

Mr Wolfgang Brandstetter  
Federal Minister of Justice  
Federal Ministry of Justice  
Museumstraße 7  
1070 Vienna, Austria

Dear Mr Brandstetter

I write to you to express my concern about fate of Mr Nail Malyutin, a Russian citizen currently detained in Austria, whose case I follow, and who faces risk of undergoing severe human rights abuses in case of being extradited.

On December 7<sup>th</sup>, 2016, the Higher Regional Court of Vienna (Oberlandesgericht Wien), revoked the decision from July 29, 2015 when Malyutin's extradition to Russia, deriving from charges of incitement to a murder, was approved. The court now ordered the case of Malyutin to be re-examined. However, the latest decisions do not affect the very extradition request which remains pending. It is therefore critically important that the District Court in Vienna (Landesgericht) and the Austrian government, when re-examining the case, treats the financial accusations as having the same doubtful grounds as the murder-related charges, which are just means to justify politically motivated extradition.

Although recent decision of the court represents a positive development, I remain highly concerned about the continuation of treating parts of Russia's accusation as a possible justification for extradition.


Furthermore, there are currently no grounds for keeping Nail Malyutin imprisoned in Austria. As the decision on extradition was dismissed, he has a permanent address of residence in Austria, all the conditions for ruling his release on bail are fulfilled. There are reasons to believe, Russia's accusations embodied in the extradition request, were meant to keep him imprisoned for as long period as possible. As his imprisonment in Austria was prolonged beyond legally established limits, there are grounds for compensation from the Austrian state.

In the event of eventual extradition, there is high risk that once rendered to the Investigative Committee of the North Caucasian Federal District, Malyutin would be killed, as Mr Yusufov (a former energy minister and a director at Gazprom) against whom Malyutin testifies, effectively controls the investigative structures in North Ossetia. In the past, there were multiple examples of suspicious deaths of detainees in this region. Well documented cases of tortures, in Russian detention facilities, applied to extract a particular confession, include those examined by the European Court for Human Rights, such as Zayev v. Russia (no. 36552/05), Turbylev v. Russia (no. 4722/09). Arbitrarily prolonged pre-trial detention is routinely applied, even in the absence of the relevant grounds, as in the case of

Tsarenko v. Russia, no. 5235/09. Human Rights Watch report from 2015 indicate that even those prisoners whose cases are closely followed by the international community and the media are being mistreated when criticising authorities (<https://www.hrw.org/ru/news/2015/08/25/280482>).

Austria should not rely on security guarantees from Russia, as they are not credible. What particularly points to Russian authorities' intentions are their denial to move the case from North Caucasus to Moscow (requested by Austria), and denial to allow him serve his eventual prison term in Moscow.

I appeal to the Austrian justice system to take those circumstances under consideration and rule out extradition due to political background of the case and because assurances that Russia would carry out the judicial proceedings properly cannot be trusted.

A blue ink signature or stamp, possibly a name, written on a light background. The signature is stylized and appears to be a single name, possibly "Tsarenko".