



## GUATEMALA HUMAN RIGHTS COMMISSION/USA

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### **U.S. Senate Foreign Relations Committee suspends funding to internationally recognized criminal court**

*The US Senate suspended funding to the International Commission Against Impunity in Guatemala (CICIG) amid outlandish accusations of infiltration by the Kremlin. The Senate actions put decades of justice reform at risk during a decisive moment in a stand-off between CICIG and criminal networks embedded in the State.*

May 9, 2018

On April 27<sup>th</sup> Representative Chris Smith (R-NJ) convoked a hearing of the Helsinki Commission. In the hearing, the International Commission Against Impunity in Guatemala, CICIG, was accused of acting as a pawn of Russian state sponsored mafias intent on seeking vengeance against a Russian family. The Bitkov family claims they came to Guatemala in 2009, lured by a website offering new identities as they fled violence by Russian state agents and mafias who first sought to steal the family's successful business. Six years later, they were arrested for use of false identities in CICIG supported investigations.

On May 4, 2018, Senator Marco Rubio, Majority Chair of the Western Hemisphere Sub-Committee of the Foreign Relations Committee, suspended \$6 million in US funding for CICIG until the Bitkovs are released from custody. Senators Roger F. Wicker (R-MS), Mike Lee (R-UT), and Representative Chris Smith supported the move.

The scandal in the US Congress came at a crucial moment in the stand-off between Guatemalan president Jimmy Morales and CICIG, backed by the Guatemalan Attorney General. Over the past nine months there have been three requests to impeach the current president of Guatemala, each in relation to separate criminal charges. In August, Morales attempted to expel CICIG's director from Guatemala. Supporters of justice reform fear that the most successful experiment in combating organized crime networks in Central America is at risk, especially since Morales named a new Attorney General, Consuelo Porras, on May 2, 2018. She is expected to be a firm ally in Morales' attempts to evade prosecution and weaken or end the work of CICIG.

In a disturbing twist, Enrique Degenhart, who Jimmy Morales named Minister of Governance in January 2018, was implicated in the migration corruption network that the Bitkovs used, and is also attacking CICIG. Degenhart not only removed police investigators assigned to CICIG, but on April 24, under Degenhart's command four [police agents assigned to CICIG were illegally detained](#) against their will over at least four days. One of the agents the government Human Rights Ombudsman was able to contact during that time told them he feared for his life. [Investigative reporters found](#) that while Degenhart was comptroller of the Migration Directorate in 2010, the union leader who provided information that led to CICIG's successful prosecution of the corruption ring had named Degenhart as the ringleader, and a few months before his murder told Guatemala's human rights ombudsman that Degenhart was behind a plan to kill him.

### **Questions and answers about the role of the International Commission Against Impunity in Guatemala (CICIG) in the Bitkov prosecution**

Though unable to participate in the hearing, [CICIG explains](#) that the Bitkovs were arrested as part of efforts to combat corruption rings that issued false identification papers, and allowed people to

illegally enter and exit the country. CICIG sought to prevent Guatemala from becoming a refuge for criminals and to combat human trafficking, that is, persons smuggled through force, fraud or coercion and subjected to involuntary servitude or slavery, often sexual.

#### ***Why did CICIG investigate the Bitkovs?***

In 2010, the Anti-Impunity Special Prosecutors (FECI), the special unit of the public prosecutor's office that CICIG works with, received a complaint from a leader of the staff union within the General Directorate of Migration, Mr. Fidel Pacheco. Mr. Pacheco identified a group of officials within the General Directorate of Migration as responsible for issuing false passports; the exit of national and foreign persons with false documentation; and the entry of people without meeting the requirements established by law. He also warned that the leaders of this network, including senior officials in the Directorate, might attempt to murder him. FECI immediately began investigations and making arrests. Pacheco was later brutally murdered.

