



# KHORAVA STREET TEENAGE MURDER CASE

## CHRONOLOGY OF FACTS





## HUMAN RIGHTS CENTER

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## Introduction

Faulty investigation of the murder case of the two adolescents in Khorava Street in Tbilisi on December 1, 2017 and subsequent public and political events once again demonstrated many problems in the Georgian justice system.

The Khorava Street teenage murder case attracted the attention of wider society from the very beginning. The 2017 survey results of the Caucasus Research Resource Center (CRRC) also confirmed that absolute majority of the country population – 96% was informed about the tragedy<sup>1</sup>.

As a result of public empathy and solidarity of the civil society with the victim families, the Government of Georgia had to answer acute questions as the representatives of various state institutions were involved in the concealment of the crime or other misconducts in public offices.

In the document below, Human Rights Center aims to chronologically describe all significant legal or political developments around the Khorava street murder case. The document evaluates mistakes or offences allegedly committed in the course of investigation by the investigative bodies, as well as the political developments which had interrelation with the case; the document reviews the work of the temporary investigative commission of the Parliament of Georgia and its two contradictory conclusions; miscarriages in the justice system, and more.

HRC defended the interests of the victim family from the first stage of the investigation process – namely HRC represented the interests of Davit Saralidze's family, one of the adolescents killed in the Khorava Street. Therefore, all provided information was obtained and analyzed by the organization as it was in the key actor of all developments.

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<sup>1</sup> See more information at <https://bit.ly/3fu4LOe>

## What happened in the Khorava Street on December 1, 2017?

The bloody conflict of the Khorava street tragedy started in the morning of December 1, 2019 in the restroom of the Tbilisi Public School N 51. Pupils of the 11<sup>th</sup> grade of the Public School N51 – D.N and Dachi Glonti had a conflict with the pupils of the 9<sup>th</sup> grade of the same school - T.Ch and A.S (the son of senior official of the prosecutor's office Mirza Subeliani). In addition to that, Mirza Subeliani was the uncle of one more adolescent who participated in the conflict – Mikheil Kalandia. On the day of tragedy, Subeliani was the deputy head of the Human Resources Department at the Prosecutor's Office; few days after the accident, he quitted the position<sup>2</sup>.

As a result of bloody conflict between the adults in the Khorava Street, 16-years-old Levan Dadunashvili passed away on the place; Davit Saralidze deceased in the hospital next day<sup>3</sup>.

The evidence in the case files raised doubts that other individuals also participated in the crime. Zaza Saralidze, the father of the killed Davit Saralidze, stated that Mirza Subeliani was protecting the participants of the murder and Subeliani was under the protection of the government.

In accordance with the testimonies of the investigative body, senior grade student was scaring the pupils with pneumatic gun. A.S from the ninth grade called his relative Mikheil Kalandia for help, who came to the Public School N51 with his friends; A.S and T. Ch joined them there. The senior grade students were waiting for them on the place<sup>4</sup>, after what they went to the yard of the residential building in the Akaki Khorava Street N4 nearby the school. There, the verbal dispute between Giorgi Janashia and Davit Saralidze turned into a bloody conflict and ended up with the murder of the two adolescents<sup>5</sup>.

On December 2, 2017, the Ministry of Internal Affairs (MIA) arrested Guga Barbakadze; on the fourth day, Giorgi Janashia surrendered to the police. According to the MIA, in the first days of the investigation, only a few of 150 interrogated persons cooperated with the investigation.

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<sup>2</sup> See more information <https://bit.ly/2ONVaHq>

<sup>3</sup> See the conclusion of the Ad Hoc Investigative Commission of the Parliament of Georgia <https://bit.ly/33Pcls1>

<sup>4</sup> See full information at <https://bit.ly/2liFXKf>

<sup>5</sup> See full information at <https://bit.ly/3aAd8oR>

On the fourth day of the commenced investigation, the prosecutor's office brought charges against the five individuals for hiding the crime. Three of them were parents of the three adolescents participating in the crime and the court used imprisonment as a compulsory measure against them<sup>6</sup>. The court imposed a bail on the fourth defendant, who was under 21, and put the fifth underage defendant under the parents' guardianship<sup>7</sup>.

On the same day, that time Minister of Interior Giorgi Gakharia stated that all actors of the crime were identified and arrested<sup>8</sup>. One week later, that time Prime Minister Giorgi Kvirikashvili stated that the MIA effectively worked in coordination with the prosecutor's office and all doubts that somebody could avoid punishment had vanished<sup>9</sup>.

In August 2018, the Tbilisi City Court changed imprisonment term into bail for all adult defendants. Based on the ruling of Judge Giorgi Darakhvelidze<sup>10</sup>, 5 000 GEL bail was imposed on Tengiz Kalandia and 3 000 - 3 000 GEL on the other two.

The investigation conducted by the prosecutor's office deepened the doubts about the transparency of the investigation, as the former senior officials of the institution were affiliated with the case. On May 15, 2018, several weeks before the Tbilisi City Court passed the verdict over the Khorava Street murder case, TV-Company Rustavi 2 aired recording from the surveillance camera<sup>11</sup>. In the video, on the murder day, Mirza Subeliani was in the family of his close relative Mikheil Kalandia, a participant of the murder and had access to various evidence of the crime. The video shows that the family, where Mirza Subeliani arrived, allegedly destroyed the evidence<sup>12</sup>.

Based on the request of Zaza Saralidze, the father of the killed teenager Davit Saralidze, lawyer of Human Rights Center Nestan Londaridze was actively engaged in all ongoing proceedings and defends the interests of the victim until now. The Tbilisi City Court examined the Khorava Street murder case in accordance with the Juvenile Justice Code. Only the case parties and their lawyers are allowed to attend the court proceedings of similar cases. Victim Zaza Saralidze was allowed to attend the closed hearings from the very beginning but many legal details were unclear for him and needed the assistance of the lawyer. Therefore, HRC lawyer Nestan Londaridze petitioned the Court to allow her

<sup>6</sup> See more information at <http://go.on.ge/j8b>

<sup>7</sup> See more information at <https://bit.ly/3bwJlxm>

<sup>8</sup> See the statement of Giorgi Gakharia at <http://go.on.ge/j5o>

<sup>9</sup> See the statement of Giorgi Kvirikashvili at <https://1tv.ge/news/giorgi-kvirikashvili-chven-unda-mivighot-zomebi-rata-skola-damisi-teritoria-daculi-iyos/>

<sup>10</sup> See more information at <https://www.radiotavisupleba.ge/a/29421835.html>

<sup>11</sup> See more details at <http://rustavi2.ge/ka/news/104435>

<sup>12</sup> See more details at <http://rustavi2.ge/ka/news/104435>

to attend the proceedings as the lawyer of the victim party. The Court satisfied the solicitation and the HRC lawyer received permission to attend all proceedings together with the victim<sup>13</sup>.

## The judgment of the Tbilisi City Court and miscarriages in the case

The Tbilisi City Court started examination of the Khorava street murder case on January 22, 2018.

According to the official position of the state prosecution, on December 1, 2017, during the conflict between the adolescents in the Khorava street, defendants Guga Barbakadze and Giorgi Janashia, in group, with knives, intentionally killed Davit Saralidze; the second adolescent Levan Dadunashvili was killed by Guga Barbakadze. According to the prosecutor's allegation, only two knives were used for the murder, which were withdrawn during the investigation activities, expertized and then presented to the Court. According to their allegation, the murder was committed only with these two knives.

The defense side, as well as the victim and his lawyer, always stated that the case was not properly investigated, a lot of details were not determined that might have been caused by the alleged interest of the senior officials of the prosecutor's office.

The father of the killed adolescent Zaza Saralidze and HRC lawyer particularly protested changed testimonies of the so-called golden witness of the prosecution Mikheil Kalandia in front of the court. Kalandia altered his testimony five times: three times in the course of investigation and twice during the court proceedings, under the oath. In his initial testimony, the witness stated that the defendant adolescents did not have knives during the conflict. At the next trial he radically changed the statement and explained it with his desire to help his friend. This time, he described the process of the conflict and named the adolescents who used the knives during the controversy. He said, he joined the quarrel later, only for several seconds, to reconcile the conflicting parties. The final scenario of Mikheil Kalandia coincided with the version of the prosecutor's office, for what the prosecutor believed Kalandia was a "golden witness."<sup>14</sup>

Considering the information collected from the adolescents, shortcomings in the case files and contradictory testimonies of Mikheil Kalandia, victim Zaza Saralidze stated that the

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<sup>13</sup> See more information at <http://humanrights.ge/index.php?a=main&pid=19511&lang=eng>

<sup>14</sup> See more information at <https://bit.ly/2WjYMnG>

so-called “golden witness” of the prosecutor’s office actively participated in the murder of his son – Davit Saralidze. The HRC lawyer also shared his position. The negative influence of the that time senior official of the prosecutor’s office Mirza Subeliani became evident as his son was one of the actors of the conflict and Mikheil Kalandia was his close relative. The case details and the investigation process clearly showed that Mirza Subeliani, with his official power, tried to influence the investigation and conduct it in the wrong direction that finally ended up with his arrest and criminal prosecution.

