

## **Letter from Evgeniia Zatoka, Andrey Zatoka's wife, written on October 31, 2009**

At the present time, I am not concerned with the interests of one or another power, state or group of people. I stand in defense of the interests of my husband, Andrey Lvovich Zatoka, and his interests. I am defending my family, myself and our friends. Therefore, I want the world to know what has just happened to us.

### **Before the Court Case**

The court case started at 10:00. We stand, we wait, we worry. We try to focus on other issues and talk about unimportant things—so I won't cry. With surprise, we see that from inside one of the cars that is standing nearby, they are filming us with a video camera. And some guy is walking up and down near the courthouse. With me I have Andrey's backpack with clean clothes (a t-shirt, a top, jeans, socks, shoes). I don't want to miss the opportunity—if they provide it—for him to change into clean clothes! And I also have a bag with groceries for Andrey to have for lunch: the lawyer earlier told me, "They will let you feed him—bring a thermos of tea and some sandwiches!"

They brought Andrey to the courthouse; it turns out, in a car belonging to the special services. They led him out. We walked up to the barrier to be closer to him. He smiles and greets us, "Oh! Everyone came!" He said to me, and made a face to copy me, "Don't cry!" They took him and the other convicted away, and left us to stand on the street. Then, a government car drove into the internal courtyard of the courthouse. And we hoped that a highly placed government official would come and that this would help us.

Andrey gave us two lists through his lawyer.

The first, a grocery list. The first items on the list were "urgent" (cigarettes—ten packs, 150 watt flashlights, a package of matches, 2 lighters." The rest, as I understood, was to be handed through to the isolation ward [SIZO]). I asked Andrey: When should we give it to them? And I received the answer: "at lunch." So I ran to the neighboring store and bought the necessary items.

After 30-40 minutes, they invited us into the courtroom. In the courtroom: the lawyer Tuvak Yagmirov; the charged, Andrey Zatoka; "the victim" A. Kazakov; the five of us; the witnesses for the guilty—6-7 people, and, in addition, three or four unknown people sitting in the last row; the translator Z. Bekchanova; the court secretary M. Ashyrova; and the Prosecutor, Dzh. Rakhanova. The judge, Guncha Muradova, enters.

The trial begins, after which they ask the witnesses to exit the courtroom. And I leave, too, as an additional witness for the defense. I am able to stand in the corridor, not far from the door, where I am able to hear almost everything, and especially well—Andrey's voice.

### **The Case**

The lawyer and Andrey raise several petitions.

-On conducting the process in Russian: The judge said that with regard to Andrey she would conduct the hearing in Russian, and the testimony would be translated by an interpreter (the translator was seated next to the cage in which Andrey sits, on a separate chair).

#### Petition

This criminal case was heard in the Dashovuz City Court at 10 AM on October 29, 2009. It heard the following violations of the terms of the Criminal Code of Turkmenistan:

In accordance with Article 378 of the Criminal Code of Turkmenistan, the court case proceedings cannot be started earlier than three days from the delivery of the copy of the statement of the charges. A. L. Zatoka was charged at 5:20PM on October 24, 2009, after which he was taken to DZ/D-7 9. The criminal case appeared in the city court at 5:40PM on October 24, 2009 and the court date was set for 10AM on October 29.

Article 50 of the Criminal Code of Turkmenistan “on calculating procedural deadlines,” states: “If the end of the term falls on a non-working day, then the last day of the term is counted as the first next working day.” Consequently, following the receipt of the charge, the first day of the court proceedings for this criminal case could not be earlier than November 2, 2009 since the 25<sup>th</sup>, 26<sup>th</sup>, 27<sup>th</sup>, 28<sup>th</sup> of October were non-work days or holidays.

The court denied the petition.

#### Petition

According to Article 28 of the Criminal Code of Turkmenistan, I request to have the contents of the expertise N 4198 from October 20, 2009 in relation to A. Kazakov, translated into my native language—Russian—because the translator who participated in the extremely rushed investigation was not in a condition to successfully translate the given text into Russian. This was very important and necessary for me because the accusation was based on the contents of the expertise. I also ask that Expert Gurgenliev and a trauma doctor also be called to the court, as is stipulated in articles 383 and 384 of the Criminal Code of Turkmenistan.

