



**REPORT:
THE CASE OF NAIL MALYUTIN**



THE DECISION ON HIS EXTRADITION TO RUSSIA MUST BE RECONSIDERED

The report was published on: 9 June, 2016

The Open Dialog Foundation was established in Poland, in 2009, on the initiative of Lyudmyla Kozlovska (who is currently the President of the Management Board). The statutory objectives of the Foundation include protection of human rights, democracy and rule of law in the post-Soviet area. Particular attention of the Foundation is focused on the region's largest countries: Kazakhstan, Russia and Ukraine.

The Foundation has its permanent representative offices in Warsaw, Kiev and Brussels.

The Foundation provides broad expertise related to the protection of the rights of political refugees and political prisoners. The Foundation organised monitoring missions of the trials of the Zhanaozen oil workers¹ and the Kazakh political prisoner Vladimir Kozlov² as well as coordinating an international campaign in their support. The Foundation also provides expertise in the case of the Kazakh opposition politician and refugee Mukhtar Ablyazov. In its reports, the Foundation describes methods used by the Kazakh and Russian regimes to persecute Mukhtar Ablyazov and his associates, who have been granted asylum in the EU.³

The Foundation was one of the first organisations to draw attention of the public to the case of Nadia Savchenko and was the initiator of the project on the introduction of sanctions entitled 'The Savchenko list', which was voted for by the Ukrainian Parliament⁴ on 22 April, 2015, and, subsequently, supported by 57 MEPs.⁵

The Foundation also conducts monitoring of the cases of other Ukrainians, facing politically motivated criminal prosecution in Russia. In particular, along with Ukrainian human rights organisations, it prepared a report entitled '28 hostages of the Kremlin', in which high-profile cases of persecution of Ukrainians in Russia were presented.⁶

Copyright: Open Dialog Foundation, June 2016.

00-580 Warsaw

Aleja Szucha 11a, office 21

Tel. +48 22 307 11 22

E-mail: odfoundation@odfoundation.eu

en.odfoundation.eu

For more detailed information, please contact us:

Project Manager:

Lyudmyla Kozlovska lyudmylakozylovska@odfoundation.eu

Editing: Lyudmyla Kozlovska

Translation: Barbara Odrobińska-Dudek

Graphic design: Andriy Osavoliyk

Cover photos: kommersant.ru

Reprinting of the materials contained in whole or in part is permissible with due reference to the Open Dialog Foundation as the source

¹ <http://en.odfoundation.eu/a/745,aktau-judicial-proceedings-and-defendants-testimonies-of-torture-inflicted-upon-them-during-investigation>

² <http://en.odfoundation.eu/a/1297,court-proceedings-in-the-case-of-vladimir-kozlov>

³ <http://en.odfoundation.eu/a/7319,report-the-facts-which-confirm-the-fabrication-of-the-case-of-mukhtar-ablyazov-in-russia-tatiana-paraskevich-and-artur-trofimov-prosecution>

⁴ <http://en.odfoundation.eu/a/7377,new-names-on-savchenko-list>

⁵ <http://eap-csf.eu/assets/files/EP-letter-sanctions-Savchenko.pdf>

⁶ <http://en.odfoundation.eu/a/7213,28-hostages-of-the-kremlin-main-violations-and-prospects-for-the-release>

Table of contents:

1. INTRODUCTION.....4

2. QUESTIONABLE CRIMINAL CHARGES4

2.1. Charges concerning economic crimes in retaliation for the disclosure of financial fraud in a company with majority state ownership4

2.2. Signs of falsification of cases of incitement to commit murder6

3. RUSSIA CANNOT GUARANTEE A FAIR TRIAL, PROPER CONDITIONS OF DETENTION AND PROTECTION FROM TORTURE7

3.1. An unfair trial7

3.2. The priority of international law was cancelled8

3.3. Torture and inappropriate conditions of detention8

3.4. Law enforcement agencies seize property from those accused of ‘economic crimes’9

4. CONCLUSIONS.....9

1. INTRODUCTION

The criminal prosecution of Nail Malyutin by Russian law enforcement bodies bears clear signs of an orchestrated campaign. In Russia, his rights as regards safety, a fair trial or adequate conditions of detention will not be fulfilled. In this regard, the Open Dialog Foundation hereby urges the Austrian judicial and executive authorities to reconsider the decision to extradite Nail Malyutin to the Russian Federation.