Besides the investigative body, Zaza Saralidze declared his mistrust to the Samkharauli National Forensics Bureau. He said the expertise could not answer the question, who wounded his son and with which knife; he had doubts over the partiality of the Bureau<sup>15</sup>.

With the initiative of the defense side, for the preparation of the alternative expertise, independent forensic expert Maia Nikoleishvili took up the case, who was questioned in front of the Court on May 25, 2018. In accordance with her alternative expertise, the deadly wounds on the bodies of the adolescents were made with scissors or other sharp subject and not with knife<sup>16</sup>. This conclusion further deepened the questions of the society and once again cast doubts over the partiality of the investigation.

In response to that, based on the high public interest towards the case, on May 29, 2018, two days before the Court announced the judgment, the prosecutor’s office published one part of the evidence from the case<sup>17</sup>. According to the prosecutor’s office, the conclusion of their expertise and other investigative activities excluded presence of other weapon of murder.

On May 28, 2018, the independent expert working on the Khorava street teenage murder case was called to the General Inspection of the Prosecutor’s Office for questioning<sup>18</sup>. After questioning, Maia Nikoleishvili stated that prosecutors Pkhakadze and Gugushvili were aggressive and tried to oppress her<sup>19</sup>.

The version of the investigative body about the crime was inadmissible for the father of the killed Davit Saralidze. Zaza Saralidze demanded punishment of all participants of the crime, otherwise he pledged to start protest actions. At the same time, he underlined that he was waiting for the court judgment. If all perpetrators had been punished, he would cancel his pledge about the protest actions<sup>20</sup>.

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<sup>15</sup> See more information at <http://www.gmtv.ge/40797-2/>

<sup>16</sup> See more information at <https://bit.ly/2LqXHv3>

<sup>17</sup> See more information at <http://go.on.ge/pla>

<sup>18</sup> See more information at <https://presa.ge/?m=politics&AID=66190>

<sup>19</sup> Ibid

<sup>20</sup> See Zaza Saralidze’s statement at <https://bit.ly/3bouqo9>



During almost four-month court proceedings, regardless the solicitations of the victim and his lawyer, the prosecutor's office did not change the position of the investigation and tried to ascertain its position with the use of the so-called golden witness.

According to the prosecutor's office position, both juveniles were charged for the intentional group murder, but the judge, on May 31, did not share the position of the prosecutor's office in her judgment.

Judge Eka Areshidze at the Criminal Law Panel of the Tbilisi City Court passed guilty judgment over the Khorava Street teenage murder case. With the judgment, she found Guga Barbakadze, who was accused of the intentional murder of both Levan Dadunashvili and Davit Saralidze, guilty only in the murder of Levan Dadunashvili and sent him to prison for 14 years. As for Davit Saralidze's murder episode, the Court fully acquitted Guga Barbakadze in this accusation. The court changed the qualification of the charge against the second defendant, Giorgi Janashia, whom the prosecutor's office blamed of Davit Saralidze's murder, and found him guilty in the attempt of murder of Saralidze and sent him to prison for 13 years. As both defendants were underage in the moment of judgment, in accordance with the Juvenile Justice Code, their imprisonment terms were reduced at  $\frac{1}{4}$  and finally Guga Barbakadze was sent to prison for 10 years and 6 months and Giorgi Janashia – for 9 years and 9 months.

With the court judgment, the murderer of Davit Saralidze was not identified, that most likely was the result of incorrect strategy and lack of appropriate evidence obtained by the prosecutor's office in the course of investigation.

Human rights defender of Zaza Saralidze, HRC lawyer Nestan Londaridze stated that based on the judgment of the first instance court, the author of the wounds on Davit Saralidze was not identified. Nobody knew who wounded him. Situation was absolutely vague. The teenage boy had 12 wounds and nobody knew who had stabbed him.

On the other hand, the court judgment contradicted the position of the defense side, who requested to lift charges from the defendants. Therefore, both the prosecutor's office and the defense side appealed the court judgment in the Appellate Court.

## Mirza Subeliani and his influence over the criminal case investigation

The society had heard the name of senior official of the prosecutor's office Mirza Subeliani before the Khorava street teenage murder too.

That time Minister of Corrections of Georgia Sozar Subari appointed him on the position of the Head of the General Inspection in the Ministry of Corrections, Probation and Legal Aid in 2013. That time field expert and later the Minister of Corrections Kakha Kakhishvili echoed this fact as follows: *"There is a catastrophe in the penitentiary system. Subeliani, former prosecutor, has occupied the position of the head of the General Inspection, whose name is affiliated with the May 26, 2011 events. He was sending people to prison without mercy."* His appointment was followed up with the personnel changes – according to media reports, the head of the Penitentiary Department Maia Khasia quitted the position because of her controversy with Subeliani<sup>21</sup>. Media actively reported about close family relations between Subari and Subeliani, though the Minister categorically denied it<sup>22</sup>.

In 2013, Mirza Subeliani's name was mentioned in relation with the case of 27-years-old inmate of the Geguti prison Levan Kortava, who was killed in the prison. In May 2013, Kortava died in prison as a result of ruthless physical assault. The Ministry released two versions of his decease. According to the first version, he fell down the stairs in the medical unit, but according to the second version, he received deadly injuries as a result of controversy between the prisoners<sup>23</sup>.

Besides that, Mirza Subeliani was mentioned in one of the episodes of the dispersal of May 26, protest demonstration in 2011, when he was a prosecutor. Two defendants in this case, who also participated in the action, were accused of beating two unidentified persons. The prosecutor Subeliani proved the guiltiness of the both defendants in those cases<sup>24</sup>.

Mirza Subeliani's name attracted particular public attention after the Khorava street teenage murder case. Zaza Saralidze and his defender assumed that the evidence were destroyed and the investigation was biased in the very first stage of the investigation.

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<sup>21</sup> See more information at <https://netgazeti.ge/news/22245/>

<sup>22</sup> See more information at <http://www.gurianews.com/article/mtavari/samartali/11582>

<sup>23</sup> See more information at <https://bit.ly/2AL5efd>

<sup>24</sup> See more information at <https://imedinews.ge/ge/samartali/82191/vin-aris-mirza-subeliani-da-ra-akavshirebs-mas-sozar-subartan>

All doubts about Subeliani's interests in the investigation were finally confirmed after the TV-Company Rustavi 2, on May 15, in parallel to the trial on merits in the Tbilisi City Court, aired the video of the Khorava street bloody tragedy recorded by the surveillance camera as well as the testimonies made in front of the court.

The recordings obtained by the news room of the Rustavi 2, Kurieri consisted 4 episodes. The first recording started at 13:55 pm on December 1, 2017 when the controversy between the adolescents were already over in Khorava Street.

Kurieri also aired the recordings of the surveillance camera installed nearby Mikheil Kalandia's house, a figurant of the murder case, which demonstrated the traffic movements near their house after the tragedy. According to the video, first car (Black BMW) entered the yard at 14:00 pm. The Kalandias, accused of the concealment of the grave crimes, told the Court that the car belonged to their friend Giorgi Turkia. According to the case files, Turkia took Mikheil Kalandia together with another defendant to the house from the Petriashvili Street where they were hiding. At about 3:00 pm, one more car (Red Toyota Prius) drove into the yard, which belonged to Thea Kakubava, the wife of Mirza Subeliani. She was with her son in the car. The bloody controversy in the Khorava Street was result of bullying of this adolescent.

In accordance with Luka Kalandia's testimony, the brother of Mikheil Kalandia, he had not washed the clothes of his brother and threw them away nearby their house that is confirmed with the video aired by the Kurieri.

Luka Kalandia is the key figure in the second video disclosed by the Kurieri. He is running out and back to the yard several times. As he stated in front of the court, he got rid of the telephones of his brother and his brother's friend in one occasion<sup>25</sup>.

At 15:35 pm, Mirza Subeliani walked into the yard of the Kalandias' residential building. Kalandia's father Tengiz Kalandia told in his testimony to the investigation that he informed his brother-in-law about the story he had learned from the boys.

Several minutes after Mirza Subeliani's arrival, silver Toyota Vitz entered the yard. The car belonged to the friend of the Kalandias' neighbor. Kalandia and one more defendant were taken out of the city by this car.

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<sup>25</sup> Watch the reportage of the Kurieri at <https://www.youtube.com/watch?v=MOafEe2USeg>

After the video was released, on June 9, 2018, based on the Article 176 of the Criminal Code of Georgia, the former senior official of the prosecutor's office Mirza Subeliani was arrested for not having reported the investigation about the committed crime.

