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**Hearing on “The Long Arm Of Injustice: Did a UN Commission Founded to Fight Corruption
Help the Kremlin Destroy a Russian Family?”**

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Good morning Co-Chairman Smith, Distinguished Members of the Helsinki Commission and to all the public present in this room, for me it is an honor to have been invited to this hearing as a witness to the Bitkov Case.

I’m a lawyer who specialises in banking matters as well as cyber and economic crimes. I first came across the Bitkov family two years before their arrests when I initially met Irina and Anastasia Bitkov. They set up a small film company in Guatemala and I registered the copyrights of the material they produced. Since then, I have become a close friend to the family and I am in fact the legal guardian of Vladimir Bitkov, Igor and Irina’s son, who is now six years old.

Firstly, I would like to address the actions for which the Bitkov family has been accused of. The Bitkovs were criminally charged for using identity documents and passports issued by the State of Guatemala. The International Commission against Impunity in Guatemala (CICIG) and the General Prosecution Office argued that these documents were issued illegally.

As a consequence, CICIG and the General Prosecution Office initiated a criminal prosecution, notoriously disproportionate and even more aggressive and shocking than high-impact crimes such as drug trafficking, murder or even terrorism. They channelled their criminal prosecution before special courts that know of crimes of greater risk. All this for what in reality constitutes a lack of migratory rights.

CICIG has no right to participate as a complainant against the Bitkovs, since the mandate granted by the United Nations and the Government of Guatemala, establishes that the Commission has jurisdiction only to investigate crimes committed by members of the illegal security forces and the clandestine security apparatuses. The Bitkov family was not accused of being part of these illegal security forces and therefore does not fit into the functions entrusted to CICIG. This implies that CICIG exceeded its legal powers and abused its authority.

In addition to violating its agreement, CICIG also violated the Palermo Convention. The Bitkovs were accused of using false identity documents and passports, however in accordance with the Palermo Convention – of which the State of Guatemala has signed and ratified – as migrants the Bitkovs are clearly exempt of criminal responsibility as well as exempt from criminal liability under the Migration Law of Guatemala.

The actions for which the Bitkovs have been accused of do not even constitute a crime.

Now allow me to set out a timeline:

On January 15th 2015, CICIG and the General Prosecution Office with the support of the National Civil Police, conducted three raids. One in the family home, another in the Bitkov's office located 10km from their home and the third in the house of Anastasia's boyfriend, Mr. Andrés Avelar.

On January 15th 2015, I witnessed the search being carried out at the Bitkov's family home. This raid was documented in the minutes of January 15th 2015.

The search began at 6:00am. The prosecutors did not allow the Bitkovs to call their lawyer until 9:00am, three hours after the search began. For that reason, I showed up at the house at around 10:00am. Upon my arrival, the Bitkov family felt extremely tormented, annoyed and helpless. They told me that the police entered the home whilst they were sleeping and did not leave the bedrooms for them to get dressed freely. Igor was forced to cover up his wife Irina and his daughter Anastasia so that they could get dressed.

The search lasted a total of twenty hours, as it ended at 1:40am the next day. All this is confirmed in the document that contains the tally sheet. During the 20 hour raid, the entire family was placed in the living room.

There was an excessive amount of public force as the house was invaded by dozens of police officers. The operation was carried out jointly with CICIG personnel and the General Prosecution Office. This excessive use of public force cannot be justified in any way. The crime investigated – the use of supposedly false documents – is not high risk nor does it constitute a crime. Whilst the raid was carried out I asked the prosecutor Stuart Ernesto Campo Aguilar the reason as to why there were so many policemen. He told me that it originated from the million dollar fraud case committed by the Bitkovs against a Russian bank. This bank was in fact managing the criminal process against the Bitkov family.

During the raid, Anastasia panicked and fainted. Vladimir was also very scared to see so many heavily armed policemen inside of their house.

The prosecutors and police seized: the family's vehicles, their jewellery and electronic devices, although they had no connection with the crime that was being investigated. Prosecutors indicated that any request for the return of these personal belongings had to be made before a judge. Concerning the jewellery, half was taken during the raid and the other half was left at the house.

