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Stuttgart,
Clerk of the Court
Regional Court
Clerk: [signature]

Stuttgart Regional Court
Fifth Large Criminal Court

In the name of the people

Judgment

Criminal case against

1. **Alexander Afanasyev** of Moscow, Russia
born there on 05/29/1966

Defense counsels:

Andreas Bender, Attorney at Law, 75172 Pforzheim
Hans-Christian Wolff, Attorney at Law, 70186 Stuttgart
Wolfram E. Ziegelmeier, Attorney at Law, 88069 Tettnang
Jörg-Matthias Wolff, Attorney at Law, 70186 Stuttgart
Hopfe, Attorney at Law, 70186 Stuttgart

2. **Oleg Riefert** of Stuttgart
born on 04/27/1960 in Moscow, Russia

Defense counsels:

Boris Müller, Attorney at Law, 70173 Stuttgart
Sebastian Siepmann, Attorney at Law, 70173 Stuttgart
Dr. Ulrich Sommer, Attorney at Law, 50668 Cologne
Stefan Hotoch, Attorney at Law, 70173 Stuttgart
Voggel, Attorney at Law, 70190 Stuttgart
Steffen Konstantinov, Attorney at Law, 71229 Leonberg

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3. **Alexander Lust** of Köngen
born on 09/27/1947 in Novokuznetsk, Russia

Defense counsels:

Dr. Markus Bessler, Attorney at Law, 70182 Stuttgart

Dr. Max Klinger, Attorney at Law, 73614 Schorndorf

Achim Wizemann, Attorney at Law, 70182 Stuttgart

4. **DOJ-CRM b(6), b(7)(C)** of Stuttgart
born on 03/05/1968 in Berdsk, Russia

Defense counsels:

Holger Bauer, Attorney at Law, 70178 Stuttgart

Markus Bündgens, Attorney at Law, 50668 Cologne

Dr. Martin Felsinger, Attorney at Law, 70180 Stuttgart

Gabriele Janssen, Attorney at Law, 50667 Cologne

Löffler, Attorney at Law, 70178 Stuttgart

for money-laundering *inter alia*.

In the period from October 16, 2007 to October 29, 2009, in a session with 134 hearing days, the Stuttgart Regional Court, Fifth Large Criminal Court, with the participation of:

District Court Judge Baisch	as presiding judge
District Court Judge Haussmann	as associate judge
District Court Judge Dr. Oberscheidt	as associate judge

Martina Hafner,	
Hedwig Häge	as lay assessors

Public Prosecutor - Group Leader - Dr. Wahl,
 Senior Public Prosecutor Ehrmann,
 Public Prosecutor Fahrion,
 Public Prosecutor Kuhn
 Office as representatives of the Public Prosecutor's

Bender, Attorney at Law,
 H.-C. Wolff, Attorney at Law,
 Ziegelmeier, Attorney at Law,
 J.-M. Wolff, Attorney at Law,
 Hopfe, Attorney at Law,
 as defense counsels of the accused
 Alexander Afanasyev

Boris Müller, Attorney at Law,
 Siepmann, Attorney at Law,
 Dr. Sommer, Attorney at Law,
 Holoch, Attorney at Law,
 Voggel, Attorney at Law,
 Konstantinov, Attorney at Law
 as defense counsels of the accused
 Oleg Riefert

Dr. Bessler, Attorney at Law,
 Dr. Klinger, Attorney at Law,
 Wizemann, Attorney at Law,
 as defense counsels of the accused
 Alexander Lust

Dr. Felsinger, Attorney at Law,
 Bauer, Attorney at Law,
 Janssen, Attorney at Law,
 Löffler, Attorney at Law,
 as defense counsels of the accused

DOJ-CRM b(6), b(7)(C)

Senior Judicial Clerk Beck,
Senior Judicial Clerk Schrenk,
Senior Judicial Clerk Steidle,
Senior Judicial Clerk Schassberger,
Paralegal Ferres,
Clerical Assistant Brecht as clerks of the court

S+L IBA GmbH
represented by the managing director
Alexander Lust as confiscation participant

have **decreed:**

The accused **Alexander Afanasyev** is sentenced for four cases of money-laundering,
in one case acting professionally, to a total term of imprisonment of

5 years and 6 months.

The accused **Oleg Riefert** is sentenced for three cases of money-laundering, to a total term of imprisonment of

4 years and 6 months.

The accused **Alexander Lust** is sentenced for money-laundering, to a term of imprisonment of

2 years and 6 months.

The accused **DOJ-CRM b(6), b(7)(C)** is sentenced for two cases of money-laundering, together with one case of smuggling, to a term of imprisonment of

2 years and 6 months.

The following items are confiscated:

From the defendant **Alexander Afanasyev**:

- credit balance in the account 1128067080, Landesbank Berlin (EUR 17,971)
- credit balance in the account 1128067000, Landesbank Berlin (EUR 25,273.79)
- credit balance in the account 9164017867, Landesbank Berlin (EUR 50,117)
- credit balance in the account 1128067001, Landesbank Berlin (EUR 33.91)

From the defendant **Oleg Riefert**:

- 1/2 co-ownership share in the property: land register of Hedelfingen, Stuttgart Local Court, page 118, ser. No. 9, parcel 3128/3, Kressbronner Str. 1, building and open space
- credit balance in the account 701312100, Commerzbank AG (EUR 166,271.23)
- credit balance from the securities account 70121200, Commerzbank AG (value on 06/18/2006: EUR 15,689,489)

From the defendant DOJ-CRM b(6), b(7)(C)

- 1/2 co-ownership share in the property: land register of Hedelfingen, Stuttgart Local Court, page 118, ser. No. 9, parcel 3128/3, Kressbronner Str. 1, building and open space

From **S & L IBA GmbH**:

- net proceeds from the distress sale of 06/19/2007 of DC 320 passenger vehicle for EUR 16,336.96
- credit balance in the account 0154143200, Dresdner Bank (EUR 470,975.33)
- the following properties:
 - a. Esslingen
 - land register of Esslingen, page 40655A, parcel No. 14197, Schelen, agricultural land
 - land register of Esslingen, page 45032, parcel no. 14197/1/6/7, Obertürkheimer Strasse, building and open space

- 1/3 co-ownership of property entered in the land register of Esslingen, page 45031, parcels no. 14197/4, Obertürkheimer Strasse, building and open space

b. Weil der Stadt:

- land register of Weil der Stadt, page 15853 inventory register no. 2, parcels 49/3, building and open space

c. Stuttgart-Rohr:

Land register of Rohr, page 1060, inventory register no. 1

- parcel 1221/8, building and open space
- co-ownership of 2/6 in parcel 1221/1, building and open space

d. Nersingen

- 1a.) Land register of Nersingen, page 2551 inventory register no. 8 parcels no. 242/23, Weissen Kreuz 11, building and open space
- 1b.) Land register of Nersingen, page 2551 inventory register no. 9 parcels no. 242/24, Weissen Kreuz 13, building and open space
- 1c.) Land register of Nersingen, page 2551 inventory register no. 10 parcels no. 242/25, Weissen Kreuz 15, building and open space
- 1d.) Land register of Nersingen, page 2551 inventory register no. 11 parcels no. 242/26, Weissen Kreuz 17, building and open space
- 1e.) Land register of Nersingen, page 2551 inventory register no. 12 parcels no. 242/27, Weissen Kreuz 19, building and open space
- 1f.) Land register of Nersingen, page 2551 inventory register no. 13 parcels no. 242/28, Weissen Kreuz 21, building and open space
- 1g.) Land register of Nersingen, page 2551 inventory register no. 18 parcels no. 242/33, Rebenweg 6, building and open space
- 1h.) Land register of Nersingen, page 2551 inventory register no. 17 parcels no. 242/32, Rebenweg 8, building and open space
- 1i.) Land register of Nersingen, page 2551 inventory register no. 16 parcels no. 242/31, Rebenweg 10, building and open space
- 1j.) Land register of Nersingen, page 2551 inventory register no. 15 parcels no. 242/30, Rebenweg 12, building and open space
- 1k.) Land register of Nersingen, page 2551 inventory register no. 14 parcels no. 242/29, Rebenweg 14, building and open space

- 1l.) Land register of Nersingen, page 2551 inventory register number 21 parcels number 242/35, Nähe Rebenweg 16, traffic area
- 1m.) Land register of Nersingen, page 2697 inventory register no. 1 parcels no. 242/7, Nähe Weizenweg, building and open space, 12/28 co-ownership
- 1n.) Land register of Nersingen, page 2551 inventory register no. 19 parcels no. 242/34, Rebenweg 4, building and open space.

The accused bear the cost of the proceeding.

List of regulations applied:

Accused Afanasyev: sec. 261.1.1, 2.5, 4 StGB [Criminal Code] (in the version of 08/30/2002) in conjunction with sec. 129b, 129 StGB, sec. 261.7 (the version of 08/30/2002), 74, 74a, 74c StGB, sec. 53 StGB

Accused Oleg Riefert: sec. 261.1.1, 2.5, 4 StGB [Criminal Code] (in the version of 08/30/2002) in conjunction with sec. 129b, 129 StGB, sec. 261.7 (the version of 08/30/2002), 74, 74a, 74c StGB, sec. 53 StGB

Accused Lust: sec. 261.1.1, 2.5, 4 StGB [Criminal Code] (in the version of 08/30/2002) in conjunction with sec. 129b, 129 StGB

Accused DOJ-CRM b(6), b(7)(C): sec. 261.1.1, 2.5, 4 StGB [Criminal Code] (in the version of 08/30/2002) in conjunction with sec. 129b, 129 StGB, sec. 92a.1.1 and 2.1 AuslG [Aliens Law], sec. 261.7 (the version of 08/30/2002), 74, 74a, 74c StGB, sec. 53 StGB

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REASONS:

I. (Introduction)

The accused **Alexander Afanasyev**, **Oleg Riefert** and **Alexander Lust**, as well as the separately prosecuted Alexander Schleppe, managed through the company S+L IBA GmbH money of the Russian criminal association Izmaylovskaya and invested it in Germany as money supposedly legally earned from Russian assets (Offense 1). The accused **Oleg** and [DOJ-CRM b(6), b(7)(C)] accepted such money from the accused Afanasyev, including for personal use (Offenses 2 and 3). The accused [DOJ-CRM b(6), b(7)(C)] received some of the payments in return for statements given to the Aliens Office of the city of Stuttgart against her better knowledge on her alleged marital relationship with the accused **Afanasyev**, by means of which a residence permit was obtained by deceit (Offense 4).

II. (Personal circumstances)

1. The accused Alexander Afanasyev

The 43-year-old accused **Alexander Afanasyev** is a Russian citizen. He has been married to the German citizen [DOJ-CRM b(6), b(7)(C)] since 1999.

He studied in Moscow and was formerly a weightlifter, a sport in which he was relatively successful.

He already applied for a residence permit in Berlin in 1994, which was granted to him; however, in 1998 circumstances became known by which the accused had made false statements when filing the application. In 2000 he once again applied for a residence permit from the city of Stuttgart in connection with family reunification with his wife, the accused [REDACTED], living in Stuttgart. It was granted to him and was last extended on August 26, 2003. In fact, however, at no time did he live with his wife in Stuttgart; instead, he continued to live in Moscow. There he had a companion with whom he had two children.

On January 25, 1994, the accused was seriously injured. In a shooting with Russian security forces in the street, the background of which could not be clarified further, he suffered a penetrating gunshot wound by a rifle, a bullet lodged in the area of the skull and brain with an entry hole in the right side and back of the head and a shot through the right neck area. He had to be hospitalized for 37 days. The accused thereafter suffered psychological problems for an extensive time and a post-traumatic epileptic illness. He had to undergo plastic surgery several times. The consequences of the incident are still evident today, in particular through a homonymous hemianopsia.

Since this experience the accused has been strongly religious in the Russian Orthodox faith. He provides considerable financial support to the Russian Orthodox church. He is a recognized and respected member of the church community, members of which submitted a petition to the Criminal Court calling for the accused to be released. He discusses all questions concerning him with the *batyushka* (Orthodox priest), whose advice he trusts and who he listens to. The accused is currently building a compound in Russia where he wants to move with friends and acquaintances after completing his sentence and live according to his religious beliefs.

The accused so far does not have a criminal record in Germany. There is also no certain knowledge of previous convictions of the accused from the Russian Federation.

The accused was arrested on August 18, 2006 based on the arrest warrant of the Stuttgart Local Court of August 17, 2006 and since then has been in pre-trial detention.

2. The accused Oleg Riefert

The 49-year-old Russian and German citizen **Oleg Riefert** was born in and grew up in Moscow under the name Oleg Premudrov. He there married the accused [REDACTED] in 1989. Their son [REDACTED] was born in 1990.

The couple moved to Germany in 1991 and took the family name of Riefert. Since then the family has lived in the greater Stuttgart area. The couple divorced in 1995 but continued to have a friendly relationship (also through their son). Over time, the accused Rieferts reestablished an intimate relationship and in 2004 together moved into a house on [REDACTED] in Stuttgart, where until their arrest in this case they cohabited.

Despite the relationship with the accused [REDACTED], in 2000 the accused married the Russian citizen Irina Artemova, who lives in Moscow. This was the partner of the accused Afanasyev mentioned above.

The accused first worked in Germany as a forklift driver, later as a masseur and doorman. In 1991 he was the victim of an attack in which he was struck several times over the head with a baseball bat. As a result he suffered a brain contusion and left

frontal depression fracture, multiple front sinus wall fractures, and a forehead compression and neural spine tear. He was pensioned for health reasons in 2002. At the time of his arrest in this case, however, he was once again classified as fit for gainful employment and held a responsible position at the company Irexx-Media.

The accused has no previous convictions.

The accused was arrested on August 18, 2006 based on the arrest warrant of the Stuttgart Local Court of August 17, 2006, and until the conclusion of the main trial he was in pre-trial detention. The arrest warrant was canceled on October 29, 2009.

3. The accused Alexander Lust

The accused **Alexander Lust** is 62 years old. He was born in Novokuznetsk, Siberia as the child of Volga German parents. After receiving his high school diploma in 1966 and completing his 2 1/2 years of military service, he studied law at a university in Moscow. His studies ended in 1973. The accused, who by then was married, then worked 17 years and five months as an investigative judge in the city of Novokuznetsk before leaving his job in 1990 and moving to Germany with his wife and their two sons (born in 1973 and 1975). The key consideration for the family's decision to come to Germany was that the oldest son would have been called up for the military if they stayed in Russia, which the parents wanted to avoid. In addition, the accused increasingly came into conflict with the government authorities. In the 1980s he was on the KGB blacklist and in 1988/1989 left the party.

After arriving in Germany, during a language course he became acquainted with the separately prosecuted Alexander Schleppe, with whom he maintained a friendly relationship thereafter.

After completing business training from 1992 to 1994, the accused founded an OHG [general partnership] that dealt primarily with the import and export of vehicles to and from Kuzbass, Siberia. According to the accused's statements, it had annual sales of DM 1.3 million.

When the accused wanted to end his OHG around 1998, the separately prosecuted Schleppe proposed a joint business project to him. With Schleppe, the accused became the second manager of Juros GmbH, which in 2000 was renamed S+L IBA GmbH headquartered in Wendlingen. It initially dealt mainly with coal deliveries from Siberia and then expanded its activity to sales of vehicles. For this purpose the accused and Alexander Schleppe maintained three car dealerships in Siberia. After 2003 S+L IBA GmbH engaged mainly in property transactions in Baden-Wuerttemberg.

As manager, the accused received a net salary of EUR 480.06 monthly. Together with Schleppe he also received about 100,000 Russian rubles from the car dealerships maintained in Russia, meaning that in total he earned about EUR 2,000.00 monthly, which was supplemented by his wife's net salary of EUR 2,100.00 monthly.

According to the Federal Central Register extract, the accused has no previous convictions. He has German and Russian citizenship.

The accused was arrested on August 18, 2006 based on the arrest warrant of the Stuttgart Local Court of August 17, 2006, and until his release on bail on April 18, 2008 he was in pre-trial detention. The arrest warrant was canceled on October 29, 2009.

4. The accused [DOJ-CRM b(6), b(7)(C)]

The 41-year-old [DOJ-CRM b(6), b(7)(C)] was born in Berdsk, Russia. She attended school in Russia and received a degree comparable to the German *Abitur* [high school diploma].

She then began studying law and worked as a bailiff. With her husband at that time, the accused Oleg Riefert, she moved to Germany in 1991. She took German citizenship. Following their divorce in 1995 she increasingly devoted herself to their son [REDACTED], to whom she is strongly attached. The accused in particular encouraged his talent in figure skating; he was the Baden-Wuerttemberg champion.

In 1999 the accused married the accused Alexander Afanasyev, who was living in Moscow. Before that she already had resumed the relationship with her ex-husband, the accused Oleg Riefert, and in 2004 moved with him into the jointly acquired property at Kressbronner Strasse 1.

The accused began studying law at Tübingen University in 1998, but left after six semesters. In 2005 she took a position as part-time employee in the office of the Russian honorary consul in Stuttgart. There she earned about EUR 1,400.00 net monthly. In addition, in the period from October 2001 to March 2006 the accused Alexander Afanasyev gave her DM 6,000.00 or EUR 3,027.00 monthly in return for the marriage entered into.

The accused has no previous convictions.

In this case she was arrested on August 18, 2006 based on the arrest warrant of the Stuttgart Local Court of August 17, 2006. She was subsequently accepted into the witness protection program together with her son. The arrest warrant against her was canceled on August 22, 2006. In February 2007, at her own wish she left the witness protection program and since then has again been living at the Kressbronner Strasse 1, Stuttgart address.

III. (Facts of the case)

1. The Izmaylovskaya

With the political fall of the Soviet Union, a power struggle over shares of the privatizing economic sectors, frequently accompanied by violence, took place in Russia in the early 1990s. Ambitious and venturesome businesspeople, today known as Russian oligarchs, frequently made use of organizations that guaranteed the (physical) protection of the new economic bosses but were also called in for the takeover of industrial sectors or companies. The methods used by the individual groups ranged from unjustified denunciation to criminal prosecution authorities to contract murder of unwanted business rivals.

The Izmaylovskaya is one of these organizations, which participated as a so-called "security force" in the battles over the privatization of the Russian economy and at that time laid the foundation stone for its current influence.

The group, now operating internationally, takes its name from the northeastern district of Moscow, Izmaylovo. It had already been founded there before the collapse of the Soviet system as a gang acting mainly as robbers, membership in which was strictly tied to having a residence in this district of the city.

Under the leadership of Anton Malevski, in the 1990s the group was primarily used in the area of privatization of the mining industry by the Russian businessman and industrial magnate Mikhael Chernoi as a so-called "security force." Additionally, it continued to act as a criminal gang in the Moscow district and organized attacks there. The rise of the Izmaylovskaya began at that time: it gained members and importance,

its management style became streamlined, and in the assessment of international investigative authorities it grew into Russia's most important and powerful criminal organization. Besides its job of preventing forceful takeover attempts by other organizations of Mikhael Chernoi and his partners by all means, including illegal ones, the Izmaylovskaya, acting in the background, became involved when attempts by Mikhael Chernoi or his partners, Iskander Makhmudov and Oleg Deripaska, to legally take over a company, or parts thereof, failed. As the violent and armed part of the consortium around Mikhael Chernoi, there were then threats to business rivals or their family members, false accusations to police authorities (a very popular means based on the Izmaylovskaya's close connections with the legal system and politicians), armed occupations of individual business premises by Izmaylovskaya fighters, and liquidation of opponents. The group frequently acted according to a graduated system in this sequence.

In the main proceeding, to convince the Court the following actions of the group can be singled out as examples:

- In 1994 or 1995 the then-leader of the mining combine Uralelektromed, Andre Kositsin, asked Chernoi and Makhmudov for help when there were differences of opinion among shareholders and he himself came under enormous pressure. Chernoi and Makhmudov turned to the Izmaylovskaya, which sent a special unit of 50 armed men to the Urals and restored calm there by forcefully occupying the company building, protecting Kositsin, and strengthening his position through their armed presence.
- Subsequently, at some time in either 1996 or 1998, there was a new conflict at Uralelektromed. Andre Kositsin no longer wanted to work with Chernoi and Makhmudov. He refused to make demanded copper deliveries. This time Chernoi and Makhmudov decided, together with Malevski, to liquidate Kositsin.

In a conversation between Makhmudov, Malevski and the other business partner Haydarov, the latter was brought in as an accessory and someone involved in the decision. He was to provide information about Kositsin's living habits and address. When he refused, Makhmudov and Malevski dropped their plans to murder Kositsin. Instead, Haydarov became deputy general director of Uralelektromed, meaning he was assigned to watch over Kositsin. Kositsin subsequently shifted to Makhmudov's side and came to an arrangement with him. To this day he works in the Makhmudov empire in a leading position.

- In 1998 or 1999 a dispute arose in the Izmaylovo district between the Izmaylovskaya and the owner of a gas station who was unwilling to accept the group's conditions. Armed fighters then went from the Izmaylov Hotel to forcefully take over the gas station. It is not certain whether there were actual violent acts or the owner yielded without further resistance due to the presence of the armed fighters.
- At the start of 2000, Makhmudov removed the previous general director of the Kachkarnaski GOK mine, Jalul Haydarov, and took it over. In the main hearing it ultimately could not be clarified to the Court's satisfaction whether and to what extent this takeover occurred legally or with the inclusion of the Izmaylovskaya. However, it is certain that Haydarov, who was not prepared to accept the takeover of the mine without a fight, at a meeting with Malevski was threatened with the words, "Today we are seeing each other for the last time." Haydarov took this threat so seriously that he left Russia and since then has lived abroad under police protection.
- The Izmaylovskaya was involved in the murder of several high-ranking people of the Russian economy because they stood in the group's way: Felix Lov, and Oleg Kantor and his deputy Vadim Yasarov.

