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## Poisoning of Alexei Navalny

### Report<sup>1</sup>

Committee on Legal Affairs and Human Rights

Rapporteur: Mr Jacques MAIRE, France, Alliance of Liberals and Democrats for Europe

### Summary

On 20 August 2020, Alexei Navalny fell ill on a flight from Tomsk to Moscow. His plane made an emergency landing at Omsk, where he was taken to a local hospital. Two days later he was evacuated to Berlin, where he remained in acute inpatient care at the Charité hospital until 23 September 2020.

The Committee on Legal Affairs and Human Rights notes the ample and widely reported medical evidence showing that Mr Navalny was poisoned with an organophosphorus cholinesterase inhibitor prior to his illness on 20 August 2020. It further notes that five separate tests have established that Mr Navalny was poisoned with a substance that was structurally related to a group of chemicals listed in the Annex on Chemicals of the Chemical Weapons Convention that are generally referred to as “Novichok”. It notes investigative reports that point to the possibility of involvement of agents of the Federal Security Service of the Russian Federation (FSB) in the poisoning of Mr Navalny and the Russian authorities’ admission that Mr Navalny was under surveillance by the FSB.

The committee therefore proposes that the Parliamentary Assembly call on the Russian Federation to launch an independent and effective investigation into the poisoning of Alexei Navalny, further to its obligations under the European Convention on Human Rights; to investigate the alleged development, production, stockpiling, and use of a chemical weapon on Russian territory, and provide substantive replies to questions posed by other States parties, in accordance with the Chemical Weapons Convention; and to reach agreement on a technical assistance visit by the Organisation for the Prohibition of Chemical Weapons, to take place at the earliest opportunity.

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1. Reference to committee: [Doc. 15155](#), Reference 4539 of 12 October 2020.



<b>Contents</b>	<b>Page</b>
A. Draft resolution .....	3
B. Explanatory memorandum by Mr Jacques Maire, rapporteur .....	5
1. Introduction .....	5
2. Alexei Navalny .....	5
3. The events of 20 August 2020 and the following days .....	7
4. The symptoms and diagnosis of Mr Navalny's illness .....	7
5. The possible type of cholinesterase inhibitor .....	11
6. How the Novichok may have been administered .....	12
7. Novichok and international law .....	13
8. Investigation of the causes of Mr Navalny's illness .....	14
8.1. Pre-investigation checks by the Ministry of Transport .....	15
8.2. Mr Navalny's requests for the opening of an investigation .....	15
8.3. Russian requests for international legal assistance .....	16
8.4. Russian request for OPCW technical assistance .....	17
8.5. The UN Special Rapporteurs' request for information on investigative actions taken by Russia .....	18
8.6. The rapporteur's request for information on investigative actions taken by Russia .....	18
9. The position of the Russian Federation .....	18
10. The legal and human rights issues involved .....	19
11. Conclusions and recommendations .....	19
Appendix 1 – Questions by the rapporteur to the Russian authorities .....	21
Appendix 2 – Dissenting opinion presented by Mr Aleksandr Bashkin (Russian Federation, NR), Ms Irina Rukavishnikova (Russian Federation, NR), Mr Shamsail Saraliev (Russian Federation, NR), and Mr Leonid Kalashnikov (Russian Federation, UEL), members of the Committee on Legal Affairs and Human Rights, pursuant to Rule 50.4 of the Rules of Procedure .....	22

## A. Draft resolution<sup>2</sup>

1. On 20 August 2020, Russian opposition politician and anti-corruption activist Alexei Navalny suffered a dramatic decline in health on a flight from Tomsk to Moscow. His plane made an emergency landing at Omsk, where he was taken to a local hospital. Two days later a medical evacuation flight took him to Berlin, where he remained in acute inpatient care at the Charité hospital until 23 September 2020. Following his recovery, he returned to Russia, where he was detained on the basis of a suspended sentence that the European Court of Human Rights had found to be in breach of article 7 (no punishment without law) of the European Convention on Human Rights (ETS No. 5). He is currently imprisoned in Russia.

2. The Parliamentary Assembly notes the ample and widely reported medical evidence showing that Mr Navalny was poisoned with an organophosphorus cholinesterase inhibitor whilst in Russia, prior to his dramatic decline in health on 20 August 2020. It dismisses any suggestion that he was poisoned at any time after being loaded onto the medical evacuation flight from Omsk to Berlin on 22 August 2020, whilst noting the Russian authorities' position that Mr Navalny's symptoms were due to a disrupted carbohydrate metabolism.

3. The Assembly notes that five separate tests have established that Mr Navalny was poisoned with a substance that was structurally related to a group of chemicals listed in the Annex on Chemicals of the Chemical Weapons Convention, although the specific substance concerned is not listed in the Annex. Substances belonging to this group of chemicals, which was originally developed in the Union of Soviet Socialist Republics (USSR), are generally referred to as "Novichok".

4. The Assembly notes that Novichok is an extremely toxic nerve agent, known to have been produced only in state laboratories of the USSR and, reportedly, Russia. It requires very careful handling by specialists. It further notes investigative reports that point to the possibility of involvement of agents of the Federal Security Service of the Russian Federation (FSB) in the poisoning of Mr Navalny. This assertion is further reinforced by the Russian authorities' admission that Mr Navalny was under surveillance by the FSB.

5. The Assembly recalls the numerous judgments of the European Court of Human Rights which found that earlier unlawful repressive actions of the Russian authorities had had a chilling effect on Mr Navalny's political activities and were politically motivated, with one judgment finding a violation of article 18 of the European Convention on Human Rights.

6. The Assembly recalls that Russia is obliged under Article VII of the Chemical Weapons Convention to criminalise, and consequently to investigate and punish any suspected use of chemical weapons on its territory. It recalls that Russia is obliged under Article 2 (right to life) of the European Convention on Human Rights to investigate the attack on Mr Navalny's life. It considers that Russia has yet to conduct an effective investigation into either of these matters, with no reasonable explanation for these failures.

7. The Assembly regrets and expresses serious concerns over Russia's failure to co-operate with its rapporteur on the poisoning of Mr Navalny. It also regrets Russia's failure to co-operate fully on the same issue with the UN Special Rapporteurs on extrajudicial, summary or arbitrary executions and on the promotion and protection of the right to freedom of opinion and expression, or with the Organisation for the Prohibition of Chemical Weapons, where Russia has argued that there are insufficient grounds to open an investigation into Mr Navalny's illness. The Assembly also regrets Russia's failure to co-operate with its former rapporteur on "Shedding light on the murder of Boris Nemtsov".

8. The Assembly encourages the Russian Federation and the wider international community to collaborate constructively in all relevant international fora where Mr Navalny's case may be under discussion.

9. The Assembly therefore calls on the Russian Federation to:

9.1. fulfil its obligations under the European Convention on Human Rights by:

9.1.1. launching an independent and effective investigation into the poisoning of Alexei Navalny, with thorough, objective and impartial analysis of all relevant elements. Those responsible for and carrying out the investigation must be independent from the FSB. The investigation should be expeditious, and it should permit sufficient public scrutiny and accessibility to Mr Navalny, whose procedural rights under Russian law in relation to any form of investigative process must also be respected in full;

9.1.2. immediately releasing Mr Navalny under the interim measure indicated by the European Court of Human Rights on 16 February 2021;

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2. Draft resolution adopted unanimously by the committee on 7 December 2021.

- 9.2. fulfil its obligations under the Chemical Weapons Convention, including by investigating the alleged development, production, stockpiling, and use of a chemical weapon on Russian territory, and by providing substantive replies to questions posed by other States parties;
- 9.3. reach agreement on a technical assistance visit by the Organisation for the Prohibition of Chemical Weapons, on the standard conditions that guarantee the independence of its technical secretariat, this visit to take place at the very earliest opportunity;
- 9.4. stop using all forms of repressive measures against political opposition and civil society activists.

## B. Explanatory memorandum by Mr Jacques Maire, rapporteur

### 1. Introduction

1. The present report derives from a motion for a resolution that I tabled with the signatures of 85 members of the Parliamentary Assembly on 1 October 2020, and which the Bureau referred to the committee for report on 12 October 2020. The committee appointed me as rapporteur on 14 October 2020.
2. The motion recalls the hospitalisation of Mr Navalny in the Russian Federation on 20 August 2020, his transfer to Germany, and the German Government's declaration that it had "unequivocal proof" that he had been poisoned with a Novichok-type nerve agent. It notes that this would not be the first attack on the life of an opposition figure in the Russian Federation and that it has implications for European politics and for democracy and human rights in the Russian Federation. The motion then concludes by calling on the Assembly to "contribute to shedding light on the circumstances of the poisoning of Mr Navalny in a special report."
3. I presented an introductory memorandum to the committee at its meeting on 8 December 2020. On 17-18 December 2020, I conducted a fact-finding visit to Berlin, Germany, during which I met members of the Bundestag and representatives of the Federal Ministry of Foreign Affairs, along with Mr Navalny himself. The committee held a hearing at its meeting on 19 January 2021, with the participation of Mr Leonid Volkov, Campaign Manager for Mr Navalny, and Mr Christo Grozev, lead investigator at Bellingcat.<sup>3</sup> Mr Navalny himself had been expected to participate in this hearing but was in detention, having been arrested on his return to Russia two days earlier (see further below). I have also consulted a wide range of individuals involved in different capacities and experts in different fields, including on Russian politics, medicine, and organophosphorus poisoning, along with Ms Agnes Callamard, who as United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions was at the time preparing her own report on this issue. Specific sources for certain information will be identified where relevant in the report.
4. On 19 January 2021, the committee authorised me to conduct a fact-finding visit to the Russian Federation. On 4 October, I contacted the Russian delegation to the Assembly to propose that this visit take place on 16-18 November 2021. I did not receive any substantive reply to this proposal.
5. Whilst awaiting a response and in parallel to my proposal of dates for a fact-finding visit, on 21 October 2021, I sent a list of written questions to the head of the Russian delegation, to be forwarded to the competent authorities. This list of questions can be found in Appendix 1. I did not receive any replies to these questions.