#### Petition

I request to be given the opportunity to reacquaint myself with all materials of the criminal case with the participation of a lawyer and a translator, because the investigator became familiar with several documents associated with the case (not all the materials of the case), when it was still being filed and numbered. Getting acquainted with the materials happened in a rush, and because of that, I have doubts that late in the case there could be some changes, additions and even new evidence.

Because I was in the corridor, I did not hear everything. The essence: the judge took a thirty minute break. Everyone exited the courthouse. Andrey stayed with the translator and the lawyer. After thirty

minutes the trial resumed. The judge asked Andrey: “Are you acquainted with the facts of the case?” “In thirty minutes—of course not.” “Did they translate the documents of the court-medical expertise?” “In thirty minutes?” The trial continues.

The judge called the victim Adylbek Artikovich Kazakov. He gave the testimony that is in the Prosecutor’s conclusion (I include the text of the prosecution’s conclusion):

“On October 20, 2009 at around 12:10, I went to the central market in order to buy bread. Coming up to the bread stands, I stopped in order to buy a loaf. In front of me stood a man with a mustache who I did not know. When that man turned around, he stepped on my foot. When I told him that he had stepped on my foot, he asked me in Russian, “What are you saying?” I repeated that he had stepped on my foot, and because he did not get off my foot, I pushed him with my hands to free my foot. Then he started to swear at me in Russian. I answered that he should not insult my mother, and then he started to hit me. At first he started to twist my left hand and then punched me on the back of the head. I fell from the strike. When I fell, my left hand stayed behind me and fell on the edge of a small hole in the asphalt. After that, I tried to stand up, but that person turned me over and holding on to my neck with his hand, started to choke me. I tried to get free, but he didn’t let me go and continued to choke me. At that time, two policemen ran up to us and freed me from his hands. After that, the police officers asked us who we were and what had happened. That person was Andrey Zatoka, and I said who I was. After that they took me and Andrey Zatoka to a room in the police station near the market and asked us to explain what had happened. I explained that the person at first stepped on my foot, and then started to beat me. Zatoka did not admit that he had hit me, but said that I had tried to hit him. After that I wrote a statement. Then my left hand started to hurt, but I tolerated it while I wrote the statement and explanation. I think that my hand broke when Zatoka hit me and I fell on the asphalt with my hand. I did not hit that person, did not try and did not hit him, he hit me, and crippled me, and in that connection, I ask him to take responsibility in accordance with the law.”

Andrey and his lawyer were given the opportunity to ask questions of Kazakov. Andrey asked:

(I’m citing from Andrey’s notebook, which he had with him during the court proceedings and at which he glanced as he asked his questions):

Who put the bandage on your neck?

What is under the bandage?

Show with your finger the place of the blow.

What did you feel at the moment of the blow?

Did you lose consciousness, and for how long?

Do you feel healthy now, and if there are after-effects (nine days have passed), abrasions on your neck and body—who made them and where?

Are you taking drugs now?

When were you arrested and for what? (In 1999 he was arrested for drugs and was imprisoned until 2004). Why did you not once complain about pain in your left hand when we were together between 3PM and 6 PM in the police station?

Who applied your plaster cast?

Can you move your arm from the elbow and hand?

Have you broken your arm before?

What kind of relationship do you have with your neighbors? Judge: "What does this have to do with the case?"

Andrey: "Is it correct that in May you had a fight with your neighbor, and that you broke your left arm, did not go to the hospital and were healed by a quack-doctor?" A. Kazakov denies everything. Andrey: "I believe that the break happened in May, and that the court was presented with an x-ray from the May break to the left arm. I request that a new legal-medical expertise of A. Kazakov be conducted. I request that a trauma doctor be brought to the courthouse."

I cannot confirm that Andrey asked all of the questions in the courthouse, but I have the notebook with the list of questions that Andrey wanted to ask the victim. I heard a portion of Andrey's questions from the corridor, and I have the text of the lawyer's petitions (the text of all the petitions was printed and the lawyer had it during the court proceedings):

#### Petition

I request that a commission expertise be conducted in relationship to A. Kazakov regarding the assault of mid-severity for this criminal proceeding. The issue is about repeating the legal-medical expertise regarding the victim, because, according to the outward appearance of the victim on October 21-22, there are doubts about the professionalism of the medical assistance given to him. Our petition with this regard was denied as without basis. We also have information that on October 21, the day immediately following the supposed injury of medium severity, the victim walked around town and did ordinary things: he washed his car.