- When the Russian citizen Tigran Kurshudov brought an important document to Russia for a business partner of Jalul Haydarov that confirmed the invalidity of a company takeover by Chernoi, he was attacked, abducted, and taken into the woods. He was there told he would now be killed and a weapon was held on him while he was forced to dig his own grave. He was then simply left standing there.

For its activity as armed branch in the privatization battle the Izmaylovskaya became wealthy, in individual cases rewarded with up to a 50% share of the value of the company taken over. The wealth obtained this way, estimated by international investigative authorities at several hundred million dollars, flowed into a war chest, the so-called *obschag*, and was and is available to the entire organization.

To this day, besides "wage payments" to its members the group has used the *obschag* money to commit new criminal acts, for example in the international narcotics and arms trade and illegal prostitution. The organization is active today in these areas, as it is in the field of extorting protection money and contract murders. Another significant part of the *obschag* has been and is put into legal economic circulation in countries with strong currencies, including Germany, with its origin concealed, with the goal of investing the money profitably. In this way the *obschag* fortune today is still systematically increased by criminal acts, and following the end of the privatization battles the Izmaylovskaya has not lost influence in the field of (international) crime.

The group currently has several thousand members, who are required to have a residence in Moscow. The members describe themselves as Izmaylovskiye; they are organized strictly hierarchically in brigades of 50 to 100 men with each one under a brigade leader. The area of activity of the individual brigades is clearly delimited; for example, there are brigades that engage solely in attacks in the Moscow city district while others are responsible for the international narcotics trafficking. Above the brigade

leaders, whose headquarters is the Izmaylov Hotel in the Moscow district of Izmaylovo, is a leadership level divided into individual business areas like administration of the *obschag*. The members of this level are described as criminal leaders. Last of all, at the top of the organization is a central leadership position that at the time of the privatization wars was held by Anton Malevski, nicknamed "Tosha." Following his death in 2001 under mysterious circumstances in a parachute accident (he was a trained paratrooper), the group has been led by [REDACTED] DOJ-CRM b(6), b(7)(C) [REDACTED]. They had already taken over the leadership of the group in Russia after Malevski went to ground in Israel. In the 1990s this leadership elite had its meeting point in the Metropol Hotel in Moscow.

2. The membership of the accused in the Izmaylovskaya

The Court was unable to determine to its satisfaction based on the main hearing that the accused **Afanasyev** was ever a member of the Izmaylovskaya. However, the accused **Afanasyev** has been and is very close to the group, acted for it, and was entrusted with carrying out mainly asset transactions and paid for doing so, like a freelancer who is not subject to internal leadership orders and not included in the internal structure.

The Court is convinced that the accused **Lust** and **Oleg** and [REDACTED] DOJ-CRM b(6), b(7)(C) were at no time members of the group either.

3. The personal relationships of the accused with each other

After the accused **Lust** moved to Germany in December 1990, he attended a language course. There he became acquainted with Alexander Schleppe, who is prosecuted elsewhere. In this case Schleppe had escaped the investigative authorities by fleeing. After completing a business training course the accused **Lust** founded an OHG [general

partnership] that dealt mainly in auto exports to Russia and imports of a wide variety of articles from there. When the accused **Lust** wanted to end his OHG in 1998, the fugitive accused Schleppe by chance approached him for other reasons. They agreed to lease office space together. Just a half year later the accused **Lust** and Schleppe merged their businesses into Juros GmbH, which later was renamed S+L IBA GmbH. Through Schleppe, the accused **Oleg Riefert** and **Alexander Lust** came to know each other sometime in 2000 that cannot be more precisely determined.

In his high school days in Moscow, the accused **Oleg Riefert** was friends with the accused **Afanasyev**. Both enrolled in sports courses. At this time the accused [REDACTED] had also become acquainted with **Alexander Afanasyev** as penniless students. However, the contact between the **Riefert** married couple and the accused **Afanasyev** later broke off and was only resumed at a New Year's Eve celebration of a shared acquaintance in Berlin in 1998. The accused **Oleg Riefert** had deliberately attended this celebration because financially he was doing poorly and he had learned that his former acquaintance **Afanasyev** had meanwhile become wealthy. Based on the old ties, **Oleg Riefert** and the accused [REDACTED], since then divorced from him, hoped for a financial contribution from **Alexander Afanasyev** to the business activities of the accused **Oleg Riefert** in Germany. To secure such support, in 1999 the accused [REDACTED] agreed to marry the accused **Afanasyev** to enable him to obtain a residence permit.

The accused **Oleg Riefert** ultimately arranged the business relationship between the accused **Afanasyev** and S+L IBA GmbH. Through him, the accused **Oleg Riefert**, came about the contact between **Alexander Lust** and **Alexander Afanasyev**, which related to purely business interests. At no time did a personal relationship develop between the accused **Lust** and **Afanasyev**. The two accused personally met a total of only four times.

4. The company S+L IBA GmbH

In 1999 the accused **Alexander Lust** and the fugitive **Alexander Schleppe** joined their business activities into Juros GmbH, in which the two had equal shares. The initial business areas of the GmbH were coal imports and auto exports to and from Russia. Its activities initially were limited to the southwest Siberian region of Kemerovo, also called Kuzbass. In that region the two business partners developed the company Kuzbass Euro Motors, with a head office in Novokuznetsk and a subsidiary in the town of Kemerovo.

In 2000 Juros GmbH was renamed S+L IBA GmbH. Equal partners were the accused **Lust** and Alexander Schleppe, with both acting as managing directors with right of sole representation.

S+L IBA GmbH made its first property purchase in 2001, although it only came about by chance. Following development with a five-family house and a duplex house, the property was resold at a profit. As of 2003 real estate was the focus of the GmbH's activity. In cooperation with the companies Sigma Haus and IFBUS Institut, S+L IBA GmbH bought divisible properties while representatives of the first two firms sought purchasers who are also interested in concluding a construction services agreement for the property. S+L IBA GmbH then sold the divided property to the interested parties, which in addition (independent of the GmbH managed by the accused **Lust** and Schleppe prosecuted elsewhere) concluded a construction services agreement with either IFBUS Institut or Sigma Haus. Due to bad business decisions (also by the business partners of S+L IBA GmbH), however, the property transactions engaged in were not as profitable as hoped.

In all, as of 2003 there were real estate transactions in the following amounts:

In 2003, as of March 20, 2003 S+L IBA GmbH acquired nine properties for a total of EUR 3,039,060.00 and sold 11 properties for a total of EUR 1,210,304.00. From March 8, 2004 to May 20, 2005 there were seven property purchases for EUR 3,952,480.00, of which one property purchase of EUR 1,163,480.00 was reversed after S+L IBA GmbH failed to meet its payment obligations, and 26 property sales for a total of EUR 1,446,675.00.

Likewise in 2003, S+L IBA GmbH began to engage in the vehicle business in the town of Staryi Oskol in the Russian region of Belgorod. The business partners Schleppe and **Lust** set up dealerships of the automobile brands Skoda and BMW there.

S+L IBA GmbH initially had its headquarters in Wendlingen, Albstrasse, later at Unterbohinger Str. 31. It was 98% outside financed by money provided by **Afanasyev**.

5. **Offense 1: Investments of the Izmaylovskaya in business dealings of S+L IBA GmbH**

(Participants: Alexander Afanasyev, Oleg Riefert, Alexander Lust)

In 2000 at the latest, the accused **Afanasyev** decided to direct into legal economic circulation in Germany money of the Izmaylovskaya group entrusted to him for a consideration for profit-making investment purposes, whereby he was aware that this money had been earned by a criminal organization through criminal offenses.

a) The origin of the monies

The accused **Afanasyev** has very close ties to the Izmaylovskaya, and in particular to its leadership level. He repeatedly had personal contact with the former leader Malevski, and also is a personal acquaintance of the current leader Sergei Aksyonov. Even if he is not subject to its internal structure, he is trusted by the Izmaylovskaya leadership level;

he was therefore assigned to put illegal money profitably into the legal economic cycle.

b) The alien laws, prior history

In 1994 already the accused had attempted to fraudulently obtain a right of residence for German territory. Using the excuse of family reunification with his mother who supposedly lived in Berlin, he applied for a residence permit to be granted, which was subsequently issued to him. Since at the time of the application he was unable to personally travel to Berlin due to his bullet wounds, the application was filed for him by a male person not identifiable but similar-looking to the accused **Afanasyev**, by presenting the passport and a passport photo of the accused and using his data with the Aliens Authority in Berlin. The accused subsequently used the residence permits granted to him for several stays in Berlin, where he opened various accounts with Berliner Bank. In 1998 the Aliens Authority noticed the deception carried out by the accused.

In order to again obtain a residence permit, in 1999 the accused **Afanasyev** married the accused **DOJ-CRM b(6), b(7)(C)** at the registry office in Moscow. From the beginning the two did not intend to live together in matrimony. Instead, the accused **Afanasyev** was to continue living in Moscow while the accused **DOJ-CRM b(6), b(7)(C)** would stay in Stuttgart. During his occasional stays in Germany the accused **Afanasyev** did not stay with his wife either, but in hotels in Stuttgart. The marriage served the purpose of procuring a residence permit for German territory, and therefore also for the other Schengen states, for the accused **Afanasyev**. This was issued to him on July 10, 2000.

c) Transfer of money to Germany

At about the same time as the granting of the residence permit, the accused **Afanasyev** began to transfer large sums of money of the Izmaylovskaya, usually through the Parex Bank in Latvia, to his personal account no. 8222283, opened at Commerzbank in Esslingen on July 24, 2000, or subaccounts associated with it.

There were the following transfers by August 29, 2002 (the 34th StrÄndG [Criminal Law Amendment Act] entered into effect on August 22, 2002):

Date	Amount	Client	Comments visible from the documents	Documents introduced in the main proceeding
09/26/00	\$250,000	Shelter Services	Payment from Latvia	F 2.1, 195, 196, 197, 198, 295
10/04/00	\$250,000	Shelter Services	Payment from Latvia	F 2.1, 199, 200, 201, 202, 296
10/11/00	\$250,000	Shelter Services	Payment from Latvia	F 2.1, 203, 204, 205, 206, 297
10/17/00	\$250,000	Shelter Services	Payment from Latvia	F 2.1, 207, 208, 209, 210, 298
10/10/01	\$49,500	Shelter Services	PMT by INV	F 2.1, 218, 219
10/10/01	\$50,500	Gran [sic] Dragon Development		F 2.1, 220, 221, 301
11/29/01	\$50,014.42	Panagold	PMT for Reality	F 2.1, 224, 225, 302
11/30/01	\$49,985.58	Panagold	PMT for Reality	F 2.1, 226, 227, 303
08/23/02	\$348,705.60	First Commerce LLC	For the goods Parex Bank	F 2.1, 118, 290

The following transactions took place as of August 30, 2002:

Date	Amount	Client	Comments visible from the documents	Documents introduced in the main proceeding
08/30/02	€335,423.44	First Commerce LLC	For the goods Parex Bank	F 2.1, 121, 120, 288
08/30/02	€315,870.96	First Commerce LLC	For the goods Parex Bank	F 2.1, 119, 289
10/24/03	\$187,462	Infobiz Trade Ltd.	For goods	F 2.1, 81, 123, 292
10/27/03	\$215,418	Infobiz Trade Ltd.	For goods	F 2.1, 81, 125, 292
10/28/03	\$97,120	Infobiz Trade Ltd.	For goods	F 2.1, 81, 127, 293
04/22/04	100,000	Sommerlyn Conslt.	Loan agr.	F 2.1, 87, 131, 294
07/14/04	\$5,000,000	Sommerlyn Conslt.	For legal services PMT by loan	F 2.1, 190, 229, 231, 232, 304

d) The preparation of the relationship with S+L IBA GmbH

In the search for a suitable possibility for putting the Izmaylovskaya money into economic circulation, the accused **Oleg Riefert** had directed his friend **Afanasyev** to the company S+L IBA GmbH of his acquaintance Schleppe. Therefore, in September 2000 came the first business contact between the accused **Lust**, as representative of S+L IBA GmbH, and the accused **Afanasyev** in the latter's office at the hotel Izmaylov in Moscow. The accused **Lust** presented the plans for the purchase of a coal mine in Russia. The accused **Afanasyev**, however, was not interested in investing the Izmaylovskaya money in Russian territory. Instead, he had in mind having the money go to a so-called hard-currency country and there into a fast-moving sector, and therefore declined the project presented by the accused **Lust**.

e) The investment agreement

For the business of S+L IBA GmbH conducted in German territory the accused **Afanasyev**, **Lust** and **Oleg Riefert**, as well as the fugitive Alexander Schleppe, subsequently agreed that initially the accused **Afanasyev** should be provided money for this as security for credits of German banks. In return, an annual yield of 10% was agreed on between S+L IBA GmbH and the accused **Afanasyev**.

f) Subjective facts of the case

The accused **Afanasyev** and **Oleg Riefert** were aware that the money to be invested in the GmbH was assets of the Russian criminal group Izmaylovskaya that had been obtained by members of this organization through crimes. Whereas the accused **Afanasyev** sought to introduce the money into legal economic circulation while concealing its origin, the accused **Oleg Riefert's** intent was first of all to obtain financial benefits for himself through the crimes knowingly carried out by him. The accused **Lust** at least approvingly tolerated the origin of the money and the structure and area of activity of the Izmaylovskaya.

g) The supervisory function of Oleg Riefert

Since the accused **Afanasyev** only stayed in Stuttgart rarely and therefore was not able to oversee the business of S+L IBA GmbH and the use of the money entrusted to him for investment purposes by members of the Izmaylovskaya, he assigned the accused **Oleg Riefert**, whom he trusted based on the years of friendship between them, with this task, which the accused **Riefert** was supposed to perform independently. **Oleg Riefert** exercised the position given to him like a governor. Outwardly he had nothing to do with S+L IBA GmbH, nor was he continuously informed of everyday business issues. Instead, his job was to function as the connecting link between **Afanasyev**, staying in Russia, and the business partners **Lust** and Schleppe. As such, he was to inform **Lust** and Schleppe promptly of the use of the money made available. Without consultation with **Afanasyev**, he decided on the planned use of the money. For this purpose the accused **Afanasyev** had left behind blank signed transfer orders for his account with which the accused **Oleg Riefert** (in the absence of his friend) could handle the financial interests. In this regard he issued **Lust** and Schleppe instructions and gave them guidelines on how to act with **Afanasyev** and what they had to communicate to him. He regularly informed the accused **Afanasyev** about business developments, and for this purpose repeatedly stayed in Moscow for several months.

h) The pledging / transfer of money for the benefit of S+L IBA GmbH

In accordance with the agreement reached, the accused **Afanasyev** transferred the bulk of the Izmaylovskaya money transferred to Germany to a deposit account with Commerzbank in Esslingen, with which the credit line of S+L IBA GmbH with this bank was then secured by pledging the deposit balance.

This credit line ran as follows:

to August 29, 2002

After the granting of a loan secured by the assets transferred to the account of the accused **Afanasyev** had already occurred in 2000, on January 14, 2002 S+L IBA GmbH took out another loan with Commerzbank Esslingen for €700,000 (loan account 911701100). This loan was secured in the amount of €60,000 by the credit balance in the account 9117011 (S+L IBA GmbH money market fund and fixed-term deposit) and in the amount of €650,000 by the credit balance in the account 8222283 deposit of **Afanasyev**.

as of August 30, 2002

On October 10, 2002 S+L IBA GmbH replaced the previous credits with a credit with Commerzbank Esslingen in the amount of €2 million (loan account 911701100). This credit was made possible by pledging the credit balance and deposit in the account 8222283 of **Afanasyev**.

On January 9, 2004 S+L IBA GmbH replaced the previous credits with a credit with Commerzbank Esslingen through the loan accounts 911701100 and 915105100 in the amount of €3 million. This total credit was secured by pledging the credit balance and deposit in the account 8222283 of **Afanasyev**.

S+L IBA GmbH exhausted the credit line granted to it in each case.

On August 17, 2004 and November 2, 2004, the accused **Afanasyev** once again transferred US \$4 million and €1.4 million of the Izmaylovskaya assets from his accounts identified above with Commerzbank Esslingen to S+L IBA GmbH. This money flowed directly into the GmbH's business operations.

In February 2006 Commerzbank, having learned of the investigation against the accused, terminated the accounts of S+L IBA GmbH

and the accused **Afanasyev**. Both subsequently opened accounts with Dresdner Bank Kirchheim/Teck.

i) The use of the money by S+L IBA GmbH

With the money provided, from 2003 to 2005 S+L IBA GmbH acquired the property described above for some €7 million, of which it resold €2.65 million worth. In addition, the accused Lust and the otherwise prosecuted Schleppe, contrary to agreement and without the knowledge and approval of **Afanasyev**, made money available in the form of loans to the car dealerships operated by them in Kuzbass and Staryi Oskol as well as the company Irexx-Media. Together with the accused **Oleg Riefert**, who was informed of the loans granted and approved them (even initiating them with respect to Irexx-Media), they kept these payments secret from the accused **Afanasyev**.

Specifically, the following payments were made in the framework of the loans granted:

Date	Amount	Beneficiary	Comments visible from the documents	Documents introduced in the main proceeding
05/10/01	DM 380,000	Kuzbass-Euro-Motors	Loan contract of 03/15/01	F 4.2, 321, 322
06/21/01	DM 169,512.46	Kuzbass-Euro-Motors	Loan contract of 06/15/01	F 4.1, 326
07/24/01	\$20,000	EVROTOGSTROI Novokuznetsk	Loan contract of 06/15/01, repayment by 08/30/01	F 4.2, 201
11/14/02	€62,417,923	Kuzbass-Euro-Motors	Target loan contract of 11/12/02 for purchase of the VW cars	F 4.1, 396, 397
12/05/02	€57,196,732	Kuzbass-Euro-Motors	Target loan contract of 12/05/02 for purchase of VW cars	F 4.1, 401, 402
01/11/03	RU 5,200,000	Kuzbass-Euro-Motors	Target loan contract of 01/06/03 for purchase of VW cars	F 4.1, 421
01/29/03	€20,000	Irex Media	Loan contract No. 5	F 4.1, 417

02/12/03	€20,000	Irex Media	Loan contract No. 020306	F 4.1, 424
03/06/03	€20,000	Irex Media	Loan contract No. 6	F 4.1, 429
03/31/03	€20,000	Irex Media	Loan contract	F 4.1, 436
04/25/03	€72,971.40	SAO Advantage Techcenter	Target loan contract of 04/23/03	F 4.1, 442
05/06/03	€71,715.43	SAO Advantage Techcenter	Target loan contract of 01/23/03	F 4.1, 445
05/06/03	€20,000	Irex Media	Loan contract No. 0203.08 [sic]	F 4.1, 446
06/27/03	€20,000	Irex Media	Loan contract No. 020308	F 4.1, 452
07/22/03	€20,000	Irex Media	Loan contract No. 020308	F 4.1, 458
03/05/04	€10,000	Irex Media	Loan contract No. 020312	F 4.1, 483
04/26/04	€10,000	Irex Media	Loan contract No. 020309 of April 26, 2004	F 4.1, 490
05/07/04	€5,000	Irex Media	Contract No. 0705/04	F 4.1, 495
06/17/04	€10,000	Irex Media	Contract No. 1706/04	F 4.1, 502
07/13/04	€7,000	Irex Media	Contract No. 12.07/04	F 4.1, 504
07/30/04	€7,500	Irex Media	Contract No. 12.07/04	F 4.1, 516
08/27/04	€10,000	Irex Media	Contract No. 12.07/04	F 4.1, 518
09/24/04	€163,84.38 [sic]	Avantage	Investments in BMW car dealership	F 4.1, 525
09/29/04	€10,000	Irex Media	Contract No. 12.07.04	F 4.1, 531
09/30/04	€100,000	Avantage	Investments in BMW car dealership	F 4.1, 528, 529
10/08/04	€12,000	Irex Media	Contract of 10/08/04	F 4.1, 536
11/08/04	€100,000	Avantage	Investments in BMW car dealership	F 4.1, 541

This money was properly repaid.

j) The interests of the participating parties

Except for the paid manager salary of €480.06 net per month and the monthly payments from the car dealerships maintained in Russia and financed with the

Izmaylovskaya money, the accused **Lust** and the separately prosecuted Schleppe did not collect the money directly for themselves personally. The accused **Oleg Riefert** did not directly enrich himself with the money made available either. Instead, all three wanted to use the incriminated money to build S+L IBA GmbH and the car dealerships operated in Russia into successful companies and through this business success achieve prosperity and therefore sufficient security for their old age. The accused **Oleg Riefert**, although not an official representative or shareholder in S+L IBA GmbH, also wanted to participate in this. Furthermore, the accused **Oleg Riefert** wanted to secure the goodwill of **Afanasyev** and the Izmaylovskaya in order to obtain financial support for himself personally. In addition, he wanted to protect Irexx Media, in which he had a responsible participation, through the granting of loans in order to obtain a source of revenue in this way.

The accused **Afanasyev** also wanted to secure the further goodwill of the Izmaylovskaya, and therefore financial support, through a successful investment.

The accused **Alexander Afanasyev**, **Oleg Riefert** and **Alexander Lust** therefore wanted to obtain a source of income of a certain duration and scale through the investments repeatedly made.

k) The business failure

Despite the extensive and repeatedly increased investments, however, S+L IBA GmbH was subsequently unable to realize sufficient profits. In the first year of the agreement already it was not possible for it to pay the agreed commission of 10%. It was only able to make a partial payment of US\$7,410.30 (February 21, 2001) and US\$27,289.15 (November 19, 2001). For protection, and to create safety for the accused **Afanasyev**, in 2002 he was granted a minority stake in S+L IBA GmbH: 30% of the GmbH shares were transferred to him by a notary.

