

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



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Salome Tatishvili's Case

Today Tbilisi Appeal Court holds the first session regarding the case of death of 12-year-old Salome Tatishvili on Gudauri ski track. On January 10, 2016 Salome together with her sisters, sport-school trainer and other students was skiing in Gudauri when Giorgi Liparteliani crashed into her from behind. The crash caused Salome ☐ instant death. As it is well known for the public, Tbilisi City Court acquitted the accused by the decision made on December 27, 2017.

Georgian Young Lawyers ☐ Association (GYLA) has advocated for the interests of the aggrieved party since the stage of investigation. Before the trial in the Court of Appeal we want to briefly sum up the legal problems loomed in the decision made by the Trial Court.

The discourse concerning the crime of negligence, which is developed in the decision of the Trial Court, creates a dangerous precedent and leaves a presumptuously committed crime unpunished. The arguments of the court are not persuasive and in a number of cases are totally groundless.

The decision of the Trial Court was basically based on the following arguments:

- There are no set rules of skiing on the ski resort, among them the speed limit, with which a person should be skiing;
- Skiing is an extreme sport and includes in itself a high risk of injuries;
- There is a doubt about the fact that the accused tripped over a rock or other obstacle on the way, which caused the change of direction and the possible collision;
- There is a doubt about the fact that the girl ☐ skiing manner and the trajectory itself caused the accident.

The fact that there are no statutory regulations about skiing does not discharge one from an obligation to exercise caution and move in a way that would not harm them, as well as others. The rules, violation of which causes the crime of negligence, might be written as well as unwritten. They derive from the general life experiences and every person is obligated to follow them.

The argument of the judge that skiing is an extreme sport is unreasonable and is not based on any kind of standard or experience. Skiing on the blazed, specially prepared trail is not an extreme sport and does not contain serious life and health-threatening risks.

The doubts which became the reasons for the acquittal sentence are not based on sensible ground or evidence. They are just the ideas of the judge and assumptions about possible development of the events. It is important for the guilty verdict to prove one □ culpability beyond the rational doubt, which does not mean denying every kind of existing doubt, but denying the ones backed up by concrete basis and evidence. The judge is hypothetically discussing the obstacle that the accused could have come upon and which could have changed the trajectory of the skis, causing the collision. This kind of doubt without any evidence is just a theoretical thinking, which cannot become a ground for an acquittal sentence.

The judge is also expressing doubts about the moving trajectory of Salome Tatishvili herself, as the factor causing the collision. **Many witnesses clarify that Salome was skiing on the trail by medium speed and wide turns, while the accused, being drunk, was descending directly and moving with high speed.** In the situation where all these eyewitnesses are confirming Salome □ skiing style, manner and knowledge, also her preparation level, the ground on which the judge assumes Salome □ skiing to be the factor of causing the collision and doing it in a way that would make avoiding the clash impossible for the accused, is totally confusing. **It must be considered that skiing requires choosing exactly that style and speed which will be safe for the skiers in the front.** The eyewitnesses also confirmed that there was a good visibility on the day of accident, the moving trajectories of skiers could be seen from the very long distance and the trail on the accident site was quite wide.

We are hoping that the Appeal Court will give appropriate answers to the questions arisen by the decision of the Trial Court and issue a judgment supported by evidence.

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It must be mentioned that in accordance with the decision taken by the Appeal Court the case will be disposed by three judges instead of one. The aggrieved party also addressed the Appeal Court with the same request.