Nail Malyutin – aged 48, a citizen of the Russian Federation, Uzbek nationality. Since 2007, he headed the Russian company ‘Finance Leasing Company’ JSC. In December 2014, he was detained in Austria, where he has a residence permit, on the basis of the Interpol red notice, submitted by the Russian Federation. Russia accuses Malyutin of economic crimes, as well as in instigating the murder. In October 2015, Austria issued a decision to extradite Nail Malyutin to Russia.

2. QUESTIONABLE CRIMINAL CHARGES

2.1. Charges concerning economic crimes in retaliation for the disclosure of financial fraud in a company with majority state ownership

In March 2007, Nail Malyutin became the CEO of the Russian aircraft leasing company with state ownership ‘Finance Leasing Company’ JSC (hereinafter referred to as ‘FLC’). Almost immediately afterwards, he gave power of attorney for the management of the company to his deputy Viktor Drachev. Drachev, in turn, was a friend of one of the founders of FLC, Andrey Burlakov. As General Director, Malyutin was responsible for international contacts and frequently travelled abroad.

In March 2008, FLC transferred 32 million dollars to the accounts of its branch in Luxembourg - FLC WEST HOLDING. The transfer documents were signed by Viktor Drachev. According to FLC’S accountant, instructions to make the funds transfer were given by Andrey Burlakov and Viktor Drachev. Nail Malyutin stated that he was not aware of the financial transaction.

At the end of March 2008, FLC WEST HOLDING acquired a controlling stake in the Norwegian company Aker Yards, which owns shipyards in Germany and Ukraine. The transaction was estimated at approx. 292 million euros (approx. 450 million dollars).⁷

In June 2008, 50% of the shares of FLC WEST HOLDING were transferred to the offshore company TEMPLESTOWE TRADING CORPORATION, owned by Igor Yusufov. At the time of the transaction, Yusufov was the special envoy for the Russian Foreign Ministry, as well as a representative of the Russian President Dmitriy Medvedev. In the period between 2001-2004, Yusufov served as Minister of Energy of the RF. For several years he was a member of the board of directors of the Russian multinational energy company ‘Gazprom’. According to media reports,⁸ Yusufov is a close friend of Dmitriy Medvedev. Thus, Igor Yusufov became an influential shareholder of FLC WEST HOLDING.

In late 2008, Nail Malyutin initiated a financial audit of FLC which resulted in illegal financial transactions being revealed. In an interview for the German edition of *Der Spiegel*,^{9, 10} and Russia’s *Novaya Gazeta*, Malyutin¹¹ stated that the money for the purchase of shipyards had been siphoned off. According to him, for this purpose, they used Igor Yusufov’s TEMPLESTOWE TRADING CORPORATION, which has actually become the owner of a branch of FLC, namely, FLC WEST HOLDING.

⁷ http://ukrrudprom.ua/digest/Okean_opyat_prodadut.html

⁸ <http://www.forbes.ru/milliardery/247885-lobbist-vysokogo-poleta-chi-interesy-zashchishchaet-igor-yusufov>

⁹ <http://www.spiegel.de/spiegel/print/d-64760875.html>

¹⁰ <http://www.spiegel.de/spiegel/print/d-66803938.html>

¹¹ <http://www.novayagazeta.ru/politics/45713.html>

In particular, *Der Spiegel* cited Malyutin's statement: "I hereby warn the German government from these people and from accepting wishful thinking as reality. The internal investigation results indicate that they used a fraudulent plan to buy the shipyard for public money".

On 16 July, 2009, Financial Times reported that the FLC company has issued default shares, and that, according to Malyutin, it has become the result of the illegal withdrawal of money from the company. Investors expressed their dissatisfaction, and Malyutin addressed law enforcement agencies, urging them to carry out an investigation.¹²

On 2 March, 2009 and 20 April, 2009, Nail Malyutin filed statements with Russian law enforcement authorities, reporting that large sums of money (approx. 83,4 mln dollars)¹³ had been illegally siphoned off from the FLC without his knowledge. Russian law enforcement authorities twice refused to initiate a criminal investigation, on 27 March, 2009 and 30 April, 2009. Still, in June 2009, the criminal case was officially initiated, however, the investigation was inconclusive.