But in succeeding years the commission payments were completely absent. Therefore, as of 2005 the accused **Afanasyev** increasingly came under pressure from the Izmaylovskaya, which was now demanding an accounting of the proceeds from the money made available for investment purposes. He had to increasingly appear before the leadership of the group and provide explanations. In numerous phone calls and personal conversations, the accused **Afanasyev** informed the accused **Oleg Riefert** of the pressure on him, making clear that he (**Oleg Riefert**) alone was responsible for the success of the investment of the money in Germany and saying that as his local agent he bears full responsibility and must now assure a payment of the agreed commissions. The accused **Oleg Riefert** subsequently discussed further actions multiple times with **Lust** and **Schleppe**. It was examined whether there was a possibility to settle the outstanding payments, but further delaying tactics under the overall control of **Oleg Riefert** were also considered. To obtain a delay and avoid punishment measures, in 2005 S+L IBA GmbH made the following payments:

Date	Amount	Beneficiary	Comments visible from the documents	Documents introduced in the main proceeding
08/16/05	€3,000	Afanasyev	Loan repayment	F 4, 325
10/21/05	€35,000	Afanasyev	Loan repayment	F 4, 337
10/21/05	€15,000	Afanasyev	Loan repayment	F 4, 337
12/13/05	€30,000	A. Zhamnov		F 4, 168, 345, 346

Finally, to secure the protected assets it was agreed in 2006 to issue the accused **Afanasyev** a debt acknowledgment in the amount of €4,827,128. The accused **Afanasyev** was to be persuaded that these were merely temporary difficulties resulting from the fact that all of the GmbH's money was frozen in property.

However, there was no conclusive resolution of the problem since the accused **Afanasyev, Oleg Riefert** and **Lust** were finally arrested on August 18, 2006 and the accused Schleppe has since been on the run.

6. Offense 2: payments for the benefit of the accused Oleg Riefert

(Participants: Alexander Afanasyev, Oleg Riefert)

From 2001 to April 2004, as compensation for his activity to protect the investments of the money in Germany from the (as the accused was aware) assets of the Izmaylovskaya, the accused **Oleg Riefert** received through the accused **Afanasyev** the following payments for his personal use:

(as of August 29, 2002)

Date	Amount	Recipient	Comments visible from the documents	Documents introduced in the main proceeding
11/23/01	DM 26,000	Cash payment	Signature: Riefert	F 9, 79, 121
05/14/02	€5,000	Payment	Signature: Riefert	F 9, 53

(as of August 30, 2002)

Date	Amount	Recipient	Comments visible from the documents	Documents introduced in the main proceeding
03/12/03	€10,000	Cash payment	Signature: Riefert	F 9, 62
04/10/03	€4,000	Payment		F 9, 56
04/11/03	€135,000	O. Riefert	Signature: Riefert	F 9, 63, 143
07/15/03	€20,000	O. Riefert	Signature: Riefert	F 9, 64, 144
10/24/03	€21,000	Cash payment	Signature: Riefert	F 9, 62
02/20/04	€32,200	O. Riefert	Liabilities	F 9, 70, 148, 149
04/15/04	€4,400	O. Riefert	Transfer	F 9, 67, 150

In all, in the period from August 30, 2002 relevant under criminal law a sum of €226,600 was entered into legal economic circulation with knowledge of its criminal origin by the accused **Afanasyev** and **Oleg Riefert**. For concealment, the payments were made

not directly from the account of **Afanasyev** to the account of **Oleg Riefert**. Instead, the accused used another account in which the money was "temporarily parked." This account was opened at Volksbank Nürtingen (account No. 506 589 005) on December 12, 2000 by a brother-in-law of the fugitive accused Schleppe by the name of Andru Anghelov, without this person himself ever having used this account at any time. Instead, from the beginning it served merely to conceal the origin of the payments to the accused **Oleg Riefert**. He was accordingly granted full authority for the account.

Overall, through the receipt of the payments the accused **Oleg Riefert** with the offenses 1 and 3 wanted to obtain a source of income of a certain duration and a certain amount.

7. **Offense 3: The acquisition of the Kressbronner Str. 1 property**
(Participants: Alexander Afanasyev, Oleg Riefert, DOJ-CRM b(6), b(7)(C))

In November 2004 the accused DOJ-CRM b(6) and **Oleg Riefert** acquired from Dr. Erlinger and his wife the Kressbronner Strasse 1 property in Stuttgart-Hedelfingen for €800,000 as co-owners in equal parts. As all participants were aware, the purchase price was paid from the assets of the Izmaylovskaya through the accused **Afanasyev** (transfer of November 4, 2004 to the account of Oleg Riefert at Commerzbank Esslingen, account No. 701 312 100). All three accused were aware that in this way they were directing into legal economic circulation money that had been obtained by members of a criminal group through crimes. The financing occurred against the background of the work of the accused **Oleg Riefert** to protect the money invested in S+L IBA GmbH. This financing assistance went to the accused DOJ-CRM b(6), b(7)(C) as thanks for her willingness to marry the accused **Afanasyev**, by which a close confidant of the Izmaylovskaya

became able to travel to Europe much more easily and was able to create a family- and residence-related legend to deceive the banks.

Overall, with the offenses 1 and 2 (**Oleg Riefert**) and overall with the offense 4 [REDACTED] [REDACTED] the accused **Oleg** and [REDACTED] wanted to obtain a source of income of a certain duration and a certain amount.

8. Offense 4: Payments as remuneration for the Afanasyev/Riefert marriage
(Participants: Alexander Afanasyev, [REDACTED])

a) Prior history

After the accused **Alexander Afanasyev** and [REDACTED] married on July 28, 1999 for the sole purpose of acquiring a residence permit for the accused **Afanasyev**, on July 10, 2000 the former applied for issuance of a residence permit with the Aliens Authority in Stuttgart. On July 10, 2000, as part of this the accused [REDACTED] assured the Aliens Authority against her better judgment that she was living in matrimony with the accused **Afanasyev**. In fact, at no time was she living in a marital relationship with the accused. Instead, he was staying in Moscow with his companion while the accused [REDACTED] was conducting a relationship in Stuttgart with the accused **Oleg Riefert**.

The accused subsequently repeated a statement to this effect to the Aliens Authority on August 27, 2001. Based on these statements, the accused **Afanasyev** had a residence permit granted and extended. However, in this regard the offenses are not the subject of the indictment.

b) The offense charged

Also on August 26, 2003, the accused [REDACTED] gave the Stuttgart Aliens Authority a corresponding statement on the marital relationship with the accused **Afanasyev** against her better judgment.

Based on this statement, **Afanasyev's** residence permit was extended to August 25, 2006.

c) The payments made

As compensation for their incorrect statements to the Aliens Authority the accused **DOJ-CRM b(6), b(7)(C)** (as the participants were aware) was paid from the assets of the Izmaylovskaya, which was interested in an easier travel possibility for its confidant **Afanasyev** and in a corresponding family- and residence-related legend to avoid further investigations of the banks related to the source of the money - an initial DM 6,000 monthly, later €3,027. As with the transfers in favor of the accused **Oleg Riefert** (offense 2), these payments also went through the accused **Afanasyev**. The monthly sums were likewise initially paid from the account of Andru Anghelov mentioned above to the account of **DOJ-CRM b(6), b(7)(C)** with the Landesgirokasse. However, after the accused **Oleg Riefert** had concerns that such an action (the wife of the accused **Afanasyev** receiving monthly payments from another man) could arouse suspicion, as of December 2001 the amounts were transferred directly from the account of **Afanasyev** at Commerzbank Esslingen to the account of **DOJ-CRM b(6), b(7)(C)** likewise at the Commerzbank Esslingen.

Specifically, the following entries in the accounts of the accused **DOJ-CRM b(6), b(7)(C)** can be verified to persuade the Court; payments after November 28, 2005 are no longer covered by the indictment:

Date	Amount	Client	Comments visible from the documents	Documents introduced in the main proceeding
11/28/01	DM 6,000	Anghelov		F 5, 308
12/28/01	DM 6,000	Afanasyev	Standing order, support	F 5, 315
01/28/02	€3,067.75	Afanasyev	Standing order, support	F 5, 325
02/28/02	€3,067.75	Afanasyev	Standing order, support	F 5, 328

03/28/02	€3,067.75	Afanasyev	Standing order, support	F 5, 332
04/29/02	€3,067.75	Afanasyev	Standing order, support	F 5, 338
05/28/02	€3,067.75	Afanasyev	Standing order, support	F 5, 344
07/01/02	€3,067.75	Afanasyev	Standing order, support	F 5, 351
07/29/02	€3,067.75	Afanasyev	Standing order, support	F 5, 355
08/28/02	€3,067.75	Afanasyev	Standing order, support	F 5, 362
09/30/02	€3,067.75	Afanasyev	Standing order, support	F 5, 369
10/28/02	€3,067.75	Afanasyev	Standing order, support	F 5, 376
11/28/02	€3,067.75	Afanasyev	Standing order, support	F 5, 381
12/30/02	€3,067.75	Afanasyev	Standing order, support	F 5, 388
01/28/03	€3,067.75	Afanasyev	Standing order, support	F 5, 396
02/28/03	€3,067.75	Afanasyev	Standing order, support	F 5, 398
03/28/03	€3,067.75	Afanasyev	Standing order, support	F 5, 407
04/28/03	€3,067.75	Afanasyev	Standing order, support	F 5, 413
05/28/03	€3,067.75	Afanasyev	Standing order, support	F 5, 417
06/30/03	€3,067.75	Afanasyev	Standing order, support	F 5, 423
07/28/03	€3,027	Afanasyev		F 5, 29
08/27/03	€3,027	Afanasyev		F 5, 33
09/29/03	€3,027	Afanasyev		F 5, 36
10/27/03	€3,027	Afanasyev		F 5, 39
11/27/03	€3,027	Afanasyev		F 5, 42
12/29/03	€3,027	Afanasyev		F 5, 45
01/27/04	€3,027	Afanasyev		F 5, 47
02/27/04	€3,027	Afanasyev		F 5, 50
03/25/04	€3,027	Afanasyev		F 5, 53
04/27/04	€3,027	Afanasyev		F 5, 55
05/27/04	€3,027	Afanasyev		F 5, 57
06/28/04	€3,027	Afanasyev		F 5, 60

07/27/04	€3,027	Afanasyev		F 5, 64
08/27/04	€3,027	Afanasyev		F 5, 67
09/27/04	€3,027	Afanasyev		F 5, 69
10/27/04	€3,027	Afanasyev		F 5, 72
11/29/04	€3,027	Afanasyev		F 5, 75
12/27/04	€3,027	Afanasyev		F 5, 78
01/27/05	€3,027	Afanasyev		F 5, 81
02/28/05	€3,027	Afanasyev		F 5, 85
03/29/05	€3,027	Afanasyev		F 5, 87
04/27/05	€3,027	Afanasyev		F 5, 88
05/27/05	€3,027	Afanasyev		F 5, 89
06/27/05	€3,027	Afanasyev		F 5, 90, 91
07/27/05	€3,027	Afanasyev	Monthly salary	F 2.1, 99, 100
08/29/05	€3,027	Afanasyev		F 5, 94
09/27/05	€3,027	Afanasyev		F 5, 95
10/27/05	€3,027	Afanasyev	Monthly salary	F 2.1, 105
11/28/05	€3,027	Afanasyev		F 5, 97
12/27/05	€3,027	Afanasyev	Monthly salary	F 2.1, 109
01/27/06	€3,027	Afanasyev	Monthly salary	F 2.1, 110
02/27/06	€3,027	Afanasyev		F 5, 103
03/27/06	€3,027	Afanasyev		F 5, 106

In the period relevant under criminal law from August 30, 2002 through November 28, 2005, the accused **DOJ-CRM b(6), b(7)(C)** therefore received a total sum of €118,460.50 for her personal use.

The accused **Afanasyev** and **DOJ-CRM b(6), b(7)(C)** were aware that this was money that had been acquired by members of a criminal group through the commission of crimes.

Through the giving of a corresponding statement to the Aliens Authority and the subsequent receipt of the monthly payments, the accused **DOJ-CRM b(6), b(7)(C)** wanted to obtain a source of income of a certain duration and scale.

9. Offenses discontinued under Sec. 154/154a StPO [Code of Criminal Procedure]

Insofar as the accused **Alexander Afanasyev** and [DOJ-CRM b(6), b(7)(C)] were charged with the indictment of money-laundering offenses with respect to payments made on 12/09/2002 for €5,000, 07/25/2003 for €10,000, 10/02/2003 for €4,000, the Court by decision limited the proceedings to the other charges. The Court was unable to rule out that these sums of money were used to pay doctor bills of the accused **Afanasyev**, and was therefore unable to determine guilt that was significant compared to the other offenses.

The Court also discontinued the charge of fraudulently obtaining a residence permit against the accused **Afanasyev** with respect to the punishment to be expected otherwise.

IV.

(Consideration of evidence)

A. Personal circumstances

1. The accused Alexander Afanasyev

The accused **Alexander Afanasyev** has made no statements on his personal circumstances. In this respect the Court bases its findings on the statements on **Afanasyev** by the accused [DOJ-CRM b(6), b(7)(C)] made in the course of her questioning by the police. The Court received information on the medical history of the accused from the evaluating expert's report accompanying the main proceeding and the medical documents submitted. In addition, the Court introduced into the main proceeding excerpts from the alien files of the accused (applications for granting of a residence

permit of December 2, 1994 and July 10, 2000; verifications of the granting and extension of the residence permit of July 10, 2000, August 27, 2001 and August 26, 2003), the marriage certificate of July 28, 1999, and the documents on the religious involvement of the accused submitted by the defense. The latter was also expressed in the accused's numerous sermon-like opinions not concerning the proceeding voiced in the main proceeding, in which he sought to convert the Court, the trial attorneys of the public prosecutor's office, and several witnesses to a lifestyle in harmony with God. The Court is also convinced that the excerpt from the Federal Central Register and the presentations of Chief Investigator Layher conducting the investigation, who certified he was unable to obtain certain knowledge about a conviction in Russia, prove that the accused has not been punished previously.

2. The accused Oleg Riefert

The accused **Oleg Riefert** also made no statements regarding himself. In this respect the Court likewise relies on the statements of the accused DOJ-CRM b(6), b(7)(C) in her questioning by the police introduced into the main proceeding by questioning the interrogation official, as well as the testimony of the accused Lust. In addition, the Court read in the main proceeding the 1995 divorce judgment, the marriage certificate of September 1, 2000, and the excerpt from the Federal Central Register. The expert appointed by the Court provided information on the medical history, which also relied on the medical records submitted by the accused.

3. The accused Alexander Lust

The findings on the personal circumstances are based on the credible statements of the accused **Lust** in the main proceeding. To supplement this, the Court introduced into the main proceeding excerpts from the account documents of the accused regarding the

income earned by him as managing director of S+L IBA GmbH as well as the excerpt from the Federal Central Register.

4. The accused DOJ-CRM b(6), b(7)(C)

The accused DOJ-CRM b(6), b(7)(C) likewise initially made no statements regarding herself. The Court subsequently introduced into the main proceeding her testimony in the preliminary investigation by questioning the interrogation official. The statements were supported by the introduction of the divorce judgment, the marriage certificate of July 28, 1999, the account documents, study and work documents, and the excerpt from the Federal Central Register. In the course of the main proceeding, the defendant then read a written statement in which she confirmed and added to the findings made regarding her.

B. Facts of the case

General remarks

The accused **Alexander Afanasyev** and **Oleg Riefert** have not made a statement about the accusation. They have only expressed that they fully dispute the charge by their opinions on individual points of the hearing of evidence and interruptions disrupting the main proceeding. They say a criminal organization named Izmaylovskaya does not exist, and that the statements of the accused DOJ-CRM b(6), b(7)(C) and the witnesses Haydarov and Kurshudov were extorted or fabricated by the police. In addition, both accused repeatedly attempted to influence the proceedings by threats against the Court. A statement by the accused Afanasyev is quoted by way of example: "I only want to say that it is not the right way. I came here in peace... Here one must ask God the Father for forgiveness, God have mercy on you... The right result comes through repentance. If you find repentance then you gradually realize the right solution. Of course I see

there are advantages in seeing me the way the police say. But life is much more important, the intelligence that God gives us is much more important than temporary wrong conclusions. With God's help you can arrive at a good decision. That is a test at a higher level, even at the international level. As the believer Shakespeare said: 'To be or not to be, that is the question.' Therefore: adopt the right decision." The accused Oleg Riefert expressly endorsed this statement and on several opportunities shouted out in the hearing room: "We will see each other again. This is all delirium."

The accused **Lust** at first made statements only about himself. On the 111th day of the main proceeding he delivered an extensive written statement and subsequently answered questions. In his statement he disputed the charge against him and asserted he had not known that the money brought into S+L IBA GmbH by the accused Afanasyev came from the Izmaylovskaya.

The accused **DOJ-CRM b(6), b(7)(C)** likewise initially made no statements on the facts of the case. She expressly revoked her statements made in the course of the investigation and rejected their introduction into the main proceeding and their use, making massive accusations against the investigating police officers. According to her initial presentation, her statements in the preliminary investigation had been extorted by deliberate deception about the existing threat and by exploiting her poor health. Furthermore, she said that hearing transcripts had been falsified and statements not actually made by her included. On the 117th hearing day she changed her trial behavior by conceding (but expressly only) the charge of "sham marriage." She stated that her previous "action in some 120 main proceeding days was not always oriented exclusively to finding the truth, but instead more or less the opposite of all that." She did not make further statements on the charges; in particular, she did not take back the retraction of her police statements and also made no statements on any payments of the accused Afanasyev.

However, the Court is convinced of the established facts of the case; in particular, based on the statements of the accused [REDACTED] in the preliminary investigation, the testimony of the witnesses Haydarov, Kurshudov, Special Agent McCausland, and Chief Investigator Layher, the information introduced into the main proceeding from the telephone and automobile interior surveillance, and the account documents read in court.

Specifically, it is stated regarding the consideration of evidence that:

1. The Izmaylovskaya

a) Statements of [REDACTED]

The Court is convinced that the existence of the Izmaylovskaya as a criminal group in Russia already results from the credible statements of the accused [REDACTED] in the preliminary investigation. She was questioned by the criminal prosecution authorities a total of five times (on August 18, 21 and 22, November 10, and December 4, 2006), in which she made extensive statements introduced into the main proceeding by the testimony of the interrogating official Chief Investigator Layher.

They show that the accused confirmed to the investigating official the existence of the Izmaylovskaya. The "Izmaylovski" initially described by her as a financial structure was led by a man named "Tosha," which stands for the first name Anton, until his parachute crash. She said the current leader is one "Aksyon." She said the "Izmaylovski" engages in criminal offenses and acquired its assets in particular through violent company takeovers during the privatization wars. In doing so it acted violently, including murder. She said the group is divided into brigades that are heavily armed. She said she personally learned during a stay in the "Izmaylov" Hotel in 1998 or 1999 how armed fighters marched out to violently occupy a gas station. However, she could not say whether in fact there were subsequently violent actions or the conflict was resolved some other way since she was refused any information on the issue in response to a later inquiry. She said it was also mentioned in conversation that the accused Oleg

Riefert was to become a member of the group and move his residence back to Moscow, but ultimately he did not do so since it seemed to him to be too dangerous.

The Court is convinced of the truthfulness of the accused's statements. This already emerges from the fact that according to the descriptions of the interrogation official the accused only answered questions positively on which she actually had knowledge. For example, the accused answered the question of the extent to which the accused Lust and the separately prosecuted accused Schleppe were informed about the background of the invested money by saying she did not know. In this respect, if the accused had wished to obtain the highest possible reduction of punishment or a suspended sentence through her statement, she could have simply stated that both business partners were involved in all actions. By contrast, her reserved answer shows that she seriously sought to state only what she knew.

Also to be seen as noteworthy and arguing in favor of a truth-based statement is the fact that in her interrogation the accused cited numerous original details without exaggerating them. For example, she did not describe the group as Izmaylovskaya or Izmaylovskiy but as "Izmaylovski," a description that (as CI Layher conducting the investigation confirmed) was not previously known to the criminal prosecution authorities. The division of the group was proven by her with the original term "Brigada." She was also able to identify the leader not by his real name but only by nicknames ("Tosha" and "Aksyon"). These names cited by the defendant coincide with international investigation results, as CI Layher confirmed. As examples, she described in detail the consideration of accepting Oleg Riefert into the group as a member, Afanasyev's role in this, and why it ultimately did not come about (see IV.B.2.). In particular, her explanation that ultimately membership was too dangerous for her ex-husband shows a reality-based statement.

In her interrogations the accused clearly distinguished between incidents she herself had experienced and information only told to her, primarily by co-accused Oleg Riefert. For example, she deduced Afanasyev's role as alleged leader within the organization

only from explanations of Oleg Riefert, which she clearly explained. By contrast, she stated that she herself observed Izmaylovskaya fighters setting out for the armed takeover of a gas station in 1998 or 1999 during a stay in the "Izmaylov" Hotel. The accused was unable to say whether the violent takeover was then actually carried out.