### 2. Alexei Navalny

6. Mr Navalny is a Russian opposition politician and anti-corruption activist, qualified as a lawyer. His political career began in 2000, when he joined the opposition Yabloko party. He went on to become Deputy Chief of the Moscow branch in 2004, a candidate in the 2005 Moscow city council election and a member of the party's Federal Council from 2006-07.
7. During this period, in 2003, he began working with the Committee for the Protection of Muscovites, campaigning against illegal construction. In 2007, he co-founded the "modern nationalist" NAROD ('the People') party. In 2008, he began publishing a blog about corruption, also buying shares in major Russian companies in order to be able to question the management about their financial dealings. His anti-corruption campaigning later moved on to YouTube and Twitter. In 2011, he founded the Anti-Corruption Foundation (FBK). The FBK has released videos exploring the alleged unexplained wealth of various senior Russian officials, including then-Prime Minister Dmitry Medvedev and, in January 2021, President Vladimir Putin.
8. In the 2011 parliamentary elections, Mr Navalny encouraged his supporters to vote for candidates from any party other than the ruling United Russia, which he called a "party of crooks and thieves". During the mass demonstrations following the elections, he was arrested and imprisoned for 15 days. Following his release, he resumed his campaigning, addressing a gathering reportedly of 120 000 demonstrators in Moscow on 24 December.

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3. On 21 December 2021, I invited the Russian authorities, via the delegation to the Assembly, to nominate a representative to participate in this hearing. On 18 January 2021, the head of the Russian delegation wrote to the chairperson of the committee to announce that the delegation would not participate in this hearing because it was being organised "with the only aim of confirming predetermined versions and reinforcing anti-Russian sentiments in the Assembly."

9. In July 2013, Mr Navalny was sentenced to five years' imprisonment for embezzlement from Kirovles, a State-owned timber company in the region of Kirov, to whose opposition-party governor Mr Navalny was an adviser. In October 2013, the sentence was suspended. In February 2016, the European Court of Human Rights found that the conviction had resulted from an unfair trial (see below). In November 2016, the Russian Supreme Court overturned the conviction and ordered a retrial. In February 2017, the regional court again found Mr Navalny guilty and passed exactly the same sentence as in 2013. The transcript of the verdict in the second trial was said to be identical to that from the first trial.<sup>4</sup> Following his release, he stood as a candidate in the 2013 Moscow mayoral elections, attracting 27% of the vote in an election won by President Putin's ally, Sergei Sobyenin. In June 2018, a Moscow court extended his suspended sentence by one year.

10. In December 2014, Mr Navalny and his brother Oleg Navalny were convicted of having used a freight forwarding company owned by their family to defraud the Russian branch of the Yves Rocher cosmetics company and a Russian company, and of having laundered the proceeds. Alexei was sentenced to 3,5 years suspended imprisonment and Oleg to 3,5 years in prison. The European Court of Human Rights found that they had been convicted and punished for conduct that was not foreseeably unlawful (see below). In April 2018, the Russian Supreme Court reviewed but nevertheless upheld the convictions.

11. In December 2016, Mr Navalny announced his intention to stand as a candidate in the 2018 presidential election. The Central Electoral Commission rejected his candidacy due to his previous conviction. He nevertheless continued his political activities. Since then, Mr Navalny has been repeatedly detained, for a total of 60 days in 2017, 78 days in 2018, and 55 days in 2019, usually on charges of organising and/or participating in unauthorised public rallies.<sup>5</sup>

12. On 17 January 2021, Mr Navalny flew from Berlin, where he had been recovering from his illness, to Moscow. He was arrested on arrival under a warrant issued for having breached the terms of a suspended sentence passed in 2014 in the Yves Rocher case. The original sentence had been passed following proceedings that the European Court of Human Rights found to have violated the right to a fair trial and the prohibition on punishment without law.<sup>6</sup> On 2 February 2021, the Simonovskiy District Court of Moscow converted the suspended sentence into a sentence of two years and eight months in prison. All of his appeals against this decision were rejected, although at one stage his sentence was reduced by 45 days. He has remained in a Russian prison ever since.<sup>7</sup>

13. Mr Navalny has brought several cases before the European Court of Human Rights. In these judgments, the Court has found violations by the Russian authorities of Mr Navalny's freedom of expression, right to liberty and security, and right to fair trial, the prohibition on punishment without law, and the prohibition on inhuman and degrading treatment and punishment. In several cases, the Court referred to the chilling effect of the authorities' actions, "discouraging [Mr Navalny] and others from participating in protest rallies and engaging actively in opposition politics".<sup>8</sup> In one case, concerning unfair trial and punishment without law, the Court found that it was "established beyond reasonable doubt that the restrictions imposed on [Mr Navalny] ... pursued an ulterior purpose..., namely to suppress that political pluralism which forms part of 'effective political democracy' governed by 'the rule of law'" – and that this amounted to a violation of article 18 of the European Convention on Human Rights (ETS No. 5).<sup>9</sup> Another judgment stated that "It is obvious for the Court, as it must also have been for the domestic courts, that there had been a link between the first applicant's public activities and the Investigative Committee's decision to press charges against him. ... Having omitted to address these allegations the courts have themselves heightened the concerns that the real reason for the applicants' prosecution and conviction was a political one."<sup>10</sup>

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4. "Russian Activist Navalny Given 5-Year Suspended Sentence in Kirovles Retrial", *Moscow Times*, 8 February 2017.

5. "In And Out: All The Times Aleksei Navalny Has Been In Jail", *RFE/RL*, 25 July 2019.

6. *Navalnyy v. Russia*, App. no. 101/15, judgment of 17 October 2017.

7. See further Assembly [Resolution 2375 \(2021\)](#) and [Recommendation 2202 \(2021\)](#) "The arrest and detention of Alexei Navalny in January 2021", and the accompanying report ([Doc. 15270](#), 19 April 2021). That report "[did] not address the disputed questions of when, where and by whom Mr Navalny was poisoned, as they [had] not yet been fully examined and [were] not immediately relevant" (see footnote 10 of [Doc. 15270](#)).

8. *Navalnyy & Yashin v. Russia*, App. no. 76204/11, judgment of 04 December 2014, and *Navalnyy & Gunko v. Russia*, App. no. 75186/12, judgment of 10 November 2020.

9. *Navalnyy v. Russia*, App. nos. 29580/12 et al., Grand Chamber judgment of 15 November 2018. Article 18, the limitation on use of restrictions on rights, states that "The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any purpose other than those for which they have been prescribed."

10. *Navalnyy & Ofitserov v. Russia*, App. no. 46632/13, judgment of 23 February 2016.

### 3. The events of 20 August 2020 and the following days

14. On 20 August 2020, Mr Navalny was due to return to Moscow from Tomsk in Siberia, where he had been meeting opposition candidates in local elections and conducting a corruption investigation. According to reports, he had eaten nothing and drunk only a cup of tea at Tomsk airport before taking his morning flight. Shortly after take-off, he told his press secretary Kira Yarmysh that he felt unwell, then went to the toilet. About 15 minutes later, he emerged and told the flight attendant that he had been poisoned and was going to die. He fell to the floor and passed out, moaning and screaming. The plane diverted to Omsk airport, where the pilot made an emergency landing, despite the airport having been evacuated shortly before, on account of a (fake) bomb alert received a few minutes after the pilot requested permission to land.<sup>11</sup> Medics entered the plane, spent some 15-20 minutes examining Mr Navalny, and put him on an intravenous drip. He was then taken by ambulance to the local emergency hospital, accompanied by Ms Yarmysh. After refuelling, the plane proceeded to Moscow. Police officers and others in plain clothes reportedly entered the plane and asked those in the rows around Mr Navalny's seat to stay behind, whilst other passengers were allowed to disembark.<sup>12</sup>

15. At the hospital in Omsk, Mr Navalny was taken to the acute poisoning department, put on a ventilator and given the antidote atropine.<sup>13</sup> Forty minutes later, Ms Yarmysh was informed that he had fallen into a coma. She demanded that the police be called, insisting that Mr Navalny had been poisoned. Shortly after, the police arrived and interviewed Ms Yarmysh and Mr Navalny's assistant, Ilya Pakhomov. Mr Navalny's clothes were seized (and have not been returned). A few hours later, Mr Navalny's wife, Yulia, and his personal physician, Anastasia Vasilyeva, arrived in Tomsk and went to the hospital. The hospital initially demanded that Ms Navalny produce a marriage certificate before being allowed to see her husband but relented later that evening. Dr Vasilyeva was reportedly denied access to the ward where Mr Navalny was being treated, and to his medical records.

16. Following offers of assistance to Mr Navalny from the French and German governments, on 21 August the German NGO Cinema for Peace sent a medically equipped plane, operated by the German company FAI Air Ambulance, to Omsk.<sup>14</sup> The Omsk hospital authorities initially refused to allow Mr Navalny to leave the hospital. This provoked a public campaign demanding his release, including a personal appeal by his wife to President Putin. In the evening of 21 August, the hospital announced that Mr Navalny's situation had stabilised, and he could leave. He was taken to the airport by ambulance, transferred to an Epishuttle isolation unit, and loaded onto a medical evacuation flight. He arrived in Berlin on 22 August and was taken to the Charité hospital.

### 4. The symptoms and diagnosis of Mr Navalny's illness

17. Doctors in Omsk have given a series of statements concerning the diagnosis of Mr Navalny's illness, apparently focussing mainly on the possibility of hypoglycaemia (low blood sugar).

- On 21 August, Dr Alexander Murakhovsky, chief physician at Omsk emergency hospital no. 1, stated that the "main diagnosis, to which we are most inclined, is a violation of the carbohydrate balance, that is a metabolic disorder. This could be caused by a sharp drop in blood sugar on the plane, which caused a loss of consciousness". He added that Mr Navalny could not yet travel by plane due to his unstable serious condition and a risk of "hemodynamic disorders" and "convulsive syndrome" during take-off and landing.<sup>15</sup>
- On 24 August, Dr Murakhovsky's deputy, Dr Anatoliy Kalinichenko, stated that one of the first possible diagnoses had been poisoning, but this was excluded following tests conducted by laboratories in Moscow and Tomsk.<sup>16</sup>

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11. [www.znak.com/2020-08-26/](http://www.znak.com/2020-08-26/)

[aeroport\\_omska\\_razyasnil\\_pochemu\\_v\\_den\\_chp\\_s\\_navalnym\\_iz\\_aerovokzala\\_evakuirovali\\_lyudey.](#)

12. "Alexei Navalny: Two hours that saved Russian opposition leader's life", *BBC News*, 4 September 2020.

