

**Testimony by William Browder
To the US Helsinki Commission
On the Bitkov case in Guatemala
April 27, 2018**

Co-chairman Smith, Distinguished Members of the Helsinki Commission,

Thank you for giving me the opportunity to present the story of the Russian Government's persecution of the Bitkov family in Guatemala.

As many of you know, I was the client of Sergei Magnitsky in Russia. When he was murdered by Russian government officials for uncovering state corruption, I started a campaign for justice, which led to this Commission spearheading the Sergei Magnitsky Rule of Law Accountability Act in 2012, and the Global Magnitsky Act in 2016.

I wrote about the Magnitsky justice campaign in a book, entitled "Red Notice, which was published in February 2015. Following the book's publication, I have received messages from people all over the world telling me about their reactions to the Magnitsky case and sharing their own stories.

One of those stories came from a Russian woman named Irina Bitkov. She described how she and her family had been persecuted in a similar way to Sergei Magnitsky in Russia and when they fled, their persecutors from the Russian government chased them all the way to Guatemala and ruined their lives.

I am here today to share the Bitkov's story because they can't be here to do it themselves. They are currently in a Guatemalan prison where Igor Bitkov (the father) is serving a nineteen-year prison sentence and Irina and Anastasia Bitkov (the mother and daughter) are serving fourteen-year prison sentences, all for "passport violations" in Guatemala.

I'd like to point out that I have no business relationships with the Bitkovs. I am receiving no compensation for the advocacy I am doing on their behalf. I am entirely motivated by the shocking injustice of what has happened to them.

This story starts in the 1990's when Igor and Irina Bitkov became owners of a paper mill in Russia called the North West Timber Company. Over the course of the 1990s, they built a highly successful business that reached \$80 million in profits by 2007. It was apparently valued by the Russian state bank, Sberbank, at roughly US\$400 million.

In the course of its business, the company obtained loans from Russian state banks, including Sberbank, VTB and Gazprombank in order to upgrade its facilities. Shortly after the loans were issued, the Bitkov's problems began.

One of the bankers involved in issuing the loan approached Igor Bitkov and asked Igor to sell 51% of the business to him personally for US\$25 million. As the business was worth many times that, Igor refused.

Following this unwanted take-over attempt, a terrible trauma befell the Bitkov family. The Bitkov's then 16 year old daughter Anastasia was kidnapped in St Petersburg. The kidnappers demanded a ransom, which took the Bitkovs three days to accumulate. They paid the kidnappers and Anastasia was released, but when she was safely back home, the family discovered that Anastasia had been drugged and repeatedly raped by her kidnappers. The ordeal left Anastasia deeply traumatised and set off a cascade of psychiatric ailments, which require medication and treatment to this day.

Following that, and in a further escalation of the attempts to take over their company, the Russian state banks simultaneously called in the \$158 million loans forcing the company into bankruptcy.

During the bankruptcy proceedings, the equipment of their factories was sold for a fraction of its true value.

The Bitkovs were then told that they would be imminently arrested. This was the moment the Bitkov family fled Russia. They first travelled to Latvia, and then to Turkey. In Turkey, they sought out a country to settle in where they could avoid the risk of being sent back to Russia where they feared the worst. They chose Guatemala because it did not have an extradition treaty with Russia.

They found an advertisement on the Internet from a Latin American law firm called Cutino Associates that specialised in immigration law and advertised its expertise in organizing Guatemalan immigration for US\$50,000 per person. The family engaged Cutino and began the process of becoming immigrants to Guatemala.

In their initial communications with the Cutino law firm, they explained that the reason for their immigration was to avoid persecution from Russia.

Cutino explained to them that they could change their names in their immigration applications to avoid detection by the Russians. Cutino then submitted applications for the family and the Guatemalan migration service issued them new documents in new names. Anastasia kept her original name hoping that because she was not targeted with Russian criminal cases she would be ok to keep it.

The family then began a new life in Guatemala. Igor became a high school math teacher at the Brillo De Sol School in Antigua, Guatemala. Irina became a drawing teacher at the same school, and Anastasia who was beginning to regain her confidence after her terrible trauma in Russia, began a career in fashion.

