



Doc. 14902 – Compendium of written amendments
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(Final version)

Shedding light on the murder of Boris Nemtsov

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A. Draft Resolution

1. Boris Nemtsov, an internationally renowned leader and figurehead of the political opposition, former deputy Prime Minister of the Russian Federation, former Deputy Speaker of the State Duma, former Regional Governor of Nizhny Novgorod and a member of the Yaroslavl regional parliament, was shot dead in Moscow on 27 February 2015. The Parliamentary Assembly remains profoundly shocked by this brutal assassination, which took place on the Bolshoi Moskvoretsky Bridge, right next to the Kremlin, one of the most heavily protected and monitored locations in the country.
2. The Assembly notes that within days, five suspects had been arrested and a sixth had been killed during an operation to arrest him. Two of the suspects – Zaur Dadayev, the gunman, and Anzor Gubashev, the getaway driver – confessed under interrogation to their parts in the murder. The five suspects were tried by a jury before the Moscow district military court. In June 2017, they were convicted of murdering Mr Nemtsov in return for a payment of 15 million roubles made by Ruslan Mukhudinov, a Chechen army driver. They were sentenced to between 11 and 20 years' imprisonment and each fined 100 000 roubles. Their appeals against conviction were dismissed but their appeals against sentence led to the lifting of the fines.
3. The Assembly considers that various aspects of the investigation and the prosecution's case give rise to serious concerns as to the independence and effectiveness of the authorities' efforts to identify and prosecute all the participants in the crime, including its instigators and organisers. These aspects include the following:
 - 3.1. the suspects were detained on 5 and 6 March 2015, yet the information by which they were supposedly identified seems not to have been analysed until later. Russian media reported information on the shell casings and on the probable origins of the suspects, consistent with evidence presented at trial, before the dates on which the case files indicate this information was known to the investigators. This seems to indicate that another investigation was conducted by other bodies, whilst the role of the official investigators might have been limited to recording results obtained by the other bodies after the fact;
 - 3.2. the Federal Protection Service (FSO), responsible for security in the Kremlin, claimed to have no video evidence showing the scene of the murder, despite its having taken place in the immediate vicinity of the Kremlin;
 - 3.3. no video evidence was obtained from street or traffic surveillance cameras, from the central CCTV video storage facility, or from the garbage truck or the three public transport vehicles that crossed the bridge around the time of the murder. No forensic evidence at all was obtained from another garbage truck that passed

Mr Nemtsov at the moment he was shot, despite its proximity to the murder;

- 3.4. many vehicles and individuals that can be seen on the video released by the TVTs television channel were not identified and located. This includes two women who were seen speaking to Mr Nemtsov's companion at the scene, shortly after the murder;
- 3.5. Mr Dadayev and Mr Gubashev retracted their confessions, stating that they had been made under torture, for which there is independent evidence;
- 3.6. following the murder, the Russian authorities and sources close to them advanced a series of speculations as to the motives for the murder, ranging from "provocations" intended to foment unrest in Russia, variously attributed to the political opposition itself, the Ukrainian security service and "western spy agencies", to personal motives relating to Mr Nemtsov's private life;
- 3.7. the motive eventually attributed to Mr Mukhudinov – that he was seeking retribution for Mr Nemtsov's comments in support of the murdered Charlie Hebdo journalists – was unsupported by any evidence and was inconsistent with evidence that Mr Nemtsov had been followed since before those murders took place by the car that was used as a getaway vehicle after the murder. Nor was there any explanation as to how Mr Mukhudinov had obtained the money to pay the killers;
- 3.8. Mr Mukhudinov and the officer for whom he drove, Ruslan Geremeyev, to whom Mr Dadayev had apparently referred in his statement, were not arrested and remain at large. The case against Mr Mukhudinov and other "unidentified individuals" was severed from the case against the five suspects and does not seem to have been actively pursued;
- 3.9. Mr Dadayev is the former second-in-command and, along with Mr Mukhudinov, still a serving member of the Sever battalion of Russian Ministry of the Interior troops in Chechnya. The Sever battalion was led by Alibek Delimkhanov, brother of Adam Delimkhanov, a member of the Russian State Duma and one of the closest confidants of Ramzan Kadyrov, head of the Chechen Republic. Ruslan Geremeyev was the nephew of Suleyman Geremeyev, a member of the Russian Council of the Federation. The Russian interior ministry troops are led by Victor Zolotov, a close confidant of both Ramzan Kadyrov and Russian President Vladimir Putin. It is extremely unlikely that Mr Dadayev and Mr Mukhudinov, being so closely connected to the highest levels of military and political authority in Chechnya, could or would have staged a complex operation to murder a prominent political personality in public in central Moscow without at least the foreknowledge and approval of, if not direct instructions from, their hierarchical superiors. With the exception of Alibek Delimkhanov, the trial judge refused all of the Nemtsov family's lawyers' requests that these persons be interrogated;
- 3.10. despite Mr Nemtsov's long and distinguished political career, his continuing high public profile and his ongoing political activities at the time of his death, including the

organisation of a major opposition rally in Moscow the following day and the preparation of a report on Russia's then unacknowledged military intervention in Ukraine, the judge (and the Supreme Court, on appeal) refused the Nemtsov family's lawyers' request that the defendants be charged with the aggravated offence of an attack on the life of a State or public figure under Article 277 of the Criminal Code, which is not subject to any statute of limitations.