13. "Russia first treated Navalny for suspected poisoning then U-turned: doctor", *Reuters*, 06 September 2020.

14. Cinema for Peace had previously arranged for the medical evacuation of Pyotr Verzilov, a Russian political activist, to Berlin in 2018 after he fell ill with a suspected case of poisoning.

15. "The head physician of the hospital in Omsk: Navalny's main working diagnosis is metabolic disorder", *Meduza*, 21 August 2020.

16. "In what condition was Navalny admitted to the hospital? How was he diagnosed? Why was the evacuation not allowed?", *Meduza*, 24 August 2020.

- On 4 September, Alexander Sabaev, the chief toxicologist of the Omsk region, stated that the lack of damage to Mr Navalny's kidneys, heart and lungs proved an absence of toxins in his body. Mr Sabaev claimed that Mr Navalny's condition could have been caused by alcohol, dieting, stress, overwork, prolonged exposure to the sun, hypothermia or "a simple lack of breakfast".<sup>17</sup>
- On 15 September, Sergei Naryshkin, the head of the Russian foreign intelligence service, the SVR, stated that the doctors in Omsk believed that Mr Navalny had been suffering from a "disrupted carbohydrate metabolism".<sup>18</sup>
- On 6 November, the Russian Interior ministry stated that the Omsk hospital medical staff had confirmed a diagnosis of "disruption of carbohydrate metabolism and chronic pancreatitis".<sup>19</sup>

18. According to an article published on Mr Navalny's website, two of his lawyers visited the hospital in Omsk in November 2020. They asked the hospital management for a copy of Mr Navalny's medical records. The hospital management replied that it would take a week to fulfil this request. The lawyers then went to hospital archives, where they told the staff that the release of Mr Navalny's records had been agreed. They were then allowed to photograph the records. These included the results of blood tests conducted by the Sklifosovsky laboratories in Moscow on biosamples taken from Mr Navalny that were delivered to the laboratory on 25 August 2020. These tests showed cholinesterase levels of 0.47, where the indicated reference level was 4.62-11.50. These test results also showed high levels of alpha amylase and pancreatic amylase, which are enzymes involved in the digestion of starch. Glucose levels were higher than reference levels.<sup>20</sup>

19. The article continued by stating that the hospital management sent a copy of the medical records to the lawyers one month later. These documents contained some differences from those that they had photographed themselves. Nevertheless, according to "three independent highly qualified Russian doctors" whom the lawyers consulted, the information contained in both sets of documents included "enough data to make a diagnosis with complete confidence – organophosphorus poisoning. All conclusions about metabolism, pancreatitis and other natural health disorders are absurd." Perhaps most significantly, the article claims that the document containing the results of the blood tests conducted by the Sklifosovsky laboratories was not included in the medical records sent by the hospital.

20. I spoke to Dr Philipp Jacoby, the doctor who flew to Omsk on the medical evacuation plane and accompanied Mr Navalny back to Berlin. Dr Jacoby told me that after arriving in Omsk, he visited Mr Navalny in hospital for about fifteen minutes. He was required by the hospital personnel to wear full protective gear (coverall, mask, goggles, double gloves, overshoes), although the Russian doctors did not. The Russian doctors said that Mr Navalny had not been poisoned and mentioned an endocrinological problem. Mr Navalny was being given a low dose of propofol, a sedative. There was an insulin drip in the room but it was not attached to Mr Navalny. There was no atropine infusion visible; Dr Jacoby asked whether atropine had been administered but was told no, and was in turn asked why it should be administered. Mr Navalny was in a deep coma but not convulsing. His temperature was very low (around 34°C), his systolic blood pressure was low (95), and his pulse was abnormally low (around 44 bpm); his oxygen saturation was 100%, which was to be expected as he was on a respirator.<sup>21</sup> He was perspiring and salivating heavily, such that his pillow was soaked, and his pupils were widely dilated. Dr Jacoby has shown me a photograph of Mr Navalny that he took in the hospital in Omsk. This photograph clearly shows what appears to be a large stain of saliva on the pillow beneath Mr Navalny's jaw. Dr Jacoby, who was trained to recognise the signs of poisoning by organophosphorus insecticides, considers that Mr Navalny's symptoms were fully consistent with organophosphorus poisoning. He told me that when he suggested this diagnosis to the doctors in Omsk, they rejected it aggressively.

21. Dr Jacoby told me that he next saw Mr Navalny when he was delivered by ambulance to the medical evacuation plane. Mr Navalny was in the same basic condition as at the hospital – still very sweaty, shaking, and very cold. His pupils were no longer dilated, however, but instead contracted to pinpricks. He was delivered to the plane naked, covered only by a thin blanket, with a number of intravenous lines already attached. Before being lifted into the plane, he was placed inside an Epishuttle, "a single-patient isolation and transport unit... The Epishuttle can protect the environment from an infected patient, and protect a vulnerable

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17. "Omsk doctor admitted the influence of alcohol or the sun on Navalny's condition", *rbc.ru*, 04 September 2020; "Poisoning of Navalny: what it is important to know", *rbc.ru*, 14 October 2020.

18. "'Questions to the Germans': the head of the SVR denied the 'poisoning' of Navalny", *gazeta.ru*, 15 September 2020.

19. "Russia rules out Navalny poisoning, diagnoses pancreatitis", *Moscow Times*, 6 November 2020.

20. <https://navalny.com/p/6493/>.

21. Dr Jacoby has shown me a photograph of the screen of a monitor showing this information, apart from temperature.



patient from a contaminated environment.”<sup>22</sup> Dr Jacoby completed a “flight report” recording Mr Navalny’s medical condition, which I have seen. Prior to boarding the plane, Mr Navalny was in a deep coma with no eye, verbal, or motor response. His heart rate was 59 bpm, and his temperature 34.9°C. These readings fluctuated but did not change significantly during the eight hours or so until Mr Navalny arrived at the Charité hospital in Berlin. Dr Jacoby told me that during the flight, Mr Navalny was sedated with fentanyl (in addition to propofol) and ventilated. Dr Jacoby did not administer atropine as he only had 6 mg on board the plane and doctors at the Charité hospital advised him that this would be far too little to have any effect on what they too suspected to be a case of organophosphorus poisoning.<sup>23</sup>

22. The Charité hospital in Berlin released a series of medical updates on Mr Navalny’s condition. On 24 August, the hospital stated that “Clinical findings indicate poisoning with a substance from the group of cholinesterase inhibitors. The specific substance involved remains unknown, and a further series of comprehensive testing has been initiated. The effect of the poison – namely, the inhibition of cholinesterase in the body – was confirmed by multiple tests in independent laboratories. As a result of this diagnosis, the patient is now being treated with the antidote atropine.” By 7 September, Mr Navalny had been removed from his medically induced coma and was responding to verbal stimuli. By 14 September, he had been removed from mechanical ventilation, was undergoing mobilisation, and was able to leave his bed for short periods of time. The final statement, on 23 September 2020, when he was discharged from acute inpatient care, noted that he had been receiving treatment at Charité for a total of 32 days, of which 24 days were spent in intensive care. “Based on the patient’s progress and current condition, the treating physicians believe that complete recovery is possible. However, it remains too early to gauge the potential long-term effects of his severe poisoning.”

23. An article by Dr David Steindl and Professor Kai-Uwe Eckardt of the Charité hospital, and others (including Dr Jacoby) who had been involved in Mr Navalny’s case, entitled “Novichok nerve agent poisoning” appeared in *The Lancet* on 22 December 2020. According to this article, the discharge report issued by the hospital in Omsk stated that “the patient presented comatose with hypersalivation and increased diaphoresis [excessive sweating]” and had been diagnosed with “respiratory failure, myoclonic status [involuntary irregular muscular spasms], disturbed carbohydrate metabolism, electrolyte disorders, and metabolic encephalopathy.”<sup>24</sup> Therapeutic measures included intubation, mechanical ventilation, and unspecified drugs for symptom control and neuroprotection.” The article noted that on arrival at the Charité hospital, “the patient was deeply comatose, with mild bradycardia (51 bpm, subsequently declining to 33 bpm), hypersalivation, hypothermia (33.5°C), increased diaphoresis and small pupils not reactive to light, decreased brainstem reflexes, hyperactive deep tendon reflexes, and pyramidal signs.”

24. The article then addresses the diagnosis. “Laboratory analyses showed substantially decreased levels in plasma of butyrylcholinesterase (also called pseudocholinesterase) and increased levels of amylase, lipase, high-sensitivity troponin T, and sodium in plasma. Based on clinical and laboratory findings, severe cholinesterase inhibition was diagnosed and the patient was started on atropine and obidoxime. Cholinergic signs returned to normal within 1 h after the onset of this antidotal therapy... Toxicological analysis and drug screening in blood and urine samples obtained on admission to the intensive care unit at Charité identified several drugs, including atropine, which we attributed to the previous treatment the patient had received in the intensive care unit in Omsk... Testing for cholinesterase status in a specialised external laboratory showed complete inhibition of acetylcholinesterase in red blood cells, thereby confirming the exposure to a cholinesterase inhibitor, and no evidence for reactivation by obidoxime of free unbound cholinesterase inhibitor in plasma... Electrophysiological examinations showed the specific kind of dysfunction of neuromuscular transmission that is typical for cholinesterase inhibition.”

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22. [www.epiguard.com](http://www.epiguard.com).

