

# DOJ UNVEILS INDICTMENT AGAINST MIKE FLYNN'S BUSINESS PARTNER ON EVE OF HIS SENTENCING

In its brief arguing that Mike Flynn's lies were significant and willful on Friday, the government reminded that Flynn lied not just about discussing sanctions with Sergei Kislyak, but also about his FARA registration.

Moreover, as the defendant has admitted, weeks after the January 24 interview, he made materially false statements in filings he provided to another branch of the Department of Justice pursuant to the Foreign Agents Registration Act ("FARA"). See Statement of Offense at ¶ 5, *United States v. Flynn*, No. 17-cr-232 (D.D.C. Dec. 1, 2017) (Doc. 4). The defendant made those false statements while represented by counsel and after receiving an explicit warning that providing false information was a federal offense. See, e.g., FARA Registration No. 6406, Flynn Intel Group (March 7, 2017), available at <https://efile.fara.gov/docs/6406-Registration-Statement-20170307-1.pdf>. The defendant was equally responsible for telling the truth to both Department of Justice entities, and under both circumstances he chose to make false statements.

It just unveiled the indictment (which was actually filed on December 12) that probably came of his substantial cooperation in a separate criminal investigation, against his business partner Bijan Kian. Kian got charged – along with Kamil Emil Alptekin – not just with

FARA violations but with 18 USC 951, serving as an agent of a foreign government.

I'll comment more on the substance of the indictment in a follow-up post. But I'm as interested in the timing, for two reasons.

First, in a comment in the addendum describing Flynn's cooperation, the government had said,

While this addendum seeks to provide a comprehensive description of the benefit the government has thus far obtained from the defendant's substantial assistance, some of that benefit may not be fully realized at this time because the investigations in which he has provided assistance are ongoing.

I took that to be a comment about indictments. Some districts premise a 5K letter like Flynn received on providing enough testimony to indictment someone else. The government was just a week short of indicting Kian when they submitted that filing.

The unsealing of this indictment (Kian's arraignment was actually scheduled on the 14th) comes even as Turkey is claiming that Trump told Erdogan at the G-20 that his Administration is working on extraditing Gulen, the topic on which Kian was secretly acting in Turkey's interest.

In an interview at the Doha Forum on Sunday, Cavusoglu asserted that US President Donald Trump told Turkish President Recep Tayyip Erdogan at the G20 summit in Argentina this month that the US was "working on" the extradition of [Fethullah] Gulen.

The exiled cleric, 77, has been living in a gated compound in eastern Pennsylvania after leaving Turkey in 1999. Erdogan has held Gulen responsible for the deadly attempted coup against him in 2016 – a charge Gulen has denied.

However, there's no sign from Washington

that the US is moving towards extraditing Gulen. Last month, the State Department said the US had received multiple requests from the Turkish government and continued to evaluate materials presented.

Cavusoglu also claimed the FBI had evidence that Gulen's organization, known as FETO, "had been violating US laws, including tax fraud, visa fraud and also some other illegal activities."

The circumstances of Trump's meeting with Erdogan got some attention, as the White House canceled a formal meeting with the Turkish president, but did have a less formal, 50 minute meeting. This indictment will presumably make it harder for Trump to fulfill that promise, if indeed he made it.

In any case, by unsealing this indictment today, it will make it a lot harder for Flynn's lawyers to argue in his sentencing hearing tomorrow that his lies weren't serious. By flipping, Flynn avoided being charged as a Foreign Agent.