On 28 June, 2012, Nail Malyutin addressed the prosecutor's office of the city of Schwerin (Germany) with a statement reporting that the shipyards owned by Aker Yards had been bought using illegally acquired funds. On 10 August, 2012, the prosecutor's office of Schwerin summoned him for questioning.

Soon after, on 22 August, 2012, Russia initiated a criminal case against Nail Malyutin, accusing him of financial embezzlement from FLC in 2007 (Art. 159 of the CC of the RF).

According to investigators, in August 2007, FLC and the 'FLC-Komplekt'¹⁴ company (the director of this company was Yevgeniy Zaritsky, Andrey Burlakov's friend) concluded a contract, according to which 'FLC-Komplekt' undertook to purchase 25 IL-114 airplanes with the funds provided by FLC. FLC transferred approx. 11,5 million dollars¹⁵ to the account of 'FLC-Komplekt', however, the airplanes were never procured. According to the investigation, 'FLC-Komplekt' immediately transferred the money to Aslan Gagiyev's bank account,¹⁶ opened under the fictitious name 'Sergey Morozov'. The latter, in turn, transferred most of the money (approx. 10 million dollars)¹⁷ to the account of Nail Malyutin.

According to Nail Malyutin's counsels, this sum of money was borrowed from Sergey Morozov for the acquisition of real estate in Spain. Malyutin stated that he was not aware of the fact that Morozov is a fake name of Aslan Gagiyev.

The charges of economic crimes, brought against Nail Malyutin, bear signs of a political order for the following reasons:

- primarily, this is evidenced by the fact that criminal proceedings were initiated at the very moment that Nail Malyutin announced to the international community details relating to a large-scale financial embezzlement in the Russian company.
- the criminal case (charges of economic crimes) was opened against Nail Malyutin on the basis of a testimony by an employee of the 'K' Department of the Economic Security Service of the FSB S. V. Ledovskiy, in which it was stated that, allegedly, elements of criminal activity had been identified. According to Nail Malyutin's defence team, the agency has no right to engage in such cases, as they are not within the agency's scope of competence. It is worth noting that Sergey Magnitskiy's prosecution was initiated in the very same way.¹⁸ This suggests that Russia has a

¹² <http://www.ft.com/intl/cms/s/2/2db3d830-7200-11de-b7e1-00144feabdc0.html#axzz48og5w5ty>

¹³ At that time – approx. 2.787 billion rubles

¹⁴ 'FLK-Komplekt' is a subsidiary company of FLK, which was used by FLK in its commercial activities.

¹⁵ At that time – approx. 290 million rubles

¹⁶ According to the counsels, Aslan Gagiyev, using a forged passport on the name of Sergey Morozov, worked in the FLC and due to this fact, he was acquainted with Malyutin. According to the counsels, Nail Malyutin was not aware of the fact that Morozov was actually Aslan Gagiyev. Russia labelled Gagiyev 'the leader of the criminal group 'Aslan Gagiyev's gang', which operated in 2004-2009 in Northern Ossetia.

¹⁷ At that time – approx. 253 million rubles

¹⁸ <http://www.novayagazeta.ru/blogs/128/54304.html>

well-established scheme of prosecution for those inconvenient to the regime, involving charges of economic crimes, which were also used to prosecute Nail Malyutin.

2.2. Signs of falsification of cases of incitement to commit murder

In addition to charges of economic crimes, Russia has also incriminated Malyutin with involvement in the contract killing of S.V. Onopriyenko.

S.V. Onopriyenko was murdered in Moscow in October 2006. Unidentified perpetrators shot S.V. Onopriyenko and K.V. Nikolayev, who were in the same car. At that time, the investigating authorities were not able to find the perpetrators, and in February 2007, the investigation was suspended. By strange coincidence, it was resumed only in September 2014, when the investigating authorities of the Russian Federation had already become actively engaged in 'investigating' economic crimes, allegedly committed by Malyutin.