Beyond the details already presented, the testimony of the accused [REDACTED] is consistent with (international) findings of the investigating authorities; for example, with respect to the accused citing the "Izmaylov" Hotel as the headquarters of the Izmaylovskaya fighters. Other statements of the accused, like her knowledge of a stay by the accused Afanasyev in Geneva in 1999, could be verified by the State Office of Criminal Investigation being able to determine that the documents of the "La Reserve" Hotel in Geneva record multiple stays by an Alexander Afanasyev accompanied by other men. The large, expensive apartment of the accused Afanasyev in the early 1990s in Berlin described by the accused [REDACTED] is confirmed by the account documents introduced of Berliner Bank (binder F 2 pp. 175, 177, 187, 189), which show rental payments of Afanasyev in the amount of DM 3,230 monthly for an apartment at Kamillenstrasse 42-50 in Berlin. The statements of the accused on the monthly payments received by her are also confirmed by examination of the account documents cited under III.8.c). Consistent with her statements, these payments were initially transferred from the account of Andru Anghelov to her account, but then later from Anghelov's account to Afanasyev's account and from there to the accused's account (account documents Volksbank Nürtingen, account no. 506589005, account holder Anghelov, binder F 9 pp. 29-31, 40, 42 et seq., 45 et seq., 54-56, 58-60, 66; see below IV.B.6.).

Last of all, the history of how the statements came about also argues for reality-based information. In her first interrogation on August 18, 2006, which took place directly after being brought before the arresting judge, in the credible depiction of the interrogating official in the main proceeding the accused was hesitant and only made general

statements. She examined the recorded transcript critically and inserted handwritten additions and changes. It is noteworthy that she supplemented the recorded sentences "I cannot provide further statements regarding their activities...", "I also want to say that I truly do not know more,..." and "the fact is that I do not know any other names..." in each case (as CI Layher confirmed when questioned) with the handwritten word "now," and therefore in her first interrogation already clarified that her statements initially made generally applied only to the current point in time but the communication of other, more detailed information was not ruled out. Correspondingly, on the way to the arresting judge appearance, when she was first confronted with the charges leveled against her, the accused also conceded the charge of violation of the Aliens Law and the associated payments, but initially stated (awaiting the situation) that she knew nothing about a criminal association. The arresting officials Arnold, Siegle, and Beckmann responsible for the accused concurred in their reports of this.

On August 20, 2006 the accused phoned the Baden-Wuerttemberg State Office of Criminal Investigation and expressed (according to the credible statements in the main proceeding of CI Arnold, who conducted the phone conversation with the accused) her willingness to make further statements. She said she had remembered important details that she wanted to state for the record. The accused also referred to pictures in her apartment. In the subsequent interrogations the defendant then made detailed statements and provided handwritten captions for the photos secured according to her explanations and in her presence in the Kressbronner Str. 1 estate.

The credibility of the accused's statements is not contradicted by the fact that she described the "Izmaylov" Hotel as a building consisting of two (instead of the correct four) complexes. According to her own statements the accused had stayed in the "Izmaylov" Hotel only twice (1998 or 1999 and 2001-2002). The fact that she could no longer remember the building structure in detail after the time elapsed does not raise doubts about the truthfulness of her other statements. She correctly described the hotel

as a large complex. The same is true with respect to the accused stating that the gas station to be violently taken over by the Izmaylovskaya fighters was located in the Izmaylovo district on the Moscow River. What is correct is that the Moscow River does not flow through Izmaylovo. However, an inspection of a Moscow map shows that another river runs not far from this district, which suggests a mere mix-up by the accused who had been living in Germany since the early 1990s and at no time lived in Izmaylovo.

The Court rules out the possibility that (as advanced by the accused Oleg Riefert's defense) these were statements suggested by investigating officials. The Court is convinced that this already emerges from the fact that in certain places the accused made only general statements without citing concrete names known from the police investigation conducted by then or relying on uncertain investigation theories. It is noteworthy that she said she did not know the extent to which the accused Lust and the separately prosecuted Schleppe were informed about the background of the invested money. If police officers had suggested this statement it could be expected that the accused would have been influenced in this respect to answer this question positively, as at this time there was still doubt about the subjective element of the accused Lust's offense. It would also be assumed that regarding the origin of the money that went to her and the accused Oleg Riefert personally (offenses 2 and 4), the accused

DOJ-CRM b(6), b(7)(C) at the suggestion of the interrogating officials would have cited the name of the account holder Andru Anghelov or at least his family relationship to the separately prosecuted accused Schleppe. But none of this happened; instead, the accused kept her statements general and said the money from Afanasyev had been transferred from abroad to a different account and initially from there paid directly to her and later via the Afanasyev account with Commerzbank Esslingen.

Insofar as the usability of the statements of the accused DOJ-CRM b(6), b(7)(C) in the preliminary investigation was called into question under Sec. 136a StPO [Code of Criminal Procedure], supplementing the decisions announced in this respect it can only be stated

that the interrogation of the police officers Siegle, Beckmann, and Arnold requested by the defense has also confirmed that there is no evidence of a ban on usability under Sec. 136a StPO. All three officials, who participated in arresting the accused and taking her to the arresting judge, have credibly asserted that no noteworthy features could be observed in the person of [DOJ-CRM b(6), b(7)(C)]. The witnesses credibly denied physical or mental deficiencies standing in the way of an interrogation of the accused. It is true that the trip had to be briefly interrupted at the request of the person arrested, but the accused did not vomit or show other serious physical defects. It was already possible to continue the trip after a very brief time. The witness Siegle was even able to remember that during the trip she was asked by the defendant to inform her mother and arrange care for her pets. She also said that shortly before her interrogation by the arresting judge [DOJ-CRM b(6), b(7)(C)] asked for a cup of coffee. All three police officers confirmed that on the way to the arresting judge the accused was given the arrest warrant issued against her, she read it, and in the context of the anxiety expressed by her they spoke very abstractly about the possibility of witness protection programs. Conversations did not take place about improper behavior of her son under drug laws. The police officers were obviously not aware of such an alleged misdemeanor by the then 17-year-old. The witnesses also credibly denied conversations about the level of punishment to be expected by the accused. They convincingly stated they were not involved in the preliminary investigation up to this time. They were only called on and generally informed as reinforcement in the arrest. They said that in the absence of further knowledge they were not even able to make statements about a level of punishment that could be expected.

Last of all, the presence of circumstances that could justify a ban on usability under Sec. 136a StPO is particularly countered by the fact that directly before the start of the closing arguments on the 132nd hearing day the accused [DOJ-CRM b(6), b(7)(C)] withdrew her assertions in this respect and expressly stated: "It is clarified that the assertion that the statements in the police preliminary investigation came about through the use of

prohibited interrogation methods is not maintained." Insofar as the accused (also) earlier opposed the usability of her statements from the perspective of Sec. 136 StPO, she likewise withdrew this opposition.

b) The statements of the witness Haydarov

The testimony of the accused [REDACTED] described above is confirmed, supplemented and deepened by the statements of the witness Jalul Haydarov. The witness stated that since his early youth he was a friend of Iskander Makhmudov, a later business partner of Mikhael Chernoi. Through him he became acquainted with Mikhael Chernoi in the 1990s and obtained a position with him. Together with Makhmudov, Chernoi took part in the privatization of the mining industry. The two business partners came to trust the witness, which is why he was given increasing responsibility and thereby gained an insight into their dealings. Essentially he was responsible for the financial transactions. The witness said he also became acquainted with Anton Malevski rather early and the cooperation between Chernoi and the Izmaylovskaya led by Malevski became clear. While Chernoi was responsible for everything having to do with business, the Izmaylovskaya operated as his armed branch. It guaranteed protection of Chernoi's businesses from hostile takeovers; for this purpose it constantly kept part of the brigade armed in Chernoi's office facilities. But at the same time, the group named after a Moscow district and acting there as highway robbers was brought in if the planned takeover of a company encountered resistance. The Izmaylovskaya then frequently resolved this by the following system: first the person concerned was warned to behave appropriately. If he did not accept this, pressure was exercised. A criminal proceeding was sought, his wife was beaten in the street, or something unexpected happened to a relative. If this did not help then there was a fabricated criminal trial. The person went to prison. It was proposed to him that he would be released if he handed over what is demanded of him. In prison, control was exercised by the fellow inmates. If this did not lead to success then the Izmaylovskaya also did not refrain from violent takeovers and

contract killings. The witness tersely testified: "After the brigades had become active, our competitors understood that it is better to reach an agreement with us. If they did not understand this, physical pressure followed, as far as elimination." In this connection the witness emphasized the great brutality and violence of the group. He also noted the high degree of organization into brigades of up to 100 men and convincingly stressed the interconnection at that time with the highest government agencies.

The witness depicted the groups criminal offenses established above impressively and in great detail. In particular, he was able to report from first-hand experience the events surrounding Kositsin, such as flying 50 armed fighters to the Urals or his own steadfast refusal to take part in the murder plans conceived by Makhmudov and Malevski.

With respect to the established murders, he said he had been informed of the Izmaylovskaya carrying them out by Makhmudov or Chernoi. The murders of Yasarov and Kantor came about when they demanded their share in a deal with Chechen advice notes. On the day of his murder the victim Yasarov had been with Chernoi and Makhmudov at their office and forcefully demanded his shares. He was then shot to death on the way home. A few months later Kantor was also found dead in his dacha. Makhmudov then informed him (Haydarov) on a trip to Alma Ata that the two had to be eliminated because they were causing problems.

Then there was Felix Lvov, an American of Russian origin who represented the major company Ayok (phonetic). Lvov appeared in the Parliament on the question of the illegality of the Izmaylovskaya's measures. He was murdered immediately after the speech in the Parliament, and in fact by being led away from the passport control area at the airport; he was found dead in the street the next day. At a meeting at Chernoi's home, Chernoi then bragged about Lvov's killing.

For the services rendered the Izmaylovskaya received up to 50% of the value of the company taken over, money the organization accumulated (also) in Liechtenstein.

Based on the threats made against him by Malevski, he finally fled to Israel in 2000 where he stayed under secret alias identities and constant police protection. He said he was accompanied by constant fear for his life, and the Israeli police had already told him at least once of an attempt on his life planned on Israeli soil.

The witness Haydarov, who was questioned on 11 main proceeding days, presented his knowledge about the Izmaylovskaya in extensive detail, conclusively, and understandably. The witness's testimony contains repeated exact distinctions between circumstances he was actually able to observe, knowledge known to him from hearsay, and conclusions he drew based on statements of third persons or the given circumstances.

For example, the witness Haydarov emphasized that he was convinced that his mother was killed (at Makhmudov's instigation) to exert pressure on him, Haydarov. However, he noted that the investigation conducted ruled it was an accident, and only an accident can be deduced from the official case records, not an intentional homicide.

With respect to the murder of Grinyov he described, the witness also stated that a connection between the Izmaylovskaya, Makhmudov, and the death of Grinyov has not been proven. He said he himself drew such a connection only from an indirect comment by Malevski and Makhmudov (unlike in the homicide cases described above).

By contrast, the witness Haydarov described other circumstances, such as the planned liquidation of Kositsin, as established fact that he himself learned about.

The credibility of the witness Haydarov is further supported by the fact that his depictions contained a number of complications. During the questioning over the course of several days, in portraying the behavior of the Izmaylovskaya in the 1990s in Russia he did not use stereotypical formulas. Instead, he distinguished individual events that he described in a differentiated manner. Such a statement would not be expected with an invented, solely goal-oriented presentation. If he were giving false testimony he could have structured his statements more simply, especially since he had to expect extensive interrogations by the police and in court. The presentation of such complex events as the witness provided for the Izmaylovskaya's business behavior argues against such an invented story.

The credibility of the witness Haydarov is also supported by the fact that no evidence of ostentatious eagerness to incriminate could be found. For example, the witness said he does not know the company Trenton Business, which according to international investigations is suspected of creating the Izmaylovskaya's war chest. The witness further said he does not know how the Izmaylovskaya invested their profits. Since the Izmaylovskaya did not personally concern him he was only marginally interested in this.

An overall evaluation of the testimony of the witness Haydarov yields a wealth of details. For example, the witness named several meeting points where he met with the then-leader of the Izmaylovskaya, Anton Malveski. He said that after the death of his mother both Chernoi and Deripaska had him informed that they had nothing to do with the matter. He described the "Metropol" Hotel as the meeting place of the Izmaylovskaya's leadership level at that time, a detail confirmed by a phone conversation held by the accused [REDACTED] with her mother (Atis 5339).

Upon request the witness gave more details on individual statements initially made generally and explained presumed contradictions. For example, he first testified that he was the owner of the Kachkarnarski GOK mine, which turned out to be incorrect. But

when questioned about this he immediately explained that he had expressed himself in shorthand in this regard: in fact he himself held only a few shares but was a participant in extensive share packages through business partners and their companies.

The circumstances of the takeover of the Kachkarnaski GOK mine described by the witness leave little doubt about his credibility. According to his statements, the mine managed by him was forcibly taken from him by Chernoi and Makhmudov with the help of the Izmaylovskaya in early 2000 at a time when he was in the hospital. Ultimately, the Court was unable to clarify in the main proceeding the precise course of the mine takeover and the removal of Haydarov. The Russian civil and criminal court rulings submitted in this respect by the defense assume that a forcible takeover was not sufficiently proven. However, in individual decisions evidence pointing to a forcible takeover is cited. The Russian newspaper reports read in the main proceeding on this issue at the request of the defense also contain contradictory information. The Court rules out a deliberately false presentation by the witness for the following reasons: Haydarov had always emphasized that he had not personally experienced the forcible occupation of the mine. At that time he was in the hospital in Moscow. However, third persons who were on the scene told him that armed fighters of the Izmaylovskaya occupied the plant premises and took over the mine. In the context that he had previously been asked multiple times whether he was transferring the management of the mine to Chernoi and Makhmudov, he refused this, and then there were threats against him personally, he said he believed these stories. The witness makes no secret of the fact that he felt he was treated unfairly and had already made himself available as a witness in multiple civil proceedings in this regard. He said he is examining whether he should also personally file a suit for damages.

However, the Court rules out a false incrimination in the scenario that the witness Haydarov wanted to take revenge on his former business partners Makhmudov and Chernoi and through his statements wanted to advance the success of possible suits for damage. The witness Haydarov, who because of his statements must take into

consideration considerable personal restrictions, is in the Israeli witness protection program, and convincingly stated in the main proceeding that he fears for his life, knows that various suits for damages would not be accepted for decision in Europe and America. He therefore is aware that he cannot improve his position in this respect through his statement in this trial, which he could not have been forced to make. At the same time, he makes no secret of the fact that he feels cheated by his former business partners through the events surrounding the Kachkarnarski GOK mine and believes he is entitled to damages. To dismiss the statements of the witness in these proceedings, the focal point of which is not the business behavior of the partners Chernoi and Makhmudov but the Izmaylovskaya group as such, as a campaign of revenge is out of the question given the burdens described above that such a statement entails for the witness. As a result, the testimony of the witness Haydarov that he is afraid of retaliatory measures and therefore entrusts himself to the police should instead be believed. Only under their protection does he see a chance to remain alive.

The fact that the questioning of the witness took place by way of simultaneous video transmission because of the threat situation changes nothing in the Court's belief in the truthfulness of the statements. The quality of the transmission was very good. The connection had to be restored because of technical problems (frozen picture) just a few times. The Court rules out a deliberate control by the Baden-Wuerttemberg State Office of Criminal Investigation as conjectured by the defense, since the technical problems appeared at widely different times; for example, right at the start of an interrogation section and likewise during the video questioning of witnesses in Austria and Liechtenstein not conducted by the Office. It could also be seen that besides the witness Haydarov, in each case only one of the police officers Häring, Bauchle, or Jetter was in the interrogation room to guarantee that the equipment worked properly. The Court was able to convince itself of this by panning the room with the camera and questioning the officers. When questioned all three credibly stated that beyond this technical support they were not familiar with the proceeding.

Therefore, lacking background knowledge they were unable to assess when an interruption of the transmission seemed opportune.

The Court noted in its deliberations that the mere physical separation reduced the confrontational stress for the witness. However, in view of the testimony provided and the overall behavior of the witness Haydarov while testifying, the Court has no reason to doubt the credibility of the testimony of the witness, particularly as his testimony was confirmed by the statements made by the defendant [REDACTED] during the preliminary investigations.

The Court is aware in this context that the witness Haydarov is a shady character with a probably extensive criminal past, which the witness attempted to whitewash in his testimony. In consequence, the Court examined his statements particularly critically and carefully.

Jalul Haydarov worked during the 1990s with persons that had amassed immense riches after the break-up of the Soviet Union by acts that were criminal acts in some instances. The assertion made by the witness, who was involved in that criminal environment, that he had not participated in any criminal acts himself appears to be farfetched. However, the Court is convinced that this behavior by the witness is directly related to Haydarov's fear that he would lose the police protection, which is vital for his survival, if he were to admit to his criminal past.

The Court has no doubt of the veracity of the testimony in light of the above reasons, the consistency in the behavior of the witness while testifying, who consistently corrected the defense attorneys whenever they attempted to elicit conflicting statements from him by inappropriate questions, as well as by the calm and thoughtful behavior of the witness during the trial despite intensive questioning by various defense attorneys that verged on cynicism in some instances. For example, we refer to the reaction of the witness to the initial questions by defense attorneys. The first questions asked by

Mr. Bender, defense attorney for the defendant Afanasyev, were: "Is it correct that you live in Israel using the name Nehmann (phonetic spelling)?" "Where does your family live?" and "Do you have any siblings?" which are questions that the Court interprets as suitable to intimidate the witness, who had just testified to threats made upon him. The witness answered the first question affirming that his legal name is Jalul Haydarov; he used the second and third questions to state essentially the following: He understood the position taken by the defense attorneys in this trial, but that they could not demand that he would assist in killing himself or his family. Subsequently, the witness answered the other questions with great patience over the course of several days.

c) Statements by the witness Kurshudov

The witness Kurshudov essentially confirmed the statements made by Haydarov. The witness' testimony was noteworthy for its richness of detail and its coherence. Thus, the witness testified that he worked for Haydarov as a general assistant. In this job, he had had his first contacts with members of the Ismaylovskaya in 1996, when Haydarov asked him to pick up five or six persons at an airport in Kazakhstan, who had come to solve certain problems. He stated that the Ismaylovskaya organization was essentially engaged in shaking down third parties for protection monies and extending to murders on contract, which he had first heard from Makhmudov, but which he could confirm from his personal experience. During a dinner at the "Metropol" Hotel in 1997, at which he accompanied Haydarov, he met Chernoi, Makhmudov and Malevski personally. He stated that he noticed a man at the adjacent table, whom Makhmudov described as Alexander Afanasyev, and that only Malevski was permitted to call him "Afonya." Everybody else called him "Sascha", which is a statement confirmed by the fact that Oleg Riefert addressed the defendant Afanasyev invariably as "Sascha" or "Sasch" during the trial. He stated that Makhmudov told him - Kurshudov - that "Afonya" was probably a bodyguard for Malevski.

The witness described in detail specifying time and place how he was involved, during a weekend on which he had accompanied the witness Haydarov to

the dacha of his business associate Makhmudov, in a discussion on how to kill Kositsin, who had started to branch out independently and who should therefore be eliminated, as Makhmudov wished. The details of the action plan were discussed with Malevski, but Haydarov was opposed to the plan throughout the discussion and threatened to notify the authorities. In this regard, the description given by the witness was particularly impressive inasmuch as he did not specify the location of the discussion initially. He answered a clarifying question by the Court without hesitation and as a matter of course that this had taken place in Makhmudov's dacha. He stated that the question of Kositsin's liquidation was discussed with Malevski over dinner.

The Court was also particularly impressed by the description of the witness regarding his mock execution. Obviously suffering and with a breaking voice, Kurshudov described how he was forced to dig his own grave at the point of a gun. His description included reality indicators, such as his own feelings. Thus, he described how he assumed that his life was about to end and he described the feelings of fear that he suffered. It was obvious that he was angry about the lack of any criminal prosecution of these acts in Russia, because the authorities did not believe him.

The witness described in detail how he identified Eugen Aschenbrenner as one of his kidnappers during the drive into the forest. He specified in detail where he sat on the rear seat of the vehicle and how Aschenbrenner queried his accomplices regarding the whereabouts of the document carried by Kurshudov.

Kurshudov stated that he was aware that Aschenbrenner was closely associated with the Ismaylovskaya. Given the fact that the document that he was supposed to bring to Russia was intended to prove that the transfer of the New Start Group firm from Aschenbrenner to Chernoi was illegal, he was certain that his kidnapping and mock execution were handled by members of the Ismaylovskaya. The Court was convinced that this argument was valid.

The witness Kurshudov stated that Aschenbrenner described himself inappropriately as a representative of the New Start Group regarding this sale – the fact was that his power of attorney had already been cancelled, as he was well aware – and thus sold the firm to Chernoi, even though the firm was owned by a business partner of Haydarov. The document that Kurshudov was supposed to present to a Russian court was supposed to prove that Aschenbrenner lacked a power of attorney. The Court cannot believe that the simple-minded witness would be capable of plotting such a complex structure to a story that he might have invented. Likewise, the Court cannot believe that a third party coached him on such an invented story. The witness described the facts of the matter in consistent terms and without internal contradiction in response to repeated questioning, which is a clear indicator of personal knowledge.

Thus, the Court is convinced of the truth of the statements made by the witness, even though it is clear that Kurshudov is a friend of the witness Haydarov, which Kurshudov does not deny. However, it is obvious that the two statements were not coordinated. The witness Kurshudov, whose testimony centered on the mock execution that he suffered through and which he has not yet processed psychologically, referred only in passing to many features that were central to the testimony of the witness Haydarov, but confirmed the statements made by Haydarov in each case. If the two statements had been coordinated, the two witnesses would have behaved differently in court. The testimony of the witness regarding the matter of the Kachkarnaski GOK mine may serve as an example of this feature. Whereas the witness Haydarov describes this event at length, Kurshudov states merely that Haydarov told him that he had lost the mine involuntarily under duress. Conversely, Haydarov did not even mention the events described by Kurshudov regarding his kidnapping.

