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Deposition dispute ties up Amadea forfeiture case

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The Amadea in Genoa, Italy in 2017 (Credit: Shutterstock)

US federal prosecutors are stuck in a costly dispute over witness depositions as they seek the forfeiture of the Amadea, a $300 million superyacht they say belongs to sanctioned Russian oligarch Suleiman Kerimov.

For months, prosecutors have sought to schedule the depositions of key witnesses in the case, including from Eduard Khudainatov, a former chief executive of Russian state oil company Rosneft who claims to be the yacht's true owner, Dinar Khalikov, an alleged associate of Kerimov, and Millemarin Investments, a company that briefly owned the vessel.

But they have disagreed with Khudainatov's lawyers over whether the depositions should occur on American soil or overseas. Prosecutors say the depositions should be held in the US to avoid time-consuming mutual legal assistance requests, while the businessman's lawyers say he does not want to travel to the US for fear of arrest or being perceived by the Kremlin as cooperating with the DOJ.

In an 18 October joint letter, prosecutors **asked the New York judge overseeing the case** to compel the depositions to take place in the US before a mid-November discovery deadline. Meanwhile, defence lawyers asked for more time to review documents and to conduct the proceedings remotely instead.

“The Government remains unaware of any valid reason that the relevant depositions cannot take place in the United States and has expended tremendous efforts to accommodate Claimants' preference that they take place elsewhere,” wrote assistant US attorneys Jennifer Jude, Dominika Tarzczynska and Rachel Doud for the Southern District of New York.

The scheduling delays have been “costly” as the government is “spending nearly $1 million a month” on maintaining the Amadea as the forfeiture case proceeds, prosecutors said. Earlier this year, the DOJ **made an unsuccessful attempt to auction off the superyacht**, currently docked in San Francisco, on the grounds that the vessel's maintenance costs are excessive compared to its market value.

In their letter to US District Judge Dale Ho, prosecutors said the parties have identified an unnamed country where the depositions of Khudainatov and Khalikov could be held. But the depositions may only take place if the country approves them, and the government “does not know when (or even if) it will receive a response”, they added.

Prosecutors said they don't object to waiting for the country's response as long as doing so doesn't jeopardise an upcoming court hearing in December and that the witnesses aren't allowed to testify in person at the hearing if they have not yet been deposed.

They added that the parties have agreed that the deposition of a Millemarin representative will take place in the United Kingdom. However, because the witness isn't available until after the court's mid-November discovery deadline, Millemarin should make one of its US-based representatives available instead, they argued.

The prosecutors said there is "overwhelming evidence" that Kerimov is the beneficial owner of the Amadea, citing additional documents a government expert pulled off the ship in August 2024.

In response, defence lawyers questioned why prosecutors had cited the mid-November deadline as a basis for the parties to "abandon their efforts" to find a mutually acceptable deposition location. They requested that the judge push the deadline back, citing additional discovery obligations and pending depositions of 16 other witnesses. The lawyers asked that the depositions be held remotely if the discovery deadline can't be pushed back.

They added that the government was raising the boat's maintenance costs instead of focusing on the primary issue in the case – namely, that all of the seven witnesses deposed so far have said the boat belongs to Khudainatov.

"Not a single witness suggested they have first-hand knowledge of the vessel having been sold or Suleiman Kerimov owning the vessel," the lawyers said. "The government is stuck paying these maintenance fees because it did not follow standard DOJ policy of conducting an investigation prior to seizing Claimants' vessel."

US prosecutors **filed a civil forfeiture complaint** in New York against the Amadea in October 2023, roughly a year and a half after Fiji authorities **seized the vessel** at the US' request. In their complaint, the DOJ alleged that Kerimov bought the Amadea in 2021, concealing his ownership through various shell companies and later violating US sanctions by paying over $1 million in maintenance fees in US dollars. Kerimov was **added to the Office of Foreign Assets Control's sanctions list** in 2018 for being "an official of the Government of the Russian Federation" as part of a wave of sanctions in response to Russia's invasion of Crimea.

Shortly before the DOJ filed the complaint, Khudainatov, who is not under US sanctions, **filed a lawsuit** asking a California federal judge to order the return of the yacht, accusing US prosecutors of "political theatre" and of not conducting a robust enough investigation into the boat's ownership. That judge later **threw his case out**, ruling that the proper jurisdiction was New York rather than California.

Khudainatov's lawyer and a DOJ spokesperson did not respond to a request for comment.

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For the DOJ

Assistant US attorneys Andrea Beaty, Dominika Tarczynska, Jennifer Jude, Sarah Mortazavi and Rachael Doud in the Southern District of New York and trial attorneys Joshua Lee Sohn of the Criminal Division's money laundering and asset forfeiture section and Yifei Zheng of the counterintelligence and export control section in Washington, DC

Documents

US v Amadea: joint letter to Judge Dale Ho (18 October 2024)

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