At the same time, two more raids were carried out, at their office and at Anastasia's boyfriend's house. A large number of police officers were also present. These raids were also not justified since the crime the Bitkovs were accused of was the use of identity documents.

Once the raids had come to an end, twenty hours later the prosecutors and the police proceeded to execute the arrest warrants against the family in the early hours of the following day. Igor, Irina and Anastasia were handcuffed. Vladimir who was only three years old at the time was woken up by the police. I asked the prosecutors and the police officers

not to wake the child because he would be frightened but they ignored my request and continued.

After the Bitkov family was arrested, prosecutors indicated that the child would be transferred to an orphanage, however he first had to be transferred to court so that a judge could define his legal situation. They put him in a grey car belonging to the Attorney General's Office. They wanted to bring him alone but I requested that his nanny Mrs. Veronica Gonzales accompany him. She quickly prepared a suitcase with clothes and they both got in the car. I myself followed the car in my vehicle. Igor and Irina – anguished by their son's situation – begged me not to leave Vladimir seeing as they did not know anyone trustworthy which could take care of their son. They asked me to make sure that he would not go to an orphanage.

Having arrived at the court located 25km from the Bitkov's home at around 3:00am in the morning, we hoped that the judge on duty would attend to us. We waited two hours as other cases were being processed. Before the hearing at around 5.30am, I asked the psychologist and social worker at the court to interview Vladimir and to determine whether he had a close bond with his nanny Veronica Gonzalez. Vladimir did not want to be separated from her and the court staff easily determined that the child had a close and affectionate bond with his nanny.

The judge on duty, Attorney Marjorie Rene Azpuru Villela agreed with the court staff regarding the child's emotional bond with Veronica. Before handing over Vladimir, the judge asked me if as a lawyer I was committed to providing financial support – such as clothing, food, education expenses etc. – for Vladimir while his parents' situation was being resolved. I replied saying yes. Veronica and I were given joint custody of Vladimir. In order not to victimize him even more, we arranged for Veronica to move into my house seeing as the Bitkov's property was seized and closed off. Vladimir was basically left homeless and without his family, only in the company of Veronica and myself. The official date that Vladimir was given to us (his guardians) was January 16th 2015.

Following Vladimir and Veronica moving into my home, we received a phone call from the Attorney General's Office, which deals with cases related to children in Guatemala. We were summoned so that psychological evaluations could be done on Vladimir and financial checks could be conducted on me and Veronica. The psychological evaluations were very positive. Vladimir clearly told the psychologist, Sheila Ninette Santiago Lopez, that it was his desire to be with Veronica. He said: "she takes care of me and gives me my feeding bottle". This is stated in the judgement of March 18th 2015 of the Court of Appeals for Children.

Although the psychological evaluations showed an affectionate bond between Vladimir and his nanny, we were summoned by another judge, Maria Belen Reyna Salazar. She told us that we had to attend court with Vladimir on February 10th 2015 (almost a month after Vladimir had been living with us). On February 10th we presented ourselves with the child. We had a detailed report which showed that the child was well taken care of in terms of housing, education and food. We attached photographs, details of his diet and other important aspects. Although the psychological evaluations - which were conducted by the

Attorney General's Office – were very positive, Judge Maria Belen Reyna Salazar, without asking the child's opinion (which is a serious abuse as the law obliges the child to be heard), arranged to separate him from us, arguing that we were not his relatives and there was doubt on who his parents were due to their passports and identity documents being the subject of a criminal investigation. The doubt surrounding the identity of Vladimir arose from a report that was sent by the Special Prosecutor's Office against Impunity (FECI) indicating that his identity was flawed. FECI is part of the General Prosecutions Office that investigates all cases which CICIG participates in.

During the hearing on February 10 2015, the judge ordered the child, Vladimir Bitkov to be moved to a special room for abandoned children. Vladimir cried out loud but the judge insisted on moving him away from us.