In September 2014, a man named E.I. Yashkin (former law enforcement officer) was detained. Russian investigative authorities labelled him 'a member of Aslan Gagiyev's criminal group'. During his interrogation, Yashkin testified that the murder of Onopriyenko had been committed by other members of Gagiyev's criminal group, namely, by M.K. Nikolayev and S. L. Beglaryan (killed in 2010 and 2012, respectively). According to Yashkin's testimony, Beglaryan had allegedly told him that the mastermind behind the assassination of Onopriyenko was Malyutin, in connection with a conflict, financial in nature, ongoing between them. It is noteworthy that during the interrogation, Yashkin stated that the assassination of Onopriyenko took place in 2008. The General Prosecutor's Office of the Russian Federation explained that by the fact that the case was 'complex' and 'Yashkin could have been mistaken'.

It should be noted that since 2013, Yashkin has been a patient of a mental hospital due to him having been diagnosed with schizophrenia. In 2016, a forensic psychological and psychiatric examination found him unfit to face trial and unaccountable due to his mental disorder.

It is noteworthy that, initially, the original Russian law enforcement agencies accused Malyutin not only of incitement to murder S.V. Onopriyenko, but also of involvement in the murder of K.V. Nikolayev. This was reported on 12 February, 2015 by Russian General Prosecutor's Office in the extradition request sent to the Austrian authorities. Also, in the documents, attached to the request, the **Russian law enforcement bodies labelled Malyutin 'the mastermind behind the killing of Andrey Burlakov and attempted murder of Anna Etkina** (on 29 September, 2011, Burlakov was killed in Moscow, and his wife Anna Etkina was injured). The documents putting Malyutin on the international wanted list indicated that dozens of other killings were investigated in the criminal proceedings related to the case of Malyutin. It is obvious that, in this way, the Russian investigators have tried to create an image of Malyutin as a person linked to multiple crimes and, thus, influence the decision of the Austrian side on extradition. However, subsequently, on 22 June, 2015, on the request of the Austrian court, General Prosecutor's Office of the RF provided 'updated information', according to which the Russian investigation "*accuses Malyutin of sole incitement to murder of Onopriyenko*".

Analysis of prosecutorial base in the case of the murder of Onopriyenko shows that Malyutin's involvement in the murder is highly questionable for two reasons:

Firstly, the murder was committed at the end of 2006. As early as at the beginning of 2007, the investigation into the case was suspended due to the impossibility of finding the perpetrators. In this case, there are all signs of the so-called 'unsolvable case', i.e. a criminal investigation, which cannot be brought to court. In the practice of the Russian prosecution, such crimes are often attributed to notorious criminal groups. In such cases, evidence is usually based on self-incrimination and the testimony of certain members of the criminal community who, in exchange for certain privileges, give

testimonies, which are convenient for the investigators. In this case, the witness was Yashkin whom the prosecutors labelled 'a member of Gagiyev's criminal community'.

Secondly, the evidence is based on the testimony of a single witness - Yashkin. In addition, he was not a direct perpetrator of the contract murder and what's more, he obtained information about what happened from S.L. Beglaryan who has since died. Such evidence most definitely cannot be considered credible. It should also be taken into account that Yashkin suffers from mental illness, and so, his testimony cannot be considered objective.

Thus, in relation to Malyutin's involvement in the murder of Onopriyenko, the investigators didn't have any genuine evidence. The case bears signs of fabrication.

3. RUSSIA CANNOT GUARANTEE A FAIR TRIAL, PROPER CONDITIONS OF DETENTION AND PROTECTION FROM TORTURE

3.1. An unfair trial

On 18 April, 2016, Russian organisations, namely: the Institute for the Rule of Law and the Committee of Civil Initiatives, presented the results of a legal study on the problems of Russia's judicial system. It was found that, on average, in Russia, over a 7-year period, a judge hands down 500 guilty verdicts and only 1 acquittal in criminal trials. The share of acquittals does not exceed 0.3%, while in the EU countries, acquittals constitute approx. 15-20% of all verdicts. At the same time, only 6.8% of the complaints filed by defendants' counsels are granted by the court.¹⁹