#### ***How did investigators identify the Bitkovs?***

In 2014, FECI seized documents in a search of the General Directorate of Immigration, and also received testimony of a witness, both of which identified Mr. Bitkov (via the two false identities he used) as a user of the network. Later, FECI learned that the Metropolitan Prosecutor's office, a separate unit of the public prosecutor's office, had received a complaint by legal representatives of the Russian VTB Bank against the Bitkovs.

#### ***What did prosecutors find?***

Igor, Irina and Anastacia Bitkov had entered Guatemala using their Russian passports in 2009. There is no record of an asylum claim at that time. Mr. Bitkov then used an altered birth certificate to obtain a false identity card (Igor Benítez García) and used it to create a business. He obtained a second false identity (Leonid Zaharenko) and used that to start another business, marry Irina - who was already his wife, and thus obtain a Guatemalan passport for her and their daughter. In January 2015, the Court issued an arrest warrant against the three on charges of *usurpation of civil status, use of forged documents and suppression and alteration of civil status*. Igor Bitkov was sentenced to 19 years in prison and Irina and Anastacia to 14 years each.

#### ***Why did the Bitkovs receive such harsh sentences?***

The Bitkovs chose not to plead guilty and did not cooperate with the larger investigation as other users of the network had. The trial established that the Bitkovs had used false identities to not only establish residence, but also to open two businesses. At the time of the ruling in 2018, there was no evidence submitted before the Court regarding potential persecution by the Russian government or mafia. This made it impossible for the judge to take any extenuating circumstances, personal history or motives of the accused into consideration in sentencing.

#### ***Who else was arrested?***

In June 2013, seven employees of the General Directorate of Passports were prosecuted in relation with the Migration case. In January 2014, in the first hearing of the Migration case, an additional 27 people were linked to the process. Investigations and arrests continued, and in January 2018, the High Risk Court-A found 39 people guilty of participating in a passport forgery network. Among those sentenced are former officials of the General Directorate of Migration (DGM) and the National Registry of Persons (RENAP), lawyers, human traffickers (*coyotes*) and users of the criminal structure, including Igor Vladimirovich Bitkov, Irina Viacheslavovna Bitkova and Anastasia Bitkova.

#### ***Why were the Bitkovs the only 'users' of the corruption ring sentenced to prison?***

Earlier in the investigation, in 2010 and 2013, three Colombians were prosecuted for using the services of the criminal network. They pled guilty and cooperated with prosecutors. Thus, they were given reduced sentences. Later investigations identified six others who had obtained false Guatemalan passports, but they had immediately left the country.

***Were the Bitkovs denied asylum?***

The Bitkovs entered Guatemala legally in 2009. There is no knowledge of any asylum petition at the time. In 2016, after charges had already been brought against them, the Bitkovs filed an asylum petition with the National Commission for Refugees (CONARE), an inter-ministerial body including the Ministry of Interior, the Foreign Affairs Ministry, the Ministry of Labour and the Migration Directorate. CICIG has no role or voice in this process. Reportedly, CONARE refused the asylum petition. The Bitkovs appealed the decision to the President of Guatemala, who refused to rule. The asylum petition awaits decision by the President.

***Did CICIG put the Bitkovs' toddler son in an abusive facility?***

CICIG played no role in deciding where the Bitkovs' young son would be held while his parents were in detention, that decision was made by other State authorities. In a separate case, CICIG is prosecuting the State protective services facilities for alleged abuses.

***Was CICIG working with the Russians and the Russian VTB Bank?***

Four years into CICIG's investigations into the migration office criminal network, on November 13, 2014, a complaint filed by VTB Bank was transferred from the Metropolitan Prosecutor's Office to FECl. In January 2015, at the first hearing after the Bitkovs' arrest, VTB Bank asked the judge to join in the prosecution of the Bitkovs as joint plaintiff, and the judge allowed it. Private plaintiffs are a role victims' can play in prosecutions. The Bitkovs appealed the decision and on September 28, 2017, an appeals court rejected VTB's participation as plaintiff, finding VTB did not meet the standard of victim; the case was about false documents not VTB's claims.