The judge decided to immediately separate Vladimir from me and his nanny despite being his legal guardians. Veronica tried to leave his feeding bottle but they did not take it stating that they already had the essentials for the child. They did not let us say goodbye to Vladimir, they only told us that after crying he had fallen asleep deeply. So when Vladimir woke up he was already with total strangers in an orphanage called "Love of the Child" that is located in the interior of the country. The judge forbade us, his guardians and anyone else to visit Vladimir at the orphanage, arguing that it was for "his safety." The day in which this separation took place was extremely shocking for us, and I do not want to imagine how shocking it was for Vladimir to wake up in an orphanage with strangers. From that day a very strong legal battle began, we fought to recover Vladimir. Following 42 days in the orphanage, a Child Appeals Chamber declared that the act of Judge María Belén Reyna Salazar had been illegal and ordered the child to return with his guardians.

The day he left the orphanage, he was delivered to us in court. Vladimir looked very scared and did not speak with us. We travelled 20 kilometers he only spoke once to ask to go to the bathroom. We made our way to the hospital where his mother and sister were being kept. When Vladimir saw his mother you could tell he was extremely upset. He did not speak to her either. When he asked for food we bought him pizza. We found it very disturbing that Vladimir put a number of pieces of pizza inside his shirt, as if he was saving food. This made us think that he had gone hungry in the orphanage and was not fed properly. We then discovered he had a chipped tooth and an infection in both his eyes. We asked the doctor to give him a medical examination in which he later on stated that Vladimir had a scar on his eyebrow, chipped front teeth, conjunctivitis, an upper respiratory infection, severe inflammation of his ear and had clearly suffered from physical and psychological abuse. After returning from the orphanage Vladimir was another child, he no longer used his feeding bottle, he did not speak to anyone and he wanted to be alone. Prior to this, he was an outgoing, happy and social child and when he returned he was remote and introverted. He was clearly still afraid. Support was sought from a psychologist to give him therapy for several months. Many nights Vladimir woke up crying, with a face of fear, and anguish.

Because of the way Vladimir left the orphanage, we filed a complaint with the Human Rights Ombudsman. It is clear that Judge María Belén Reyna Salazar committed an illegal verdict as there was no legal and moral justification for Vladimir being sent to an orphanage. The Human Rights Ombudsman of Guatemala issued a resolution on February 8, 2016 where he

stated that Vladimir's rights were clearly violated by the judge and the director of the orphanage, "Love of the Child".

When leaving the orphanage Vladimir and Verónica were in my residence for almost a year. On the 15th January 2016 Irina and Anastasia were granted house arrest and were able to leave the hospital where they were held for one year. Vladimir returned home with his mother, his sister and his nanny.

I would now like to testify about the illegalities that arose in the criminal process.

I will start with the action of VTB Bank:

From the beginning of the process, VTB bank justified its participation in the process by claiming that the Bitkovs had committed fraud against the bank. The participation of VTB bank was always supported and defended by CICIG through its representative Claudia González Orellana, who declared before the judge that the events that occurred in Russia were related to the events that occurred in Guatemala and that VTB bank should be allowed to defend its interests in Guatemala. An audio recording of the hearing which took place on January 22nd 2015 is available.

Prior to presenting the accusations, that is, the pre-hearing procedure where the sentence is handed down, the main judge was informed of two fundamental points: (i) That the Bitkov family are migrants and that the actions for which they are accused of does not constitute a crime under the Palermo Convention (signed by Guatemala). Furthermore, (ii) under Guatemala's own Migration Law, it states that no migrant may be prosecuted criminally for obtaining false identity documents. These rules state that the criminal subject is not the migrant since the only responsible criminal is the trafficker, which in the case of the Bitkovs was Cutino Associates International. Cutino Associates International is a large immigration law firm in Guatemala and Latin America which has never been investigated by CICIG even though the Bitkov family filed a number of criminal complaints against them. CICIG and the General Prosecution Office have a clear knowledge of these complaints.

In addition, Igor Bitkov filed a complaint in May 2016 against Cutino Associates International addressed directly to the Attorney General of the Republic of Guatemala, Mrs. Thelma Aldana.

Several days later, on the 18th May 2016, Irina Bitkov filed another complaint with the Attorney General. The accusations against Cutino Associates International have never been investigated, although Irina Bitkova specifically stated them in her complaint. She provided the telephone numbers that appear on Cutino Associates International's website and asked that the IP addresses, the entry logs to the site and the name of the person who acquired the domain on the internet be investigated as well as setting out other useful means of investigation for that case. In spite of this, no meaningful investigation was conducted.