According to a 2016 report by Freedom House, in the ranking of judicial systems, Russia was attributed 6.25 points out of 7 (7 being the lowest level of democratic progress).²⁰ In the annual report for the years 2015-2016, Amnesty International described such "deep-rooted and extensive defects of the Russian criminal justice system" as "failure to comply with the principle of equality of the parties; (...) willingness of the courts to accept evidence obtained by torture"; "*participation of secret witnesses; denial of the right to a lawyer of one's own choice*".²¹

According to the well-known human rights organisation 'Memorial', as of May 2016, there were 86 political prisoners in Russia.²² In March 2015, the UN Committee reported that judges in Russia are subject to extra-procedural influence, including from the Presidential Commission. Judges may be subject to disciplinary action for handing down acquittals.²³

In Russia, Malyutin is not going to be guaranteed the right to defence. This, in particular, is confirmed by the following fact: on 19 December, 2014, the Leninskiy District Court of Vladikavkaz arrested Malyutin in absentia, which opened the way for Russia to send a request for his extradition. It is noteworthy that for that court hearing, the authorities provided Malyutin (without his knowledge) with **the public attorney** Georgiy Dzhigkayev, who had never met with or contacted Malyutin before. The public attorney, acting against the will of Malyutin, agreed with the investigation's position: **he "left to the discretion of the court", the decision to arrest Malyutin and did not challenge the court's decision.** The forced appointment of the public attorney who acts in the interests of the prosecution is a common practice in Russia.

Some other gross violations, committed during the arrest of Nail Malyutin in absentia, should also be emphasised. Firstly, the decision of the court reads that the preventive measure is elected with regard to Malyutin Nail Anvarovich, born on 18 January, 1986, although his actual date of birth is 18 January,

¹⁹ <http://enforce.spb.ru/products/other-publications/6731-6731-i>

²⁰ <https://freedomhouse.org/report/nations-transit/2016/russia>

²¹ https://amnesty.org.ru/pdf/Annualreportbook15_16_Russian.pdf

²² http://memohrc.org/sites/default/files/list_of_political_prisoners_english_30.05.2016.pdf

²³ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRUS%2fCO%2f7&Lang=en

1968. Thus, the court ruling was issued in relation to a different person. Secondly, the judgment of the court stated that the case has been considered on the basis of the findings of the Main Investigation Department of the Investigative Committee of the Russian Federation in the North Caucasian Federal District, and the decision itself was adopted on the basis of the motion, filed by the Investigative Department of the FSB Department for the Republic of North Ossetia, Alania. In this connection, Nail Malyutin's defenders have reasonable doubt as to what kind of a motion, in respect of which person (the defendant), and based on what evidence, was considered, resulting in the issuance of a decision on the measure of restraint with respect to Nail Malyutin. Thirdly, during the consideration of the motion in the court, investigating authorities have not provided any evidence, which would confirm that Nail Malyutin was hiding from Russian law enforcement agencies.

3.2. The priority of international law was cancelled

In 2014, 8,952 complaints against Russia were registered in the ECHR, and in 2013 the number reached 12,328. In 2015, Russia became the leader among all countries in terms of the number of violations of human rights conventions - the ECHR has identified such violations in 109 cases, in which complaints have been filed against Russia.²⁴

On 14 December, 2015, in Russia, amendments to the Law 'On Constitutional Court' came into force, allowing Russian courts to ignore the decisions of the ECHR and other international courts which "contravene the Constitution of the RF". The Venice Commission has declared the incompatibility of that law with the international obligations assumed by Russia, and criticised the Russian authorities for their refusal to initiate a dialogue with the international community.²⁵

In addition, in March 2016, the Russian authorities closed the UN High Commissioner for Human Rights' Moscow office.²⁶

All these actions constitute yet another sign that **Moscow has no intention of respecting international law and makes attempts to evade responsibility for human rights violations**. With the tightening of Russia's authoritarian regime, Russia's disregard for its international obligations will further increase.

