice, Bekir Bozdag—the individual to whom the defense proposes to disclose the search warrant affidavit—met with U.S. Attorney General Loretta Lynch and, in that meeting, accused the Zarrab prosecution of being based on no evidence and asking for Zarrab to be released from custody in the U.S. and returned to Turkey.

Finally, given the basis for the Government's opposition to the defendant's application, the Government requests that this letter be maintained under seal.

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By:

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Cc: All counsel of record (by email)

¹ Though internal Turkish political disputes between Erdogan and his AKP Party and Gulen and his followers have repeatedly been raised in other contexts by the defense in this matter, those internal political disputes are entirely irrelevant to this prosecution. Morcover, Erdogan's claim that any member of the U.S. Attorney's Office involved in this prosecution has ever been hosted by or "wined and dined" by followers of Gulen are categorically false.