With regard to the closed fracture, it would pay to demand the history of illness from the trauma department of the regional hospital. It is necessary to take another x-ray of the broken hand and be present while it is being done.

I also request that a psychological evaluation be conducted of me—A. L. Zatoka—and A. Kazakov in order to prove that I, with my approach to life, could not have behaved this way, and A. Kazakov, with his way of life, is capable of it.

#### **In the Courtroom**

Because I was, at that moment, in the corridor, I did not hear A. Kazakov's answers and the commentary of the judge (if there were any). I only know that the hearing continued, and that witnesses for the prosecution were called—policemen Soyun Gurbangeldyev and Meylis Kemalbaevich Begishov. I enter their testimony from the text of the Prosecutor's closing statement:

S.B. Gurbangeldyev: "I work in the police inspection division at the central market in Dashovuz. On October 20, 2009 at around 12:20, when I was on my rounds of the central market, I saw that in the bread line people were forming a crowd and yelling, and so I headed straight there. Approaching, I saw that one person with a mustache had his left hand on the neck of another person, choking him and not letting go. I ran to the place of the incident right behind my fellow policeman Meylis Begishov, who was 6-7 meters ahead of me. Begishov, arriving ahead of me, tried, on his own, to separate them, pulling on each of them and released the neck of the person from the one that was choking him. Then, I asked who they were, and they said they were Andrey Zatoka and Adylbek Kazakov. The one who was choking the other was Zatoka.

After that we took both of them to the police room at the central market. When I asked them what happened, Adylbek Kazakov explained that Zatoka at first stepped on his foot, and when he made note of that, Andrey Zatoka explained that Adylbek Kazakov tried to hit him, and then he held on to him. After that, during the examination, Andrey Zatoka tried to run out of the police room, but he was stopped by the police. While I was examining him, Adylbek Kazakov complained of pain in his right arm and neck, however, I could not let him go before we had completed the statement and explanation; after that I advised him to go to the hospital and released him. When we brought A. Kazakov to the police room, he was wearing a checked shirt, which was torn on one side under the left armpit. When I arrived at the site of the incident, I cannot support the testimony of A. Zatoka, A. Kazakov did not attack him, A Zatoka choked him, and afterwards, this was supported by the explanations we got from the citizens."

From the text of the Prosecutor's conclusion: "questioned as a witness, M.K. Begishov, gave analogous testimony to the witness S.B. Gurbangeldiev."

I did not hear from the corridor, what questions Andrey asked the witness, but I heard that he asked the question, "Did you undergo special training and can you describe the difference between "choke" and "to neutralize"? Do you understand the difference between these actions?"

After that there was a break in the legal proceedings.

#### **During the Break.**

They took Andrey away immediately. I asked the lawyer: Where should I take the package? He said, to the city police department, "there you should write a statement." I went there by taxi. When you get to the police department, the orderly officer's table is on the right. The orderly says, "Go there!" and points to the left. There is the "the monkey-house" (that is what they said to me)—and there, behind locked bars, was a room around 12 cubic meters with a bench, behind it, behind the bars was a slightly

larger room for the orderlies. That orderly referred me to the first one. Going twice from one orderly to the other, I call the lawyer: They won't accept the package. What should I do?" The answer: "The city Prosecutor's office is next door. Go there." I say loudly, "To the Prosecutor? I'm on my way!" And then, the police inspector, who had not been there a moment before (or maybe was), magically appears, who can take my statement about the package. I write the statement. I give it to the orderly, and he calls a person who will take the package; she takes it from me. At that moment relatives of another prisoner come with a package for him (to my shame, their package is three times larger than mine) (since I was in the corridor of the courthouse, I saw those people in the corridor and understood that these were relatives of the person who was being tried in the next courtroom at the same time as ours). I do not see if these people had to write a statement in order to leave their package. It is enough that my package is taken and carried away. After five minutes the empty bag is returned to me. After, when they returned Andrey after the break, I asked if he received the packet, and he answered that he got it and that "everything was tasty."