3.3. Torture and inappropriate conditions of detention

Reports by international human rights organisations underline the repeated and unpunished use of torture in Russia.²⁷ As noted by the human rights activist Lev Ponomarev, the purpose of torture is not just to force a person to confess, but also to "extort money or to force a person to retract complaints". Ponomarev emphasises that "more than one quarter of prisoners in Russia are subjected to torture or ill-treatment". According to human rights activists, in the last few years, approx. 60 thousand complaints of torture have been registered in Russia.²⁸

In March 2015, the UN Human Rights Committee reported the widespread use of torture in Russia. The Committee gave the example of the high-profile case against Zaur Dadayev and other suspects who stated that they had confessed to the murder of Boris Nemtsov under torture.²⁹

On 21 October, 2015, the State Duma adopted, at the first reading, legislative amendments which extend the right to use violence against detainees and prisoners. It is stipulated that "*an officer of the*

²⁴ <http://en.odfoundation.eu/a/7280,russia-s-ignoring-of-european-court-of-human-rights-decisions>

²⁵ <https://wcd.coe.int/ViewDoc.jsp?p=&Ref=DC-PR042%282016%29&Language=lanEnglish&Ver=original&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackCol%20orLogged=A9BACE&direct=true>

²⁶ <http://www.rferl.org/content/un-ohchr-moscow-office-closure-russia/27607266.html>

²⁷ <https://www.amnesty.org/en/documents/pol10/0001/2015/en/>

²⁸ http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/RUS/INT_CCPR_ICO_RUS_17192_E.docx

²⁹ http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/RUS/CCPR_C_RUS_CO_7_19979_E.doc

penal executive system shall not bear responsibility for injuries caused to convicts, detainees, and other persons during the application of physical force, special means and firearms”, if such application “was in line with the provisions of the law”.³⁰

The situation regarding torture and trumped-up court trials in the North Caucasus is particularly difficult. It is the North Caucasus Federal District that carries out proceedings in the case of Malyutin; this information was reported by the Russian prosecutor’s office to his counsels on 18 February, 2016. The district includes, in particular, Chechnya, Dagestan, North Ossetia, Ingushetia. Human rights defenders and journalists working in this region have been subjected to attacks.³¹ It is also noteworthy that on 5 May, 2016, the Head of Chechnya, Ramzan Kadyrov, at a meeting with the judges of the region, stated that “in respect to each acquittal, judges and lawyers will personally report to Ramzan Kadyrov”.³² It was in the courts of the North Caucasus Federal District that political trials against citizens of Ukraine: Oleg Sentsov, Aleksandr Kolchenko, Nikolay Karpyuk and Stanislav Klykh were conducted. In all these cases, guilty verdicts were handed down.³³

It is worth mentioning that in June 2015, the Supreme Court of Vienna sent for review to the court of the first instance, the decision to extradite Aslan Gagiyeu to Russia in connection with the situation surrounding human rights, in particular, the use of torture, in Russia.³⁴

3.4. Law enforcement agencies seize property from those accused of ‘economic crimes’

Practice has shown that the Russian law enforcement bodies are a tool in the hands of the authorities, used for the seizure of business property. A vivid example of this was the case of YUKOS. In 2015, INTERPOL excluded from the wanted list, Pavel Zabelin³⁵ and Pavel Ivlev, businessmen, accused of fraud and embezzlement in the case of YUKOS. It is also known that the name of Leonid Nevzlin,³⁶ the former vice president of YUKOS, whom Russia accused of attempted murder (as in the case of Malyutin), has been removed from INTERPOL’s public list of wanted persons.

Russian human rights activist Lev Ponomarev³⁷ reported that the Interior Ministry of the RF is also pursuing small business owners: *“In general, seizure of property is carried out with impunity, and the owner of the property himself is convicted on trumped-up charges and sentenced to a long-term imprisonment”*. Numerous incidents of extortion of money and property, through the use of torture, from persons charged with financial crimes and detained in Russian detention facilities, have been publicised. Human rights activist Lev Ponomarev emphasised that those accused of ‘economic crimes’, *“cannot expect a fair trial in Russia, as law enforcement agencies are actively involved in the looting of their property.”*