HRC, together with the victim Zaza Saralidze, based on number of evidence, requested to start investigation against Subeliani for the abuse of his office power and influence on the witnesses and even for hindering the investigation though the MIA did not satisfy the request. It once again proved that the investigative bodies were also engaged in the attempted concealment of the crime.

According to the MIA's allegation, after the murder of the two teenage boys in the Khorava Street, Mirza Subeliani was informed about the crime but he did not notify the law enforcement bodies about it. Later on, the Court re-qualified this charge into the Article 375 of the Criminal Code (concealment of the crime)<sup>26</sup> and on March 4, 2019, the Tbilisi City Court sentenced Mirza Subeliani to 1 year and 1 month imprisonment<sup>27</sup>. By that time, Subeliani had already spent 8 months in the pre-trial imprisonment. He left penitentiary establishment on July 8, 2019<sup>28</sup>.

TV-Company Rustavi 2 published one more audio-recording, where, Mirza Subeliani was allegedly speaking with the MP Viktor Japaridze and the trustee of the former senior official of the prosecutor's office Davit Tsukhishvili. The conversation was recorded in the Gldani prison N 8. In the released audio-recording Mirza Subeliani was speaking that one-year imprisonment was preliminarily determined punishment for him<sup>29</sup>.

Georgian society and opposition political parties criticized the judgment against Mirza Subeliani from the very beginning. They stated that the judgment reinforced the doubts about the informal influence and alleged engagement of the court in this process. The Khorava Street Case and the role of the senior officials of the law enforcement bodies once again reinforced the perception that people with influence manipulated with the judiciary system.

In the audio-recording Mirza Subeliani said that he participated in the "arrangement" of some cases like the case of Sergo Tetradze's<sup>30</sup> death, Navtlugi Special Operation<sup>31</sup> and the Prison rebel<sup>32</sup>, for which Bacho Akhalaia, former defense minister of Georgia, was

<sup>26</sup> See more information at <https://bit.ly/3an6YrX>

<sup>27</sup> See more information at <https://bit.ly/2ycq71z>

<sup>28</sup> See more information at <https://netgazeti.ge/news/378746/>

<sup>29</sup> Watch the reportage at [https://www.youtube.com/watch?v=qO\\_fwizEflI from 18:03](https://www.youtube.com/watch?v=qO_fwizEflI from 18:03)

<sup>30</sup> See more information at <https://civil.ge/archives/121525>

<sup>31</sup> See more at <https://civil.ge/archives/186971>

<sup>32</sup> See more at <https://netgazeti.ge/news/440216/>

convicted for. Data Akhalaia was also convicted for the Navtlugi case. So-called Vano's case [Vano Merabishvili] is also mentioned in the audio-recording referring to the secret withdrawal of the former Minister of Interior and former Prime Minister of Georgia Vano Merabishvili from the prison cell. As Merabishvili claimed, he was unlawfully taken out of his cell late at night and brought to that time chief prosecutor Otar Partskhaladze, who offered him to be released from prison and sent abroad if he would make testimony with regard to the death case of the late Prime Minister of Georgia Zurab Zhvania<sup>33</sup>. The European Court of Human Rights held violation of the Article 18 of the European Convention on Human Rights in this case<sup>34</sup> and ordered the State to investigate the case. With regard to Vano Merabishvili's case, in the audio-recording, Subeliani stressed out that he had everything recorded and archived. The secret audio-recording revealed that Subeliani was the person who "arranged" these cases for the Government. It is important to note that in connection with Merabishvili's withdrawal from his cell, the General Inspection of the Ministry of Corrections carried out the internal examination of the case and Mirza Subeliani was head of the GI and he had primary access to the surveillance camera recordings and other significant materials.

The case of the businessman Khardziani was also voiced in the audio-recording. This crime was also committed in the period of the Georgian Dream government. Allegedly, Mirza Subeliani said that he was kidnapping the witnesses and beating them to obtain acceptable testimonies from them; in that period Giorgi Gakharia was Business Ombudsman of Georgia. As for Bacho Akhalaia's case, he was saying that he was torturing the witnesses.

With this audio-recording, if the voice really belongs to Mirza Subeliani, it is proved that he influenced the investigation of the Khorava street murder case as he had information about the abovementioned cases, particularly about the episode of Vano Merabishvili's taking-out of his prison cell. Public Defender of Georgia Nino Lomjaria also spoke about the close connection between these two cases<sup>35</sup>.

In accordance with the recordings, presumably, Mirza Subeliani is speaking that he voluntarily went to prison for what he had made some deals with the authority. At the same time, he is dissatisfied with the attitude of the ruling team and stated that the GoG does not appropriately evaluate his faith. The Chief Prosecutor's Office released the statement that they started investigation based on the audio-recording, where Mirza Subeliani allegedly participated, on October 12, 2018. According to the office, alleged facts of the unlawful collection and storage of information of personal life, unauthorized

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<sup>33</sup> See the full statement of Merabishvili at <https://bit.ly/2z7xVm9>

<sup>34</sup> See more at <https://1tv.ge/en/news/strasbourg-court-releases-decision-former-georgian-pm-vano-merabishvili/>

<sup>35</sup> See the comment of the Public Defender of Georgia at <https://bit.ly/2yyEm13>

recording of the individual who is in prison, alleged facts of abuse of official power in accordance with the respective articles of the Criminal Code of Georgia were investigated. Georgian Dream MP from Mestia, Svaneti Viktor Japaridze confirmed with media that he had met Mirza Subeliani as well as the content of the aired audio-recordings<sup>36</sup>.

The released audio-recording refers to many alleged crimes, over which Human Rights Center appealed the Office of the Prosecutor General and requested investigation. The office has not yet responded to the HRC petition.

## From the courtroom into the street- resignation of the chief prosecutor

“Murderer of my son is not identified” – Zaza Saralidze left the Tbilisi City Court with these words and in protest, he moved to the building of the Chief Prosecutor’s Office. The father of the killed son with tears in his eyes requested meeting with the chief prosecutor and head of the patrol police but having arrived at the Chief Prosecutor’s Office, he found police cordon there. He did not receive any answer to his requests. Zaza Saralidze had several request – resignation of the chief prosecutor and resignation of the government. Chief Prosecutor agreed to meet him but without media and Zaza Saralidze did not agree with that.

“Stand With Me, Do not Leave Me Alone!” – the desperate father addressed the population of Georgia from TV.

In support of Zaza Saralidze, thousands people went out in the streets of Tbilisi. Regardless the protest, the prosecutor’s office was agree to meet Saralidze only without media. It increased not only protest spirit but also number of people gathered in front of the Chief Prosecutor’s Office. First Lady of Georgia Maka Chichua and many famous people joined the action. The civil society organizations also requested resignation of the chief prosecutor<sup>37</sup>.

Government did not resign, but few hours after the protest action started, unverified information was disseminated that the chief prosecutor resigned but the prosecutor’s

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<sup>36</sup> See interview with MP Victor Japaridze [https://www.myvideo.ge/?video\\_id=3691329](https://www.myvideo.ge/?video_id=3691329)

<sup>37</sup> See the address at <http://humanrights.ge/index.php?a=main&pid=19606&lang=eng>

office denied it<sup>38</sup>. However, seven minutes later, the information was confirmed. Irakli Shotadze informed the society about his resignation in written form<sup>39</sup>.

## “Do Not Kill Me!” and other protest actions

It was impossible to subdue the public feeling of injustice, as it was expected, with the resignation of Shotadze. Zaza Saralidze was requesting resignation of all officials and perpetrators affiliated with the murder case of his son. Thousands of people walked towards the parliament building after the chief prosecutor made the statement<sup>40</sup>. More people joined the protest on their way to the parliament and the protest spirit increased. “Do Not Kill Me” – it was the main message to the Government of Georgia, which indicated at the systemic crimes and which forced the people out in the street. The protesters in front of the Parliament requested punishment of all people participating in the fabrication of the teenage murder case<sup>41</sup>. Saralidze gave 10 hours to the Government of Georgia to arrest Mirza Subeliani, but the GoG did not do that<sup>42</sup>.

The problem unified various groups of the society – sportsmen<sup>43</sup>, civil society organizations<sup>44</sup> and public movements<sup>45</sup> joined the protest. The protesters requested the President of Georgia to dismiss the Parliament<sup>46</sup>.

Soon, that time Prime Minister of Georgia Giorgi Kvirikashvili arrived at the protest action in front of the Parliament but could not address the protesters because they threw bottles at him and shouted – “GO!”<sup>47</sup> The PM left the territory soon and then blamed the politically agitated people in the provocation<sup>48</sup>. Later at the briefing<sup>49</sup> PM Kvirikashvili stated that from June 1 the case will be sent back to the MIA from the prosecutor’s office and the investigative commission will commence working in near future.