23. On 7 and 12 September 2021, the blog ‘Dances With Bears’, run by an Australian journalist, John Helmer, published [two articles](#), following interviews with Dr Jacoby. Dr Jacoby told me that he was very unhappy with the content of these articles, which he said contained falsehoods and misrepresentations. Amongst other things, he denied suggesting that the flight to Omsk was being prepared before Mr Navalny fell ill. In reality, in the late afternoon of 20 August, he was told by FAI to return to Germany, after having spent the day sightseeing in Ireland, where his plane had stopped for the flight crew to take mandatory rest. [N.b. this would be around 12 hours after Kira Yarmysh began tweeting about Mr Navalny’s illness.] Following standard practice, he contacted FAI again as the plane was about to leave Ireland early that evening, when he was told that his next flight would be to Russia. The plane arrived in Germany later that evening, where some of the crew were replaced, and departed for Omsk early the next morning. Both Cinema for Peace and FAI have confirmed to me that the air ambulance was ordered on 20 August.

24. “a condition in which brain function is disturbed either temporarily or permanently due to different diseases or toxins in the body”: “What Is Metabolic Encephalopathy?”, [medicinenet.com](http://medicinenet.com).

25. In conclusion, the article states that “Clinical diagnosis of organophosphorus poisoning should be straightforward. The range of findings caused by overstimulation of muscarinic and nicotinic receptors seen in our patient [namely Mr Navalny] was in line with published literature: miosis, conjunctival injection, hypersalivation, diaphoresis, bradycardia, and elevation of lipase and amylase, which are attributed to pancreatic and salivary gland stimulation, hyperactive deep tendon reflexes, pyramidal signs, and prolonged muscular hyperactivity. Moreover, we observed typical pathological changes in electrophysiology and single-fibre electromyography studies... Our patient had a very favourable outcome. Presumably, intubation and mechanical ventilation within 2-3 h of symptom onset and absence of preceding severe hypoxia were decisive. Onset and duration of atropine therapy during the first 2 days remain unclear.”

26. I spoke to Professor Michael Eddleston, Personal Chair of Clinical Toxicology at the University of Edinburgh, an expert in organophosphorus poisoning, and an author of the comment that accompanied the article in *The Lancet*. He told me that Mr Navalny had shown many of the typical features (the ‘toxidrome’) associated with organophosphorus poisoning, which he described as “wet opioid” features – similar to the symptoms of opioid poisoning (small/pinpoint pupils, unconsciousness, slow or absent breathing), but with hypersalivation, excessive sweating, vomiting and/or involuntary urination (hence “wet”). He pointed out that Mr Navalny’s acetylcholinesterase level at around 55 hours after symptom onset had been zero, when it normally be around 600. The fact that administration of obidoxime had failed to reactivate acetylcholinesterase was due to a phenomenon called “ageing” – after a certain period of time, due to a chemical reaction, it becomes impossible to reactivate cholinesterases inhibited by an organophosphorus poison. This period of time varies depending on the organophosphorus compound involved: with dimethyl organophosphorus compounds, it is around 12 hours; with diethyl organophosphorus compounds, around 120 hours; for the G-series nerve agents, such as soman, it is around 30 minutes. The time for Novichok organophosphorus agents is not known. He explained that although inhibitory activity in Mr Navalny’s blood was low when tested in Berlin, indicating that very little of the poison remained, one could not use this information to estimate the time of the poisoning, since not enough was known about the speed of metabolism (or breakdown) of the organophosphorus poison involved. Prof. Eddleston considered that, if one assumed a two-hour period between administration of the poison and the first medical treatment, administration would probably not have been by oral ingestion, otherwise Mr Navalny would likely have died before reaching medical care. Instead, administration would probably have been at a low dose and by absorption through the skin, in which case symptom onset could have taken a few hours. The fact that Mr Navalny was promptly ventilated at the hospital in Omsk likely saved his life.

27. In February 2021, the Russian Permanent Representative to the Organisation for the Prohibition of Chemical Weapons (OPCW)<sup>25</sup> transmitted a message from Russian Foreign Minister Sergei Lavrov to the Director-General of the OPCW, asking that the OPCW Technical Secretariat “give a through consideration to the ideas contained in V.V.Kozak’s letter in search of other possible alternative versions of what happened... [and] publicly and knowingly comment on the substantive points set forth in V.V.Kozak’s open letter.” This letter, which had been addressed to Foreign Minister Lavrov, is a critique of the *Lancet* article. The OPCW Director-General replied that the OPCW secretariat did not comment on the work of outside scientists, and the scope of Mr Navalny’s overall health condition did not fall within the scope of the technical assistance visit to Germany (see below).<sup>26</sup>

28. I have been unable to obtain a copy of Dr Kozak’s letter, but its main points are summarised in the foreign minister’s message. Professor Eddleston has provided me with his expert opinion on Dr Kozak’s criticisms:

- The *Lancet* publication does not contain information about the chemical warfare agent which was allegedly found in Mr Navalny’s biomedical samples. This means that its toxicological characteristics cannot be established for comparison with the patient’s symptoms. “Without this, all the assertions over

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25. The OPCW is the organisation established to ensure implementation of the Chemical Weapons Convention.

26. “Letter dated 3 March 2021 from the Director-General Addressed to the Permanent Representative of the Russian Federation to the OPCW in Response to a Message Conveyed on Behalf of H.E. Minister Lavrov”, OPCW, 3 March 2021. Mr Lavrov’s message describes Dr Kozak as “a neurologist operating in one of the Swiss clinics”. No further details of Dr Kozak’s qualifications are provided. It seems likely, however, that this is the same person who in 2018 presented his doctoral dissertation at the University of Basel on the subject of “Quantitative Electroencephalography and Genetics and Biomarkers of Dementia in Parkinson’s disease” ([https://edoc.unibas.ch/64618/4/Dissertation\\_Cozac\\_V-1.pdf](https://edoc.unibas.ch/64618/4/Dissertation_Cozac_V-1.pdf)).

what has caused dramatic deterioration of the blogger's health condition are devoid of scientific meaning. More to the point, the "Charité" hospital itself did not find any chemical warfare agent whatsoever."

- *Prof. Eddleston's comments:* The doctors treating Mr Navalny in Berlin did not look for a chemical warfare agent; no hospital laboratory anywhere in the world would do so. Detection of such agents is extremely specialised and is only undertaken by a few laboratories worldwide. Instead, the Berlin doctors relied on examining Mr Navalny and noting the presence of the typical features (toxidrome) of organophosphorus poisoning.
- The authors of the publication refer to their early suspicion that Mr Navalny had been poisoned with a cholinesterase inhibitor but did not explain why there had been no tests for the presence of cholinesterase inhibitor or cholinomimetic drugs in Mr Navalny's body. The authors did not provide data on the quantities or concentrations of substances found in the biomaterials.
  - *Prof. Eddleston's comments:* The *Lancet* article does state that there was toxicological analysis and drug screening on blood and urine samples obtained on admission to Charité, which identified several drugs. Presumably, this was by mass spectrometry, since atropine was identified. Some hospital laboratories use mass spectrometry to look for a range of common medicines in patients' blood or urine. These tests do not look for rare compounds and so would not have been able to pick up any cholinesterase inhibitors other than those used in medical practice (for example neostigmine). The reference to "cholinomimetics" betrays a lack of understanding, since the laboratory results showed that the poison had inhibited the cholinesterase enzymes, not mimicked the effects of acetylcholine. When used to screen for common medicines, mass spectrometry, which is the standard analytical method, reveals the presence of medicines but not their concentration. A different, more complicated test would be necessary for this, but it takes time and is rarely required for clinical care. In this case, the doctors were able to treat the patient well without this further test.
- The authors do not explain why people who came into contact with Mr Navalny were not also poisoned, as the chemical agent "should have been secreted on the skin and through respiratory tract".
  - *Prof. Eddleston's comments:* If the organophosphorus (OP) compound was applied to the patient's skin, it would have been removed when he was washed during his stay at the hospital in Omsk and again regularly thereafter, as is standard practice. In South Asia, patients who have ingested toxic OP insecticide compounds orally are commonly treated on open wards. There is no evidence that OP compounds, once absorbed, are secreted as gases through the respiratory tract in a clinically relevant degree.
- No other factors that could affect cholinesterase activity were considered.
  - *Prof. Eddleston's comments:* The patient showed complete (100%) acetylcholinesterase inhibition which is entirely consistent with poisoning and his clinical presentation in Germany.
- "A rather vague and superficial explanation was given to almost complete recovery of the patient, said to be exposed to one of the deadliest chemical warfare agents, which ostensibly has become possible due to his "good health condition".
  - *Prof. Eddleston's comments:* OP compound poisoning by agricultural pesticides is common worldwide, and so its symptoms and the effective treatments are well known. The majority of patients make a full recovery after clinical care, even in poorly resourced rural hospitals in low-income countries. This patient received prompt, world-class care in Omsk and Berlin intensive care units, including mechanical ventilation. Some OP insecticides have similar effects and toxicity to OP chemical warfare agents. This patient's survival until reaching the hospital in Omsk suggests that the dose absorbed was not very high, especially when compared to the high doses involved in self-poisoning cases in South Asia. The key treatment in such cases is intubation and artificial ventilation, which Mr Navalny promptly received in Omsk.

## 5. The possible type of cholinesterase inhibitor

29. On 2 September 2020, the German Federal Government announced that "a specialist Bundeswehr laboratory carried out toxicological tests on samples from Alexei Navalny. The results of these tests have revealed unequivocal proof of the presence of a chemical nerve agent from the Novichok group... The Federal Government will also contact the Organisation for the Prohibition of Chemical Weapons (OPCW)."<sup>27</sup>

30. On 14 September 2020, the German Government announced that it had “requested that the Organisation for the Prohibition of Chemical Weapons (OPCW) help analyse evidence related to the Navalny case. ... [T]he Federal Government has requested that France and Sweden as European partners conduct an independent examination of the German evidence, based on new samples taken from Mr Navalny. The results of this examination by specialist laboratories in France and Sweden have meanwhile been released and confirm the German findings.”