As was stated above in regard to the evaluation of the testimony of the witness Haydarov, the opinion of the Court regarding the veracity of the statements was not modified by the questioning of Kurshudov by way of a video transmission due to the dangerous situation. The quality of the transmission

was excellent here as well. The Court assumes that the testimony is truthful in view of content of the testimony and the over-all behavior of the witness Kurshudov – also in light of the fact that the witness was in a less confrontational situation.

d) Results of the investigation by the FBI

The witness McCausland, Special Agent, described the information held by the FBI regarding the Ismaylovskaya organization during the trial. He has worked on the investigation of Russian criminal organizations for the last eleven years. Six different Russian sources not involving Haydarov and Kurshudov have provided information on the existence of the Ismaylovskaya. The FBI had assured these sources of confidentiality. He stated that the cooperating contacts had told him that the Ismaylovskaya was then led by Dimitri Pavlov and Sergei Aksyonov, and that the previous leader Malevski had been killed during a parachute jump – despite his training as a paratrooper. His business partner on the economic side had been Michael Chernoi. The organization, which is divided into brigades, is oriented to undertake criminal acts, such as extortion and murder for hire, where one of the sources referred to the poisoning of Lyosha Zhid as an example. The official face of the organization is the firm NIKA-Holding in Moscow. The witness McCausland emphasized that the information from his sources has been shown to be reliable over what by now have been many years of cooperation in some cases. The bits of information were confirmed independently by the various sources. The FBI had not made any promises of payments to the contacts.

e) Results of the investigation by Europol/Interpol

CI Layher, the agent in charge, confirmed that Europol also had information regarding the Ismaylovskaya. According to the information on file there, it is one of the ten most powerful Russian criminal organizations, which is divided into brigades that are financed from a common source. It has about 1,000 members. The previous leader had been known as “Tosha”

- Anton Malevski – the organization is currently led by Sergei Aksyonov and Dimitri Pavlov. A firm called NIKA-Holding, located in Moscow, is said to serve as the official face of the Ismaylovskaya. The “Obschag” (the war chest) of the organization is presumed to be hidden in the firm Trenton Business Corporation. The organization deals currently with robbery, extortion of protection money, dealings in drugs and illegal weapons as well as illegal prostitution and money laundering. He stated that he had received essentially the same information from Interpol.

f) Decision of the High Court of Justice

The High Court of Justice in London promulgated a decision on April 30 and May 4, 2008 in the legal case of Michael Chernoi vs. Oleg Deripaska that dealt with the issue of jurisdiction of English courts. The legal case involved the assertion of a claim of US\$ 250 million against Oleg Deripaska for the sale of United Company Siberian Aluminium. As the translation of the verdict that was read into the record during the trial shows, the defendant Oleg Deripaska’s defense against this claim was the assertion that the payment had been made previously. It was stated that Michael Chernoi had been involved with Anton Malevski in a protective gang for the business of Oleg Deripaska and that the payment had been a “purchase of freedom” (UA Tz. 9). Furthermore, he admits that the privatization of Russian businesses led to violent struggles for control by splinter groups, which were in some instances linked to groupings in organized crime. One of these groupings was the Ismaylovskaya, which was led by Malevski. Chernoi was closely associated with Malevski and belonged to the Ismaylovo Group (UA Tz. 59 f).

Michael Chernoi does not deny in this legal case that he was well acquainted with Anton Malevski. However, he stated that this acquaintance did not have a criminal basis and that such assertions were pure libel.

The statements of the participants in that case contained in the verdict that was read into the record confirm thus at a minimum the close connection between Chernoi and Malevski.

However, it was not possible to interrogate the witness Deripaska, who resides in London, by the Court despite repeated summonses, because he indicated through his attorney that he was not available for the present case – this event was described in detail in the relevant promulgated decision of the Court.

Likewise, Michael Chernoi was summoned in Israel by the Court, but he indicated through his attorney that he was not available as a witness – likewise shown in the relevant promulgated decision.

g) Speech in the State Duma

A speech given by Kulikov, the then Russian Minister of the Interior, in the State Duma on February 21, 1997, which was read into the record during the trial, confirms likewise the existence of the Ismaylovskaya as a criminal group. The then Minister of the Interior stated in this speech that there were indications for a “criminal Ismaylovskian association” led by Anton Malevski in connection with the privatization of Russian firms. He stated that 74 members of the association were taken into custody during 1996, with the seizure of more than 100 kilograms of precious metals and jewels with a value in excess of 800 million Rubles.

h) The witness Venyik

The statements by the witness Venyik deserve only a glancing reference; he was interrogated in the jail in Graz on July 2, 2007 by Austrian investigators in the presence of CI Layher pursuant to a request for assistance. He is incarcerated there on a drug charge. The officials learned during the course of the investigation that the witness Venyik had background information on Russian criminal associations. He then gave substantive testimony regarding the Ismaylovskaya, which he described as very powerful with roughly 1,000 members. He stated that it derived its income from dealing in drugs and weapons as well as with extortion of protection money. He stated that its leader had been Anton Malevski previously, but that Sergei Aksyonov was in charge now. The members are divided into roughly 10 brigades. The organization is headquartered in the “Ismaylov” Hotel in Moscow.

The Court attempted to question the witness by way of a video feed – given that he had assured the interrogating officials that he would testify in court. However, Leonard Venyik asserted his comprehensive right to refuse to testify under Austrian criminal law, and he was not willing to appear on camera (see the relevant promulgated decisions). He had withdrawn his statements in writing even prior to that date (letter of February 4, 2008). The Court thus introduced the content of the statements by the witness into the trial record by way of the testimony of the Austrian investigators and of CI Layher, who had been present during the interrogation. However, because the Court could not form an independent impression of the witness and because the other participants had no chance to confront the witness in cross-examination, the Court places little significance on the statement of the witness as such.

However, the Court refers to another factor related to the testimony of the witness Venyik as proof for the existence of the Ismaylovskaya as a criminal group. Mr. Rossa, the police official handling the Russian criminal matters for the Austrian Federal Office of Criminal Investigation, stated during the trial that the witness Venyik was threatened after his interrogation pursuant to the request for assistance. First, a Moldavian citizen visited him in jail and extended greetings from Moscow; subsequently, the witness received a sympathy card (showing the Dürer drawing of hands in prayer with a black border), which contained only the phone number of a pre-paid cellular phone. The witness then terminated contacts with the office investigating the Russian criminal activities with the statement that he was not safe, that he was threatened by the Ismaylovskaya, and that there was thus no guarantee of his safety. The behavior of Venyik regarding his planned interrogation also indicates that there was a real threat. As mentioned above, the witness refused even to be filmed on camera. Mr. Kmetec, the prosecutor responsible for the video interrogation in Austria, stated that he instructed the witness regarding his right to refuse to testify, that the witness immediately asserted that right, and that the witness declared without further questioning that he did not know the defendants and also did not know what they might do. He stated that he could not be certain that they

might be dangerous, even if he did not fear for his life now. That is why he refused to confront the defendants. Given this statement, the Court does not believe that Leonard Venyik was motivated to refuse to testify merely by anger about the failure of the sentencing court to lower the sentence in the sentence imposed in the Austrian criminal case against him roughly six months after receipt of the card. The Court is convinced instead that the witness felt truly threatened by the Ismaylovskaya.

i) The results of the telephone surveillance

Finally, the Court believes that the recorded phone conversations and conversations in the interior of the motor vehicle show indications for the existence of the criminal group Ismaylovskaya.

CI Layher reported on the results of the surveillance measures, which recorded conversations in the vehicle registered by the firm S+L IBA GmbH with the license plate ES-DS 3383, but which was also used by Oleg Riefert, during the period from August 4 to August 18, 2006. The investigating authorities monitored the phones of the defendants and of the fugitive defendant Schleppe in the period from October 2005 to August 2006.

Based on information provided by the regulatory authorities, CI Layher stated that it was possible to identify the following phone numbers as belonging to specific persons:

Afanasyev

007916990250

0074959706887

Oleg Riefert

0152-02032340

0177-3609372

Oleg Riefert via connection at Irexx-Media

0711-2484926

(the Court believes that the speaker facility relates here to employment of Oleg Riefert at this firm, as confirmed by the testimony of the defendant Lust)

Lust (at S+L IBA GmbH)

07024-929931

DOI-CRM b(6), b(7)(C)

0171-6938006

0176-29558570

Home of Riefert family

0711-7199014

Schleppe

Schleppe at S+L IBA GmbH

0172-7635919

0171-453532

07024-929940

The Court referred to roughly 200 calls during the trial. Each was examined by listening to the tapes. The Court was able to identify the voices of each defendant, given the speech patterns known from the numerous interruptions, comments and statements made during the trial. For example, the defendant Lust speaks very slowly and deliberately. Afanasyev sounds much like a preacher, inasmuch as he speaks calmly, but with emphasis. Oleg Riefert speaks in an exited and penetrating manner, whereas the defendant [REDACTED] is characterized by her young-girl voice. Combining the above phone records and the respective subjects of the calls thus facilitated the identification of the various speakers by the Court, particularly so as many speakers were addressed by name or nickname, such as Oleschik (Oleg Riefert) or Adamytsch (Alexander Lust, as he confirmed during the trial). To the extent that defense counsels objected to the use of particular calls during the trial on the basis of an asserted misidentification of a speaker by the interpreters used by the court (they had identified the speakers in each case as mP1 and mP2 or wP1 and wP2), these objections are overruled precisely because the Court did not rely on the identification made by the interpreters, but rather made an independent identification on the basis of the above criteria.

The over-all implication of the calls used during the trial shows a plethora of hints regarding the existence of the Ismaylovskaya as a criminal group:

For example, Oleg Riefert lists the Ismaylovskaya in a call (Atis 2964) in connection with other criminal groups and indicates that they are divided into brigades. He tells his listener in another call (Atis 3511) made while Afanasyev was in Germany during August 2006 about his fear that a person accompanying Afanasyev might put all safeguards aside when drunk and boast that he

is an Ismaylovskiy or states in another call (Atis 3510) that the person in question would get into trouble with the police, because he behaves like an Ismaylovskiy. Likewise, the male speakers in the tape of a talk in the car (Jura 00081052 - Jura 006-0008) are heard to say that a third person introduced himself by the phrase: "We are Ismaylovskiy." Then, Oleg Riefert tells the defendant [REDACTED] in a phone call (Atis 4800) while spending time in Russia: "We there in Ismaylovo ..., everybody runs about carrying handguns." and occasioned by a fight with the neighbors, he proposes to his ex-wife (Atis 2967) that the neighbors should be frightened to death: "and that's it, that is how we do it here" which is a phrase that supports the description given by Haydarov, where he described the system of the Ismaylovskaya that relies on a massive threat to the opponent as a first step. The defendant [REDACTED] tells her mother in a call (Atis 5339) that Oleg would have been either immensely rich or dead, if he had stayed in Moscow. This phrase is directly related to the statement of the defendant to her mother that the "Metropol" Hotel is the headquarters of the group (see IV. B. 1. b)). Finally, the call Atis 3204 convinced the Court that the organization exists. The defendant Oleg Riefert, who wants to learn the name of the firm fronting for the Ismaylovskaya, asks a male Russian in this call: "What is the name of our holding?" to which the other answers "Oleg, you should not broadcast this. You don't work there. If the word gets out, then bad things happen ...", which is an answer that would not be the expected answer if the structure were legal. And then Oleg Riefert notes in call Atis 458 that he saw an article in the Russian periodical "Elite" about "Pavlik" whom he had described in call Atis 417 as Dimitri Pavlov and the then Director of NIKA-Holding. The defendant notes: "We have quite a country here where leading criminals show up in "Elite"!"

The coded language of the callers also shows that there are illegal activities behind the flow of funds. For example, a Russian associate of Afanasyev asks Oleg Riefert: "Well, they are not likely to listen in here, are they?" (Atis 6088). The defendant Oleg Riefert states in a call to [REDACTED] (Atis 6844) that he would say nothing on the phone, whereupon the defendant agrees and

confirms that it is not without dangers. Finally, the separately charged Schleppe and the defendant Oleg Riefert note in several calls “not on the phone” (Atis 3402, 3398).

The Court also has no doubt of the respective veracity of the translations of the calls that had been made in Russian. The calls used during the trial were checked repeatedly. The Court first used two native speakers, who were certified translators not otherwise involved in the investigation, to prepare written transcripts prior to the trial. The calls were put into the record during the trial by first playing the tape and then reading the associated written transcript out loud. The interpreters present during the trial, who are well-known to the Court from a number of court cases, were provided with copies of the written transcripts and could double-check the translation into German as the tape was played. In addition, the bilingual defense attorney Mr. Ziegelmeier and the likewise bilingual defendants Oleg Riefert, Alexander Lust and [REDACTED] DOJ-CRM b(6), b(7)(C) were in a position to check the translation. Other than the usual splitting of hairs on the use of certain terms, this process did not identify significant errors of translation.

To the extent that defense attorneys refer to proof for a “conspiracy” deriving from a significant translation error by the investigating officials in the translation of call Atis 2964, the Court cannot share this conclusion. The content summary of call Atis 2964 obtained by the State Office of Criminal Investigation states that the defendant Oleg Riefert described the Ismaylovskaya with the possessive word “our” which is a phrase that was not actually used, as is shown in the translation obtained by the Court. Rather, the defendant merely lists the Ismaylovskaya in a list including the Solzneskaya and another group. Regarding the deliberate manipulation asserted by the defense, it must be assumed that the experienced criminal investigators were aware that the summaries of the calls prepared by them

would not be used in court and that the adjudicating Court would obtain written transcripts. They could thus be assured that any manipulation of the translation would be uncovered. The Court concludes therefore that this was an error, even though a regrettable error, as may well occur in the documentation of more than 37,000 calls under the time pressure of the investigation.

j) The statements of the witness Gareev

The statements of the witness Gareev were not suitable of generating doubts as to the existence of the Ismaylovskaya group. He was called by the defense essentially to refute the statements made by Haydarov regarding the actions in the transfer of the Kachkarnaski GOK mine in early 2000. He was then the Chair of the Directorate of the mine. The Court has shown above that it did not rely on the circumstances of the transfer described by Haydarov in its decision, but that it could not discern a deliberate misstatement by the witness in his description (see IV. B. 1. b)).

It was noteworthy regarding the testimony by the witness Gareev that he answered each significant question by stating either that he did not recall or that he did not notice because he was then at work in his office. Thus, he could not testify whether the site was occupied or not. He stated that he read a notification that he was fired, that he packed his things and left without any further inquiry and that he could thus not give a reason for his dismissal. The Court is convinced that this behavior is unusual. He denied completely that the Russian newspaper articles submitted by the defense indicated that he – the witness Gareev – had initially commented publically with the same arguments as Haydarov. However, he could not explain why he saw cause to call a press conference in the fall of 2000, in which he confirmed the version of events that Chernoi was describing and “corrected” his previous statements in the presence of Eugen Aschenbrenner. He did not deny that there had been such a press conference.

Overall, the testimony of the witness was primarily driven by his attempt to show the witness Haydarov, who had been his long-term business associate in the past, in as bad a light as possible, including the assertion that the witness Haydarov had a problem with alcohol. Whether or not it fit the question, he testified that Haydarov was a poor businessman, a criminal and an alcoholic.

He answered the question whether he knew the term Ismaylovskaya by stating that this is a neighborhood in Moscow, but that he had no knowledge of the term otherwise. In view of the fact that this group was discussed in the Russian media again and again, in particular in connection with the events surrounding Kachkarnaski GOK, this statement would appear to be a joke.

k) The statements of the witness Kositsin

Likewise, essential portions of the presentation by the witness Kositsin were not believable. He was likewise called by the defense to refute the statements of the witness Haydarov. He acknowledges that his testimony was triggered by Makhmudov. Kositsin is now his partner, and he was the Director of the Kachkarnaski GOK mine until 2002, where he succeeded Haydarov. He had known Haydarov before that date, because Makhmudov, the large shareholder, had installed Haydarov as the Deputy CEO in the Uralelektromed mine in the 1990s.

The witness evaded questions whether Haydarov had also worked directly with Makhmudov in Moscow while he was the Deputy CEO at Uralelektromed, because the witness insisted that he wanted to testify only in regard to the cooperation between Haydarov and himself [Kositsin]; the Court interpreted that approach to testimony as confirmation of the Court's conclusion that Makhmudov installed Haydarov as the Deputy CEO at Uralelektromed to control Kositsin.

He denied totally that there was any activity by Ismaylovskaya at Uralelektromed in the mid-1990s, and also denied totally any past conflict with Makhmudov and thoughts to eliminate him. He stated that there were never any disagreements with Makhmudov, and that any descriptions to the contrary were the results of Haydarov's "overly fertile imagination." Even so, the witness could not explain why the latter was assigned as his deputy at Uralelektromed, even though Kositsin described him as totally unprepared for that job.

The witness had to admit that there had been unrest in connection with the activities on the takeover of the Kachkarnaski GOK mine. The witness stated that these uprisings had been organized by Haydarov. The witness Kositsin claims to have heard this several years after the events from a member of the then hired rioters, but he was unable to describe the details of this communication, such as in what situation and which circumstances it took place. He merely reiterated in response to repeated pointed questions by the Court that a member of the hired rioters had told him so.

The entire approach of the witness to testimony was characterized by a canned opening to his response to any question – whether it related to the question or not – that he wanted to draw the attention of the Court to the fact that no court in Russia had ever found any illegal acts in the takeover of Kachkarnaski GOK.

This witness likewise steadfastly denied that he knew the term Ismaylovskaya and claimed that he had never heard that term. This is not convincing for the same reasons as listed for the witness Gareev.

The witness is now a partner with Makhmudov, as he stated proudly, and owner of a sizable number of shares amounting to 35% in the mining consortium UGMK, where Iskander Makhmudov is the majority shareholder. He states that Makhmudov transferred those shares to him. He initially evaded an answer to the question how much he had paid for those shares. Even after repeated

and pointed questions by the Court, he refused to answer, but eventually confirmed that the shares had been a gift. The Court deduces from this fact that the witness Kositsin had been “bought” by Makhmudov in order to assure himself of an ally. Thus, it will be unlikely, of course, that Kositsin would make any statements that could implicate Iskander Makhmudov.

2. Membership of the Defendants in the Ismaylovskaya

There were no indications that the defendants **Alexander Lust** and [DOJ-CRM b(6), b(7)(C)] were or are members of the Ismaylovskaya. In regard to the latter, the Court is convinced in this regard simply based on her sex.

The defendant **Oleg Riefert** is also not in the hierarchical structure. His membership is precluded simply because he does not live in Moscow and thus fails to meet a critical precondition. It appears from the testimony of the defendant [DOJ-CRM b(6), b(7)(C)] in the preliminary investigation, which testimony is trustworthy for the reasons listed above, that her ex-husband's membership in the organization had been under discussion, but that it failed when the defendant did not wish to move back to Russia. Afanasyev had been very favorable toward such a membership, and the defendant **Oleg Riefert** had repeatedly spent much time in Moscow for that reason. But in the final analysis, he deemed this to be too dangerous, and **Oleg Riefert** decided to stay in Germany. Afanasyev had accepted this and had supported him in his decision in dealings with the Ismaylovskaya, as the detailed testimony of [DOJ-CRM b(6), b(7)(C)] in the preliminary investigation states.

The Court was also not convinced that the defendant **Afanasyev** was/is a member of the Ismaylovskaya group. The defendant denied this by way of heckling interruptions to the trial whenever the topic came up. Admittedly, it is true that the defendant [DOJ-CRM b(6), b(7)(C)] testified in the preliminary investigation that **Alexander Afanasyev** is a leading member of the Ismaylovskaya, who gave orders. But she could not provide proof based on her own knowledge

in this regard. Rather, she admitted that she only heard this as a blanket assertion from her ex-husband Oleg Riefert. Special Agent McCausland and CI Layher both testified in agreement that the international investigations had uncovered hints of a membership of Alexander Afanasyev. This gave rise to the suspicion that the defendant is a criminal leader of the organization. However, both witnesses pointed out that this was merely a suspicion based on uncorroborated information. The witness Haydarov confirmed believably that he met the defendant Afanasyev at least twice in the presence of Anton Malevski, the leader of Ismaylovskaya at that time. One such meeting took place at a meeting in the hotel "Metropol" in Moscow in the hotel's restaurant "Luxor" (its existence was confirmed by the interrogation of the interior architect in charge) during 1997. The defendant sat at the next table, approached Malevski's table and whispered something into Malevski's ear. Based on these two meetings, he (the witness Haydarov) was under the impression that the defendant was Malevski's bodyguard. However, he did not investigate the defendant any further, such that he could not provide any specification of his position. For the above reasons, the Court is convinced that these statements by the witness Haydarov are also true. The Court does not ignore the fact that the witness never mentioned the defendant Afanasyev in his many interrogations by Israeli investigating authorities. First, he plays a role in an interrogation regarding the present proceedings. But the circumstance derives simply from the fact that the interrogation by the Israeli authorities was never targeted towards the defendant Afanasyev – as the witness states believably. The fact that the witness Haydarov initially indicated in his interrogation by the Police that he did not know a person named Afanasyev and also could not identify him from the presented photo also does not create doubt regarding the truth of the testimony. Admittedly, the Court is not fully convinced by the witness' attempted explanation that he did recognize the defendant at once, but that he held back due to his fear, because it appears to be strange in light of much more damaging testimony by the witness regarding more influential persons.