Igor Bitkov also specifically stated that he made a wire transfer to Cutino Associates International and later on requested CICIG to investigate and trace this bank transfer, which they failed to do. Instead of investigating the real perpetrators, CICIG accused the true victims of this crime.

In addition to the two complaints filed with the Attorney General against the company that processed the identity documents for the Bitkovs - that is, Cutino Associates International - Irina Bitkov reported these facts directly to the Commissioner Iván Velásquez Gómez on the 18th May 2017. In addition, we have a video where it was clearly recorded that Irina Bitkov personally spoke with Mr. Iván Velásquez. She gave him documents which demonstrated the political persecution by the Russian government which they were victims of, and which had to be investigated. The Bitkovs also denounced that the CICIG representative repeated word for word the infringed complaint of VTB bank without having any proof. Commissioner Velasquez said he would review the case but did nothing about it. CICIG never investigated Cutino Associates International nor ceased to support it.

Additionally, Igor Bitkov gave power of attorney to a lawyer from Cutino Associates International - named Mr. Edwin Orlando Xitumul Hernández - to conduct all necessary action in order for the Bitkovs to receive passports. This power of attorney constitutes further evidence that Cutino Associates International was given authority to do whatever was required by law to obtain passports. CICIG should have investigated the criminal structure that is Cutino Associates International, however an investigation was never opened.

The defense's other argument during the trial was that VTB bank should be excluded from the criminal proceedings since the claim for payment of a supposed debt is not a criminal matter. In addition, there was no proof of the existence of such debt to begin with.

The Bitkovs asked a Civil Court to require VTB Bank to present the original bail document that constituted the main document of its complaint. VTB Bank refused to provide to the Court any documents to support their complaints, arguing that the Guatemalan Courts did not have jurisdiction to see the claim. However, Judge Ericka Aifán, at the request of CICIG and the General Prosecution Office, rejected the defense's arguments and proceeded with hearings against the Bitkovs. The other defendants in the case were effectively officials and state employees who formed the criminal structure. The Bitkovs were the only migrants in this case.

During the hearing, the senior official of the passport office declared that thousands of passports were issued with irregularities. In addition, the witness Carlos René Gómez Díaz, stated that the General Directorate of Immigration issued between 1 and 3 passports with irregularities per week in favor of foreigners. However, only the Bitkovs were sentenced to prison. Other foreigners were sentenced to suspended sentences meaning that instead of going to jail they had to pay a fine and return freely to their country of origin.

Another illegality that arose during the criminal process was that prior to the sentencing of the Bitkov family - during the hearing - a higher constitutional court granted an order in favor of the Bitkovs, whose ruling stated that the migrants could not be prosecuted criminally in accordance with the provisions of the Palermo Convention and the Migration Law of Guatemala. However, the Court chaired by Judge Yasmín Barrios did not comply

with that court order and continued the hearing which later sentenced the Bitkov family with extraordinary and illegal penalties.

The court that sentenced the Bitkovs, in addition to applying the maximum prison sentences, ordered the deportation of the Bitkov family from the country, even though we indicated that their lives are in danger if they are expelled back to Russia. In addition, on the day of the conviction, that is, on January 5, 2018, the Court revoked the house arrest of Irina and Anastasia, and they were at once again sent to prison that same night. In addition, I told Judge Yassmín Barrios that Anastasia Bitkova suffered from a psychiatric illness and had five documented suicide attempts, and that there are reports from forensic psychiatrists in Guatemala that she cannot be imprisoned because there is a risk of death. This did not matter to the Court and she was sent to prison together with her mother. In addition, the Court did not take into consideration the best interests of the child Vladimir Bitkov and ordered a second separation from his family.

On the day of the conviction Irina and Anastasia were remitted to the court jail. That day January 5, 2018 was one of the coldest days in Guatemala. Together with Attorney Victoria Sandoval and myself, they did not let us bring them clothes despite the intense cold. We had to enter and leave our own clothes so that they had a little heat, since they were shivering from the cold. We filed an immediate complaint against the police for their inhuman actions which was only taken into consideration days later and eventually ignored.

The above is what I have to say in this brief, in relation to the case of the Bitkov family. The family at this moment is suffering because they are facing illegal sentences that were imposed by CICIG and the General Prosecution Office.