4. In addition, the Assembly notes a series of significant inconsistencies and contradictions in the evidence given by crucial witnesses, including Sergei Budnikov, the driver of the garbage truck, Evgeniy Molodykh, who approached Mr Nemtsov's body shortly after the shooting, and Anna Duritskaya, Mr Nemtsov's companion on the night of the murder. It also notes that Ms Duritskaya did not sign her witness statement. Mr Budnikov and Mr Molodykh appeared unexpectedly to give evidence at trial, the prosecution having previously claimed that they could not be located. Ms Duritskaya did not give evidence, having returned to Ukraine.
5. The Assembly further notes a series of irregularities, inconsistencies and implausibilities in the forensic evidence relating to the bullets and shell casings that were recovered and the injuries suffered by Mr Nemtsov, including:
 - 5.1. the crime scene record does not indicate the precise locations of Mr Nemtsov's body, the shell casings and the bullets that were recovered at the scene;
 - 5.2. the ambulance crew that arrived first on the scene reported four shell casings close to the body, whereas the crime scene record mentions only one close to the body, with four others in various more distant locations;
 - 5.3. the authorities claimed that there was no video recording of the crime scene, yet other evidence shows a man filming the scene;
 - 5.4. the TVTs video showed that Mr Dadayev would have had to fire three shots, then change his position, then fire another two or three shots, all within 2.4 seconds;
 - 5.5. two of the shell casings bore one manufacturer's mark, with damage in one place; whereas the other four bore another manufacturer's mark, with damage in another place;
 - 5.6. four of the shots struck Mr Nemtsov from behind and one from the front; two of the shots from behind had an upwards trajectory, one followed a level trajectory and the

Amendment 1

Tabled by Mr Nigel EVANS, Mr Giorgi KANDELAKI, Mr Georgii LOGVYNSKYI, Mr Serhii SOBOLIEV, Mr Algirdas BUTKEVIČIUS

In the draft resolution, at the end of paragraph 4, insert the following words: "and been refused permission by the judge to testify by video-link".

Amendment 3

Tabled by Mr Nigel EVANS, Mr Giorgi KANDELAKI, Mr Georgii LOGVYNSKYI, Mr Serhii SOBOLIEV, Mr Algirdas BUTKEVIČIUS

In the draft resolution, paragraph 5.4, replace the words "The TVTs video showed that Mr Dadayev would have had to fire three shots, then change his position", with the the following words: "The TVTs video showed that the person taken to be Mr Dadayev would have had to fire three shots, then (according to his own testimony) change his position".

fourth had an unexplained downwards trajectory; there were metallic particles in one of the wounds but not the others; and traces were found on Mr Nemtsov's coat suggesting shots from close range, yet Mr Dadayev claimed to have fired from five metres away;

- 5.7. the forensic medical experts accounted for the inconsistencies by postulating that the shots fell into two distinct groups, possibly distinguished by the use of two different guns, implying two gunmen. The Federal Security Service's ballistics study, which lacked details that could have allowed critical analysis of its results, concluded that only one weapon had been used. The trial judge refused to order a further ballistics study.
6. The Assembly also notes a series of irregularities in the conduct of the trial, including:
 - 6.1. the judge refused to allow questioning of potentially relevant witnesses from the Chechen leadership, as mentioned above;
 - 6.2. the judge attempted to impose a second lawyer on one of the defendants, against his objections and those of his lawyers and despite the reluctance of the proposed second lawyer;
 - 6.3. there were threats and attacks against one of the defendant's lawyers following his request to have President Putin called as a witness. This lawyer has since fled Russia in fear for his safety;
 - 6.4. the judge consistently favoured the prosecution, including by allowing presentation of inadmissible evidence tending to discredit certain defendants and frequent interrupting the defence when it was presenting evidence or addressing the jury, and by interrupting the defence himself;
 - 6.5. the judge dismissed a juror on spurious grounds following her repeated requests to see certain evidence that had not been presented by the prosecution;
 - 6.6. the judge dismissed several other jurors on weak grounds, including shortly before the jury retired to deliberate.
7. The Assembly notes that the above matters have led to various alternative theories of the case being put forward. These include the Nemtsov family's lawyers' view that higher levels of authority in Chechnya must have at least known and probably in fact ordered the murder. Other theories suggest that the Chechen defendants formed part of a wider plot involving the FSB, and that another, non-Chechen individual fired a second set of shots at Mr Nemtsov. One theory suggests that the FSB alone was

Amendment 4

Tabled by Mr Nigel EVANS, Mr Giorgi KANDELAKI, Mr Georgii LOGVYNSKYI, Mr Serhii SOBOLIEV, Mr Algirdas BUTKEVIČIUS

In the draft resolution, replace paragraph 6.3 with the following paragraph:

"There were reportedly threats and attacks against one of the defendant's lawyers following his suggestion that President Putin be called as a witness. This lawyer has since fled Russia, claiming to fear for this safety".

responsible for Mr Nemtsov's murder, with no Chechen involvement at all.