Admittedly, the witness had seen the defendant only twice before, and that was many years back, when he took notice of the defendant Afanasyev only as a minor player. This witness expressed this vividly in answering a question from the defense with the words: "Look, Mr. Defense Attorney, I did not bother with Afanasyev. He was not on my level." It is thus understandable and does not cast doubt on the believability of the testimony, if a witness cannot immediately recall the name of the defendant and identify him from a photo several years after such infrequent meetings. On the contrary, such a pattern of testimony indicates a real-life event where the recollection required much searching and specifically not prior prompting by the investigating authorities, as the defense articulated again and again. After all, such influence by the investigating officials would be expected to lead to an immediate recognition and identification of the defendant.

Given the lack of specificity regarding membership, the statements by the witness Haydarov also did not convince the Court that the defendant Afanasyev was a member of the group. Both Haydarov and Kurshudov could describe the defendant only as a bodyguard, a position that they only heard from third parties, rather than knowing it from their own experience. In view of the seemingly fanatic religiosity of the defendant, which was evident in many of his comments during the trial and which was thus particularly evident to the Court, as well as the resulting dependence on the advice of his "Batyushka," the Court concludes that the defendant would have been too much of a risk for the Ismaylovskaya to make him a member, much less a leader. A membership for Afanasyev is also shown to be unlikely, given that Oleg Riefert indicated in a discussion (Atis 3025) that Afanasyev was in arrears for two months in his payments to his "boys" and was out of money, which would be an impossible situation for a member, because then the group and not Afanasyev personally would be responsible for the "salary payments."

3. The Personal Relationships among the Defendants

The findings on the personal relationships among the defendants are based on the statements by the defendant [REDACTED] made during the preliminary investigation, which are believable for the reasons listed above, as well as on the statements by the defendant Lust, which are likewise believable in this regard. The two testimonies confirm and augment each other.

4. The Firm S+L IBA GmbH

The record regarding the S+L IBA GmbH derives essentially from the statements made by the defendant Lust, which are likewise believable in this regard. They were confirmed and augmented by the interrogation of the Auditors Seiler and Groznica, who had evaluated the financial statements of the GmbH, as well as by the witness Schorr, an employee of the firm. The listing from the Trade Register regarding the GmbH was also read into the record.

5. Offense 1: Investments by the Ismaylovskaya in Transactions of S+L IBA GmbH

a) The Origin of the Funds

As previously stated, the Court was not sufficiently convinced that the defendant Afanasyev was a member of the Ismaylovskaya. However, the Court has no doubt that he was very close to the organization and that he was instructed by the latter to launder illegally derived funds in legitimate businesses.

In addition to the previously listed statements by the co-defendant [REDACTED] and the witness Haydarov, which document the close connection, the Court bases its conclusion specifically on the findings of the phone surveillance. The respective participants indicate in many tapes that the funds invested in Germany did not derive from the defendant himself, but from an organization that was behind him and that required him

to render an account. Oleg Riefert refers to “joint funds” in phone call Atis 862. There are several references (Atis 3468, 862, 6088, 2802) that state that the funds did not belong to Afanasyev, but to the boys or a central structure or the holding. Oleg Riefert identifies this holding in call Atis 417 as NIKA-Holding, in which Dimitri Pavlov, “Pavlik,” is a director and which had been more successful when “Anton” (i.e. Anton Malevski) was alive; this information agrees with the findings of the FBI listed above (see IV. B. 1. d) and e)) and of the international investigating authorities, but also with the statements of [DOJ-CRM b(6), b(7)(C)] and Jalul Haydarov. The calls Atis 6088, 3383 name “Seryoga” or “Akson” as the current leader of the funding organization, thus Sergei Aksyonov, who required Afanasyev to render an account and called him in for discussions. This is also consistent with the results of the international investigations listed above and with the statements regarding the Ismaylovskaya given by the co-defendant [DOJ-CRM b(6), b(7)(C)] and the witness Haydarov to the Police. As an aside, it should be noted here that the transcript of the call Atis 3383 that was prepared for the Court shows the name Akson; when this tape was played during the trial, the loud background noises obscured all but the initial “Aks...” However, the Court is convinced that the translation that was done outside the trial was done properly. The Court notes here that the call was played by earphones and thus at higher quality. In addition, the interpreter has some flexibility to filter out background noise by amplifying one side or the other of the earphone, as the interpreter Metzger-Treiber pointed out during the trial.

Proof that the invested funds came from the Ismaylovskaya also derives from the findings of the preliminary investigation in the Principality of Liechtenstein during 1999/2000. Segments of the files from that investigation were obtained by way of legal assistance and were introduced into the trial in parts. In addition, the Court interrogated the investigating officials of that former investigation, namely Herb, Hengl, Oswald and Heindl as well as CI Schmohl, who had examined the financial records sent from Liechtenstein. This started with the fact that

some of the funds transferred by Afanasyev in the mid-1990s came from the ZUNDORF UNTERNEHMENS AG or EARL HOLDINGS Inc. In particular, this includes the following bank transfers into the account of the defendant Afanasyev at Berliner Bank:

Date	Amount	From	Notes shown in the documents	Documents introduced into the trial
07/12/96	75,345.00 DM	Zundorf AG	LGT Bank	F 2, 180
09/05/96	44,226.00 DM	Zundorf AG	LGT Bank	F 2, 182
11/21/96	30,000.00 DM	Zundorf AG	LGT Bank	F 2, 186
09/23/97	35,086.00 DM	Earl Holding	LGT Bank	F 2, 188

ZUNDORF UNTERNEHMENS AG and EARL HOLDINGS Inc. were (among others) the specific targets of the investigations in Liechtenstein. In addition to other offshore firms, they appear often in the records of the LGT and the Liechtensteinische Präsidialanstalt, and they are linked there with the so-called Russian accounts. According to the records introduced in the trial and confirmed by the testimony of the investigating officials, the defendant Afanasyev was registered as the contact or the person placing the orders for the offshore firms EARL HOLDINGS Inc., LORENZO HOLDINGS Inc. and ZUNDORF UNTERNEHMENS AG. The believable testimony in the trial of the then administrator of the offshore firm Ritter indicated that the defendant Afanasyev personally attended at least one meeting regarding the administration of these firms. The explanations of the Austrian investigating officials indicate that the bank transfers into the accounts of these firms can be traced back to the Trenton Business Corporation. It is precisely this Trenton Business Corporation that serviced private accounts of the Ismaylovskaya leaders Malevski and Aksyonov in Israel and in Switzerland. Likewise, there were also bank transfers from the account of Trenton Business Corporation to the private account of the defendant Afanasyev at Corner Banque Lausanne, account No. 237502/02. In summary, the Court is convinced that this shows that the funds transferred to Germany are closely linked to the Ismaylovskaya; this is even more obvious when one considers the statements made by Haydarov that, among others, the “Obschag” of the Ismaylovskaya was aggregated in Liechtenstein and that the findings

of the international investigating authorities assert that the Trenton Business Corporation is the "Obschag" of the Ismaylovskaya.

It is also noteworthy in connection with the events in Liechtenstein that the initiation of the investigations there coincided with an increase in transfers of funds to Germany. Thus, the Court is convinced that the Ismaylovskaya was forced by the audit under criminal law in Liechtenstein to transfer at least a portion of its funds into the hard-currency country Germany, rather than into Liechtenstein.

Finally, the believable statement of CI Layher indicates that the co-defendant DOJ-CRM b(6), b(7)(C) DOJ-CRM b(6), b(7)(C) expressly stated in her interrogation by the Police that all of the funds invested in S+L IBA GmbH came from the Ismaylovskaya.

The Court rules out the possibility that the funds invested in Germany by the defendant Afanasyev were earned legally by his own business transactions. According to the tax returns of the defendant for 2002 and 2003 that were supplied by the defense and introduced into the trial, he had a yearly income of 32,983,000.00 Ruble (2002) or 33,100,000.00 Ruble (2003). The exchange rates supplied by the Deutsche Bundesbank averaging 29.7028 (2002) and 34.6699 (2003) or the end-of-year exchange rates of 33.5108 (2002) and 36.9555 (2003) imply that the defendant was admittedly a wealthy man, but that he did not have control of sufficient funds to undertake the investments in the size range noted. This implication is consistent with the statement made by the defendant Oleg Riefert in a phone call (Atis 3378) regarding Afanasyev: "He has no money and eight million are on him and five, almost six million are on us." Finally, the defendant Afanasyev himself confirmed in several phone calls that this is not his money (Atis 2055, Atis 3394) and he told his "Batyushka" regarding the investment of the funds in S+L IBA GmbH (Atis 27): "I remember when the situation arose on how to distribute it better in order to get a better return that I volunteered to take the job in order to show that I am important, that I can do something, so that I would not be fired."

Likewise, the Court rules out the possibility asserted by the defense that the funds came from a loan of almost USD 10 million obtained in 1998. On the one hand, the loan contract read into the record during the trial specifies that this loan is limited to current business costs. On the other hand, it would make no economic sense to obtain a loan with an interest rate of 22% and then to make these funds available to third parties at an interest rate of merely 10%.

The defense asserted that these funds came from the former ice hockey player Zhamnov, who now lives in the USA and who invested these funds with Afanasyev in Germany based on friendship. This seems to be indicated at first glance inasmuch as there is proof from the phone taps and from the banking records read into the record (see IV. 5. k)) that a repayment made by S+L IBA GmbH in 2005 went into the bank account of Zhamnov. The testimony of the witness indicated, however, that he had not invested funds in Germany. The witness limited his testimony essentially to stating that the defendant Afanasyev is a "good man" who would never do anything illegal (which was a statement that the witness repeated verbatim in answering just about every question), but he eventually admitted that he had given the defendant funds for investment purposes. However, he stated that these funds had been invested in an amusement park in Moscow that he had inspected in the interim, and that there had never been an investment in Germany.

By the way, the reaction of the witness Zhamnov to the question what the term Ismaylovskaya meant to him was revealing. The term Ismaylovskaya had not been mentioned in the presence of the witness. The witness shouted immediately and seemingly without thought that the defendant Afanasyev had no dealings with a criminal group. Once he was aware of what he had said, he corrected his answer vigorously to say that he had no idea what the term Ismaylovskaya meant.

The Court could also eliminate the possibility that the funds came from a Russian named "Ilyusha." There is such a hint in discussion

Jura 012:0016 (automobile interior surveillance). Contrary to the statements listed above that these funds came from the "boys" or the "holding," as stated repeatedly, even by Afanasyev himself, this is the only mention for which the speaker provides no details; the Court is certain that the speaker is not Afanasyev himself. There are no indications where the speaker claims to have obtained this information. There is also no unambiguous proof in the discussion whether the topic of discussion dealt with funds invested in S+L IBA GmbH or with other funds.

b) Background Regarding Legal Treatment as Aliens

The actions of the defendant Afanasyev regarding treatment as an alien noted in III. 5. b) likewise suggest that the funds came from illegal sources. The Court accepts the conclusions based on the statements by Ms. Diemert, the contact at the alien registration authority, made in the trial and by the defendant [DOJ-CRM b(6), b(7)(C)] during the preliminary investigation. The defendant specified that she married Afanasyev merely in order to obtain a residency permit and that she has been paid a monthly stipend since 2001 as compensation. Prior to that date, she had been paid on an irregular basis. She stated that she never lived with the defendant Afanasyev in conjugal community. These findings were confirmed by the documentation regarding alien registration that was introduced into the record in the trial.

The fact that the defendant Afanasyev did not personally apply to the alien registration authority for a residency permit in 1994 is proven by the obviously different signature of the person then applying from the signature of the defendant shown in his passport, which was confiscated when he was taken into custody. Likewise, the health status of the defendant in 1994, which was described above, seems to preclude that the defendant could have appeared in person in Berlin then. On the other hand, the Court concludes from the fact that the applicant used the personal data and a passport photo of the defendant that the application was filed for the defendant, i.e. on his behalf. The Court obtained a forensic expert opinion regarding the passport photo used in this application. The comparison used the photo in the passport of the defendant at the time of his arrest.

According to the explanations given during the trial by the forensic expert, Kindermann, the same person is shown on both passport photos. After critically considering these explanations, the court agreed. The court was especially convinced by the characteristic indentation at the left front side of the nose seen in all passport photos, as well as on the defendant at the trial. Thus it was the defendant Afanasyev who used the residence permit obtained in this manner to open an account at the Berliner Bank in the year 1995 (Binder F2 p. 52) as shown in the documents introduced at the trial. This account was subsequently used by defendant Afanasyev as can also be seen in the power of attorney granted to defendant [REDACTED] (Binder F 2 p. 53 f).

The court is convinced that the acquisition of the residence permit served, in addition to facilitating travel, to keep the banks holding the accounts from more closely examining the funds transferred by the defendants because it showed an alleged residence in Germany. This can already be seen from the fact that the travel conducted by defendant, as seen in the passport that was seized and introduced at trial, was not excessive enough to be able to justify the efforts – both in the time required to meet repetitive appointments at the Foreigners Office and financially by making payments to persons involved or paying the rent for the apartment in Berlin – required to obtain a residence permit under false pretenses. In contrast, the defendant, had he claimed a residence in Moscow, would have risked that the banks holding the accounts would have been more skeptical about the transactions he conducted. It was precisely this that he wanted to avoid as far as was possible.

c) The Transfer of the Money to Germany

The defendant Afanasyev transferred the funds made available to him by Ismaylovskaya, in the manner described under III. 5. c), to his account at Commerzbank in Esslingen, which he opened on July 24, 2000. The court is convinced of this fact, based on the testimony of witness CI Schmohl, who conducted the financial

investigations, the defendant's Commerzbank Esslingen account documents described above and read aloud, as well as the statements by the witness Hochgräfe, who is responsible for accounts at the Commerzbank.

d) Initiation of the Relationship with S+L IBA GmbH

According to credible information of defendant Lust, defendant Afanasyev rejected the first S+L IBA GmbH investment idea, which concerned the purchase of a coal mine in Russia. Defendant Lust convincingly described his meeting, during which he considered himself a supplicant, with Afanasyev in his office in the Ismaylov Hotel and how the call ended after a few minutes because defendant Afanasyev immediately rejected the request. This action also convinced the court that defendant Afanasyev did not invest the funds due to his friendly relationship with defendant Oleg Riefert but rather that he was much more concerned with guaranteeing the funds' movement into a hard currency country.

e) The Investment Agreement

As described by defendant Lust, he, Afanasyev and Oleg Riefert as well as the separately prosecuted accused Schleppe subsequently agreed to invest funds in S+L IBA GmbH via defendant Afanasyev for an annual return of 10%. This plea is corroborated by the findings of the telecommunications monitoring, in which a conversation between Oleg Riefert and Alexander Schleppe (Atis 339) includes "The only positive thing we can show is that we earned the 10% that we promised at the end of this year."

f) Subjective Facts of the Case

The court concludes that all three defendants acted with premeditation in regard to the origin of the funds based on the following circumstances:

Based on the proven close relationship between the defendant **Afanasyev** to Ismaylovskaya and on the fact that it was precisely at its request that he was to hide the

origin of the funds it is certain that defendant Afanasyev acted with premeditation.

Defendant **Oleg Riefert** also knew – according to defendant DOJ-CRM b(6), b(7)(C) credible plea during the investigation as described above – about the origin of the funds and of Ismaylovskaya. This is confirmed by the telecommunications monitoring findings described at IV.B.5 a). Defendant Oleg Riefert participated in the conversations cited there.

Lastly, the court is also convinced that defendant **Lust** approvingly (as a minimum) accepted the origin of the funds and the structure of the Ismaylovskaya. The defendant always denied this and asserted that he had no inkling about the incriminated origin of the investment funds.

However, this is contradicted by defendant Lust's reactions during numerous monitored telephone conversations (Atis 6080, 798, 799, 46). In these conversations he was told the defendant Afanasyev had to justify himself and be accountable to third parties for unpaid funds from Germany. The defendant's reaction was completely relaxed and he simply opined that he understood everything. This is a reaction that cannot be expected from a person who claims that he was, up to that point, convinced that the funds were from defendant Afanasyev's own money.

The defendant also reacted in manner that did not indicate any surprise – as is seen from monitored telephone conversations (Atis 1074, 1322, 7609). He had asked defendant Riefert to acquire a counterfeit diploma for him in Russia. When Riefert informs him that the counterfeit diploma has arrived and that he could pick it up in "our casino" the defendant does not even ask where this casino can be found.

Finally, defendant Lust disclosed knowledge of the background in another telephone conversation (Atis 3383) with Oleg Riefert: When the latter tells him that conversations concerning money were currently being conducted with "Aksyon" defendant Lust neither

asks who “Aksyon” is nor why conversations were being conducted with him.

Furthermore, in his testimony during trial the defendant mentions indicators that convince the court of (as a minimum) limited premeditation. He claims to have inquired from Schleppe and Riefert if the funds that were invested came directly from Russia. When this was denied he claimed to have been relieved. This statement clearly shows that the defendant wanted to avoid having the investments associated with direct flows of funds from Russia. He was nevertheless relieved upon being told of the intermediate transfer via a German account, which can be explained by the minimal questioning about the origin of the funds by the banks.

Insofar as the person Afanasyev is concerned, the defendant stated that he obtained a document corresponding to the German criminal background check certificate in Russia. The court is of the opinion that only someone who has doubts would feel the need to obtain such a document. Furthermore, the defendant, who is familiar with criminal proceedings, must have been aware that a clean criminal background check certificate would only mean that there had been no final criminal conviction to date and that it would thus, from the defendant's perspective, constitute a means to make it more difficult to uncover the crime.

Finally, defendant Lust declared that the company S+L IBA GmbH did not even need the US\$ 4 million investment that was placed in the year 2004. He claimed that he did not want to take it from defendant Afanasyev and that he therefore went along with the expensive financing structure. This statement by the defendant is not convincing.

Therefore the court, in view of all the indicators of proof, is convinced that defendant Lust's actions were premeditated. This is even more the case when one considers that the defendant's statements were very circumlocutory and highly detailed but that those concerning the agreement about the investment of the funds were noticeably meager and sparse. Thus the defendant simply stated that Schleppe, who is being prosecuted elsewhere, had told him that Oleg Riefert had a rich friend in Moscow who was

prepared to act as a guarantor and that he demanded a fee for this service. In response to the question of where the money is, he claims to have been told it was in a bank in Germany. After some consideration there was agreement that it was possible to take advantage of this opportunity. In response to questioning, defendant Lust did not offer any concrete information about the agreements that were reached or about the information that was provided to him about Afanasyev.

The court's opinion is not contradicted by the fact that the defendant's having opened, as he described, a new account for the company S+L IBA GMBH with the Dresdner Bank after the Commerzbank Esslingen had terminated the company's accounts. The defendants argue that they would not have done this had they known of the source of the funds. However, as was stated by the customer service specialist Hochgräfe, the termination by Commerzbank was carried out without any notification of cause. Thus the court is convinced the defendants did not consider, in their calculations, that their criminal activities could have been discovered. Since the economic survival of the company S+L IBA GmbH was dependent on the maintenance of a German bank account, they were forced to open such an account at another financial institution.

g) The Supervisory Function of Oleg Riefert

Defendant Afanasyev charged his old friend Oleg Riefert with being the "watchdog" of the investments that were made. This can already be seen in statements made by DOJ-CRM b(6), b(7)(C) in the preliminary proceedings, which are credible in this regard and in which she admitted that her ex-husband was responsible for the funds. However, the recorded telephone conversations made a decisive contribution to convincing the court in this matter. In numerous telephone conversations (Atis 537, 3383) Oleg Riefert refers to the company S+L IBA GmbH as "we" and thus at least expresses his equal standing with Schleppe and Lust. The same applies insofar as he tells DOJ-CRM b(6), b(7)(C) in one conversation (Atis 3025) that Schleppe and Lust were waiting for him, after all, they had to prepare the annual financial statement. He conducts telephone conversations with Schleppe in which he shows himself to be well-informed about the current real estate transactions (Atis 402, 510). In his telephone conversations he repeatedly states that Afanasyev has made him

responsible for the funds (Atis 650, 3468, 802, 862). Schleppe and Lust also accept this assertion. Thus in a conversation between the two it is said: "After all, he (Oleg Riefert) is our breadwinner." In telephone conversation Atis 322 Oleg Riefert complains to defendant Lust that Afanasyev had called him a poor colleague, a poor watchdog. Lastly, Afanasyev also openly mentions that he had charged Oleg Riefert with monitoring the investment process (Atis 27), "it's only his business" (Atis 537) and tells him to get information from Schleppe since "that is after all his job." (Atis 3394).

It may be that Oleg Riefert was not comprehensively involved in S+L IBA GmbH's business transactions and that he also did not represent the company to outsiders, which is the reason that, during the trial defendant Lust claimed there was no overseer function. However, the decisive investments had to have been and were coordinated with defendant Oleg Riefert, who was well-informed about the ongoing business activities. He was responsible for seeing to it that the fees were paid and he had to regularly inform defendant Afanasyev about the conduct of business. In accordance therewith, he instructed the directors of the company S+L IBA GmbH about how they were to conduct themselves with regard to Afanasyev (Atis 6080, 3411, 3430). The money transfer forms introduced during trial prove that defendant Afanasyev left signed blank forms behind, so that defendant Oleg Riefert could undertake business transactions.

h) The Mortgaging/Transfer of Money for the Benefit of S+L IBA GmbH

As is seen in the testimony of the witness Hochgräfe, who was speaking as the Commerzbank Esslingen customer service representative, defendant Afanasyev's funds on deposit at the Esslingen Commerzbank were, per agreement, pledged against a repeatedly increased line of credit to the company S+L IBA GmbH. As early as the year 2000 the first credit of more than 1,200,000.00 Euro to the benefit of S+L IBA GmbH was issued as witness Hochgräfe described and corroborated using documents dated October 6, 2000 (Binder F 4 p. 19 f). The credit and collateral documents,

which were introduced at trial, dated January 14, 2002, October 10, 2002 and January 9, 2004 (Binder F 4 p. 22 ff, 25 ff and 28 ff) also corroborate responsible customer service representative's testimony about the respective increases in the line of credit.

