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# The DOJ Charges Thirteen Individuals in Three Different PRC Espionage Cases, Signaling a New Enforcement Phase

On October 24, 2022, Attorney General Merrick B. Garland, Deputy Attorney General Lisa O. Monaco, and other senior leaders from the Department of Justice (“DOJ”) announced that obstruction of justice and money laundering charges had been filed in the Eastern District of New York (“EDNY”) against two intelligence officers from the People’s Republic of China (“PRC”) in connection with allegations that the individuals bribed a U.S. government employee to steal documents related to EDNY’s prosecution of a PRC-based telecommunications company—not identified by the DOJ but publicly reported to be Huawei Technologies Co. Ltd. (“Huawei”)—for sanctions-related violations and other crimes.<sup>1</sup>

According to the criminal complaint, the two officers orchestrated a scheme to steal files and other information from the U.S. Attorney’s Office for the Eastern District of New York related to the ongoing investigation and prosecution of Huawei, including by paying approximately \$61,000 in Bitcoin bribes to a U.S. government employee whom the defendants believed had been recruited to work for the PRC government, but who in fact was a double agent working for the FBI.<sup>2</sup> In announcing the charges, AG Garland asserted that “[t]his was an egregious attempt by PRC intelligence officers to shield a PRC-based company from accountability and to undermine the integrity of our judicial system.”<sup>3</sup>

In his remarks, AG Garland also referred to two other prosecutions recently brought against alleged agents of the PRC. *First*, on October 24, 2022, the DOJ announced charges in the District of New Jersey against four individuals, including three PRC intelligence officers, for conspiring to act in the U.S. as illegal agents on behalf of the PRC government.<sup>4</sup> The individuals allegedly used a purported academic institute at the Ocean University of China for at least a decade as cover to target and recruit individuals in the United States to provide information, materials, equipment and assistance to the PRC government.<sup>5</sup> *Second*, on October 20, 2022, the DOJ announced charges in the EDNY against seven individuals alleged to have been working on behalf of the PRC government in connection with a multi-year campaign of threats and harassment to force a U.S. resident to return to

<sup>1</sup> Dep’t of Justice, “Two Chinese Intelligence Officers Charged with Obstruction of Justice in Scheme to Bribe U.S. Government Employee and Steal Documents Related to the Federal Prosecution of a PRC-Based Company,” (Oct. 24, 2022), available [here](#).

<sup>2</sup> *United States v. He & Wang*, 1:22-mj-01137 (E.D.N.Y. 2022), Dkt. No. 1 (criminal complaint).

<sup>3</sup> “Remarks on Malign Schemes,” available [here](#).

<sup>4</sup> Dep’t of Justice, “Chinese Intelligence Officers Charged with Using Academic Cover to Target Individuals in United States,” (Oct. 24, 2022), available [here](#); *United States v. Lin et al.*, 22-cr-00710 (D.N.J. 2022), Dkt. No. 1 (criminal complaint).

<sup>5</sup> *Id.*

the PRC.<sup>6</sup> AG Garland explained that, as part of the PRC’s “Operation Fox Hunt,” the defendants sought to repatriate alleged fugitives to the PRC through threats and harassment, including by pressuring intermediaries to travel to the United States.

AG Garland noted that, “[a]s these cases demonstrate, the government of China sought to interfere with the rights and freedoms of individuals in the United States and to undermine our judicial system that protects those rights” and reiterated that the DOJ “will not tolerate attempts by any foreign power to undermine the Rule of Law upon which our democracy is based. We will continue to fiercely protect the rights guaranteed to everyone in our country. And we will defend the integrity of our institutions.”<sup>7</sup>

## Key Takeaways

- The DOJ may have retired its “China Initiative,” but the DOJ’s focus—and that of the U.S. government as a whole—on China is, if anything, increasing. Together with the new export controls on semiconductor chips and manufacturing equipment announced earlier this month by the Department of Commerce,<sup>8</sup> the DOJ’s announcement of charges against PRC agents signals a new enforcement phase and may lead to increased geopolitical tension.
- These charges are another example of the DOJ’s increased willingness to use criminal charges (such as obstruction of justice, money laundering, or even material support for terrorism) to address national security concerns.<sup>9</sup>

We will continue to monitor developments in this space and provide further updates as appropriate.

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This memorandum is not intended to provide legal advice, and no legal or business decision should be based on its content. Questions concerning issues addressed in this memorandum should be directed to:

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<sup>6</sup> Dep’t of Justice, “Six Individuals Charged with Conspiring to Act as Illegal Agents of the People’s Republic of China,” (Oct. 20, 2022), available [here](#); *United States v. An et al.*, 22-cr-00460 (E.D.N.Y. 2022), Dkt. No. 1 (criminal complaint).

<sup>7</sup> “Remarks on Malign Schemes,” available [here](#).

<sup>8</sup> Dep’t of Commerce, “Commerce Implements New Export Controls on Advanced Computing and Semiconductor Manufacturing Items to the People’s Republic of China (PRC),” (Oct. 7, 2022), available [here](#).

<sup>9</sup> Paul, Weiss, “DOJ Brings First Terrorism Material Support Charge Against a Corporation, Underlining the Importance of Compliance When Operating in High-Risk Countries and of Robust M&A Due Diligence,” (Oct. 20, 2022), available [here](#).