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Grave Human Rights Violations in the Republic of Georgia Against Political Refugee from Iran

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Legal Disclaimer: This document is an Investigative Report by FTLG regarding a criminal prosecution against a political refugee, Ali Reza Soleimane-pak, aka Hamid Reza Zakeri (“the Accused”), who was a witness in a terrorism civil case in federal court in the United States in which both principals of FTLG were involved. Some usage of legal concepts and vocabulary is contained herein; however, FTLG is not authorized to, nor does it hold itself out to be able to, practice law in the Republic of Georgia or the European Union. Rather, this memorandum sets forth facts for which FTLG investigator, Kenneth Timmerman, who is not a lawyer, found evidence during an April 10-13, 2019, visit to Tbilisi, which he undertook voluntarily and without compensation in the interest of human rights, and it raises questions that arise from such facts and involve generally recognized human rights concepts. FTLG does not represent the Accused, or any member of the Accused’s family, nor has it been retained by anyone in this matter.

Executive Summary:

A defector from Iranian intelligence has been sentenced to 17 years in prison by the Republic of Georgia on charges initiated by the Iranian Ambassador to Tbilisi, in retaliation for his efforts to expose the Iranian government’s involvement in the September 11, 2001 attacks.

Ali Reza Soleimane-pak (aka “Hamid Reza Zakeri”), 55 years of age, was arrested on Feb. 9, 2018 in Tbilisi on charges of conspiring to murder an Iranian who had been stalking him on social media. The Prosecution provided scant evidence of conspiratorial acts, all of which was disputed at trial, and yet claimed that the Georgian and European Union “beyond a reasonable doubt” standard of proof had been met. After a bench trial (that is, without a jury) that ended on Nov. 5, 2018, the Court found Ali Reza Soleimane-pak guilty and sentenced him to 17 years in jail on November 6, 2018.

The Accused presented significant evidence demonstrating that the chief prosecution witness was, in fact, an operative of Iranian intelligence, and that the true conspiracy was

between the Iranian and Georgian governments to frame the Accused. The Court summarily dismissed all defense evidence as lacking credibility.

Specifically, the Accused entered into evidence a letter from Georgian Ministry of Foreign Affairs to the Georgian State Security department, dated Jan. 22, 2018, asking them to launch a criminal investigation of the Accused based on a letter sent to them five days earlier from the Iranian ambassador to Tbilisi. The letter from the Iranian ambassador, warning of the specific crimes subsequently alleged against the Accused, was dated *a full week* before the alleged conspiracy began.

We believe the Prosecution’s case is so riddled with factual errors, misstatements, and questionable procedural maneuvers, which we will set out below, and that it should be investigated by Georgia’s Public Defender.

Furthermore, we believe this case involves egregious violations of international human rights standards, contrary to Georgian law. For nine months while awaiting trial, the Accused was held incommunicado and in solitary confinement in Tbilisi’s Geldani Prison (“Penitentiary Establishment 18”), was not allowed phone calls to, or to have visits by, his family, and was provided only rare access to an attorney through an English-language interpreter. On August 10, 2018, the Accused went on a hunger strike to reinforce his demand that the Court reverse its ruling that prohibited him from presenting witnesses at trial. After several weeks, he was transported to a prison hospital and fed intravenously. On December 7, 2018, he was severely beaten by prison guards and, as a result, ended his hunger strike after 151 days. The Accused subsequently filed a complaint against the guards for criminal assault, which remains pending.

As a further signal that the court specifically targeted the Accused for motives other than criminal justice, it sentenced him to 17 years in prison. That is more than twice as severe as sentences handed down against Georgian defendants on similar charges involving the actual *commission* of violence, which was not even alleged in this case¹.

The case is currently under appeal.