In January 2012, Irina Bitkov gave birth to a baby boy named Vladimir.

It appeared that after their terrible ordeal in Russia where the family had lost nearly everything, they could begin a new chapter in their lives.

Unfortunately, their dream of a new life came crashing down in late 2013.

Investigators working for VTB Bank tracked down the Bitkovs in Guatemala. The head of the VTB Bank, Andrey Kostin, personally hired Henry Comte, one of the most prestigious attorneys in Guatemala and an alternate judge on the Guatemalan Supreme Court, to assist VTB in pursuing the Bitkovs in Guatemala.

VTB and Comte's first attempt to go after the Bitkovs was to file a criminal complaint with the Attorney General's Office of Guatemala claiming VTB had been defrauded by the Bitkovs in Russia. VTB presented photocopies of forged documents in the Guatemalan court. These documents had already been rejected as forgeries in similar proceedings in the Russian courts. When the Guatemalan court requested the originals, VTB bank withdrew its application.

VTB and Henry Comte then came up with a 'plan B' to go after Bitkovs. For several years before 2013, there had been an ongoing investigation into human trafficking and Guatemalan officials' complicity with human traffickers in the country. It was called the Migration Case and was supported by a UN organisation called CICIG whose mandate was to go after organised crime networks who previously enjoyed impunity in Guatemala.

VTB and Comte successfully convinced CICIG to focus on the Bitkovs as part of the Migration Case in spite of the fact the Bitkovs were clearly not part of any organised network of traffickers.

Inexplicably, VTB Bank gained the legal status as an 'interested party' in the Migration Case against the Bitkovs with the support of CICIG. In January 2015, a criminal case against the Bitkovs was opened at the direction of CICIG. Immediately after, 70 armed police officers raided the Bitkovs' home, arrested Irina, Igor and Anastasia and detained them in cage behind the parking garage in the main court building in Guatemala City.

While they were being held, Anastasia was deprived of her anti-depression medications and she had a severe psychiatric break-down. Anastasia and her mother were moved to a hospital under armed guard, and Igor was put into pre-trial detention at the Mariscal Zavala prison while the case awaited trial.

The Bitkovs arranged for their family lawyer, Rolando Alvarado, to be a guardian for their 3 year old child, Vladimir, while they were incarcerated. In spite of Mr. Alvarado's valid guardianship papers, the Prosecutor of Guatemala filed a motion with the court calling for Vladimir Bitkov to be placed in a state orphanage instead.

At this point, the Russian government also got involved. Pavel Astakhov, the Russian government's ombudsman for children's rights publicly called for Vladimir Bitkov to be returned to Russia to be put into a Russian orphanage.

The Russian foray failed because Vladimir is only a Guatemalan citizen, not Russian and could not be returned to Russia. However, the Guatemalan prosecutor's motion succeeded and Vladimir was placed in a state orphanage.

The family desperately applied to reverse the decision and get Vladimir out of the orphanage. It took 42 days for that application to be heard. When Vladimir finally emerged, he was examined by medical experts who found he had an upper respiratory infection; severe inflammation of the middle ear; conjunctivitis in both eyes; scars along the left eyebrow; and chipped front teeth. They concluded that he suffered from physical and psychological abuses in the orphanage.

In the meantime, the case against the Bitkovs for passport violations moved through the courts, they were formally indicted as part of the CICIG Migration Case in April 2015.

The Bitkov family appealed the indictment in the Appeals Court arguing that they were migrants and could not be subject to criminal prosecution applicable to traffickers. In December 2017, the Guatemalan Appeals Court ruled in favour of the Bitkovs declaring that any passport irregularities were administrative offences punishable by a fine and as migrants they should not be under criminal penalty.

However, CICIG and VTB were not happy with this decision and both immediately filed appeals against that court decision that would have freed the Bitkovs. While their appeal was pending, the decision was not in force.

A few days later on January 5, 2018, the Guatemalan District Court found Igor, Irina and Anastasia Bitkov guilty as users of the criminal network in the Migration Case. The court sentenced Igor to 19 years in prison, and Irina and Anastasia to 14 years. CICIG trumpeted their court victory on their website pointing out that they prosecuted 39 people from the criminal network, including the Bitkovs.