31. An OPCW ‘technical assistance visit’ (TAV) team went to the Charité Hospital in Berlin on 6 September 2020, in order to collect biomedical samples from Mr Navalny. The summary report stated that “In the hospital’s intensive care unit, the TAV team members confirmed Mr Navalny’s identity against a photo-identification document presented to the team by the German authorities. In line with OPCW procedures, blood and urine sampling was conducted by the hospital staff under the direct supervision and continuous visual observation of the team members. The samples were maintained under OPCW chain of custody and transported to the OPCW Laboratory. Upon receipt of a request from Germany on 11 September 2020, the OPCW Laboratory sent the samples to two laboratories designated by the Director-General... The results of the analysis ... confirm that the biomarkers of the cholinesterase inhibitor found in Mr Navalny’s blood and urine samples have similar structural characteristics as the toxic chemicals belonging to schedules 1.A.14 and 1.A.15 that were added to the Annex on Chemicals ... in November 2019. This cholinesterase inhibitor is not listed in the Annex on Chemicals... The Permanent Representation of Germany to the OPCW requested that the Technical Secretariat share the summary of this report with all States Parties to the Chemical Weapons Convention and make it publicly available.”<sup>28</sup>

## 6. How the Novichok may have been administered

32. Novichok is an extremely sophisticated and toxic nerve agent, which is only known to have been produced by State laboratories in the former Soviet Union. It requires very careful handling by specialists if it is to be effectively administered as a poison, and if those handling it are not to be poisoned themselves.

33. Several theories of how Mr Navalny had been poisoned were put forward during the initial days and weeks. An early suspicion was that he had been poisoned by a substance put into a strange-tasting cocktail that he drank at his hotel in Tomsk on the evening of 19 August 2020. Professor Eddlestone advised me that this was very unlikely, however, as the onset of symptoms would have appeared much earlier. The possibility of Novichok having been added to Mr Navalny’s tea at Tomsk airport is also very unlikely, as the location was exposed to public view. Other possibilities – such as an accumulation of small doses administered by different methods, or ‘microcapsules’ ingested orally – that could have been used to avoid accidentally poisoning third parties may perhaps have been technically possible, as I was told by Professor Eddleston and Professor Eckardt, but the former would be extremely unreliable and the latter seemed a very speculative hypothesis. Most importantly, however, there is no evidence for any of these theories. The German authorities did find traces of Novichok on a water bottle that Mr Navalny’s collaborators brought to Germany from Mr Navalny’s hotel room in Tomsk, but the amount of Novichok involved was too small to have caused serious illness.

34. In October 2020, the investigative website Bellingcat published its conclusions on how the GRU (Russian military intelligence) agents who were said to have poisoned Sergei Skripal and others in the United Kingdom in 2018 (see further below) had obtained their poison. Bellingcat identified one Russian state institute in particular: Scientific Centre (SC) Signal, which employed more than 10 scientists who had previously been involved in chemical weapons development. Mobile phone call metadata revealed regular communications between SC Signal and the GRU agents, peaking just before the agents travelled to the United Kingdom. This and other information led Bellingcat to conclude that SC Signal, along with other institutes, was involved in clandestine chemical weapons research and production.<sup>29</sup>

35. In December 2020, Bellingcat published an article in which it claimed to have identified a team of FSB agents, based in the FSB’s Criminalistics Institute, with connections to SC Signal. The team included several medical doctors and chemical weapons specialists. It appeared to be led by Colonel Stanislav Makshakov, who had previously worked at the State Organic Synthesis Institute in the closed town of Shikhany-1, where chemical weapons, including Novichok, had been developed. Colonel Makshakov’s immediate superior, General Kiril Vassilev, was also a specialist in chemical weapons. Members of this team had followed

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27. “Statement by the Federal Government on the Navalny case”, Spokesperson of the German Federal Government, 2 September 2020.

28. “Note by the Technical Secretariat: Summary of the Report of Activities Carried Out in Support of a Request for Technical Assistance by Germany (Technical Assistance Visit – TAV/01/20)”, S/1906/2020, OPCW, 6 October 2020.

29. “Russia’s Clandestine Chemical Weapons Programme and the GRU’s Unit 29155”, Bellingcat, 23 October 2020.

Mr Navalny during his travels around Russia on 37 separate occasions between 2017 and 2020. The FSB team's travels did not precisely coincide with those of Mr Navalny, almost always departing from a different Moscow airport and often leaving one day earlier. This would deprive the team of the opportunity of monitoring Mr Navalny during his journey but would reduce the risk of Mr Navalny noticing familiar faces during his travels. Apart from the peculiarity of having Mr Navalny followed by doctors and chemists, surveillance outside Moscow could just as well be conducted by local FSB agents. (Indeed, Mr Navalny told me that he was generally under "ordinary" surveillance by local police and FSB officers.)

36. During the weeks prior to Mr Navalny's trip to Novosibirsk and Tomsk, members of the team had been in frequent contact with experts in organophosphorus poisons. In August 2020, three agents from this team travelled to Novosibirsk in parallel to Mr Navalny, and then on to Tomsk. Two of them were medical doctors. Just like Mr Navalny himself, these agents booked their tickets from Novosibirsk to Tomsk at the last minute. Communications between members of the team peaked just before the poison was presumably administered, and again when Mr Navalny left his hotel and travelled to Tomsk airport. Mobile phone call metadata places a member of the team in the vicinity to Mr Navalny's hotel just after midnight on 20 August.<sup>30</sup>

37. In December 2020, pretending to be an aide to the Chairman of Russia's Security Council, Mr Navalny telephoned Konstantin Kudryavtsev, one of the members of the FSB team and a chemical weapons expert. Mr Navalny said that his supposed superior had requested an urgent report on the Navalny operation, which Mr Kudryavtsev apparently believed. In the course of their conversation, Mr Kudryavtsev identified the main perpetrators of the poisoning of Mr Navalny in Tomsk; confirmed that the intention had been to kill, not merely incapacitate or intimidate him; suggested that if the plane had not landed and Mr Navalny not been treated by doctors in Omsk, "maybe it would all have gone differently"; said that he and another FSB agent had been sent to Omsk on 25 August to remove any traces of the poison from Mr Navalny's clothes, which were given to them there by the local transport police; and stated that he had been instructed to concentrate on the crotch of the underpants when cleaning Mr Navalny's belongings.<sup>31</sup>

38. Bellingcat's allegations are made credible by the methodology and detail involved in its investigation. I further note that on 17 December 2020, President Putin reportedly confirmed that the FSB had been following Mr Navalny but said that "if they'd wanted [to poison him] then they probably would have finished the job". He rejected the Bellingcat reports as "legalisation of the materials of American intelligence agencies".<sup>32</sup>

## 7. Novichok and international law

39. Novichok, meaning "newcomer", is the name given to a group of related organophosphate nerve agents that have certain common molecular characteristics. They were reportedly developed by the Union of Soviet Socialist Republic (USSR) from the 1970s onwards under Project Foliant at the State Scientific Research Institute for Organic Chemistry and Technology (GosNIIOKhT). Information on the Novichok agents is scarce due to official classification of the programme as 'top secret'. Public information comes primarily from whistleblowers who worked on these projects, including Andrei Zheleznyakov (who was poisoned and later died as a result of accidental exposure to Novichok), Vil Mirzayanov and Lev Fyodorov.<sup>33</sup> Mr Mirzayanov was charged (and later acquitted) with revealing state secrets for publishing information on the Novichok programme, which he claimed continued into the 1990s, despite Russia having by then renounced chemical weapons.

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30. "FSB Team of Chemical Weapons Experts Implicated in Alexey Navalny Novichok Poisoning", Bellingcat, 14 December 2020. See also "Hunting the Hunters: How We Identified Navalny's FSB Stalkers", Bellingcat, 14 December 2020.

31. "If It Hadn't Been for the Medics': FSB Officer Inadvertently Confesses Murder Plot to Navalny"; Bellingcat, 21 December 2020. Mr Grozev told me that most of the chemical weapons specialists whom he consulted, including those with the greatest expertise in organophosphorus poisons and mass spectrometry, concluded that Mr Kudryavtsev must have been instructed to concentrate on cleaning the underpants because that was where the poison had been applied. Two Russian specialists thought that Novichok could have been excreted in urine, thereby leaving traces on the underpants, if it had been ingested; in this connection, however, Mr Grozev recalled that Mr Kudryavtsev had made clear that the poison had been applied externally.

32. "Putin rejects Navalny poisoning allegations as 'falsification'", *The Guardian*, 17 December 2020.

33. See further Nepimova and Kuca, "Chemical warfare agent NOVICHOK – mini review of available data", *Food and Chemical Toxicology* 121 (2018) 343-350; Franca et al, Novichoks: "The Dangerous Fourth Generation of Chemical Weapons", *Int J Mol Sci* 2019 Mar; 20(5): 1222; Chai et al (2018), "Novichok agents: a historical, current, and toxicological perspective", *Toxicology Communications*, 2:1, 45-48.

40. Novichok nerve agents act by inhibiting acetylcholinesterase, which acts to decompose the neurotransmitter acetylcholine. The resulting increased concentration of acetylcholine affects the parasympathetic nervous system that controls smooth muscles (such as the walls of blood vessels, the aorta, and the respiratory tract) and can cause involuntary contraction of skeletal muscles. Symptoms rapidly progress to seizures, respiratory paralysis, bradycardia, coma, cardiac arrest, and death.

41. Possible treatments include decontamination, ventilation and resuscitation, and drugs, notably atropine to restore blood pressure, heart rate and respiration, obidoxime to reactive acetylcholinesterase, and diazepam to prevent seizures. The recoveries of Sergei Skripal, his daughter Yulia, Detective Sergeant Nick Bailey, and Charlie Rowley (all of whom were reportedly poisoned by Novichok in the United Kingdom in 2018), along with that of Mr Navalny, show that rapid medical intervention can be effective. There may, however, be long-term or even permanent consequences for the victim's health. Mr Zheleznyakov, for example, is said to have suffered from "chronic weakness in his arms, a toxic hepatitis that gave rise to cirrhosis of the liver, epilepsy, spells of severe depression, and an inability to read or concentrate that left him totally disabled and unable to work"; his health continued to deteriorate and five years later, he died. Detective Sergeant Bailey, who spent two weeks in intensive care, retired from the police in late 2020, having found himself still unable to work two-and-a-half years after being poisoned with Novichok.

