

RUSSIA: Lawyer accuses judge of falsification in the case of a prisoner of conscience

On 28 November, the St Petersburg City Court postponed to 6 December an appeal filed against Judge Evgeny Isakov in St Petersburg by the defense lawyer of the leader of the Scientology Church, Ivan Matsitsky, who in September was adopted as a prisoner of conscience by the US Commission on International Religious Freedom (USCIRF), a bipartisan federal government entity based in Washington, writes Willy Fautre, Director of Human Rights Without Frontiers.

Eu Reporter (04.12.2018) – <https://bit.ly/2rm4uoH> – Ivan Matsitsky is a Russian Scientologist who has been held in pretrial detention for 17 months. In the background here is the Russian “extremism law” which is repeatedly used and abused by the authorities to persecute non-Orthodox minority religions and their members even though they do not incite to or use violence.

Human Rights Without Frontiers interviewed lawyer Yevgeny Tonkov, PhD in Law (PhD), author and coauthor of dozen books on law, author of over 50 articles in scientific and other journals.

What kind of violation did he believe was committed by the judge of the St. Petersburg court Yevgeny Isakov?

"The judge pretended that he did not see the falsification of the investigator, forbade me to ask questions to the investigator and refused to give an assessment of the most important facts in the case," said Yevgeny Tonkov."He ruled to extend the arrest without taking into account the specific legal facts of the case, and refused to check the investigator even after my statement about the falsification of the facts."

HRWF asked what did the investigator falsify and why is it so important for the trial?

When the term of keeping Ivan Matsitsky in custody reached the maximum limit, the investigator did not want to release him from custody.

Detention beyond the limit can be extended only if the following three conditions are met:

1. The investigation has been completed and the accused and his lawyers have been announced the end of the investigation actions 30 days before the end of the maximum period of detention;
2. the materials of the criminal case have been presented to the accused person and his lawyers not less than 30 days before the end of the maximum period of detention, and;
3. if 30 days were not enough for the accused person and his lawyers to familiarize themselves with all the materials of the criminal case.

The investigator provided the judge with a falsified document that all these three circumstances occurred. The most basic lie was that the investigator reported that he had presented the materials of the criminal case to Ivan Matsitsky and his lawyers. There are 70 volumes in total, about 250 sheets in each volume. In fact, this fact did not happen, the investigator did not present a single volume from the criminal case to either Matsitsky or the lawyers. In this case, Judge Isakov was obliged to refuse the investigator to extend the arrest. The criminal procedure law explicitly states that if at least one of the above three facts or events did not occur, the court must release the accused.

Judge Isakov, clearly realizing that the fact of presenting the materials of the criminal case to Matsitsky did not occur, instead of pronouncing his release, extended the arrest for another four months.

HRWF asked if lawyer Yevgeny Tonkov if he thought the judge and the investigator will be punished for their violations?

“I doubt that the punishment will overtake them, as the judge hides the violations of the investigator, and the chief judge – hides the violations of his own. This is called “collective responsibility”, which leads to a complete failure of the justice system.”

HRWF asked if the three judges of the appeals instance of the St. Petersburg City Court are able on December 6, 2018 to make a decision in principle and release Ivan Matsitski? Or are they, like Judge Yevgeny Isakov, afraid of the investigator of

the Federal Security Service (FSB)?

“It seems that almost all judges in Russia are afraid of the FSB investigator, but the violation of the Criminal Procedure Code of the Russian Federation by Judge Yevgeny Isakov is so obvious and scandalous that I expect that the three judges of the appeals instance of the St. Petersburg City Court will have the courage to render a fair decision.”

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