### **Back in the Courthouse**

After lunch, the witnesses were called to the courtroom. Of the five who had been waiting in the corridor in the morning, after lunch, only two appeared, and, a bit later, one more. The only witness who had seen the beginning of the incident, Aisoltan Yusupova, did not appear. She was my former student, and the only female witness; therefore I noticed her absence. Among the witnesses—I don't know the men exactly, who appeared (because I didn't have the list), and so I include the testimony from the text of the Prosecutor's conclusion:

Ikram Sheripovich Mametiazov: "I work transporting people's luggage on a bullock-cart in the central market in Dashovuz. On October 20, 2009, at around 12:20 I was pushing the cart freely and was walking near the bread line, which is on the left side of the market. At that time I heard a noise between the bread stalls, when I looked to that side, I saw 2 people fighting. And specifically, one man with a mustache, had twisted the arm of another citizen, and after that he punched him on the back of the head, from which the man fell. After that when he tried to get up, the man with the mustache grabbed him by the clothes. I saw all of that as I was walking, and as I walked further from that place, because I was carrying a load, I didn't see how the fight ended. After about 15-20 minutes, I walked by the police room in the market, and saw the two people who had been fighting sitting there and I knew that they were Andrey Zatoka and Adylbek Kazakov. I don't know why they started the fight, but what I saw was that Adylbek did not attack Zatoka. Zatoka himself started to beat him."

Zakir Rosimovich Menglibaev: "I sell bags and other small goods at the central market in Dashovuz. My vending booth is located in the eastern side of the market, where the bread stalls are located, on the eastern side of the eastern line. On October 20, 2009 at around 12:20 when I was in my vending booth, behind me I started to hear noises and uproar.

When I turned around and looked to that side, between the lines from where the noise was coming, a lot of people had already gathered. I went closer to get a look, and saw that one person with a

mustache was choking the other person with his hands. Within the crowd that had gathered, I heard a voice calling the police, but it was a female voice and in the local language. Then, two police officers ran up and separated them.

When the policemen asked their names, I did not hear, because it was loud, but later when they invited me to the police room at the market to give my explanation, I learned that the man who was choking was Andrey Zatoka and the other, Adylbek Kazakov. I did not see how the fight started, but what I saw was that Kazakov did not attack Zatoka; he did the choking himself.”

Arslan Bakhtiarovich Karimov: “On October 20, 2009 at approximately 12:20 I was buying myself shoes at the central market. I walked in the direction of the market exit.

When I walked along the rows where bread is sold, on the eastern side of the market, I saw a crowd of people between the stalls, and noise. Then I walked closer and saw that between the market stalls one person with a mustache was holding the neck of another person with his left hand. He choked him and did not stop. At that time, two policemen ran up to them and separated them, that is, they freed the other person from the hands of the one choking him. Then the policemen took both of them to the police room in the market. After that, when I was invited to give my testimony in the police room, I learned that the choking man was called Andrey Zatoka and the other Adylbek Kazakov. I did not see the beginning of the fight, but when I saw it, Kazakov was not beating and did not try to hit Zatoka; Zatoka choked him and did not stop.”

“Redzhap Ataevich Kurbanov gave testimony analogous to the testimony of A.B. Karimov.”

Andrey was given the opportunity to ask the witnesses questions: (I am quoting from his notebook):

Why did you change your testimony/

In what direction was the punch, with which hand?

Convictions? Place of work?

What was I wearing, did I have a bag, what kind of bag?

How many people were watching the fight?

How long did the fight go on?

How long did they release me?

What was I wearing?

What did my face look like? Did my face have an angry or enraged expression?

My analysis of the answers to Andrey’s questions is included in my final statement (below).

