

Miscarriage of justice: an update on the ongoing trial of Oyub Titiev

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Background:

Oyub Titiev, the head of Memorial Human Rights Centre's Chechnya office, has been in custody since 9 January 2018, when law enforcement officials charged him with drug-related offences alleging that they had found a large amount of marijuana in his car. It is believed that the marijuana was planted in his car when he was briefly stopped by police earlier that morning. The Chechen law enforcement authorities deny this. Oyub Titiev's case is currently being heard by Shali City Court in Chechnya. He has reiterated his innocence on multiple occasions and has been acknowledged as a prisoner of conscience and a political prisoner by dozens of national and international human rights organizations. The European Union called for his immediate release in two statements issued on *11 January* and on *27 June 2018* calling for the charges against Oyub Titiev to be dropped and for his immediate release. The European Parliament adopted two resolutions on 8 February 2018 on *Russia, the case of Oyub Titiev and the Human Rights Centre Memorial* and most recently on 14 February 2019 - *The situation in Chechnya and the case of Oyub Titiev*. In both resolutions the European Parliament called for Oyub Titiev to be immediately released. On 8 October 2018, Oyub Titiev was awarded the prestigious Vaclav Havel Prize for his work on reporting human rights abuses.

Since the *last update* published in October 2018, the court case against Oyub Titiev has continued to be marred by falsified evidence and serious fair trial violations. The judge has systematically denied all motions by Titiev's lawyer to call defence witnesses. This update covers the court proceedings between 12 November 2018 and 12 February 2019.

Oyub Titiev stated in court that he believes that the Chechen authorities have put him on trial in retaliation for his work with the Human Rights Centre Memorial. During the hearings in November, Titiev gave evidence about the events on the day of his arrest in January 2019. His description was fundamentally different from the scenario described by the prosecutors. According to Titiev's testimony, law enforcement officers stopped him twice on 9 January. First, three officials from the Rapid Response Unit (GBR after the Russian acronym) wearing green army clothes and driving in a camouflaged UAZ Patriot vehicle stopped his car and asked him to open the boot. While he did this, one of the three men went to the front of the car and opened the door. Titiev could not see what the man was doing. The three law enforcement officials left, shortly after which he was stopped again, and police officers found marijuana under the front seat of his car. The law enforcement authorities deny that Oyub was stopped a first time on 9 January, claiming that the police and GBR do not use green uniforms or camouflage UAZ Patriot cars. The defence team, however, presented the court with images on the GBR Chechnya official

site showing officials wearing green coloured uniforms and standing near camouflaged UAZ Patriot cars, images which also appeared on a senior police official's Instagram account. The judge refused to admit these photographs as evidence, on the grounds that the official photos were from 2017, and because the Instagram account was not an official site.

Titiev also testified that police officials had tried to blackmail him after his arrest, by threatening to arrest his son on falsified charges if Titiev did not confess to drug possession. It also emerged that Titiev's first lawyer had come under pressure from the authorities after taking the case, and Titiev subsequently asked him to resign due to safety concerns.

The defence disputed much of the evidence presented by the prosecution. For example, Titiev's defence pointed out that the bags that the prosecution claimed contained samples from Titiev's nails and swabs from his palms showing traces of marijuana had not been sealed in Titiev's presence. The defence believe the swabs were replaced with contaminated samples. Furthermore, Titiev's hair was found on tape on the bag containing marijuana but when the evidence was initially filed, there was no tape on the bag. The hair under the tape is believed to have been taken from tape, which was put over Titiev's mouth and face after his arrest. Other examples include the unlawful securing of evidence from the crime scene, inconsistencies in the filing of evidence, and concerns about the methods used to take fingerprints and analysis of the marijuana found in Titiev's car. A reconstruction of the scene when police officers found drugs in Titiev's car took place without Titiev's defence lawyers, a request from the defence for handwriting analysis of signatures on investigation protocols was refused, and in several cases, signatures were lacking on the protocols.

There were also several instances where evidence had been destroyed or not secured, including photo discs by the police from the crime scene, which could not be viewed in court. In one case the photos were lost as there was no back up copy of the malfunctioning disk. Investigators also attempted to secure camera evidence from nearby shops and public buildings, to establish the chain of events on the day Titiev was arrested. However, all the security cameras in the area had allegedly "incidentally" broken down on that day, and thus no footage was available. The defence team filed a motion to check that the cameras really were broken, and stated that the authorities might have put shop owners under pressure to claim that their security cameras were not working. This request was also denied. The defence team was not able to secure the phone transcripts of the duty police officer on the day of Titiev's arrest, as phone data was allegedly not available, and the judge did not allow for extra measures to be taken to secure the data. The defence team was not allowed to obtain data from Titiev's phone on the given day which would have confirmed that he was detained initially prior to the actual arrest.

Furthermore, the judge turned down a request by Titiev's defence to open a criminal case into the alleged theft of Titiev's belongings including phones, computer tablets, a pistol and a camera that were confiscated while he was interrogated and never returned to him.

The defence team also filed a motion requesting the judge to resign from the case, as they claimed she and her family were facing security concerns, meaning that she had personal interest in convicting Titiev.

The judge denied requests for Titiev to sit next to his lawyers instead of in the cage in the court room, and for him to be held under house arrest. His period of detention was prolonged until 22 March 2019.

The next court hearing is planned in March 2019, and if convicted he will face from three to 10 years' imprisonment.