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Mr Magnitsky's case investigation

Written question No. 609 to the Committee of Ministers
by Mr Pieter OMTZIGT, Netherlands, Group of the European People's Party

On 26 October 2011 the Committee of Ministers answered to questions on the Magnitsky case that: "The Committee of Ministers has been informed that a criminal investigation has been launched in the Russian Federation with a view to identifying those persons responsible for the death of Sergey Magnitsky" and that "The Committee of Ministers expects the investigation to be carried out in a rapid, effective and transparent manner, with a view to clarifying the circumstances surrounding the death of Sergey Magnitsky and ensuring that those responsible are identified and brought to justice."

Sergey Magnitsky died on 16 November 2009 after 358 days of pre-trial detention.

On 28 December 2009 the Moscow Public Oversight Commission published a report on the Magnitsky case. The main conclusions were:

– Mr. Magnitsky was systematically denied medical care in pre-trial detention.

– Mr. Magnitsky was subjected to physical and psychological pressure.

– Mr. Magnitsky's right to life was violated by the State.

– Investigators, prosecutors and judges all played a role in his torturous conditions and treatment in custody.

– After his death, State officials lied and concealed the truth about his torture in custody and circumstances of his death.

Five public bodies, namely the Investigative Committee, the Presidential Administration, the General Prosecutor Office, the Federal Penitentiary Service and the Ministry of Justice received the report, but none of them have yet replied.

On 5 July 2011, the Russian President's Human Rights Council published its report on the Magnitsky case identifying that Mr Magnitsky's arrest and detention were unlawful, he was beaten before his death, and his prosecution by officers earlier implicated by him in corruption, was illegal.

In the last two years, the Russian Investigative Committee extended its investigation into Sergei Magnitsky's death at least nine times and has not reached a conclusion.

Yet the case against Mr. Magnitsky was reopened on 2 August 2011 and his mother was summoned as a witness. Since the Middle Ages, States no longer reopen persecutions against people who have died. But Mr. Silchenko, in charge of the investigation, denied a request from Mr. Magnitsky for medical attention while he was in prison.

Two years since Mr Magnitsky's death, his mother has been denied access to his tissues and blood samples and repeatedly denied an opportunity to carry out an independent medical examination on the ground that there is no reason to doubt the conclusions reached by state-appointed experts.

Mr. Omtzigt,

To ask the Committee of Ministers,

1. Does the Committee of Ministers agree on the following issues:
   - that the investigation has been anything but rapid, effective and transparent and independent, and that the government should be investigating torture, murder and fraud instead of only medical negligence in this case;
   - that the posthumous case against Mr. Magnitsky should be closed immediately and that the victim's family should be allowed to conduct an independent medical examination;
2. Is the Committee of Ministers prepared to enter into a dialogue with the Russian authorities on this topic?