Case N• 1/1513-18, Tbilisi City Court
Judge Alexander Iashvili

**Tbilisi Appeals Court Case N• 330100118002393438
Judge Murman Isaev – case transferred in September 2019 to Judge Khvicha Kikalashvili.**

¹ U.S. Department of State, *Georgia 2018 Human Rights Report*. Tbilisi sentenced former deputy defense minister Davit Akhalaia to seven years, six months for his role in a high-profile murder and kidnapping. P3. Former president Mikheil Saakashvili was sentenced to six years in prison for ordering the physical assault of a former member of parliament. P5. <https://www.state.gov/documents/organization/289375.pdf>

Summary of Prosecution case

The Georgia State Prosecutor alleges the following:

On Jan. 25, 2018, an Iranian named Amir Fazlimiher (“AMIR”) visited Soleimane-pak at the Nayeb restaurant near Freedom Square in downtown Tbilisi, a Persian-food restaurant owned by Soleimane-pak.

AMIR informed Soleimane-pak that another Iranian, Vahid Yebaduzza Aghazi (“VAHID”), was slandering Soleimane-pak on social media. AMIR then offered to introduce Soleimane-pak to a Chechen friend who could murder VAHID.

The next day, Jan. 26, 2018, AMIR went to the Georgian police, informing them of what AMIR alleged was Soleimane-pak’s intention, and agreed to clandestinely record video of future allegedly conspiratorial meetings with Soleimane-pak.

On Jan. 27, Feb. 4, and Feb. 7, 2018, AMIR returned to the Nayeb restaurant allegedly to discuss details of the murder, how to dispose of the body, and for the assassin to avoid police detection. AMIR alleges that, during the Feb. 7 meeting, Soleimane-pak supposedly instructed his 25 year-old son, ANTHONY, a Canadian citizen, to get 1200 lari (around \$400 U.S.) from the restaurant cash register to pay the hired assassin. AMIR alleges that ANTHONY sat down and passed the money to AMIR under the table.²

On the morning of Feb. 9, 2018, police and counter-intelligence officers arrested Soleimane-pak as he was leaving the restaurant on Shalva Dadiani street in Tbilisi.

Apparent Defects in the Prosecution’s case

1. AMIR is or was an Iranian intelligence officer. The Defense has obtained AMIR’s official identity card as an officer of the Ministry of Intelligence and Security of Iran (“MOIS”), where Soleimane-pak himself had worked from 1984 to approximately 2000, when he was transferred to the Leader’s Intelligence Office. The Defense submitted a supporting statement from a former MOIS colleague who worked with AMIR in Yerevan, Armenia to the Appeals court at the April 11, 2019 hearing. AMIR appears to have been under the control of MOIS and/or the Iranian embassy in Tbilisi at the time the alleged conspiracy took place.
2. The Prosecution never introduced a weapon, nor could it agree on how much money the accused allegedly paid AMIR. At one point, it alleged that the Accused agreed to pay \$5000 for the murder, and an additional \$500 for the murder weapon; but at trial,

² As this was the only alleged material act of the alleged conspiracy, it is critical. And yet, the Court did not find the video convincing, nor did it accuse ANTHONY, who testified at the trial, of any crime.

it alleged that the Accused instructed his son, ANTHONY, to give AMIR 1200 lari in cash, which ANTHONY denied.

3. The Prosecution never named an alleged assassin/hitman. Instead, AMIR told the Court that he had lied to Soleimane-pak about knowing a Chechen who would do the deed. Nov 6, 2018 decision, §2.6.
4. The Prosecution never alleged that any violent acts actually took place.
5. The Prosecution relied on sworn written statements from AMIR and VAHID, as well as their live testimony during the trial, which the Court admitted were contradictory.
6. The Prosecution showed excerpts from the clandestine video recording of the alleged conspiratorial meetings, along with a transcription of the dialogue in Persian. However, the Court-appointed Persian-language linguist engaged to translate these videotapes at trial into Georgian protested that the tapes were inaudible because of loud music in the background, making it impossible for him to distinguish the words. Prosecutors then insisted that he translate into Georgian from the Persian transcript that the Prosecution provided, but he refused on the grounds that he could not testify under oath that the transcript accurately corresponded to the voices on the videotapes. The Prosecutors then dismissed this witness and brought in a second translator who agreed with the Prosecution that the Persian language transcription was accurate. The Prosecution relied heavily on the transcription.
 - a. The Prosecution never produced a witness from the company that transcribed the clandestine videotape either to authenticate the document or to attest to the accuracy of the transcription.
 - b. There is evidence that the company that did the transcription regularly works for the Iranian embassy in Tbilisi. If proven, this fact would seriously undermine the credibility of the transcript.
7. The theory of the Prosecution appears to have been based on ambiguous conversations and the assumption of key words that were not actually stated at all. Instead of discussing murder for hire, the Accused contends that AMIR introduced himself as a younger man seeking the Accused's advice on a variety of commercial issues, which the Accused generously agreed to provide.
8. Throughout the proceedings, the Prosecution has identified the Accused as an "Iranian citizen," which it knew was incorrect. In fact, the Accused was admitted to the European Union as a political refugee *fleeing persecution by Iran* in mid-2001 and was issued a travel document by Germany in approximately 2002. His travel document explicitly states that it is invalid for travel to Iran since any attempt to return to Iran would invalidate his asylum claim.
 - a. It is hard to believe that this misleading characterization of the Accused was an innocent mistake. Was it made on the initiative of the prosecutors alone, to make it appear this was merely an internal "Iranian" affair? Or was it another example of communications between the Embassy of the Islamic Republic of