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<sup>38</sup> See more information at <https://bit.ly/2xComdx>

<sup>39</sup> See more information at <https://bit.ly/3dB3dB6>

<sup>40</sup> See more information at <https://bit.ly/3fB41Ho>

<sup>41</sup> See more information at <https://bit.ly/2WhEKu1>

<sup>42</sup> See more information at <https://bit.ly/2Wgfm0D>

<sup>43</sup> See more information at <https://bit.ly/2yigpuC>

<sup>44</sup> See more information at <https://bit.ly/3awqhPy>

<sup>45</sup> See more information at <https://bit.ly/2wKA4Tu>

<sup>46</sup> See more information at <https://bit.ly/2zqxrXK>

<sup>47</sup> See more information at <https://bit.ly/2Wh6UVO>

<sup>48</sup> See more information at <https://bit.ly/2Wxe5YU>

<sup>49</sup> See more information at <https://bit.ly/2yvAL47>

Indeed, in parallel to the multi-thousand protest actions, which started on May 31, 2018 in Tbilisi, on June 1, the case files were sent from the Chief Prosecutor's Office to the Ministry of Internal Affairs for the renewed investigation<sup>50</sup>.

After the May 31 protest action finished, Zaza Saralidze decided to continue protest in the tent in front of the Parliament of Georgia<sup>51</sup>. On the same night, the former senior official of the prosecutor's office Mirza Subeliani was called to the interrogation<sup>52</sup>. On June 1, the head of the criminal police department of the MIA Vladimir Bortsvadze stated<sup>53</sup> that the criminal police was investigating those additional circumstances in the Khorava Street teenage murder case, which were identified in the course of court proceedings into the criminal case. In its statement, the MIA factually shared the doubts of the society. Bortsvadze said "there are doubts that they tried to destroy the version of the investigation and protect certain individuals from criminal liability."

Because of the mistrust to the Government of Georgia, the protest action resumed. Saralidze addressed the population of Georgia and urged them for the support. In solidarity with the father of the killed teenage boy, President of Georgia Giorgi Margvelashvili and the First Lady arrived at the protest action<sup>54</sup>.

The pupils of the Tbilisi Public School N 51 also joined Saralidze's protest, who created public movement #DoNotKillMe<sup>55</sup>. Ethnic Georgians from Fereidan and Kists from the Pankisi Gorge arrived to join the action. Malkhaz Machalikashvili, whose son Temirlan Machalikashvili was killed by special riot police officers during the special operation in the Gorge, also joined the action<sup>56</sup>.

On June 1, because of the large number of people in the protest action, the protesters requested to block the road but the MIA did not allow. It was followed up by several-minute clash and three people were arrested<sup>57</sup>. Finally the Rustaveli Avenue was blocked.

It is evident that the opposition political parties had increased interest towards the protest of Zaza Saralidze, who tried to use the situation for their political goals. Regardless that, it is absolutely logical that Zaza Saralidze, who was left alone in front of the system, accepted their support. Any protest is already political act with its context. Saralidze,

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<sup>50</sup> See more information at <https://www.radiotavisupleba.ge/a/29262830.html>

<sup>51</sup> See more information at <https://bit.ly/3du10Xj>

<sup>52</sup> See more information at <https://bit.ly/2A4dKW6>

<sup>53</sup> See more information at <https://bit.ly/2LbZ8Gv>

<sup>54</sup> See more information at <https://bit.ly/2LaultB>

<sup>55</sup> See more information at <https://bit.ly/3bg8Wda>

<sup>56</sup> See more information at <https://bit.ly/3dvmVNW>

<sup>57</sup> See more information at <https://bit.ly/2SPay7j>



among other requests, also urged for the elimination of the systemic problems in the country that requires political will but it does not formulate political views of Saralidze and his supporters.

Regardless that, the ruling political party permanently tried to associate Zaza Saralidze with various political parties. As one of the active supporters of Saralidze - Zviad Kuprava was affiliated with the United National Movement, there were intense talks that the opposition political parties used the father of the killed teenage boy for the destabilization in the country<sup>58</sup>. Initially, the ruling power started accusation of the opposition political parties in the use of Zaza Saralidze in the execution of their political interests and then, they made statements about their political affiliations that aimed to discredit Saralidze and to formulate incorrect public opinion about him. It was not the first time when the ruling power tried to use similar methods against opponents. Because of evident political polarization and antipathy of the big part of the society towards the UNM, the Georgian Dream permanently tries to subdue the voice of protest with similar methods. In parallel to that, like during other actions, propagandist and false information was actively disseminated online that aimed to form negative opinion against Zaza Saralidze in the society.

Representatives of the Government stated that Saralidze's life was under threat and opposition aimed to use his death for destabilization. Therefore, they offered Saralidze to appoint a body guard but he refused<sup>59</sup>.

Soon, odious extremist organization Georgian March got engaged in the smear campaign against Saralidze. When Saralidze's supporters requested punishment of the perpetrators in front of the Parliament, part of the people gathered at the protest action against the UNM claimed that the opposition parties tried to use Saralidze's tragedy to return to office. Police cordon protected the participants of the counter-action in the Kashueti Church in the Rustaveli Avenue, among whom the Georgian March was particularly active, from the supporters of Saralidze. The society saw similar scenes during the protest actions in support of the Club Bassiani, which demonstrated the Government's cooperation with these groups.

On the same day, the members of another suspicious organization Union of Orthodox Parents held the second counter-action<sup>60</sup>.

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<sup>58</sup> See more information at <https://bit.ly/3dB37cl>

<sup>59</sup> See more information at <https://bit.ly/2WeXlGX>

<sup>60</sup> See more information at <https://bit.ly/3bebbO3>

Regardless all that, Saralidze's protest action continued on the third day and the resonance to the problem increased<sup>61</sup>. Ombudsman of Georgia met Zaza Saralidze. Chatholicos Patriarch of Georgia expressed desire of meeting with him<sup>62</sup>. In parallel to that, representatives of the civil societies requested reorganization of the MIA, head of the State Security Service and the Prosecutor's Office<sup>63</sup>. Fifteen human rights organization signed the petition.

In the meanwhile, Zaza Saralidze was stating that he had no political goals and needed answers to the questions. Despite that, the smear campaign against Zaza Saralidze had an outcome and part of the society started criticizing him together with the government.

The different opinions of the society influenced the feelings of the protest participants. In parallel to the aggravated situation, it was evident that protesters with opposition feelings evidently did not plan to surrender. UNM activist and one of the organizers of the protest actions Zviad Kuprava stated that if Zaza Saralidze was against the actions, he would continue the protest with the request of the punishment of Dato Saralidze's murderers together with the political parties. Soon, Kuprava left the action to meet the opposition politicians<sup>64</sup> and Saralidze stayed in the tent together with his supporters. Soon, he addressed the protesters and called on the entire Georgian population to overthrow the system<sup>65</sup>.

Saralidze was split between two fronts and eventually lost control over the process. Soon, the society was split into two parts and part of his supporters left the action claiming that they did not want to be affiliated with the opposition political parties. Afterwards, the politicians replaced the activists in the Rustaveli Avenue<sup>66</sup>.

Regardless that, the actions continued on two different locations. Part of the activists from the Rustaveli Avenue gathered in the Vake Park and requested "restoration of justice without political parties."<sup>67</sup> The supporters of the Georgian Dream and the members of the Union of Orthodox Parents appeared at the demonstration<sup>68</sup>. Although people who supported Zaza Saralidze were at both actions, the political interests of the organizers increased the polarization of the society. Nevertheless, Saralidze joined the protesters in the Vake Park and clarified that he had no political interest but wished investigation of

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<sup>61</sup> See more information at <https://bit.ly/2yunGrL>

<sup>62</sup> See more information at <https://bit.ly/3fxbbfK>

<sup>63</sup> See more information at <https://bit.ly/2SOfdWD>

<sup>64</sup> See more information at <https://bit.ly/3bhsDBB>

<sup>65</sup> See the address of Zaza Saralidze at <https://bit.ly/2SOgjCk>

<sup>66</sup> See more information at <https://bit.ly/2Adix7Y>

<sup>67</sup> See more information at <https://netgazeti.ge/news/282561/>

<sup>68</sup> See more at: <http://trialeti.ge/?m=201806&paged=60>

the murder of his son and punishment of perpetrators. He was ready to accept solidarity from all people and parties with diverse political views. In response to that, the protesters asked him to stay in the Vake Park and stay away from the UNM. After Saralidze decided to leave the action, the demonstrators protested it. Salaridze left the territory with the help of the Ombudsman after what he did not appear in any actions during several hours. Later, he went to the protest action in front of the Parliament of Georgia<sup>69</sup>. That time Prime Minister of Georgia agreed to meet Saralidze based on some conditions. Saralidze's lawyer Nestan Londaridze and Public Defender Nino Lomjaria also participated in the meeting together with Zaza Saralidze. PM Giorgi Kvirikashvili and the Minister of Interior Giorgi Gakharia represented the Government in the meeting. The government officials promised the father of the killed boy to effectively conduct the investigation and Zaza Saralidze decided to temporarily halt the protest actions and gave a time to the GoG until June 10, 2018.<sup>70</sup>

## The work of the temporary investigative commission of the Parliament of Georgia

Several hours after the protest actions started in front of the Chief Prosecutor's Office of Georgia on May 31, 2018, the political party European Georgia addressed the parliamentary majority to create a temporary investigative commission of the parliament<sup>71</sup>. Initially the majority rejected the proposal. They stated that it would move the investigation of the Khorava street teenage murder case into a political context. The parliamentary majority requested time to consider the issue before the plenary session<sup>72</sup>. Finally, considering the public unrest, the Parliamentary Majority agreed to create the investigative commission, majority of whose members were the MPs from the parliamentary opposition<sup>73</sup>. The Parliamentary Fraction European Georgia offered the list of the investigation commission members to the Parliament of Georgia, which was approved during the special session on June 6, 2018<sup>74</sup>. 95 MPs voted for the commission, only 1 MP was against it<sup>75</sup>.