4. CONCLUSIONS

The guarantees, given in the extradition request, are unfounded, as Russia will not be able to guarantee to Nail Malyutin a fair investigation, trial and protection against torture. In such circumstances, the United Nations Convention against Torture prohibits extradition. The analysis of criminal accusations brought against Malyutin by Russia casts doubt over the impartiality and

³⁰ <https://www.newsru.com/russia/21oct2015/zaksad.html>

³¹ <https://cpi.org/ru/2016/03/post-100.php>

³² <http://www.novayagazeta.ru/inquests/73046.html>

³³ <http://en.odfoundation.eu/a/7213,28-hostages-of-the-kremlin-main-violations-and-prospects-for-the-release>

³⁴ <http://ria.ru/world/20160129/1366860706.html>

³⁵ <http://en.odfoundation.eu/a/6642,interpol-used-by-russia-in-the-case-of-yukos-and-khodorkovsky-the-oppression-of-pavel-zabelin> ;

<http://en.odfoundation.eu/a/7216,odf-addresses-the-new-unhcr-on-issue-of-political-refugees>

³⁶ <https://lenta.ru/lib/14159507/full/>

³⁷ The Executive Director of the All-Russian Movement ‘For Human Rights’. He has been engaged in human rights activities since the Soviet era - <http://www.zaprava.ru/english/>

independence of the investigation. There is reason to believe that the criminal charges were fabricated and that the accusation of economic crimes resulted from the fact that, by reporting the financial fraud in the FLC company, Malyutin spiked the guns of senior officials.

Subsequently, as stated by Malyutin, he and his family have been repeatedly subjected to threats: during a personal meeting, Igor Yusufov demanded that he “come to his senses” and stop giving interviews to the media. According to Malyutin, he also received threats from other FLC managers: Andrey Burlakov and Nikita Yegorov, who, due to the publicity the case received, had lost the ability to control the company's operations. In connection with the danger, Malyutin fled to Austria with his family. Businessman Andrey Borodin (whom Russia had accused of fraud and embezzlement, before he was granted asylum and his name was removed from the Interpol list) enunciated that Yusufov “*was acting for, and on the instructions, of Dmitriy Medvedev*”.³⁸ Taking into consideration the fact that Yusufov is an influential person, as well as the fact that Andrey Burlakov was killed after testifying against Yusufov in a US court, Malyutin has every reason to fear for his life. Especially, given that in the North Caucasus, the Russian authorities will have ample opportunity to isolate Malyutin and enact revenge against him.

In addition, according to the information obtained from Nail Malyutin, and according to the statement dated 31 July, 2013, sent by Anna Etkina to the Russian Prosecutor's Office, the investigation team, which accuses Malyutin of economic crimes, is working under the supervision of Nikolay Budilo. Also, according to the materials of the criminal case, the Head of the ‘K Directorate of the FSB of the Russian Federation, Viktor Voronin, is participating in the prosecution of Malyutin. Both Budilo and Voronin are included in the list of sanctions on the Magnitsky case, adopted by the United States and the European Parliament. Russian lawyer Sergey Magnitsky died in 2009 in a Moscow detention centre, where he was detained due to exposing a major tax fraud. The persons included in the ‘Magnitsky list’ also participated in other high-profile politically motivated proceedings in Russia, in particular: the case of the Ukrainian soldier Nadiya Savchenko; the case of the Kazakh opposition politician Mukhtar Ablyazov; the Bolotnaya Square case; the case of Manezhnaya Square and the case of YUKOS.³⁹

Additional charges of incitement to murder have been brought in order to discredit Malyutin, as well as to provide new and more compelling ‘base’ for his extradition.

The Russian authorities have previously employed this method in the case of YUKOS. On 22 January, 2016, Malyutin submitted an application for asylum. In connection with the above circumstances, we hereby call upon the Austrian authorities to consider Malyutin’s request for asylum and reallocation of the extradition case for reconsideration.

³⁸ http://www.vedomosti.ru/politics/articles/2013/03/01/ubezhische_borodina

³⁹ <http://en.odfoundation.eu/a/7512,involvement-of-the-russian-officials-included-in-the-magnitsky-list-in-other-politically-motivated-criminal-proceedings-in-russia>