Iran in Tbilisi and the Georgian Ministry of Foreign Affairs similar to the Jan. 17, 2018 letter that initiated the case (see below). .

- b. There is strong reason to believe that Iran seeks to entice or force the Accused to return to Iran in order to execute him for his role in testifying in the 9/11 litigation in New York.
9. The Defense was never allowed access to substantial exculpatory evidence that is in the hands of Georgian state authorities and/or the Prosecution. In particular, the Defense repeatedly requested, but was denied, access to the DVR that was seized during the search conducted at the Nayeb restaurant, to examine whether the security camera files it contained had been tampered with.
- a. The Defense argued during trial that the DVR contained evidence of a physical altercation on or about Sept. 24, 2017, between the Accused and the Ambassador of the Islamic Republic of Iran to Georgia. (See below.) However, the Defense was denied access to that material, even though the DVR and its electronic files were highly relevant to the trial. The DVR and its electronic files clearly comprise potentially exculpatory evidence, that is, evidence that could be beneficial to vindication of the Accused.
10. Video crews from Georgian State Television and Iran's Press TV were on scene to film the arrest of the Accused. In their live news reports broadcast from the scene, they reported that Soleimane-pak was being charged with conspiracy to commit murder and murder for hire. However, Soleimane-pak says he was not informed of the charges until many hours after he was taken into custody, well after the news reports aired. Thus, it is apparent that the Authorities arranged for the news coverage ahead of time and provided charging information to be reported along with the video footage. This is highly suggestive of a propaganda production rather than a normal prosecution.

The Actual Conspiracy

There is strong evidence of a different motive at work in this case, which was not presented at the trial.

The Accused, also known by his "work name," Hamid Reza Zakeri, is a former intelligence officer of MOIS, and of the secret Intelligence Office of the Supreme Leader.

Soleimane-pak/Zakeri defected from Iran in late July 2001 and traveled to Baku, Azerbaijan, where he briefed U.S. Central Intelligence Agency ("CIA") officials about a "huge" impending terrorist attack against the World Trade Center, the Pentagon, and the White House. Soleimane-pak/Zakeri told them the attack would occur on the 20th of Shahrivar, which corresponds to the 11th of September. Not until the September 11, 2001, attacks occurred did the Accused fully understand the import of the information he had provided the CIA in Baku.

These July 2001 meetings with the CIA in Baku have been verified to have occurred. FTLG member Kenneth R. Timmerman wrote an account of Zakeri's 9/11 evidence in a 2005 book, *Countdown to Crisis: the Coming Nuclear Showdown with Iran* (relevant portions attached), where Soleimane-pak/Zakeri specified that the coming attack would involve six Arab pilots who had been trained in Iran.