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<sup>69</sup> See more information at <https://bit.ly/2SMEEsk>

<sup>70</sup> See more information at <https://bit.ly/2A7O3UE>

<sup>71</sup> See more information at <https://bit.ly/2wztJKF>

<sup>72</sup> See more information at <https://bit.ly/39rZ9zU>

<sup>73</sup> See more information at <https://bit.ly/2UHUtRe>

<sup>74</sup> See more information at <https://bit.ly/2UpmMok>

<sup>75</sup> See more information at <https://bit.ly/39tiKOd>

On May 31, 2018, at the parliament session, the MPs voted and decided that the parliamentary investigative commission was to investigate the teenage murder case<sup>76</sup>. On June 6, 2018, the Parliament of Georgia established “the temporary Investigative Commission of the Parliament of Georgia to Investigate the Murder Case of the Two Teenage Boys in the Khorava Street, Tbilisi on December 1, 2017.”<sup>77</sup> On June 7, 2018, the commission started working and lasted three months. The Commission examined many evidence and questioned many witnesses. In the end, it published the conclusion and recommendations<sup>78</sup>.

**In the beginning of its work, the commission applied to the National Democratic Institute of the USA for help<sup>79</sup>, who, from June 28 to July 6, 2018 deployed the former judge of the Illinois State of the USA Judge Blanch Pavel as a consultant to the Commission. Judge Blanche shared his experience with the commission members over the criminal cases. According to the Commission’s assessment, engagement of the international experts played a positive role in the effectiveness of the commission sessions<sup>80</sup>. Also, the Commission decided to act in accordance with the UNICEF recommendations and experience when questioning the adolescents, therefore they hired an expert to train the commission members<sup>81</sup>. The expert also participated in questioning of the adolescents. He acted in accordance with the NICHD Protocol on the International Evidence-Based Investigative Interviewing of Children<sup>82</sup> to respect peculiarity and sensitiveness of the juvenile cases, to protect their best interests.**

In accordance with the conclusion of the Parliamentary Commission, investigative activities into the Khorava street murder were active in the first stage of the process, the participants of the conflict were identified timely but after Mirza Subeliani, the father of A.S got involved in the case, the investigation became biased and aimed to convict only Giorgi Janashia and Guga Barbakadze for the committed crime. At the same time, the role of Mikheil Kalandia and other perpetrators was to be acquitted of the murder of Davit Saralidze<sup>83</sup>.

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<sup>76</sup> See more information at <https://bit.ly/2OTiCiU>

<sup>77</sup> See the conclusion and recommendations of the ad-hoc investigative commission of the Parliament of Georgia, p 5

<sup>78</sup> Ibid p 7

<sup>79</sup> Ibid p 8

<sup>80</sup> Ibid p 8

<sup>81</sup> Ibid p 8

<sup>82</sup> Ibid p 8

<sup>83</sup> See the conclusion and recommendations of the ad-hoc investigative commission of the Parliament of Georgia, p 18.

In the beginning of the investigation, nobody tried to identify who organized the conflict between the juveniles; it convinced the society that the investigation was not comprehensive and the case files were fabricated. It was evident that the father of one of the adolescents participating in the conflict – A.S, 14, was the senior official of the prosecutor's office<sup>84</sup>, whose son and nephew Mikheil Kalandia were participants of the bloody controversy. They only had witness status in the case files (golden witnesses) that convinced the society that the prosecutor's office was trying to protect the key actors of the crime<sup>85</sup>. Later it became evident that the shed, in which the adolescents had conflict in the Khorava Street N 4 in one episode<sup>86</sup>, was soon dismantled that complicated identification of significant details of the crime<sup>87</sup>. The prosecutor stated that they could not restrict physical persons to dismantle the shed and. They claimed that all necessary investigative activities were already conducted in the shed. However, there were only approximate description of the site and the shed was not measured that was also confirmed in the court and the prosecutors clarified that they could not measure the site because of lack of respective instruments. It happened when physical existence of the shed had particular importance to conduct further expertise and it was necessary to seal it until the investigation was over.

Having studied the case circumstances, the commission had a question why the investigation failed to withdraw the clothes of one of the participants of the quarrel when similar procedures were conducted with regard to other participants of the accident. There were many statements that majority of the witnesses did not wish to make testimonies. Nevertheless, after the defense side studied the situation, it was determined that nobody asked the witnesses the questions to identify the role of these and other individuals in the crime. In parallel to that, some witnesses, who most likely possessed the necessary information, were not questioned/interrogated at all<sup>88</sup>.

The victim of the criminal case claimed that there was the third adolescent in the case, who was stabbed in the back during the Khorava Street accident<sup>89</sup>. He was expertized only 12 days later, when the wound had already started healing. Nobody investigated

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<sup>84</sup> Ibid p 24

<sup>85</sup> See the 18-month chronicle of the Khorava Street Murder Case, Radio Liberty

<sup>86</sup> See See the conclusion and recommendations of the ad-hoc investigative commission of the Parliament of Georgia, p 12

<sup>87</sup> Ibid p 29

<sup>88</sup> Ibid p 34

<sup>89</sup> See more information at <https://bit.ly/2T7PB83>

this part of the incident. Although the expertise was conducted later, its results and witnesses' testimonies indicated at the signs of other offence (stabbing) as well<sup>90</sup>. The investigation was not commenced in them.

It should also be noted that the grounds for raising the responsibility for covering up the crime existed not only in relation with the persons charged before June 9, but with the other persons as well. Investigative actions in connection with the above mentioned circumstances were delayed or not carried out at all. At the same time, the guilt of the individuals involved in the fight, which may not be immediate executors of the murder, but may have committed another is to be studied<sup>91</sup>.

The damages on the clothes of killed Davit Saralidze had unusual shape, but the Samkharauli National Forensics Bureau did not examine them at all.

Mikheil Kalandia, who was active participant of the quarrel, changed his testimony five times for what the Court did not accept his testimonies as unsubstantiated and incoherent with the other evidence<sup>92</sup>.

Mirza Subeliani's huge influence on the case was proved by the video-surveillance recordings released by the TV Company Rustavi 2, which showed his visits in the family of Kalandias. It is significant that initially Mirza Subeliani's wife leaves the house of the Kalandias together with her son and then Mirza Subeliani and Tengiz Kalandia are leaving the house; the latter was charged for the concealment of the crime and a minute later a car followed them where Giorgi Janashia and Mikheil Kalandia were sitting and going to hide. These circumstances were not investigated; furthermore, Mirza Subeliani was not questioned in the course of investigation at all and there were statements that he had no connection with the case. The trajectory of his movement and phone-calls were not examined.

The investigative bodies tried to hide Mirza Subeliani's participation in the concealment/not reporting of the crime and abolishment of the evidence.

It is noteworthy that Mirza Subeliani visited the police office several times and he had regular contact with the investigator Irakli Pipia, who was in charge of the case. Regardless that, the investigator did not write in the examination protocol that Subeliani was also on the site. Furthermore, the investigator did not try to identify who Subeliani was<sup>93</sup>.