42. Novichok agents are 'chemical weapons' within the meaning of Article II of the 1993 Chemical Weapons Convention (the CWC), due to their toxic nature and the fact they have no known uses that are not prohibited. Article I of the CWC obliges States parties *inter alia* never to develop, produce, otherwise acquire, stockpile or retain chemical weapons, to transfer, directly or indirectly, chemical weapons to anyone; to use chemical weapons; or to assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under the CWC. Article I also obliges States parties to destroy all chemical weapons and chemical weapons production facilities that they own or possess. Under Article III, States parties are obliged to declare whether they own or possess any chemical weapons, or whether they have or have had any chemical weapons production facilities under their ownership or possession; and to provide a general plan for the destruction of such weapons or facilities. Article VII requires States parties to enact penal legislation against any activity that is prohibited for States parties, meaning the development, production, acquisition, retention, transfer, and use of chemical weapons, or assistance, encouragement, or inducement to anyone to engage in such activities (see Article I CWC).

43. In November 2019, the Conference of the States Parties to the CWC added a wide range of Novichok agents as entries 13, 14 and 15 in Schedule 1 of the Annex on Chemicals of the CWC. The addition of entries 1.A.13 and 1.A.14, each encompassing large families of Novichok agents, was based on joint proposals by the United States, Canada and the Netherlands, and covered more limited proposals by the Russian Federation; entry 1.A.15, relating to a single Novichok agent, was based on a proposal by the Russian Federation.<sup>34</sup> Schedule 1 primarily includes chemicals that were developed, produced, stockpiled or used as chemical weapons. The addition of these Novichok agents in Schedule 1 means that they should be subject to the most stringent 'verification measures' under the CWC's Verifications Annex.<sup>35</sup> Even if they are not included in the Annex on Chemicals, toxic chemicals are still prohibited by the CWC if they have no legitimate uses.<sup>36</sup>

## 8. Investigation of the causes of Mr Navalny's illness

44. In addition to the obligation under Article VII CWC to criminalise, and consequently to investigate and punish any suspected use of chemical weapons on its territory (see above), Russia is obliged under Article 2 (right to life) of the European Convention on Human Rights to investigate the attack on Mr Navalny's life. The obligations under Article 2 apply also in "near death" situations, where the person concerned was the victim of acts which put their life at risk, and they suffered life-threatening injuries, even if they survived them. Article 2 is intended to secure effective implementation of domestic laws safeguarding the right to life, and to ensure accountability for deaths that may be the responsibility of State agents or bodies. Once a suspected illegal killing (or attempted killing) has come to their attention, the authorities must act of their own motion. The investigation must be independent from those who may be implicated in the events. It must be adequate, meaning capable of determining whether there was an unlawful act and of punishing those responsible; the authorities must take all reasonable steps to secure evidence. The conclusions of the investigation must be

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34. "Updating the CWC: How We Got Here and What Is Next", Arms Control Association, April 2020.

35. Costanzi and Koblentz, "Controlling Novichoks after Salisbury: revising the Chemical Weapons Convention schedules", *The Nonproliferation Review*, 26:5-6, 599-612

36. See articles II.1. and I CWC.



based on a thorough, objective and impartial analysis of all relevant elements; failure to follow an obvious line of inquiry will decisively undermine the adequacy of the investigation. The investigation must be prompt and reasonably expeditious and must permit sufficient public scrutiny and accessibility to the victim's next of kin.<sup>37</sup>

45. Professor Eddleston told me that organophosphorus compounds can be detected for months or even years in biosamples that have been properly frozen and stored. He could think of no reason why this would not be the case also for Novichok. Samples that were taken in 2020 and appropriately handled as evidence of a possible crime could thus still be tested today for the presence of Novichok.

### **8.1. Pre-investigation checks by the Ministry of Transport**

46. On 25 August 2020, a Kremlin spokesperson was reported to have announced that the presidential administration was not aware of any grounds for opening an investigation into Mr Navalny's poisoning. Interestingly, the spokesperson reportedly said that the Charité hospital's announcement that Mr Navalny had been poisoned by a cholinesterase inhibitor "only repeats what doctors in Omsk already knew".<sup>38</sup>

47. On 27 August, the Russian Federal Ministry of Internal Affairs in the Siberian Federal District announced a pre-investigation check in connection with the hospitalisation of Alexei Navalny on August 20 in the city of Omsk. The announcement stated that an extensive set of investigative and operational measures had been carried out, including an inspection of Mr Navalny's hotel room (presumably in Tomsk), and locations along his route (presumably to the airport). More than 100 items of possible evidence had been seized; video surveillance recordings had been analysed; and more than 20 different forensic studies (forensic, biological, physical and chemical) were being carried out. At the time, no poisonous or narcotic substances had been found.<sup>39</sup> The Russian government has since indicated that more than 100 witnesses were interviewed, including emergency medical personnel and hospital doctors and medical staff in Omsk, employees of the airport, cafes, hotels, and restaurants, and persons accompanying Mr Navalny in Tomsk. There were more than 50 "inspections of the scene of the incident and items", and forensic examinations of more than 500 "sites". As a result of all this, the investigative authorities concluded that "There was no evidence that a third party had wilfully committed criminal acts against A. A. Navalny."<sup>40</sup> Nevertheless, formally speaking, the case is still at the pre-investigative stage, which means that Mr Navalny's procedural rights are considerably more limited than they would be had a criminal case been opened.

### **8.2. Mr Navalny's requests for the opening of an investigation**

48. Mr Navalny and his representatives have made a number of requests to competent bodies in Russia to open a full investigation into his poisoning and have challenged subsequent refusals or inaction before the courts. None of their efforts has been successful.

- On 20 August 2020, the day that Mr Navalny fell ill, his lawyer asked the **Investigative Committee of the Russian Federation** to initiate a criminal case. There was no inquiry, no procedural decision was taken, and the applicant was not informed of any decision. A complaint against this inaction was dismissed by the Basmany District Court of Moscow in September 2020, with the court noting that the original request had been transferred to the West Siberian Transport Division of the Investigative Committee. Later in the month, the Moscow City Court upheld this dismissal.
- On 20 November 2020, Mr Navalny's lawyer complained to the Leninsky District Court of Novosibirsk over the failure of the **West Siberian Transport Division of the Investigative Committee** to open an investigation and take procedural decisions. The district court dismissed the complaint by decisions in December 2020 and February 2021, and the Novosibirsk Regional Court upheld these dismissals in May 2021.

37. See "Guide on Article 2 of the European Convention on Human Rights: Right to Life", European Court of Human Rights, 31 August 2021.

38. "Kremlin says there are no grounds for investigating Navalny's poisoning, calls talk of an attack 'empty noise'", *Meduza*, 25 August 2020.

39. "Transport officers conduct a pre-investigation check in connection with the hospitalisation of Alexei Navalny", Transport Department of the MIA of Russia in the Siberian Federal District, 27 August 2020 (<https://xn--90antjiff.xn--b1aew.xn--p1ai/news/item/20975789/>).

40. Letter from the UN Special Rapporteur on extrajudicial, summary and arbitrary execution and the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Russian Federation, 30 December 2020 (published on 1 March 2021) (see also below).

- Nine requests were made to the **Tomsk transport police department**, none of which were accepted. Mr Navalny's lawyer complained to the courts about the police department's initial failure and subsequent refusal to open an investigation, its failure to return Mr Navalny's property despite there being no investigation, its failure to provide him with the case materials for review, and its failure to transfer the case materials to the Main Military Directorate of the Investigative Committee (to investigate the possible involvement of FSB agents). All of these complaints were dismissed, apart from the most recent, concerning the continuing failure to return his belongings or provide a copy of the case materials despite their being no investigation underway; this complaint has been pending before the Kirovsky District Court in Tomsk since early August 2021.
- In October 2020, Mr Navalny's representative contacted the **FSB** to allege that an offence of production or stockpiling of chemical weapons had taken place on Russian territory. In November, the FSB replied that there were no grounds for the FSB to take any procedural decisions. A complaint over the FSB's inaction was dismissed by the Lefortovo District Court of Moscow in November 2020, and that dismissal was upheld by the Moscow City Court in December 2020.
- In December 2020, Mr Navalny's representative asked the **Main Military Directorate of the Investigative Committee** to conduct an investigation into the attempted murder of Mr Navalny. The directorate neither carried out an investigation nor took any procedural decision. In March 2021, a military court dismissed a complaint against this inaction, and in May 2021, the Second Western District Military Court upheld that dismissal.

### 8.3. Russian requests for international legal assistance

49. Despite the fact that the Russian authorities had rejected all of Mr Navalny's requests to open an investigation, denying that any offence was committed on Russian territory, they have made numerous requests to other states for mutual legal assistance, including eight to Germany alone. Russia has said that "the information requested is necessary for the proper completion of the preliminary inquiry initiated by the Russian Ministry of Internal Affairs – whether what has happened to Mr Navalny constitutes an offence, with the possibility of a criminal case being further opened..."<sup>41</sup> The requests to Germany cover six areas: to be provided with the full results of the German laboratory's tests on the samples taken from Mr Navalny that revealed the presence of Novichok; to be provided with Mr Navalny's complete medical records from the Charité hospital; to be provided with medical samples taken from Mr Navalny; to question as witnesses Mr Navalny, his wife, and Maria Pevchikh; to question as witnesses the doctors who treated Mr Navalny in Germany; and for the German authorities to investigate the email address from which, according to the Russian authorities, was sent the bomb hoax that led to the evacuation of Omsk airport shortly before Mr Navalny's flight from Tomsk made an emergency landing there. There were also requests made to France and Sweden for Mr Navalny's biomaterials that they obtained from Germany, and the results of their laboratories' analyses that found traces of Novichok, and for the experts involved in these analyses to answer specific questions.