The transfers of US\$ four million and 1.4 million Euro on August 17 and November 2, 2004 can also be easily seen in the bank documents that were read into the record (Account statement extracts and transfer forms F 2.1 p. 190, 234, 241, 247, as well as F 4.2, 62 and F 4.1, 136).

i) The Use of the Money by S+L IBA GmbH

The scope of the real estate business can be seen in the testimony of the auditors who were interrogated at trial and who based their testimony on their analysis of S+L IBA GmbH's financial statements.

The S+L IBA GmbH account statement extracts mentioned above, which were read into the record, show that, in addition, there were loan guarantees to automobile dealerships operated in Russia by defendant Lust and the accused Schleppe (who is being sought) as well as to the company Irexx-Media. This is corroborated in the admissions of defendant Lust as well as the findings of telecommunications monitoring.

The latter especially prove that these were transactions that were not coordinated with defendant Afanasyev and were kept hidden from him with the assistance of defendant Riefert. Thus, in conversations Atis 2746 and 339, it is said that Afanasyev will ask how they would dare be brash enough to invest in the car dealerships without having coordinated with him. In conversation Atis 663 defendant [REDACTED] also states that Afanasyev was not informed about the car dealerships and that he assumes that all the money was invested in construction projects.

This also impressively corroborates the court's conviction that defendant Afanasyev had no interest in investments in Russia and that he was, in contrast, very much interested in the flow of funds into a hard-currency country.

j) The Interests of the Participating Parties

With the exception of a company director's salary paid to defendant Lust as indicated in the account documents and the monthly payments made to, as admitted by the defendants, to the car dealerships in Russia, there are no indicators that the funds invested in S+L IBA GmbH via Afanasyev were used by the participants for personal purposes. However, the court is convinced, based on conversation Atis 322, that the defendants Lust and Riefert wanted to use the investments in the company S+L IBA GmbH both to help the car dealerships in Russia attain commercial success and to ensure their own financial well-being in their old age. This is how defendant Lust explains, at the behest of defendant Riefert, that in the withdrawal of funds from the car dealerships in Russia in order to pay overdue fees, there would be no discussion concerning Kemerovo, that this would be their guaranteed income - for Riefert, Schleppe and Lust – for many years in the future. In conversation Atis 3383 defendant Lust, speaking to Oleg Riefert, allows that even in the worst case what will be left over for them in the Novokuznetsk case will “be sufficient for us three.”

Defendant Oleg Riefert was additionally concerned that he could – as was confirmed by defendant Lust in his admission – he could create an income source for himself by helping the company Irexx-Media achieve commercial success through the loan guarantees he initiated for it.

The court is convinced that defendant Afanasyev's interest was to assure himself financial benefits from the Ismaylovskaya. He had received such financial benefits from the company Trenton Business Corporation paid into his account at the Corner Banque Lausanne until well into 2000 (as described at IV. 5. a)). In the years 2001 to 2004 he received the following payments – which were not used for investments in the company S+L IBA GmbH – in the amount of approximately US\$ 100,000.00 and 150,00.00 [sic] Euro:

Date	Amount	Payer	Comments based on the documentation	Documents introduced at trial
10/09/01	\$ 49,490.00 DM 105,774.26	Shelter Services	OGRES Bank	F 2, 108
10/10/01	\$ 50,500.00 DM 107,932.93	Grand Dragon Development Comp.	Parex Bank	F 2, 110
08/23/02	EUR 31,690.41	First Commerce LLC	For the goods, Parex Bank	F 2, 210
08/26/02	EUR 68,309.59	First Commerce LLC	For the goods, Parex Bank	F2, 211
04/22/04	EUR 50,000.00	Somerlyn Conslt Ltd.	PMT by loan Parex Bank	F2, 226, 227

In this it is apparent that the same companies were involved through which capital for investment in the company S+L IBA GmbH had already been transferred to Germany (see III. 5. c)). Therefore the court is convinced, for reasons presented at IV. B. 5. a), that these funds transferred to the account at the Berliner Bank also originated from the Ismaylovskaya and were granted to defendant Afanasyev for his services. Accordingly, the defendant subsequently used these funds for his personal purposes, for example – as proven by the credit card documents introduced during trial (Binder F 2 p. 330, 341, 345-347, 353 f) – to pay for restaurant meals, hotel stays or purchases (*inter alia* at the Breuninger department store in Stuttgart) or to pay for personal medical bills, as can be seen on the funds transfer form, dated December 2, 2002 (Binder F 2 p. 215).

k) The Business Failure

During his statement defendant Lust conceded that S+L IBA GmbH's business activities did not yield the expected profits. As can be seen from the account documents read into the record and from the financial investigations of police officer Inspector Schmohl the agreed fees were at first paid only by the two payments dated February 21 and November 19, 2001 (Binder F 4.2 p. 133 f, 215, 217).

The recorded telephone conversations also prove that there were no additional payments through the year 2005 and that therefore defendant Afanasyev as well as, subsequently, defendant Oleg Riefert felt themselves steadily under more and more pressure by the Ismaylovskaya (Oleg Riefert in calls Atis 3402 and 3403). Thus [REDACTED] [REDACTED] also tells her mother that it has been several years since any fees were paid and that Oleg was therefore now under enormous pressure (Atis 6071). In numerous calls the topic is that Afanasyev must justify himself to Seryoga or, as the case may be, to Aksyon of the Holding (Atis 3383, 6088, 3468, Jura 00011556-Jura009-0001). According to Oleg Riefert, Afanasyev can no longer afford to let himself be seen in Moscow, due to the missing payments (Atis 6080). Oleg Riefert also suffers under the pressure passed on to him by Afanasyev, something he primarily discusses with Schleppe, but also with Lust (Atis 573, 802, 3133, 3378, 3468).

To calm defendant Afanasyev down he was granted a share of the company S+L IBA GmbH. Defendant Lust notably described how he did not agree with the granting of shares, but that he had finally yielded. Nevertheless he insisted that Afanasyev should only be granted a minority share. In order to increase security and to calm him down and increase his faith in the company, Afanasyev had been granted a letter of indebtedness in 2006. There was no doubt about these statements by defendant Lust since they were corroborated by the letter of indebtedness read into the record.

6. Offense 2: Payments for the Benefit of the Accused Oleg Riefert

In accordance with payment documents read into the record at trial that were described above, defendant Oleg Riefert withdrew payments of a total of EUR 226,600.00 in the period between March 2003 through April 2004 from the account of Andru Angehelov at the Nürtingen Volksbank, over which he had, as indicated by the account opening documents read into the record, power of attorney (Binder F 9 p. 13, f, 15 f).

The court is convinced that these were payments to Oleg Riefert that were sent to him by the Ismaylovskaya via defendant Afanasyev for his services, as described above, as their representative and watchdog in regard to investments made in Germany.

The temporal agreement is immediately apparent: Immediately after the first collateralization of the Ismaylovskaya's funds to the benefit of S+L IBA GmbH in October 2000 (see IV. 5. h) above) the Anghelov account was opened in December 2000 (Binder F 9 p. 13 f) and defendant Riefert was granted power of attorney (Binder F 9 p. 15 f). On the same day the account was opened, the first payment in the amount of DM 20,000.00 was made to defendant Oleg Riefert, as can be seen from the proof of payment that was read into the record (Binder F 9 p. 113).

At no point in time did Andru Anghelov, whose current location is unknown, use the account for himself. The court interrogated Police Lieutenant Wiesemann and Criminal Police Lieutenant Kuder on this subject. The background is an investigation of Anghelov initiated in August 2000. As Officer Wiesemann, who investigated at the time, reported, Anghelov had come up during investigations of various thefts from construction supply markets. In his interrogation as an accused that followed, he stated that he had a monthly income of DM 300.00. He had had EUR 1,000.00 available for his visit in Germany and had spent the nights at his sister's in Wendlingen. Subsequent investigation by Criminal Police Lieutenant showed that this sister is the wife of defendant Schleppe, who is being prosecuted separately, and that Anghelov was in Germany on a regular tourist visa. Anghelov's statements about his financial situation cannot be reconciled with the deposits to the account in his name at the Nürtingen Volksbank, which were read into the record. In accordance with these documents, the following deposits could be recorded:

Date	Amount	Payer	Comments based on the documentation	Documents introduced at trial
12/22/00	7,000.00 DM		deposit	F9, 114
09/07/01	\$9,000.00	TOO Elic Invest, Tallin		F 9, 34, 93, 118
09/10/01	19,366.64 DM		Foreign payment	F 9, 29
10/11/01	\$38,000.00 81,648.73.65 DM	TOO Elic Invest, Tallin		F 9, 29, 35, 36, 94, 120
11/26/01	25,000.00 EUR 55,184.65 DM	TOO Elic Invest		F 9, 30, 95
12/21/01	25,000.00 EUR 55,246.68 DM	TOO Elic Invest, Tallin		F 9, 31, 38, 39, 96, 123
01/21/02	21,070.00 EUR	TOO Vitakost, Tallin		F 9, 54, 61, 147
02/13/02	20,018.00 EUR	TOO Spexvest, Tallin		F 9, 55, 61, 147
02/26/02	\$24,500	Anders AG		F 9, 97
03/06/02	25,000.00 EUR	TOO Elic Invest, Tallin		F 9, 37, 122
03/27/02	\$5,940.00 6,771.18 EUR	TOO Elic Invest, Tallin		F 9, 48, 98, 127
04/01/02	4,512.00 EUR	TOO Moneyville, Tallin		F 9, 56, 141
04/30/02	\$24,000.00 26,514.48 EUR	TOO Elic Invest, Tallin	foreign payment	F 9, 42, 49, 99, 128
07/02/02	\$20,000.00 20,273.64 EUR	TOO Elic Invest, Tallin	foreign payment	F 9, 43, 50, 100, 129
07/02/02	36,609.00 EUR	TOO Moneyville, Tallin		F 9, 58, 61, 147
07/17/02	\$2,970.00 2,929.72 EUR	TOO Elic Invest, Tallin		F 9, 43, 102, 133
08/23/02	44,625.00 EUR	TOO Vitakost, Tallin		F 9, 44, 52, 138
09/22/02	5,234.00 EUR	TOO Moneyville, Tallin		F 9, 59, 61, 147
10/02/02	70,000.00 EUR	Afanasyev		F 9, 61, 147
10/04/02	34,754.00 EUR	TOO Vitakost, Tallin		F 9, 45, 52, 138
10/08/02	2,437.00 EUR	TOO Moneyville, Tallin	foreign payment	F 9, 59, 145
10/15/02	30,000.00 EUR	Afanasyev		F 9, 52
11/11/02	9,625.00 EUR	TOO Vitakost, Tallin		F 9, 48, 52, 138
11/20/02	2,909.00 EUR	TOO Vitakost, Tallin		F 9, 46, 139
12/04/02	9,175.00 EUR	TOO Moneyville, Tallin	foreign payment	F 9, 60, 61, 147

The court's conviction is especially proven by the deposits on October 2 and 15, 2002 of a total of 100,000 EUR from defendant Afanasyev's account.

Lastly, defendant [REDACTED] also confirmed – in accordance with her statements during interrogation by Criminal CI Layher – that all funds that she and Oleg Riefert had received came from Afanasyev. She and Oleg Riefert were aware that these funds were from the Ismaylovskaya. Part of the money came from Tallin, as she and her ex-husband discussed on the telephone. Account documents introduced at trial had confirmed that the funds came from Tallin (see above).

Furthermore, the accused testified that the funds that she received for her personal use did not initially come directly from Afanasyev; however, this had been modified later and she did receive funds directly from Afanasyev's account. However, these funds had to be balanced against funds that Afanasyev had provided to defendant Oleg Riefert via another account.

These admissions are also in accord with the documents entered into evidence at trial. It was shown that defendant [REDACTED] initially received the following electronic fund transfers directly from Andru Anghelov's account into the account she held at the time at the Landesgirokasse:

Date	Amount	Originator	Comments found in the documents	Documents submitted during trial
09/28/01	DM 6,000.00	Anghelov		F 5, 295
10/02/01	DM 6,000.00	Anghelov		F 5, 298
10/20/01	DM 6,000.00	Anghelov		F 5, 303
11/05/01	DM 6,000.00	Anghelov		F 5, 303
11/28/01	DM 6,000.00	Anghelov		F 5, 308
12/18/01	DM 6,000.00	Anghelov		F 5, 310

Starting in December 2001 she received a monthly payment in the amount of DM 6,000.00, or, as the case may be, EUR 3,067.75, and later EUR 3,027.00 directly from Afanasyev's account at the Esslingen Commerzbank. However, it is striking that, until March 2004, these payments were exactly balanced by deposits from Andru Anghelov's account into Afanasyev's account as follows:

Date	Amount	Originator	Comments found in the documents	Documents submitted during trial
12/06/01	3,067.75 €	Anghelov		F 2.1, 59, F9, 31
12/06/01	3,067.75 €	Anghelov		F 2.1, 59, F9, 31
01/02/03	3,067.75 €	Anghelov	Funds transfer	F 9, 40
02/04/01	3,067.75 €	Anghelov		F 2.1, 61, F9, 40
04/04/03	3,067.75 €	Anghelov		F 2.1, 63, F9, 42
05/08/02	3,067.75 €	Anghelov		F 2.1, 64, F9, 42
06/05/02	3,067.75 €	Anghelov		F 2.1, 65, F9, 43
07/03/02	3,067.75 €	Anghelov		F 2.1, 66, F9, 43
08/02/02	3,067.75 €	Anghelov		F 2.1, 67, F9, 44
09/02/02	3,067.75 €	Anghelov		F 2.1, 68, F 9, 44
10/02/02	3,067.75 €	Anghelov		F 2.1, 69, F 9, 45
11/05/02	3,067.75 €	Anghelov		F 2.1, 70, F 9, 46
12/03/02	3,067.75 €	Anghelov		F 2.1, 71, F 9, 46
01/03/03	3,067.75 €	Anghelov		F 2.1, 72, F 9, 54
02/04/03	3,067.75 €	Anghelov		F 2.1, 73, F 9, 55
03/04/03	3,067.75 €	Anghelov		F 2.1, 74, F 9, 55
03/31/03	3,067.75 €	Anghelov		F 2.1, 74, F 9, 55
05/02/03	3,067.75 €	Anghelov		F 2.1, 76, F 9, 56
08/01/03	3,067.75 €	Anghelov		F 2.1, 79, F 9, 58
09/02/03	3,000.00 €	Anghelov		F 2.1, 80, F 9, 59
10/02/03	3,000.00 €	Anghelov		F 2.1, 81, F 9, 59
11/04/03	3,000.00 €	Anghelov		F 2.1, 82, F 9, 59
12/08/03	3,000.00 €	Anghelov		F 2.1, 83, F 9, 60
01/05/04	3,000.00 €	Anghelov		F 2.1, 84, F 9, 66
02/03/04	3,000.00 €	Anghelov		F 2.1, 85, F 9, 66

Initially [REDACTED] had said - according to the interrogating official - that she and her ex-husband Oleg Riefert were to be financially supported by the provision of these funds. The court does not accept her modification of this in a subsequent interrogation in which she stated the funds that defendant Afanasyev had provided her ex-husband via Tallin were exclusively for the payment of Afanasyev's doctor's bills that were coming due. The noticeable

temporal closeness of the payments to the first investments to the benefit of the S+L IBA GmbH company already indicates that this is not the case. Furthermore, the court was able to determine the following payments out of Anghelov's account by reading the following the applicable bank documents:

Date	Amount	Recipient	Comments found in the documents	Documents submitted during trial
12/12/00	DM 20,000.00	Cash payment	Signature: Riefert	F 9, 113
04/12/01	DM 4,500.00	Schleppe	Signature: Riefert	F 9, 115
05/07/01	DM 5,000.00		Funds transfer	F 9, 27
05/14/01	DM 11,203.87	O. Riefert		F 9, 116, 79
06/19/01	DM 13,000.00	O. Riefert		F 9, 79, 116
07/02/01	DM 5,000.00		Funds transfer	F 9, 27
08/03/01	DM 5,000.00		Funds transfer	F 9, 28
09/03/01	DM 5,000.00		Funds transfer	F 9, 28
09/26/01	DM 8,000.00	O. Riefert		F 9, 105
09/28/01	DM 8,000.00	O. Riefert		F 9, 119
11/23/01	DM 26,000.00	Cash withdrawal	Signature: Riefert	F 9, 79, 121
11/29/01	DM 3,500.00	O. Riefert		F 9, 106
01/17/02	3,059.80 €	Schleppe	Signature: Riefert	F 9, 124
05/14/02	5,000.00 €	Payment	Signature: Riefert	F 9, 53
08/06/02	4,500.00 €	Cash withdrawal	Signature: Riefert	F 9, 136
10/07/02	28,000.00 €	Payment	Signature: Riefert	F 9, 53
03/12/03	10,000.00 €	Cash withdrawal	Signature: Riefert	F 9, 62
03/20/03	10,000.00 €	Cash withdrawal	Signature: Riefert	F 9, 62
04/10/03	4,000.00 €	Withdrawal		F 9, 56
04/11/03	135,000.00 €	O. Riefert	Signature: Riefert	F 9, 63, 143
07/15/03	20,000.00 €	O. Riefert	Signature: Riefert	F 9, 64, 144
10/24/03	21,000.00 €	Cash withdrawal	Signature: Riefert	F 9, 62
11/04/03	19,000.00 €	Irex Media	Loan	F 9, 65, 146
02/20/04	32,200.00 €	O. Riefert	Accounts payable	F 9, 70, 148, 149
04/15/04	4,400.00 €		Funds transfer	F 9, 67, 150

The fact that the payments to the benefit of Irexx-Media as well as to the defendant Schleppe, who is being prosecuted separately, contradicts the testimony that the funds were made available simply for the payment of doctor's

bills. The fact that the majority were cash withdrawals and especially of round amounts also cannot be reconciled with the statement of the alleged purpose of the funds. In the payment of doctor's bills it would rather be expected that there had been a funds transfer directly to the doctor concerned. This would then not have to have been done out of a third party's account, but rather could have been made directly from defendant Afanasyev's account. The fact the funds flowed through an account that had been opened in the name of a third party underlines that the defendants had something to hide. The court is therefore convinced that the funds - as has been explained - were fees paid to defendant Oleg Riefert and that the accused [DOJ-CRM b(6), b(7)(C)] wanted to protect the father of her son, with whom she had again entered into a marriage-like relationship, with her corrective and argumentative statements.

7. Offense 3: The Acquisition of the Kressbronner Str. 1 Property

As Dr. Erlinger testified as a witness at trial, the defendants [DOJ-CRM b(6)] and Oleg Riefert purchased the property at Kressbronner Str. 1, Stuttgart-Hedelfingen from the married couple Erlingen in the fall of 2004 for a purchase price of 800,000.00 Euro. The purchase price was paid in accordance with the agreement. As the witness further testified, the S+L IBA company purchased the adjacent property and the two properties that together cost approx. 1.2 million Euro. As seen in the real property cadastre extract, defendants [DOJ-CRM b(6)] and Oleg Riefert were entered as co-owners of the property at Kressbronner Str. 1, with each having half ownership. Based on the reasons cited above, the court is convinced that the funds were a transfer made by the Ismaylovskaya via defendant Afanasyev to defendants Riefert in return for their placement and oversight of the investments that had been made and for entering into marriage with defendant Afanasyev and that the defendants knew this. The purchase price in the amount of 800,000.00 Euro, - as was shown in the bank documents introduced at trial (Binder F 2.1, 241, 247, 249) - was transferred from Afanasyev's account at the Esslingen Commerzbank to the benefit of defendant Oleg Riefert on November 5, 2004. As was shown by the recorded telephone conversations (Atis 27), defendant Afanasyev was informed about this purchase. Shortly before his arrest he even viewed the property, which is indicated by defendant [DOJ-CRM b(6), b(7)(C)] statement

during the investigative process and also from the conversation Atis 3264, in which [REDACTED] and Oleg Riefert discuss the course of that visit. Finally, the discussions Oleg Riefert conducted with male telephone collocutors also confirm that the property was financed by the Ismaylovskaya. Oleg Riefert worries about how, in tax filing he must soon submit, he can justify the purchase of the house without anybody becoming suspicious. Finally, when defendant [REDACTED] husband finances a house for her ex-husband and her (Atis 269) personally, the situation deserves scrutiny; in considering this action, one would think that such an activity would not occur if the background to the financial transaction was not to be kept secret.

8. **Offense 4: Payments as Remuneration for the Marriage Afanasyev/Riefert**

According to admissions in this regard that [REDACTED] made during the trial the marriage that was entered into by defendants [REDACTED] and Alexander Afanasyev in 1999 served only the purpose of obtaining a residence permit for defendant Afanasyev and thereby - and the court is convinced that this is the case - allowing him to establish a legend based on having a family and a residence in Germany.

In the time thereafter defendant [REDACTED], notwithstanding that she had knowledge of their falsehood, gave the City of Stuttgart Foreigners Office three separate written confirmations alleging that a she and defendant Afanasyev cohabited as husband and wife. This can easily be seen in the testimony of Staff Specialist Diemert as well as from the reading into the record of the declarations dated July 10, 2000, August 27, 2001, and August 26, 2003. However, only the last declaration is included in the indictment. Defendant [REDACTED] initially admitted to this situation during her interrogation by the police - as was testified to by the interrogating policeman, CI Layher. At trial she renounced all statements she had made in the context of her interrogation by the police but nevertheless did again admit, on the 117th day of trial, to the situation she had described as a "mock marriage."