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<sup>90</sup> See the statement of the Public Defender of Georgia, June 9, 2018 <https://bit.ly/2TzEAwp>

<sup>91</sup> Ibid

<sup>92</sup> See more information at <https://bit.ly/39qO0PJ>

<sup>93</sup> See See See the conclusion and recommendations of the ad-hoc investigative commission of the Parliament of Georgia, p 22

No investigative activities were carried out, which could disclose participation of Mikheil Kalandia, A.S and other individuals in the crime. In accordance with the case files, the eyewitnesses were questioned throughout the day. The investigators started questioning of A.S, who had arrived in the police together with his father Mirza Subeliani, only after all witnesses were already interrogated. Afterwards, the investigative body suspended the interrogation of the witnesses for 15 days. From that moment, the investigation into the criminal case became biased<sup>94</sup>. Since December 1, 2017, the Tbilisi prosecutor and the chief prosecutor of Georgia had been informed that Mirza Subeliani hesitated to cooperate with the investigation. It should have been the ground for them to start examination. The evidence collected by the investigation show that during the quarrel in the shed, Giorgi Janashia<sup>95</sup>, Mikheil Kalandia (from the start to the end of the conflict) and Giorgi Menabde (in some episodes) had physical contact with Davit Saralidze.

The prosecutor's office tried to conceal the role of Mikheil Kalandia in the group murder of Davit Saralidze and replace him with Guga Barbakadze, who was accused of Levan Dadunashvili's murder. The Tbilisi City Court did not share the unsubstantiated version of the prosecutor's office; the judge found Guga Barbakadze guilty only of Levan Dadunashvili's murder that was proved by the aggregated evidence; as for Davit Saralidze's murder, the Judge acquitted Barbakadze of it because of unreliable testimonies of Mikheil Kalandia and lack of other valid evidence. The prosecutor's office appealed the judgment in the Appellate Court and tried to convict Guga Barbakadze of the group murder of Davit Saralidze. The prosecutor's office did not bring charges against Mikheil Kalandia for the group murder of Davit Saralidze.

The society had a suspicion that Mirza Subeliani was trading with the Government of Georgia over the video-recordings on Vano Merabishvili's incident in prison. At that time, Subeliani was the head of the General Inspection of the Ministry of Corrections.

The DNA of Davit Saralidze was not found on the knife of the defendant, who had stabbed Levan Dadunashvili twice and Davit Saralidze ten times. There were DNA profiles of Giorgi Janashia and Levan Dadunashvili on it. The knife was wrapped in a handkerchief, which had Davit Saralidze's blood stains on. According to the position, the knife was washed with water and Davit Saralidze's DNA profile was washed away from it<sup>96</sup>.

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<sup>94</sup> Ibid p 20

<sup>95</sup> Ibid p 20

<sup>96</sup> Ibid p 29

It is also important to note that this knife was damaged in the Samkharauli National Forensics Bureau and it was impossible to conduct comprehensive forensic expertise on it.

## Two conclusions of the temporary investigative commission of the Parliament of Georgia

The temporary investigative commission of the Parliament of Georgia, which studied the murder case of the two adolescents in the Khorava Street, Tbilisi on December 1, 2017, finished its working with publishing its conclusion on September 5, 2018<sup>97</sup>. The project was summarized at the last, 20<sup>th</sup> session of the Commission and the separate conclusion prepared by the Parliamentary Fraction Georgian Dream was discussed and balloted.

At the session, the Commission secretary Otar Kakhidze presented the conclusion of the European Georgia that was followed by the discontent of the GD members. Therefore, at the same session, MP Anri Okhanashvili from the Georgian Dream presented the second project of the Commission's conclusion<sup>98</sup>.

According to Anri Okhanashvili's assessment<sup>99</sup>, regardless the observed miscarriages, no facts of official misconduct and necessity of criminal prosecution of concrete individuals are determined. He added that the recommendations of the conclusion of their political team refer to the reform of the investigative system and introduction of respective legislative amendments. Naturally, the majority of the temporary commission, who were not the members of the GD, did not agree with his assessment.

In the end of the session, the commission members put both projects of the conclusion on motion separately. The majority of the commission members – 9 vs 4 - supported the conclusion of the European Georgia; consequently, the conclusion of the Georgian Dream had only 4 supporters against 9 protesters.

The 78-page conclusion of the European Georgia delivered 32 recommendations<sup>100</sup>. In the frame of its performance, the commission elaborated the recommendations in five

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<sup>97</sup> See the conclusion of the ad-hoc investigative commission <http://www.parliament.ge/uploads/other/101/101632.pdf>

<sup>98</sup> See the second draft of the conclusion of the temporary investigative commission <http://www.parliament.ge/uploads/other/101/101621.pdf>

<sup>99</sup> See more information at <https://bit.ly/2yB8Q2K>

<sup>100</sup> See the conclusion and recommendations of the temporary investigative commission of the Parliament of Georgia, p 46-72



directions: (1) the actions to be taken by the Chief Prosecutor's Office of Georgia and the MIA – the latter was recommended to immediately commence investigation over stabbing of G.M - one of the participants of the quarrel in the Khorava Street; also the MIA was recommended to separate a case and conduct respective operative-investigative activities to identify the perpetrator. (2) to hold senior officials of the Chief Prosecutor's Office and MIA of Georgia responsible for the violations committed in the course of the investigation; to start criminal prosecution against one of the participants of the Khorava Street accident – Mikheil Kalandia over the group murder of Davit Saralidze (crime punishable under the Article 109 Part II – “b” and “e” of the Criminal Code of Georgia). (3) to hold the officials of the Ministry of Education, Science, Culture and Sport and the public schools responsible (4) to carry out necessary activities to improve the safety norms in public schools; (5) to introduce legislative amendments, among them to necessarily review the rights of the victim in the course of criminal proceedings. More precisely, the right of a victim shall be reinforced to have access to the copies of the criminal case files without delay.

The temporary investigative commission of the Parliament of Georgia also studied the issue of a group murder. The Commission made a conclusion that an individual, who sees that another person is being stabbed in the belly and chest, and is holding him and beating him with a subject from his side too, is also committing the group murder with his action<sup>101</sup>.

Neither MIA nor the Prosecutor's Office of Georgia fulfilled the recommendations of the investigative commission in the course of its operation<sup>102</sup>. On August 3, 2018, during his meeting with the Commission members, the Minister of Interior stated that the MIA was waiting for the conclusion and the recommendations of the Commission and would respond to them after the conclusion is published.<sup>103</sup> This fact is important to mention as the parliamentary majority did not agree with the final conclusion of the temporary investigative commission of the parliament; the Georgian Dream refused to share the recommendations from the conclusion. Their alternative conclusion, which was supported only by four members of the Commission, contradicted the document of the European Georgia both with regard to the assessments and recommendations. Both conclusions were put on motion during the plenary session of the Parliament. The ruling party voted for their conclusion with the constitutional majority<sup>104</sup>. According to their

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<sup>101</sup> Ibid p 47

<sup>102</sup> Ibid p 9

<sup>103</sup> Ibid p 9

<sup>104</sup> See more at <https://civil.ge/archives/255147>

assessment, the European Georgian was using the commission conclusion for political revenge and the MPs were not authorized to request anybody's criminal prosecution<sup>105</sup>.

In parallel to the commission's work, underage witness Dachi Ghlonti, who was questioned over the Khorava Street murder case, was arrested, who was charged of making false testimony in June 2018<sup>106</sup>. On May 22, 2019, the Tbilisi City Court found Dachi Ghlonti guilty in the imposed charge and sent him to prison for 2 years and 3 months.

The Georgian Dream, in its 20-page conclusion used terms "was not conducted" or "was delayed" with regard to the investigative activities<sup>107</sup>, however, each time they clarified that it did not influence the final result of the investigation. Based on the analysis of the case files and witness testimonies, the Georgian Dream concluded, that (1) citizens destroyed the shed with their own initiative independently from the investigative institutions after all necessary investigative procedures were conducted; (2) the knife, which is the proof in the case, was not damaged purposefully. During the expertise, the knife changed the form that cannot be seen without a magnifying glass. The knife can be further expertized; (3) "inviolability" of Mirza Subeliani and his alleged influence on the ongoing investigation was not confirmed<sup>108</sup>.

The Commission questioned 79 individuals in total; some of them were questioned twice. Among the interviewed people were 31 adolescents, 2 convicted people and 5 defendants. Total length of the interviews and the commission sessions was more than 180 hours. The commission members studied 39 volumes of the case files and other requested information (in total more than 10 400 pages)<sup>109</sup>.

Nevertheless, the State avoided to fulfill the recommendations of the investigative commission. Even more, after the State failed to defend the rights of the victim's assignee, the GoG evaluated his protest and large-scaled demonstrations in Tbilisi as inadequate and politically motivated.

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<sup>105</sup> See more information at <https://bit.ly/39rUXOs>

<sup>106</sup> See more at <https://bit.ly/2WiAQB4>

<sup>107</sup> See the conclusion of the temporary investigative commission of the Parliament of Georgia, Georgian Dream p. 8 <https://bit.ly/3anLlaS>.