Soleimane-pak/Zakeri provided sworn videotaped testimony to attorneys in *Havlish, et al. v. bin Laden, et al.*, Case No. 03-CV-09848, part of the multi-district litigation in the U.S. District Court for the Southern District of New York known as *In Re: 2001 Terrorist Attacks*, MDL 03-1570 (GBD)(SN), about his knowledge of Iran's involvement in the impending 9/11 attacks. Zakeri's evidence in that case has been, and currently remains, sealed and unavailable to the public, as was most of the videotaped testimony and some of the documentary evidence in the case. Although that sealed evidence is only a portion of the evidence in the case and, like other sealed evidence, was not expressly incorporated into the U.S. District Court's published Findings of Fact and Conclusions of Law, Soleimane-pak has always believed that his evidence was critical to the liability judgment and the Final Judgment, totaling in the billions of U.S. dollars, against Iran and its political subdivisions that was handed down by the Court in 2012.

Over the past half-dozen years, Soleimane-pak has presented himself to the public as a "9/11 witness," perhaps thinking that, because the regime never appeared in U.S. court, the regime did not care about the case or his testimony.

According to the Accused, the following has occurred in recent years:

Since approximately 2016, Iranian regime officials have approached Soleimane-pak on several occasions, urging him to "recant" his testimony in the *Havlish* case.

In March 2016, the regime arrested his then 59-year old brother, Mohammad Esmael Soleimane-pak. In multiple meetings, phone calls, and email exchanges with the Accused over the next 18 months, regime officials promised to release his brother if the Accused recanted his testimony in the *Havlish* 9/11 case. He refused.

Worried about his brother, on Sept. 23, 2017, the Accused left Germany, where he had been living since 2002, for Tbilisi, Georgia, where he had invested in a restaurant owned by his son, ANTHONY.

The very next day – Sunday, Sept 24, 2017 – the Iranian Ambassador to Georgia, Seyed Javad Qavam Shahidi, visited the Accused at the restaurant with four bodyguards. The Accused recognized the Ambassador as a professional MOIS officer with whom the Accused had worked starting in 1984. The Ambassador got up and told the Accused to follow him so they could talk. The Accused invited the Ambassador upstairs to his office; instead, the Ambassador led him to

an area near the restrooms, the only part of the premises not monitored by security cameras.

The Ambassador was cordial at first, greeting him in the traditional Persian manner, then said he had a personal message for him from the Supreme Leader of Iran (to whom he referred as “Agha,” or “Sir,” which is common among senior Iranian regime officials). “Agha wants you to return to us in Iran and start all over again,” he said. The Accused would be forgiven and his brother released from prison if the Accused agreed to do an interview with Russian TV and with CNN recanting his 9/11 testimony, the Ambassador said.

As a further enticement, the Ambassador offered the Accused \$5 million U.S. in cash and, if he wanted, a Georgian passport in any name he chose.

The Accused asked the Ambassador to release his brother and to bring his brother to Georgia, and then they could talk. The Ambassador reiterated the offer, and the Accused said he had never lied to any court, and had taken instructions from no one in making his testimony. The Accused then asked the Ambassador to leave the restaurant, and the restaurant would not charge him for his party’s food.

The Ambassador became angry and said this was their last offer. If the Accused didn’t take it, he could not guarantee his safety or the safety of the brother. Then he physically assaulted the Accused and attempted to choke him. (Several employees witnessed the altercation and have offered testimony which the trial court refused to accept.)

Following this incident, individuals associated with the Iranian embassy and intelligence services set up social media pages attacking the Accused as a conman.

Shortly before his conviction on Nov. 6, 2018, the Accused learned that his brother had been killed in an Iranian prison. He believes this was a clear message from the Iranian regime to reinforce the threat conveyed by the Ambassador.

The true conspiracy that came to fruition in this case became clear on Jan. 17, 2018, when the Iranian ambassador wrote to the Georgian Ministry of Foreign Affairs, warning them that Mr. Ali Reza Soleimane-pak was intending to murder two Iranians in Tbilisi.

On Jan. 22, 2018, the Ministry of Foreign Affairs conveyed this warning to the Georgian State Security department, stating that the information had been passed on by the Iranian embassy. **This letter appeared on page 289 of the case file of the lower court case.**

The first alleged “conspiratorial” meeting between AMIR and the Accused took place a full week *after* the letter from the Iranian embassy, warning of just such a plot.

This timeline of the actual conspiracy suggests not a series of coincidences, but rather a pattern of intent and execution on the part of the Iranian regime.

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