50. As the Russian authorities have refused to open a full investigation into his poisoning, Mr Navalny has declined to consent to the release of his medical data, including records and samples. He and his wife did, however, agree to answer questions that were put to them by the German police on behalf of their Russian counterparts, on 17 December 2020 – the morning before I met him in Berlin.

51. In October 2021, 45 States parties to the OPCW put a series of questions to Russia concerning action to investigate the poisoning of Mr Navalny, and related matters.<sup>42</sup> In response, Russia submitted a 235-page document containing, amongst other things, copies of correspondence with other States parties concerning international legal assistance. It also put a series of questions of its own to other States parties and to the OPCW secretariat. Germany replied that it had responded to all of Russia's requests for international legal assistance and provided all information in accordance with the relevant legal provisions, which *inter alia* required Mr Navalny's consent to the transmission of personal medical data. The German reply further notes that "the Russian authorities ... are in the possession of their own biomedical samples from Mr Navalny and thus have all necessary information at their disposal to launch an investigation of the case and of the events that took place on Russian territory."<sup>43</sup> France replied, recalling that it had previously decided to decline Russia's request for international legal assistance, and stating that "It is above all the responsibility of the Russian Federation to open a credible, transparent inquiry into this criminal offence committed in its territory,

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41. OPCW doc. EC-98/NAT.8, containing Note Verbale No. 44, 7 October 2021.

42. OPCW doc. EC-98/NAT.7, containing Note Verbale No. 093/2021, 5 October 2021.

43. OPCW doc. EC-98/NAT.9, containing Note Verbale No. 41/2021, 18 October 2021.



against a Russian citizen, using a nerve agent developed by Russia. We are still waiting for the Russian Federation to provide credible explanations for this attempted murder.”<sup>44</sup> Sweden replied that Russia’s requests for information on the formula of the chemical substance found in Mr Navalny’s biosamples should be referred to Germany, as the country that had requested Sweden to perform the analysis.<sup>45</sup> The United Kingdom replied, *inter alia* noting that the Russian response did not answer its earlier questions, and recalling that the provision of the CWC relied upon by Russia gave no basis for questioning of the OPCW secretariat.<sup>46</sup> On 2 November, Russia circulated its “assessment” of these replies, which it found to be “bereft of substance” and “nothing more than non-committal, ‘megaphone diplomacy’-style replies... They are clearly aimed at bringing the efforts to publicly clarify all circumstances of the incident involving the blogger to a dead end.”<sup>47</sup>

#### **8.4. Russian request for OPCW technical assistance**

52. On 1 October 2020, the Russian Federation asked the OPCW Director-General to consider dispatching experts of the OPCW Technical Secretariat to co-operate with Russian experts on a study of the results of analyses of Mr Alexey Navalny’s biological samples, in order to establish evidence of a possible crime on the territory of the Russian Federation; it was later confirmed that the request was being made under Article VIII(38)(e) of the CWC.<sup>48</sup> On 2 October 2020, the OPCW Director-General replied that the Secretariat was ready to provide assistance; and on 7 October, that the OPCW was preparing to deploy a team to Russia.

53. After this, the process became blocked over a series of disagreements. Russia specified that it expected the Technical Secretariat’s visit to involve, in Moscow, examination and discussion of the results of analysis of biomedical samples taken from Mr Navalny by Russian specialists in Omsk, and discussion of the results of the OPCW’s analysis of biomedical samples taken from Mr Navalny in Berlin; and then, at the OPCW-certified laboratory in St Petersburg, a joint study with Russian specialists of the remaining volumes of biomaterials collected from Mr Navalny in Omsk. The OPCW Director General replied that, in accordance with standard practice, the Technical Secretariat would dispatch any samples received from the Russian Federation for analysis by OPCW designated laboratories; and indicated certain essential preconditions for the visit, including a specific agreement on privileges and immunities, assurances of no media presence and confidentiality during the visit, and written confirmation that access to Mr Navalny’s medical records would be authorised both by him and under Russian law.

54. From here, the exchanges quickly degenerated. Russia claimed that “the Technical Secretariat..., likely at the behest of a number of States with anti-Russian leanings, aims to politicise as much as possible the conditions under which technical assistance can be provided to the Russian Federation... In this case, the clear mind-set of your position is perceived to undermine this mission under false pretences.” Russia also accused the OPCW secretariat of treating its request differently than those made previously by Malaysia, the United Kingdom, and Germany, which the OPCW Director General denied. The correspondence seems to have ended on 16 December 2020, when Russia stated that “after almost three months and taking into account the disregard for our initial proposal, such a mission does not seem to be relevant.”<sup>49</sup>

55. In a Note Verbale to the OPCW dated 7 October 2021, the Russian Federation alleged that “the leadership of the OPCW Technical Secretariat, under far-fetched pretexts, effectively refused to provide technical assistance to the Russian Federation under Article VIII, paragraph 38 (e) of the CWC on the basis of modalities requested in full compliance with the Convention, rejecting a proposal for a joint examination by the OPCW experts and specialised Russian professionals of Alexey Navalny’s biological materials remaining at the disposal of the [OPCW] and in the Russian Federation...”<sup>50</sup>

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44. OPCW doc. EC-98/NAT.10, containing Note Verbale No. 2021-0496245, 18 October 2021.

45. OPCW doc. EC-98/NAT.12, containing a Note Verbale from Sweden to the Technical Secretariat, 18 October 2021.

46. OPCW doc. EC-98/NAT.11, containing Note Verbale No. 101/2021, 18 October 2021.

47. OPCW doc. EC-98/NAT.13, containing Note Verbale No. 54, 2 November 2021.

48. “The Technical Secretariat shall ... Provide technical assistance and technical evaluation to the States Parties in the implementation of the provisions of this Convention, including evaluation of scheduled and unscheduled chemicals.”

49. “Correspondence Between OPCW and Permanent Representation of the Russian Federation to the OPCW, from 1 October 2020 to 21 December 2020, in Relation to Request for a Technical Assistance Visit to the Russian Federation Under Subpar. 38(e), Article VIII of the CWC”, OPCW, 21 December 2020.

50. OPCW doc. EC-98/NAT.8, containing Note Verbale No. 44, 7 October 2021.

### **8.5. The UN Special Rapporteurs' request for information on investigative actions taken by Russia**

56. In December 2020, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard, and the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, *inter alia* asked for information from the Russian authorities on investigative measures taken concerning Mr Navalny's poisoning, and the results of those measures, and asked whether Russia would release to Mr Navalny the clothes that were taken from him in Omsk, and his medical records from the hospital in Omsk. The Russian authorities did not respond to these questions.

### **8.6. The rapporteur's request for information on investigative actions taken by Russia**

57. As noted above, on 21 October 2021, I sent a series of questions to the Russian delegation for transmission to the relevant authorities, focusing primarily on the investigation (see Appendix 1). I have received no response to these questions.

## **9. The position of the Russian Federation**

58. In Note Verbale 44 to the OPCW, the Russian Government stated that "The Russian side has repeatedly and in great detail set out its vision of what is happening around A. Navalny, giving fact-based assessments of the whole situation and presenting a chronology of events for public view." This presumably refers to statements such as those published by the Russian foreign ministry on 6 November 2020 and 18 August 2021, which contain more criticism of the actions and reactions of others, especially Germany and the OPCW, than explanation of Mr Navalny's near-fatal illness or description of investigative measures.<sup>51</sup>

59. In fact, over time, Russian officials and authorities have expressed a variety of positions on Mr Navalny's illness and its causes. These positions appear to coalesce around the following themes:

- Tests conducted in Russia found no traces of any poisonous substance in Mr Navalny.<sup>52</sup>
- Mr Navalny could have poisoned himself and had simulated illness in the past.<sup>53</sup>
- Other countries were using Mr Navalny's illness to make false accusations against Russia.<sup>54</sup>
- Other countries (notably their secret services) were involved in the poisoning of Mr Navalny, or falsifying laboratory analysis results.<sup>55</sup>
- The failure of Germany in particular to provide information was preventing the Russian authorities from investigating the incident.

60. In the absence of Russian replies to questions put by other States parties to the CWC, the UN Special Rapporteurs, or myself, however, it is not possible to give a more detailed, coherent description of the Russian position.

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51. "Press Release on the sequence of events in the Alexey Navalny case" and "Press Release on the anniversary of 'Alexey Navalny case'", Ministry of Foreign Affairs of the Russian Federation.

52. For example "Peskov: before the transfer to Berlin, there was no poison in Navalny's body", *Kommersant*, 2 September 2020; "Nebenzya at the UN said there was no reason to investigate the Navalny incident", *Interfax*, 11 September 2020; "Questions to the Germans": the head of the SVR denied the 'poisoning' of Navalny", *gazeta.ru*, 15 September 2020.

53. "Le Monde dévoile de nouveaux détails sur l'échange Poutine-Macron au sujet de Navalny", *Sputnik France*, 23 September 2020. President Putin's press secretary later claimed that these reports were inaccurate.

54. For example "Viacheslav Volodin: the situation around Navalny is a planned action against Russia", State Duma, 3 September 2020; "On Summoning the Ambassador Extraordinary and Plenipotentiary of the Federal Republic of Germany in Moscow, G. von Gayr, to the Russian Foreign Ministry", Ministry of Foreign Affairs of the Russian Federation, 9 September 2020; "Volodin: the situation with Navalny is a provocation aimed at curbing the development of Russia", *vesti.ru*, 15 September 2020; "Russia's Lavrov Wrongly Calls EU Sanctions Over Navalny Poisoning Illegal", *polygraph.info*, 3 November 2020.

55. For example "Viacheslav Vorodin: the situation around Navalny is a planned action against Russia", *op. cit.*; "Le Monde dévoile de nouveaux détails sur l'échange Poutine-Macron au sujet de Navalny", *Sputnik France*, 23 September 2020; "Peskov: there are more questions than answers in Navalny's case", *Interfax*, 18 September 2020; "Lavrov: Charité found no traces of chemical warfare agents in Navalny's analyses", *TASS*, 5 October 2020; "Russia alleges Navalny could have been poisoned on medical plane to Germany", *Euronews*, 12 November 2020.