<sup>108</sup> Ibid p 8

<sup>109</sup> Ibid p 8

## One-man protest of Zaza Saralidze in front of the prosecutor's office

After the temporary investigative commission of the Parliament voiced its recommendations, Zaza Saralidze met the head of the criminal police department of the MIA. Having left the meeting, Saralidze stated that the MIA had violated the one-month term he had given to them to investigate the case and the reason was attempted fabrication of the case. Saralidze said the head of the criminal police had told him there were no evidence and could not arrest Kalandia. Saralidze requested the Ministry to fulfill the recommendations of the parliamentary commission and to take respective measures in this regard.

On July 1, 2018, Zaza Saralidze spent night in the yard of the law enforcement institution with the request of the restoration of justice. On the next day, the Deputy Minister of Interior met him who promised him the Ministry would take radical steps by the end of the week. Consequently, Saralidze stopped protest and stated that he was waiting for the investigation results.

## #FathersforJustice

After the Government again broke its promise to Zaza Saralidze, he, together with Malkhaz Machalikashvili, returned to the Rustaveli Avenue on September 10, 2018 to protest the inactivity of the Government, to get answers to the questions and to request punishment of the murderers.

#FathersforJustice – it was the slogan of the 82-day nonstop protest, which the fathers of the killed sons – Zaza Saralidze and Malkhaz Machalikashvili started with hunger-strike<sup>110</sup>. On the tenth month of the action, Zaza Saralidze and his supporters voiced the same requests in front of the Parliament.

Because of health problems caused by the hunger-strike and emotional state, Zaza Saralidze many times felt ill and the doctors had to take him to hospital<sup>111</sup>. Finally he

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<sup>110</sup> See more at <https://bit.ly/2SP03ky>

<sup>111</sup> See more at <https://bit.ly/3cko3DY>

stopped the extreme form of protest only after the Catholicos Patriarch of the Georgian Orthodox Church Ilia II asked him to stop it<sup>112</sup>.

On the 16<sup>th</sup> day of the protest – on September 26, after neither the protest nor hunger strike had results, Saralidze and Machalikashvili called on the political parties for help<sup>113</sup>. The Government again criticized the fathers' decision and tried to discredit them. Smear campaign resumed in the online space, which aimed to discredit Salaridze and Machalikashvili. The chairman of the political council of the Georgian Dream Bidzina Ivanishvili called Salaridze a coordinator of the United National Movement<sup>114</sup>. He said the opposition tried to accuse the ruling party of the “children’s quarrel.”<sup>115</sup>

## Fight for the tents

The demonstrators were not allowed to erect tents in the Rustaveli Avenue during 46 days. Regardless their many attempt, unlike other actions, completely unlawfully, law enforcement officers did not allow them to set up even a small tent. Despite that, the protesters did not leave the territory in front of the parliament. Their attempts to erect the tents continued but police permanently hindered them.

On the 46<sup>th</sup> day of the protest – on September 26, 2018, Saralidze and police officers had a clash when the protesters once again tried to erect tents. According to the MIA, patrol police officers arrested Zaza Saralidze for the assault on the police officer<sup>116</sup>. Citizens again went to the Rustaveli Avenue – this time with the request to release Saralidze<sup>117</sup>. During the protest action, which was led by Zaza Saralidze’s mother<sup>118</sup>, the demonstrators set up “live tent” in protest<sup>119</sup> that was removed by the police later.

HRC lawyer defended legal interests of Zaza Saralidze in the case launched against him too. The Rustavi City Court examined the case before the second round of the 2018

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<sup>112</sup> See more at <https://bit.ly/35I6SfX>

<sup>113</sup> See more at <https://bit.ly/2xM3K3b>

<sup>114</sup> See more at <https://bit.ly/3cjDg87>

<sup>115</sup> See more at <https://bit.ly/2Wdkc5M>

<sup>116</sup> See more at <https://bit.ly/3bcSw5m>

<sup>117</sup> See more at <https://bit.ly/3dvLdYa>

<sup>118</sup> See more at <https://bit.ly/2yx16Pi>

<sup>119</sup> See more at <https://bit.ly/2YOzRdI>

presidential elections<sup>120</sup>. The prosecutor's office refrained from using the compulsory measure against the defendant and Saralidze was released based on plea-agreement.

Later, Tbilisi City Mayor sent letter to the protesters and requested them to leave the territory of the Parliament of Georgia as the municipal government was going to arrange the New Year Tree in the area<sup>121</sup>. The decision of the city mayor triggered a new wave of protest under the slogan: "I Say No to the New Year Tree – I Choose an Individual!" Together with the protesters and nongovernmental organizations, that time vice-speaker of the parliament Tamar Chugoshvili<sup>122</sup> and a leader of the Georgian Dream Mamuka Mdinardze<sup>123</sup> also supported the protest. Finally, the Tbilisi Mayor Kakha Kaladze had to surrender and erected the 2019 New Year Tree on the other territory.

## **"We defend freedom with tents!"**

The civil society organizations were concerned with the activities of the police officers, who permanently hindered the protesters to erect tents on the place of gathering. The joint statement of the CSOs evaluated the action of the police as the attempt to control the peaceful assembly that violates the right to assembly guaranteed under the Constitution of Georgia and the Law of Georgia on Assembly and Manifestations; as for the pavement, it is a public space, and any individual has equal access to it. Therefore, the State is obliged to allow the organizers of the peaceful demonstration to continue exercising their rights on the place where they wish.

The CSOs were particularly alarmed with the abovementioned letter of the Tbilisi City Mayor, in which he requested the protesters to change the place of protest. In this regard, the civil society organizations, on November 10, at 8:00 pm, organized the demonstration in front of the Parliament of Georgia – "We defend freedom with tents!" The action aimed to express solidarity with the fathers of the killed sons.

The protest action in front of the parliament building turned into a clash with the police officers, after the representatives of the CSOs tried to erect the tents. The police officers seized several tents from them but the protesters managed to keep eight other and erected them in front of the Parliament. They surrounded the tents and tried to protect them from

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<sup>120</sup> See more at <https://bit.ly/2WeL1qe>

<sup>121</sup> See more at <https://bit.ly/2YMMDJz>

<sup>122</sup> See more at <https://bit.ly/2LaWIrR>

<sup>123</sup> See more at <https://bit.ly/2WHZN7Y>

the police officers. The CSO representatives stayed in the tents in front of the Parliament all night. 62-day “principle position” about the tents, which was used by the MIA against Zaza Saralidze, ended up with the surrender of the MIA with the effort of CSOs.

## Public Defender’s conclusion

The case files of the Khorava Street Teenage Murder were handed to the Public Defender for examination. As a result of the scrutiny by the Public Defender’s Office, it was established that “either or both elements of the crime committed by public officials was present, viz., official negligence or abuse of official authority. This depends on the action behind *mens rea*; was it a purposefully ineffective investigation or negligence, unprofessional attitude and/or superficial approach towards the discharge of their duties”<sup>124</sup>

## The upper instances of the court

The prosecutor’s office and the defense side appealed the May 31, 2018 verdict of the Tbilisi City Court in the Appellate Court.

On June 3, 2019, the Tbilisi Appellate Court partly changed the May 31, 2018 judgment of the Tbilisi City Court. The Appellate Court did not satisfy the appeals of the defense side and partly satisfied the appeal of the prosecution. Namely, the Appellate Court shared the position of the prosecution about the charges brought against Giorgi Janashia and found him guilty in the group murder of Davit Saralidze together with another person. Janashia was sent to prison for 11 years and 3 months. As for Guga Barbakadze, the Appellate Court did not share the position of the prosecution and ruled that Barbakadze had not taken part in the murder of Davit Saralidze; however, the Chamber of the Appellate Court upheld the decision of the city court with regard to murder of Levan Dadunashvili and found Guga Barbakadze guilty of it. His punishment was burdened and was sent to prison for 11 years and 3 months<sup>125</sup>.

<sup>124</sup> See the Parliamentary Report of the Public Defender of Georgia 2018, P. 29  
<http://ombudsman.ge/res/docs/2019101108583612469.pdf>

<sup>125</sup> See more at <https://bit.ly/2xwdxK0>

Both the defense side and prosecution appealed the decision of the Tbilisi Appellate Court in the Supreme Court of Georgia.

The Supreme Court of Georgia commenced examination of the criminal case on January 22, 2020. The collegium of the judges at the Supreme Court of Georgia, without the written notification of the victim's assignee, approved the plea-agreement with Giorgi Janashia.

Giorgi Janashia, guilty of the group murder of Davit Saralidze, admitted the committed crime by signing the plea agreement. It is noteworthy that he had made testimony against Mikheil Kalandia, whose guiltiness was identified by the temporary investigative commission of the parliament of Georgia. One of the recommendations in the conclusion of the European Georgia was to start criminal prosecution against Kalandia. MIA arrested Mikheil Kalandia on June 4, 2020. He was accused of group murder of Davit Saralidze in aggravating circumstances. Kalandia's family and his lawyer connected the plea-agreement of Giorgi Janashia with this fact. They said Janashia was forced to sign the plea-agreement under oppression<sup>126</sup>.