The defendant did not make any statements in her testimony at trial about either the payments that the court determined were compensation for entering into the marriage and her associated appearances at the Foreigners Office. However, during her interrogation by the police that she had admitted that, as compensation in return for entering into the marriage, she had received approx. 3,000.00 Euro per month and that she knew about the source of the funds. This is in accord with bank documents pertaining to [DOJ-CRM b(6), b(7)(C)] accounts that were read into the record at trial. In view of the fact, explained previously at IV. B. 6., that these monthly payments initially came from Andru Anghelov's account at the Nürtingen Volksbank and later came directly from defendant Afanasyev's account at the Esslingen Commerzbank, the defendant admitted during her police interrogation that Oleg Riefert had, after some time had passed, told her that it would be better if she received the money directly from Afanasyev since he was her official husband.

In addition to the previously explained reasons for giving credence to the defendant's admissions on this subject during the investigative process there is also the fact that - as seen in the bank documents entered into evidence at trial (Binder F 2.1, 94 -101, 103 - 105, 107, 109 - 112) - that the payments were often designated "monthly salary" in "purpose" field on the funds transfer documents.

9. Culpability

All Defendants acted in a culpable manner. Anything that speaks against this could, at best, be taken into consideration based on the wounds that defendants **Alexander Afanasyev** and **Oleg Riefert** suffered. In this regard the court called on two forensic experts, Dr. Wehner and Dr. Schweickhardt, who were unable to examine the defendants because the defendants refused to be examined. Their experts' report was therefore based on documentation made available to them and the impressions they gained during the trial, at which they were always represented by at least one person until they issued their report.

However, according the expert Dr. Wehner's explanations, with which the expert Dr. Schweickhardt agreed after having conducted his own assessment, neither defendant Afanasyev nor defendant Oleg Riefert demonstrate any indicators of the presence of the initial symptoms found in §§ 20, 21 StGB [German Criminal Code].

Indications of deviant mental disease, feeble-mindedness or of seriously impaired consciousness could not be found in either defendant. The presence of pathological mental illness, especially in the form of ICD [International Classification of Diseases] F 6.9 (cerebro-organic syndrome) in defendant Oleg Riefert based on the brain damage he suffered should be examined more closely since he - as he proved beyond all doubt during the course of the trial - tends toward choleric emotional outbursts. Additionally, general ICD F 7.0 (organic personality disorder) due to damage to the frontal brain lobe should be considered.

The medical records concerning defendant **Afanasyev** that were made available show that he suffered a cerebro-organic syndrome due to having suffered a skull and brain trauma. As a consequence of the gunshot wound he suffered he has impaired consciousness, hallucinations and thought disorders. Nevertheless there are no indications, from an empirical perspective, that there was any diminution of his ability to understand and make decisions during the time period of the criminal activity - which was more than eight years after he suffered the wounds. The court agrees with this based on its own critical assessment. All witnesses who have dealt with defendant **Afanasyev** in a business environment describe him as unremarkable and business-oriented. Witness Hochgräfe, who met the defendant on the occasion of his opening an account, testified that he clearly knew what he wanted. He had thought it through and it made sense. She was not able to observe any abnormalities. Witness Ritter, who met the defendant during a business meeting in the Principality of Liechtenstein, testified to the same observation. From a business perspective, the defendant's behavior with regard to his demand for the outstanding commission payments, during which he, as evidenced by conversation Jura 012-0016 threatened to withdraw all funds invested in the S+L IBA GmbH company

makes sense from a business perspective. Lastly, witness Zhamnov, after stating that he had been a friend of the defendant's before the wounds were incurred, testified that he had been unable to perceive any substantive change in the defendant's character, especially in terms of his business behavior.

In defendant **Oleg Riefert's** case - according to the experts' testimony - pathological mental disease in accordance with ICD F 6.9 and also ICD F 7 can be affirmed. He also has a cerebro-organic syndrome due to a skull and brain trauma (ICD F 6.9) that he suffered. A breakdown of impulse control due to an injury to the frontal lobe can be categorized under ICD F 7.0. However, from an empirical perspective there are also no indications of any diminution of defendant **Oleg Riefert's** ability to understand and make decisions during the period of criminal activity. Based on its own critical assessment the court also agrees with the persuasive testimony from the experts. In regard to defendant Oleg Riefert all witnesses who had a business relationship with him were unable to observe any abnormalities. Witness Dr. Erlinger, who got to know the defendant on the occasion of the sale of the property at Kressbronner Str. 1 in 2004 described him as a polite man who gave no sign of aloofness or tactlessness. Witness Hochgräfe, who met defendant Oleg Riefert on the occasion of the account opening described above, was also unable to describe any abnormalities. In her opinion the defendant was the main contact person for defendant Afanasyev. Witness Zhamnov, who knew defendant Oleg Riefert before he was wounded, was also unable to note any remarkable changes of character. The defendant is, as the court convinced itself during trial, capable of controlling his impulses. His outbursts were simply directed against the court, the representatives of the Prosecuting Attorney's Office, the policemen being questioned in court as well as the witnesses Haydarov and Kurshudov. In regard to other witnesses - for example Zhamnov, Dr. Erlinger or Markus Schorr - the defendant behaved in an extraordinarily polite and forthcoming manner even though especially witness Zhamnov's testimony did not - as was hoped - exonerate the defendants. He was also remarkably respectful and humble in regard to his fellow defendant Afanasyev. If the defendant gave him an instruction

he followed it without objection, even when he obviously was not in agreement with it. For example - as happened numerous times in the midst of a statement - when Afanasyev made it clear to him - Oleg Riefert - that he should now be still, defendant [REDACTED] immediately stopped speaking. Finally, the defendant's behavior during the business transactions, which became apparent in the recorded telephone discussions, shows that there was no reduction or absence of his ability to understand and control his actions. Thus the defendant - as has already been explained - discusses with Schleppe how they must in all cases prevent Afanasyev from learning of the granting of loans in Russia. In connection with Afanasyev's demands for repayment in 2005 he, together with Lust and Schleppe, considers how to come up with funds for at least a partial repayment and discusses how one should act with regard to Afanasyev (see above).

V.

(Legal Evaluation)

With regard to **Offense 1** defendants **Afanasyev**, **Oleg Riefert** and **Alexander Lust** are guilty of commercial money laundering in accordance with §§ 261 Para. 1, Sentence 1, Sentence 2 No. 5, Para. 4 StGB (in the version dated 08/30/2002) in connection with §§ 129, 129b StGB in that they knowingly caused funds from the foreign criminal association the Ismaylovskaya to be transferred to an account within Germany and that they subsequently hid the origin of said funds by means of pledging them as collateral and transferring them to the account of the S+L IBA GmbH company in order to bring them into the legal economy. The court assumed, to the defendants' benefit and in view of the fact that the pledging of collateral and funds transfers could have been from a general investment agreement that was agreed to at one time only, that a normal business entity existed.

With regard to **Offense 2** defendants **Afanasyev** and **Oleg Riefert** are guilty of money laundering, and, in regard to Oleg Riefert, of commercial money laundering in accordance with § 261

Para. 4 StGB (in the version dated 08/30/2002), in accordance with §§ 261 Para. 1 Sentence 1, Sentence 2 No. 5 StGB (in the version dated 08/30/2002) in connection with §§ 129, 129b StGB. The court also assumed, to the defendants' benefit, the existence of a normal business entity regarding all payments because it could not be excluded that there was a general investment agreement that was only agreed to once. Here the court also came to that conclusion that it was a one-time compensation agreement indicating that defendant Oleg Riefert could "serve himself" from the funds in the account opened under the name Andru Anghelov.

Offense 3 is the basis for defendants **Afanasyev's** as well as **Oleg** and [REDACTED] being guilty of money laundering in accordance with §§ 261 Para. 1 Sentence 1, Sentence 2 No. 5 StGB (in the version dated 08/30/2002) in connection with §§ 129, 129b StGB. In this defendants **Oleg** and [REDACTED] acted in a commercial manner in accordance with § 261 Para. 4 StGB (in the version dated 08/30/2002).

Finally, defendants **Afanasyev** and [REDACTED] are, based on the facts of **Offense 4** guilty of money laundering in accordance with § 261 Para. 1 Sentence 1 Sentence 2 No. 5 StGB (in the version dated 08/30/2002) in connection with §§ 129, 129b StGB. In this defendant [REDACTED] acted in a commercial manner in accordance with § 261 Para. 4 StGB (in the version dated 08/30/2002). In the context of Offense 4 a normal business entity was also assumed in regard to the monthly payments since it could not be excluded that these payments were also based on a single agreement. In addition, defendant [REDACTED] is guilty of smuggling immigrants in a commercial manner in accordance with § 92a Para. 2 No. 1 AuslG [Aliens Act] (in the version dated 11/1/1997).

The fact that, during the trial, it could not be proven which concrete offenses committed by the Ismaylovskaya yielded the funds brought into Germany does not prevent the defendants' from being guilty of money laundering. After the coming into force of the 34th Criminal Law Amendment Act all objects arising from any offense, insofar as the offense was committed by a member of a criminal association and this has been found to be the case by the court, are considered to have been a result of such activity. The seed capital for the Ismaylovskaya's assets was acquired during its criminal activity during the struggles over privatization. These assets were subsequently systematically, increased by additional offenses, be they in illegal drug dealing,

arms dealing or money laundering. The assets held by the association are all considered to be of criminal origin in the sense of § 261 Para. 1 No. 5 StGB (in the version dated 08/30/2002).

In that the Ismaylovskaya is using its assets, which were obtained and increased by criminal activity, to gain entry into legal economic activity in Germany § 129b Sentence 2 StGB become applicable; the authority to conduct criminal prosecution, which is required in some cases, is present in this case.

The court took only those payments that occurred since 08/30/2002 (the date that the 34th Criminal Code Amendment Act came into force was August 22, 2002) as justification for punishment. The court has not taken any financial transactions that occurred before this date into account when considering guilt in regard to money laundering or when calculating the harm that was done. Presenting these transactions in the account of the facts and/or in the assessment of evidence was done simply for purposes of clarification.

Since the court could not convince itself with sufficient certainty that any of the defendants were members of a criminal organization, the conviction of money laundering had to take place under the principle of Postpendenz*.

The Offenses 1 through 4 are related to one another under the principle of multiplicity of offenses in accordance with § 53 StGB.

VI. (Sentencing)

1. The Accused Afanasyev

The court based the scope of punishment for defendant Afanasyev on the scope of punishment in § 261 Para. 4 StGB (in the version of 08/30/2002) and also on the scope of punishment under § 261 Para.1 StGB (in the version dated 08/30/2002).

* Principle in German law: When two temporally sequential and related criminal acts have occurred, this principle allows an accused to be convicted of the latter even if it cannot be proven that he is guilty of the former.

The court took into consideration the mitigating factors that the defendant, at the time of sentencing, had already been imprisoned on remand for three years, which imprisonment was under strict conditions due to the organized crime background, that the accused is especially burdened by not being able to speak the German language and by being far from his home without family contact. The court also did not overlook the fact that he is especially sensitive to arrest and imprisonment due to his continuous health issues and that the long lasting trial was a burden. Defendant Afanasyev is also subject to action under the Alien Act based on his being found guilty in this proceeding; however, this should not impact him very much since he has continuously maintained his residence in Moscow. The fact that the defendant could not achieve any profit for the Ismaylovskaya by his money laundering and therefore is under considerable pressure from the organization was also judged to be mitigating by the court. The actual execution of the offense was certainly partially motivated by his friendly relationship with defendant Oleg Riefert. Defendant Afanasyev does not have any prior convictions. Lastly the considerable assets subject to forfeiture as well as the fact that the accused was not previously convicted are to be considered as mitigating factors.

However, the considerable magnitude of the money laundering in all four deeds makes the offenses more serious. Additionally, the long period, stretching for numerous years during which money laundering was conducted and additional funds were repeatedly "added on" also makes the offenses more serious. In so doing the accused proceeded with considerable criminal energy, acquired a legend to undercut the Alien Act, hid the money flows, partially by using Andru Anghelov's account or camouflaging the payments as financial support in marriage to [REDACTED] DOJ-CRM b(6), b(7)(C)]. It is also clear that defendant Afanasyev was the person amongst the defendants who was the leader.

Proceeding from the sentencing perspectives detailed above, the court set the following separate sentences:

Offense 1	imprisonment for four years and three months
Offense 2	imprisonment for ten months
Offense 3	imprisonment for one year and two months
Offense 4	Imprisonment for one year

After having again considered all sentencing perspectives, the court decided on a overall sentence of imprisonment for

five years and six months.

2. The Accused Oleg Riefert

With regard to defendant Oleg Riefert sentencing in regard to all deeds was to be considered in light of the scope of punishment according to § 261 Para. 4 StGB (in the version dated 08/30/2002).

The long imprisonment under remand under strict conditions and the length of the trial were also to be considered in his favor. Defendant Oleg Riefert has also not had any previous convictions. He has been especially affected by the forfeitures since they include his family home.

On the other hand it must be recognized that the defendant made an expensive lifestyle possible for himself by committing the offenses. The scope of the money laundering he undertook comes to a total of several million Euro. Money laundering was conducted for years.

The court, proceeding from these considerations, imposes the following individual sentences:

Offense 1 imprisonment for four years

Offense 2 imprisonment for one year

Offense 3 imprisonment for one year and eight months

After having again considered all sentencing perspectives, the court decided on an overall sentence of imprisonment for

four years and six months.

In deciding the magnitude of the sentence the court was not hindered by a penalty reduction that came to light. Insofar as there was, before the trial began, a telephone conversation between the judge then in charge of the proceedings and defendant Oleg Riefert's defense attorney, Siepmann, about general consideration of a sentence of no more than two years in return for certain confessions and also about a defense allocution did take place, this was an exploratory discussion. That this is so is clearly seen from the fact that the lay judges were not involved and no additional details were discussed. Defendant Oleg Riefert immediately declared that he was not prepared to enter into discussions leading to a possible plea bargain to end the proceedings. Thereafter no additional discussions were conducted. At the public trial the judge then in charge presented the content of this discussion for the purpose of informing the public and clearly stated that this path was thereby "off the table." He emphasized that the court would, however, be open to cooperate in finding a mutually agreeable solution until the taking of evidence began and that such a solution must include all defendants and conclude all aspects of the case.

3. The Accused Alexander Lust

In the case of defendant Alexander Lust the scope of punishment was also to be taken from § 261 Para. 4 StGB (in the version dated 08/30/2002).

At the time of sentencing the defendant had not - excepting the salary as company director and the monthly payments from the Russian car dealerships - personally profited a great deal from the funds brought into Germany. Rather, his actions were directed toward ensuring the economic survival of S+L IBA GmbH as well as the car dealerships he operated together with Schleppe. The accused also served 18 months imprisonment under remand under strict conditions. Of all the accused, he acted with the weakest intent and was least included in planning. His admissions on the objective facts regarding the offenses are also to be assessed as mitigating.

However, in his case as well the amount of several million Euro, which was the magnitude of the money laundering, and the long period in which it took place has its effect here as well.

Taking these perspectives of deciding the sentence into consideration, the court decided that imprisonment for

two years and six months

is appropriate to the offense and degree of guilt.

4. The Accused DOJ-CRM b(6), b(7)(C)

Here the court also based its sentencing on the sentencing scope in § 261 Para. 4 StGB (in the version dated 08/30/2002) with regard to the two offenses that she committed.

In view of the two offenses, the court was not able to convince itself to undertake a lower penalty or even omitting all penalties in accordance with § 261 Para. 10 StGB in connection with Art 316d EGStGB [Introductory Law to the German Criminal Code]. The defendant did indeed make comprehensive statements relevant to the offenses during her questioning in the investigative process; however, she not only expressly recanted these statements at the beginning of the trial but also objected to the use of these statements using irrelevant, partially grave accusations against the interrogating law enforcement personnel. The court therefore investigated the circumstances of her interrogation in a comprehensive independent proceeding for the taking of evidence that called numerous witnesses. Only on the 117th day of the court's session – after she had previously attempted to show her inability to stand trial, which was negated by three experts, and had attempted to force her case to be separated from the proceedings and suspended – did the accused admit, in a written declaration, that her previous description of a "phony marriage" was in fact the case. This statement included no mention of any payments or the background for such payments. The accused refused to answer any questions about the statement. Immediately before the beginning of final arguments, which was also after the independent proceeding regarding her interrogation was completed and the court had rendered several rulings concerning the admissibility of her statements during interrogation, the accused recanted her accusation that interrogation included methods forbidden by § 136a StPO [Code of Criminal Procedure] had been used as well as her objection under § 136 StPO. This behavior does not, in the court's opinion, justify the application of the so-called "witness for the prosecution" provisions. Nevertheless the court does not fail to recognize that the defendant [REDACTED] was subjected to pressure from defendants Afanasyev and Oleg Riefert. During the trial both of them tried to keep her from reading her prepared statements by calling out shouts such as "[REDACTED], hold on, for Pete's sake" or "[REDACTED], don't do it." This is nevertheless a situation in which witnesses for the prosecution basically find themselves. Therefore the court did not undertake to issue a lower penalty according to § 261 Para. 10 StGB.

The court did, however, weigh the defendant's admissions during the investigation very heavily in her favor. Her partial confession on the 117th day of court proceedings also had a positive effect even though it could be seen from the evidence that had been

introduced by that time that the situation that the defendant had described as a "phony marriage" could no longer be denied. Both that the defendant has no prior convictions and the length of the proceedings also count in her favor. Lastly, the court did not fail to notice that the monthly payments to the defendant did not continue until she was arrested, but rather stopped in March 2006. The forfeiture of the property at Kressbronner Str. 1, Stuttgart affected the defendant gravely since it was her family's home.

That the defendant made an expensive lifestyle possible for herself in that she committed the offense for years weighs against her. All in all it was an amount of several hundred thousand Euro. The accused, in addition to money laundering, she also committed the offense of commercial human smuggling and thus consciously made it easier for an individual who is at least very close to organized crime and who acted on behalf of organized crime to immigrate. Lastly her behavior during trial, in which she massively attacked the police officials who had questioned her during the investigation and subjected them to serious accusations - such as falsifying official documents - must be considered.

The court therefore considered the following sentence to be appropriate to the offense and guilt:

Offense 3 imprisonment for one year and eight months

Offense 4 imprisonment for one year and ten months.

After having again considered all sentencing perspectives, the court decided on an overall sentence of imprisonment for

two years and six months.

5. No Delay of the Proceedings Contrary to the Rule of Law

There was no delay of the proceedings contrary to the rule of law.

On the course of the proceedings:

The defendants were arrested on August 18, 2006 and were, for the first time, confronted with the investigation directed against them. After the 303-page investigation report was completed in February 2006, the documents were sent to the responsible prosecutor's office, which brought an indictment to the Stuttgart District Court in March 2007. The proceeding was referred to the 5th Major Criminal Court Chamber on March 16, 2007, and the indictment was delivered without delay. At this point the action was comprised of 213 binders that had to be processed. Notably about 37,000 recorded telephone conversations and conversations that had taken place inside automobiles had to be evaluated by the court. Proceedings commenced on June 29, 2007 and the indictment was authorized for trial after one defense attorney had asked for a delay in such authorization and that request had been granted. After back-up defense attorneys* were assigned, coordination was conducted in July with all three law offices to set a trial date. Simultaneously numerous motions were submitted, for example a request for an electronic memory device with the recorded telephone conversations and for a laptop computer to be made available to defendants being held in remand. The trial began on October 15, 2007 and lasted a total of 134 days of the court being in session. Often the rhythm of three sessions per week was followed. In the course of the trial the court had to call numerous witnesses from foreign countries and had to rule on approx. 580 motions, to include 20 motions due to concerns about members of the court being prejudiced, and also motions directed against expert witnesses and translators participating in the trial. This does not include numerous (since the indictment was received by the court 32 additional file folders of legal documents were submitted) pleadings submitted outside the trial, such as those requesting release from remand, alleging prejudice etc. All in all it was a comprehensive proceeding that officials of the justice authorities handled with the required degree of speed. In accordance therewith the court rejected constitutional complaints referring to speedy trial alleging that the court was delaying the proceedings.

* Refers to the practice of appointing back-up defenders in complicated cases to ensure the trial can continue (versus having to start over) if something happens preventing the primary defender from continuing (e.g., client fires his defense team).

VII. (Asset Recovery)

Since the property and assets were derived from or were earned using the Ismaylovskaya's assets and thus were acquired by means of a offense, they are subject to forfeiture in accordance with §§ 261 Para. 7, 74, 74a, 74c StGB (in the version dated 08/30/2002). In this regard the police official responsible for asset forfeiture confirmed that the properties temporarily seized during the investigation were real estate purchased by the S+L IBA GmbH company since 2003 and were therefore property purchased with assets acquired in criminal money laundering acts. The vehicle that was sold on an emergency basis was also titled to the S+L IBA GmbH company, which was financed up to 98% by the Ismaylovskaya funds. The seized assets also served the purpose of undertaking money laundering.

VIII. (Cost Decision)

The costs are allocated to the defendants in accordance with § 465 Para. 1 StPO.

Baisch

Haußmann

Dr. Oberscheidt

District Court Judge

District Court Judge

District Court Judge

Issued by
Documents Official at the
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[illegible signature]

[stamp text] Stuttgart District Court

Bedk
Senior Judicial Clerk