I understand that the 19-year sentence that Igor Bitkov was given was greater than sentences for manslaughter, rape, burglary and fraud in Guatemala. The sentences that all three of them were given appears to exceed the sentences of many of the government officials in Guatemala and traffickers who were part of the human trafficking network.

There was no evidence that the Bitkovs bribed any government official, or were involved in any corruption.

The Bitkovs who did not speak Spanish and did not know anyone in Guatemala on arrival, relied on the law firm, Cutino Associates who presented themselves as legitimate immigration lawyers.

It also appears that nobody from Cutino Associates who organised their passports and settlement documents has ever been prosecuted.

No other customers of Cutino appear to have been tried, convicted and sentenced like the Bitkovs. In the list presented by CICIG, which includes 39 people in the Migration Case, 36 were low & middle level officials from different Guatemalan governmental bodies and a few 'coyotes' who physically moved people through Guatemala.

So, what's going on here?

There are two big Russian themes in this case, neither of which are unusual.

First, in Russia people who run successful businesses are routinely victimised through a process called 'Raiderstvo'. I was a victim of Raiderstvo and so were the Bitkovs. It is a standard practice in Russia where organized criminals work together with corrupt government officials to extract property and money from their victims. There are literally hundreds of thousands of businessmen in jail in Russia who are victims of this as well.

The second theme is the abuse of international institutions. The Russian government routinely abuses international institutions in order to persecute its enemies who are outside of Russia.

In my case, the Russian government tried six times to have Interpol arrest me after the Magnitsky Act was passed. The Russian government also successfully recruited a senior official inside the Swiss Federal Police to stymie a Swiss criminal investigation into money laundering by Russian officials in the Magnitsky case. The Russian government also succeeded in getting a Deputy Attorney General of Cyprus in charge of mutual legal assistance and extradition affecting the Magnitsky case, and many other politically sensitive cases to inappropriately assist Russia in pursuing their enemies in Cyprus.

In my opinion, the Russian government succeeded in compromising CICIG and the Guatemalan Prosecutor for their own purposes in the Bitkov case.

CICIG and the prosecutor's office have jointly taken up the Russian government's vendetta against the Bitkovs with no good explanation.

CICIG did not distance itself from this Russian persecution. They've touted it on their website and they've actively tried to overturn the Bitkovs' vindication by the Appeals Court.

Nor has VTB tried to hide its role in this case. In spite of the fact that VTB obtained no financial recovery for their alleged financial dispute with the Bitkovs, they became interested party in a case involving something that had nothing to do with them in order to vindictively punish Igor Bitkov and his entire family.

In the Wall Street Journal on April 4, 2018, Igor Kostin, the Chairman of VTB, says: "VTB's action relating to the Bitkov family is an example of standard procedure in resolving financial business disputes through the available legal channels."

This is an appalling case in which the Bitkov family deserves justice and the United States has an opportunity to deliver them justice.

CICIG is a UN organisation in which approximately 50% of its budget comes from the US government.

I do not believe that anyone in the US Congress or the US government ever envisaged that US tax dollars would be spent to support a Russian persecution of a family fleeing persecution in Guatemala. I would recommend that CICIG's funding be suspended until this situation is resolved.

When I began the process of advocating for the Bitkov family, I discovered that CICIG is a highly contentious issue in DC and around the world. There are some people who are pro-CICIG, there are others who are anti-CICIG.

Up until two months ago, I had never heard of CICIG. I come into this case with no prejudices one way or another. I've gone where the evidence leads. So far, the evidence leads towards the conclusion about the involvement of this organisation in the Bitkov's persecution.

As journalists from the Wall Street Journal and other news organization have started to investigate, CICIG has avoided answering a number of direct questions about their role in the Bitkov case and their support of VTB.

When CICIG was invited to give evidence to Congress, they declined claiming as a UN organization, it is not accountable to any institution in the United States.

They can't have it both ways. They can either be the heroic anti-impunity organisation that their mandate sets for them and not take on other country's vendettas, or the situation at CICIG needs to be cleaned up.