The Supreme Court of Georgia announced its decision on January 28, 2020. Finally, Giorgi Janashia was sent to prison for 8 years, 4 of which he will spend in prison and the rest 4 will be conditional sentence. Janashia had already served two years; so he will leave the prison in 2021. As for Guga Barbakadze, convicted for Levan Dadunashvili's murder, the Supreme Court of Georgia upheld the decision of the Appellate Court and found him guilty only of Levan Dadunashvili's murder. The Supreme Court did not change his imprisonment term and Barbakadze will spend 11 years and 3 months in the penitentiary establishment<sup>127</sup>.

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<sup>126</sup> See more at <https://bit.ly/3fAWojR>

<sup>127</sup> See more at <https://bit.ly/3bygFUm>

## Episode of Mikheil Kalandia

Mikheil Kalandia was one of the key actors of the Khorava Street accident. For months, he was witness in the case that was permanently protested by Zaza Saralidze and Human Rights Center.

With the effort of Kalandia's uncle – Mirza Subeliani and other people, by destroying the evidence, influencing witnesses and other unlawful activities, for a long time, the request of the victim and his lawyer to conduct comprehensive investigation was neglected.

The temporary investigative commission of the Parliament, which was established as a result of large-scaled and permanent protest demonstrations, openly indicated at the possible guiltiness of Kalandia in the murder. According to the commission's conclusion, the investigative bodies did not appropriately study the role of Mikheil Kalandia in the murder of Saralidze and Dadunashvili and did not carry out necessary investigative activities to estimate the truth. One of the main recommendations of the temporary investigative commission was to arrest Kalandia.

In June 2018, Mikheil Kalandia's uncle Mirza Subeliani was convicted, who covered and protected now convicted Mikheil Kalandia.

Based on numerous evidence in the case and conclusion of the temporary investigative commission, the MIA was compelled to take adequate measures. Indeed, Mikheil Kalandia was arrested on June 4, 2019 on charges of murder of Davit Saralidze committed by a group of persons in aggravating circumstances.

In the court proceedings in the Tbilisi City Court, the prosecutor presented number of evidence which confirmed that Mikheil Kalandia had committed the offensive action.

The City Court partly satisfied the solicitation of Mikheil Kalandia's lawyer to partly open the court hearings and made the proceedings partly public. The victim and his lawyer agreed to make the hearings public from the very beginning. Already convicted adolescents Guga Barbakadze and Giorgi Janashia were interrogated during the closed hearings.

Correspondence between more than 33 adolescents in the chat of the social network was enclosed to the case files as evidence. The multi-volume case, where the conversation of the adolescents is analyzed, included the communication before December 2017.



However, strangely, the communication of December 1, 2017 is erased. Technically, files exist but the expertise conclusion states that the content was erased. The Georgian authority had petitioned the USA Federal Bureau with the request of the information from the online correspondence, when the temporary investigative commission asked the Minister of Interior Giorgi Gakharia whether the Ministry had requested the abovementioned information from the respective institutions abroad.

Finally, the Tbilisi City Court found Mikheil Kalandia guilty of the group intentional murder of Davit Saralidze and sent him to prison for 15 years. However, based on the Juvenile Justice Code, his imprisonment term was reduced at  $\frac{1}{4}$  and finally he will spend in prison 11 years and 3 months.

The court judgment is coherent with the conclusion of the temporary investigative commission of the Parliament as well as the position of the victim Zaza Saralidze and Human Rights Center.

## Inactivity of the State with regard to misconduct in public office

Human Rights Center and the victim permanently indicated at the misconduct in public office. The May 31, 2018 judgment of the Tbilisi City Court, in fact, confirmed that the State failed to carry out comprehensive investigation and identify all perpetrators. The case files and the conclusion of the parliamentary commission prove that the investigation was ineffective and was conducted with miscarriages.

Interviews of the parliamentary commission with the prosecutors and investigators also proved that investigative operations were either delayed or were not conducted at all. It reinforces doubts that the investigation did not aim to identify the perpetrators from the very beginning. The Public Defender of Georgia also shared this position, who in her 2018 Parliamentary Report "State of Human Rights and Freedoms in Georgia" wrote about alleged signs of official misconduct and insufficient response of the state to these crimes.

The Public Defender's Office established that either or both elements of the crime committed by public officials was present, **official negligence or abuse of official authority**. This depends on the action behind *mens rea*; was it a purposefully ineffective investigation or negligence, unprofessional attitude and/or superficial approach towards

the discharge of their duties. The Public Defender recommended an investigation in this regard<sup>128</sup>.

Regardless many petitions of HRC and Zaza Saralidze, the prosecutor's office did not widen the circle of subjects of the investigation at either stages of the case proceedings and did not hold any official responsible for the violations in the course of investigation. The prosecutor's office, also, neglected the recommendations of the Public Defender of Georgia and started only administrative examination of alleged substantial violations in the course of investigation, as the prosecutor's office did not consider the observed miscarriages as crimes regardless their outcome.

On December 1, 2018, the Public Defender of Georgia published a statement urging to make public the outcomes of the inquiry and allowing the Public Defender's Office to study the case-files; however, unfortunately, this recommendation has also not been complied with. It is noteworthy that the prosecutor's office demonstrated a non-uniform approach towards ineffective investigation of a crime involving death – either murder or deprivation of life. For example, in another instance, where investigation of deprivation of life was not conducted in an effective manner, the prosecutor's office instituted investigation on official negligence by law-enforcement officers<sup>129</sup>. One of similar cases was Zhana Dzebniauri vs. Georgia, which, on 9 September 2014, the European Court of Human Rights, by its decision struck the case out of the list of cases. In accordance to the 2018 Parliamentary Report of the Public Defender, in accordance to the decision, the government's declaration provided that, along with other circumstances, having regard to certain deficiencies observed in the course of the criminal investigation of the case and the government acknowledged a breach of the state's positive obligations under Article 2 of the Convention<sup>130</sup>.

**Therefore, it is extremely important, to continue criminal proceedings to identify those individuals, whose actions contained signs of official misconduct. The purpose of the prosecution shall not be only the punishment of the law enforcement officers or officials, who hindered the comprehensive and impartial investigation, but it is critically important to reform the system. If these crimes are left unpunished, it will be impossible to eradicate the systemic miscarriages, which hinder inevitable defense of human rights and freedoms. The comprehensive investigation shall aim to fulfil the positive obligations of the state.**

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<sup>128</sup> See the Letter no. 15-11/9172 of the Public Defender, dated 11 July 2018, sent to the Prosecutor's Office of Georgia. The letter contained a proposal requesting the institution of investigation.

<sup>129</sup> See the 2018 Parliamentary Report of the Public Defender of Georgia, p 30

<sup>130</sup> Ibid

Currently, it is essential that the State ensured investigation of the actions containing signs of the misconduct in public office, namely against those officials of the investigative bodies, who purposefully or through negligence abused their official power and destroyed or damaged the case evidence. Also, it is necessary to inform the society about the criminal proceedings over the official misconduct cases.

## Conclusion

The developments around the Khorava Street teenage murder case once again convinced the society that there were acute systemic problems in the system of justice, which affects each of us. Therefore, this individual tragedy became the tragedy of the entire society and many people with different views stood with the fathers of the killed sons.

In the fight for justice, as a result of consolidation of the civil society, who supported the principle position of Human Rights Center and the victim, chief prosecutor Irakli Shotadze resigned. Nevertheless, as a result of inadequate assessment of the developments from the side of the Government of Georgia, two years later, regardless the protest of Human Rights Center, the Parliament of Georgia re-elected Irakli Shotadze on the position of the prosecutor general<sup>131</sup>.

Temporary investigative commission was established in the Parliament of Georgia as a result of large-scaled protest demonstrations of the society. At the same time, as there was threat of the biased investigation in the prosecutor's office, the case was forwarded to the Ministry of Internal Affairs for the repeated investigation from the Chief Prosecutor's Office<sup>132</sup>.

As a result of fight, the State had to start prosecution against many people for participation or concealment of the crime; part of them are already convicted. On its side, the State acknowledged the systemic problem, which cannot be eradicated only with the investigation of one concrete case and it is important to carry out systemic changes to increase independence and transparency of the investigative bodies and to carry out real reform in the Georgian justice system.

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<sup>131</sup> See full information at <http://ajaratv.ge/article/55587>

<sup>132</sup> See more information at <https://www.radiotavisupleba.ge/a/29262830.html>

Nowadays, although the initial results of the investigation were significantly changed and many people were convicted for the committed crime, many people are still unpunished for their misconduct in public office. Therefore, in order to ensure real reforms in the system, it is necessary to conduct comprehensive investigation, to timely inform the society and punish perpetrators.