8. It is not the Assembly's role to investigate and determine who killed Boris Nemtsov. It is clear, however, that the official version, as reflected in the verdict, is based on a severely flawed investigation and trial and is inconsistent with the available evidence on numerous fundamental points. These inadequacies allow for alternative versions that the authorities have refused to explore, yet which are far more consistent with the available evidence. This reinforces the conclusion that all relevant aspects of the case have not been examined and the full truth has not been revealed.
9. The Assembly therefore calls on the Russian authorities to reopen and continue their investigation of the murder, including by taking the following steps:
 - 9.1. identifying locations and feeds of all cameras located near the crime scene, including on the bridge and facing the bridge, and determining whether the cameras located on the Kremlin Wall were directed towards the crime scene on the bridge;
 - 9.2. analysing the already obtained dashcam videos and obtaining and analysing dashcam videos taken from other vehicles on or near the bridge at or around the time of the murder, including the garbage truck and public transport vehicles visible on the TVTs video;
 - 9.3. reassessing whether the central State database of video surveillance contains any footage of the bridge;
 - 9.4. reassessing whether FSO cameras captured footage of events on or around the bridge;
 - 9.5. making use of all available technical means, including image-enhancement software, to re-examine all available video evidence, including GORMOST, TVTs, GUM and dashcam recordings, with a view to identifying vehicles and persons approaching, on or exiting the bridge;
 - 9.6. identifying, locating and questioning all persons on the bridge at or around the time of the murder, notably those visible on the TVTs video;
 - 9.7. identify, locating and questioning the drivers and passengers of the five vehicles whose make and model are already known;
 - 9.8. in addition to those drivers and passengers already interviewed, identifying all other vehicles on or near the bridge at or around the time of the murder and tracing and questioning their drivers and any passengers;
 - 9.9. analysing the available traffic camera screen shot showing several vehicles exiting the bridge immediately after the murder, locating all available video recordings of these vehicles and interviewing their drivers;
 - 9.10. analysing all mobile phone activity on or around the bridge, using the existing data, in order to identify and question the persons concerned;

Amendment 2

Tabled by Mr Nigel EVANS, Mr Giorgi KANDELAKI, Mr Georgii LOGVYNSKYI, Mr Serhii SOBOLEEV, Mr Algirdas BUTKEVIČIUS

In the draft resolution, paragraph 8, after the words "severely flawed investigation and trial and", insert the following words: ", insofar as it limits the chain of responsibility to the convicted defendants, along with Mr Mukhudinov and "unidentified others",".

- 9.11. locating the video recording of the crime scene that is shown being made in the TVTs video;
- 9.12. conducting a further forensic ballistic study in order to evaluate properly the conclusions of the forensic medical experts that the shots fired at Mr Nemtsov fell into two distinct groups, possibly from two different guns;
- 9.13. conducting a forensic reconstruction of the shooting in order to determine the feasibility of Mr Nemtsov having been shot by a single attacker, consistently with the video and other medical and forensic evidence, including the above-mentioned further ballistic study;
- 9.14. re-examining the video of the convicted defendants' Moscow apartment, cross-referencing against other evidence in order to clarify the time at which recorded events occurred;
- 9.15. interrogating the various Chechen and Russian officials named by the Nemtsov family's lawyers', in order to advance with the investigation into who ordered the murder;
- 9.16. reclassifying the murder under Article 277 of the Criminal Code, so as to ensure that the statute of limitations cannot prevent charges being brought in future against other possible suspects.
10. The Assembly considers that General Alexander Bastrykin, head of the Investigative Committee, and Deputy Prosecutor General Victor Grin bear particular responsibility for the failure of the investigation and the lack of credibility of the prosecution case, as presented in the indictment.
11. The Assembly deeply regrets that the Russian authorities have refused to co-operate with its rapporteur.
12. The Assembly invites all member and observer States of the Council of Europe and partners for democracy to take every opportunity to remind the Russian authorities of the need to identify and prosecute all participants in the murder of Boris Nemtsov, including the instigators and organisers of this crime.
13. The Assembly further invites all member and observer States and partners for democracy that have adopted "Magnitsky laws" in line with Resolution 2252 (2019) "Sergei Magnitsky and beyond – fighting impunity by targeted sanctions" to consider including in the list of persons subjected to targeted sanctions those responsible for the failure to take the necessary investigative measures and objective court procedures required to identify the instigators and organisers of the murder of Boris Nemtsov.
14. The Assembly invites the Council of Europe Congress of Local and Regional Authorities to encourage local authorities to consider paying tribute to Boris Nemtsov.