## 10. The legal and human rights issues involved

61. In March 2021, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard, and the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, published a letter that they had sent to the Russian Federation concerning “the alleged attempted killing and poisoning of Mr Alexei Anatolievich Navalny”.<sup>56</sup> The Special Rapporteurs noted that Mr Navalny had been under intense surveillance by Russian intelligence services at the time he was poisoned, “making it very unlikely that third parties could act without their knowledge”. The Russian government “knew or should have known that Mr. Navalny was a prominent critic and anti-corruption [sic] who had been the target of numerous attacks. Since your Excellency’s Government allegedly had Mr. Navalny under heavy surveillance, it was within the Government’s power to protect Mr. Navalny from attack including by preventing attempted poisoning by any third party.” The letter referred also to the significance of Mr Navalny’s investigative reporting and campaigning, and to Russia’s obligations under the Chemical Weapons Convention.

62. The Special Rapporteurs concluded that the issues surrounding the poisoning of Mr Navalny raised a number of potential violations of international law, including human rights law. These included:

- Failure by State agents to respect Mr Navalny’s right to life (since his life was put at serious risk, even if he survived). The Special Rapporteurs referred to the use of Novichok, an apparent pattern of similar incidents, Mr Navalny’s political activities, and the Russian government’s failure to investigate his poisoning and attacks on his credibility as all being suggestive of State responsibility.
- Failure to protect Mr Navalny’s life against a real and immediate risk of criminal acts by others about which the authorities knew or should have known, and failure to investigate the attempt on Mr Navalny’s life.
- Failure to respect Mr Navalny’s right to freedom of expression, both the negative obligation not to violate the right and the positive obligation to protect the right against violation by third parties. As an attack on a journalist, blogger and civil society activist, the poisoning also represented an attack on the collective right to seek and receive information.
- Failure to abide by the prohibition against torture and cruel, inhuman or degrading treatment, given the nature and effects of Novichok.
- The use of chemical weapons and the failure to control their use, in contravention of the CWC.
- The Special Rapporteurs also describe how the poisoning of Mr Navalny may give rise to State liability, through a failure to control the actions of State officials; as well as individual criminal responsibility of those directly involved in the poisoning, and of their superiors for having permitted it, or failed to investigate it or punish the perpetrators.

## 11. Conclusions and recommendations

63. It is clear that if the pilot of the plane from Tomsk to Moscow had not made an emergency landing at Omsk, if the medics at the airport had not immediately called for an ambulance, and if Mr Navalny had not been promptly ventilated when he arrived at the hospital, he would almost certainly have died.

64. The overwhelming preponderance of evidence from a number of doctors shows that Mr Navalny was poisoned with a cholinesterase inhibitor whilst in Russia, and that this was the cause of his symptoms during the flight from Tomsk to Moscow that was diverted to Omsk as a result of his illness. I dismiss any suggestion that he was poisoned at any time after being loaded onto the medical evacuation flight in Omsk.

65. There have now been five separate tests on biomaterials collected from Mr Navalny at the Charité hospital in Berlin. All of these found evidence that he had been poisoned with a substance that was structurally related to the group of chemicals listed in the CWC Annex on Chemicals, but not identical and therefore not specifically mentioned in the listing itself. Substances belonging to this group of chemicals, which was originally developed in the USSR, are generally referred to as ‘Novichok’. I consider it to be established that Mr Navalny was poisoned with a chemical warfare nerve agent that can properly be described as ‘Novichok’.

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56. Letter from the UN Special Rapporteur on extrajudicial, summary and arbitrary execution and the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Russian Federation, *op. cit.*

66. Mr Navalny's political profile and activities give grounds for believing that there may be persons or interests within or associated with the Russian authorities that have a motive for doing him harm, even lethal harm. The admission that he was under FSB surveillance prior to the poisoning makes it unlikely that he could have been poisoned without the authorities being aware of this happening, and of who was responsible. The Bellingcat reports raise a serious suspicion that agents of the FSB itself may have been responsible.

67. Russia is obliged under Article VII CWC to criminalise, and consequently to investigate and punish any suspected use of chemical weapons on its territory. It is obliged under Article 2 (right to life) of the European Convention on Human Rights to investigate the attack on Mr Navalny's life. Russia has not conducted an effective investigation of either of these matters. Its explanations for this failure are inconsistent with established facts and objectively unreasonable.

68. The Assembly should endorse these findings and call on Russia to fulfil its obligations under the European Convention on Human Rights by launching an independent and effective investigation into the poisoning of Mr Navalny, with thorough, objective and impartial analysis of all relevant elements. The investigation must be independent of the FSB, given the serious suspicions of FSB involvement in the poisoning. The investigation should be expeditious, and it should permit sufficient public scrutiny and accessibility to Mr Navalny. The Assembly should also call on Russia to fulfil its obligations under the CWC, including by providing substantive replies to questions posed by other States parties, and to reach agreement on an OPCW technical assistance visit on the conditions indicated by its Director-General.

## Appendix 1 – Questions by the rapporteur to the Russian authorities

- Before his illness in August 2020, was Mr Navalny being followed or under surveillance during his journeys around Russia by FSB agents associated with the Criminalistics Institute?
  - If so, did these agents include specialists in chemistry and medicine? If so, why were such specialisations needed?
- During his stay in Omsk from 20 to 22 August 2020, what were the symptoms of Mr Navalny's illness? What diagnoses were considered to explain these symptoms?
  - Did the doctors treating Mr Navalny in Omsk consider at any time that his symptoms could have resulted from poisoning by an organophosphorus poison/ cholinesterase inhibitor? If they dismissed this diagnosis, why did they do so?
  - Was Mr Navalny treated with atropine at any time during this period? If so, why was this treatment administered?
  - What other treatments were given to Mr Navalny during this period, and why?
  - Have the medical records relating to Mr Navalny's illness during this period been re-examined in order to determine whether his symptoms might correspond to those of organophosphorus poisoning?
- What happened to the clothes that were taken from Mr Navalny after his admission to the hospital in Omsk?
  - Have they been examined for traces of poisonous substances?
  - If so, what types of test were carried out, with what type of equipment, and by whom? What were the results?
- What were the conclusions of the preliminary investigation that was carried out by the ministry of the interior in August 2020?
  - What items of evidence were obtained and examined?
  - Were any of these items examined for poisonous substances? If so, what types of test were carried out, with what type of equipment, and by whom? What were the results?
  - Is it envisaged to reopen this investigation in the light of subsequent information and developments?
- On what legal and/or factual basis did the competent bodies refuse to open an investigation in response to Mr Navalny's requests?
  - Have any of their decisions not to open an investigation been reconsidered in the light of subsequent information and developments?
  - In what circumstances could a Russian authority now open an investigation into the alleged poisoning of Mr Navalny?
- What is the position of the Russian authorities with respect to the results of the tests undertaken by laboratories designated by the Organisation for the Prohibition of Chemical Weapons (OPCW) on biosamples taken from Mr Navalny by the Technical Secretariat of the OPCW in September 2020, whilst he was in hospital in Berlin?
  - If the Russian authorities accept the conclusion that traces of an organophosphorus compound were found in Mr Navalny's biosamples, do they consider this sufficient evidence to open or reopen some form of investigation in order to determine whether Mr Navalny was deliberately poisoned with this chemical whilst on Russian territory?

**Appendix 2 – Dissenting opinion presented by Mr Aleksandr Bashkin (Russian Federation, NR), Ms Irina Rukavishnikova (Russian Federation, NR), Mr Shamsail Saraliev (Russian Federation, NR), and Mr Leonid Kalashnikov (Russian Federation, UEL), members of the Committee on Legal Affairs and Human Rights, pursuant to Rule 50.4 of the Rules of Procedure**

The Russian delegation to the PACE has repeatedly stated the unacceptability of discussing the report in the title of which has an accusatory nature and does not allow an objective and impartial assessment of what happened in August 2020.

The Russian delegation doubts the ability of the rapporteur J. Maire to prepare an objective report on this topic, since in his private and public conversations from the beginning of his appointment as a rapporteur, he openly stated that the main task of his work is to launch a trilateral procedure with respect to Russia, leading to its expulsion from the Council of Europe.

A. Navalny was detained, in full accordance with the law, for violating the terms of his probation. He was convicted for fraud back in 2014, and the European Court of Human Rights dismissed his claim that the case was politically motivated. He was released on probation, but neglected to comply with its conditions even before his alleged “poisoning”. After his discharge from the hospital he continued to break probation rules and ignored the warning of penitentiary authorities, which led to his current imprisonment.

No traces of any poison have been found in A. Navalny’s blood during his thorough examination at the hospital in Russia on 21 and 22 of August. Neither was anything of the sort discovered by the “Charite” clinic in Berlin. Only after his samples had been transferred to a Bundeswehr medical facility, all of a sudden traces of a weapon-grade chemical agent were allegedly discovered by German military.

This reminds the Skripal affair, when another alleged poisoning took place right next door to the UK’s Porton Down chemical weapon facility. What happened to S. Skripal the world still does not know, as the British authorities have apparently kept him under lock and key since the Salisbury incident.

The fact that so-called “Novichok” for some reason only appears in close proximity to NATO military installations, in particular those dealing with chemical weapon research, does not come under the scrutiny of the rapporteur or agencies like “Bellingcat”.

The person who published the formula of “Novichok” has been living and working in the US since 1995. According to an investigative report by German media, the German government had access to “Novichok” since 1990’s and conducted active research on it.

For more than a year Germany (as well as France and Sweden) rejected any cooperation with Russia on investigating this supposedly heinous crime, contrary to its obligations, *inter alia*, under the European Convention on Co-operation in Criminal Matters. In particular, Berlin refused to provide samples indicating that A. Navalny was indeed poisoned, or disclose the actual substance allegedly used. This undermined the Russian authorities’ attempts of inquiry into the incident. Germany also forbade the OPCW to share this information with Russia, claiming that it was “against A. Navalny’s wishes” – which contravened its obligations under the CWC.

Consequently, to the above Russian delegation emphasizes that it does not consider itself bound by any obligations to implement PACE decisions arising from the report on the so-called “poisoning of A. Navalny.”