Then I was called as an additional witness for the defense. I said approximately the following:

I have known Andrey Zatoka for 33 years, and we have been married for 28 of those. During these years, I have never heard one profane word from Andrey and I cannot imagine that he could swear at an unknown person on the street. Andrey does not drink and he does not smoke. He has done sports and studied eastern philosophy for many years and for him to hit an unknown person is not possible, just as it is impossible for him to speak an untruth. If Andrey says that he did not strike first—that is the truth. Yes, he has medals in eastern martial arts, but believing in eastern philosophy, he would never be the first to strike. The judge asked me how long it had been since Andrey and I had seen each other and why. I answered that I work in Russia and that for three years my sister and I were taking care of my very sick, elderly mother, and that I have not been able to come here often, but that I had been in Turkmenistan in August 2007 and in January 2008. The judge asked why Andrey did not leave for Russia with the family. I answered that after the incident three years ago, Andrey had tried to get permission to leave, but that he was not given that permission. The judge asked if I could leave. “Yes, I could. In September we buried my mother, and not long ago it was 40 days—and I came as quickly as I could.”

After that I stayed in the courtroom and heard everything that A. Zatoka and A. Kazakov said. I do not understand Uzbek, in which A. Kazakov answered the judge, but thanks to the translation of my friends, I understood that A. Kazakov answered untruthfully.

Andrey described how the incident happened, noted inconsistencies in the testimony of the witnesses, described what happened prior to the incident and gave his evaluation.

Andrey Zatoka’s statement in court (written by me from memory, although the first paragraph is taken in its entirety from the text of the Prosecutor’s conclusion):

“On October 20, my birthday, I was in a good, festive mood and I went to the bai-bazaar to buy groceries in order to prepare a birthday meal for guests, who were going to come to my house beginning at 3 PM. Having bought about half of my groceries, I noticed that two policemen were following me, but I didn’t pay much attention, which is why I did not mention it in my first testimony. I bought bread at the bread stall, put it in my backpack and was turning around to leave when a person, who looked either drunk or crazy, came up to me (before that he was standing behind me), and started to yell at me in Uzbek. I did not understand, asked again, and he repeated his shouting and threw himself at me, trying to hit me on the side of the face with his right hand. Seeing that he was very aggressive, I decided to disempower him in order to give him over to the police. I clasped his hands to his body, pressing his hands, and when he tried to hit me in the face with his head, I squeezed his head under my left armpit and yelled, “Call the police.” Then one of the sellers called the police, up ran two policemen and then they seized me roughly, although I said to them, “What are you doing? He attacked me.” They took both of us to the police department in the bazaar, although I asked them, while we were still in place, to ask the witnesses, who attacked whom. I underscore, that I did not hit the victim at all, he fell to the ground. I did not choke him and I did not scratch his neck with my nails (my nails are always short). I am sure that I did not cause any trauma to the victim, because my goal was to disarm him and hold him until the



police arrived. I did not feel any anger or aggression toward him; I felt that he had simply made a mistake, mistaking me for someone else, and I had no reason to hit him. I believe that all the charges against me are founded on false testimony and the conclusions have a made-to-order character, and the investigation has been conducted under the hidden pressure of the national security bodies. The heart of their claims against me is unknown, and I do not understand why they are unsatisfied because I have never been involved in any anti-state activity and I have never received any notice of any inadmissible activity.”

Other than this testimony, written by Andrey during the investigation, he said approximately the following during the trial:

On the reason for his persecution: “I do not know what this persecution is connected with. I can offer a proposal: that it is because of the apartment. My family is in Russia right now and I live alone in a five room apartment. It is possible that someone wants to have this apartment. The second possible reason for persecuting me and for the set-up of October 20 is my close acquaintance with the famous—as he is called—oppositionist, Farid Tukhbatullin. I do not deny my close acquaintance with Farid, but I have not done anything for which I could be prosecuted and found guilty.”

On his persecution: “From the moment of my arrest, trial and suspended sentence three years ago, I have undergone persecution. I have not been allowed to go to Russia. My home, I and my friends have been watched. I wrote about that fully in a letter, which I requested be sent to official bodies in the instance of my arrest or disappearance. People I do not know have come into my home without me. During the summer of this year, anonymous complaints about me were made to the police and the Prosecutor on five occasions—saying that I have a den in my apartment and that I live an amoral life. The anonymous letters were investigated, and the facts were not verified. I do not know the reason for this persecution.”

On the testimony of the witnesses and the “victim” A. Kazakov: “I asked during the initial investigation and during the court hearing that all the witnesses be called, including the bread sellers, who were close to me and saw the entire incident from the beginning. These requests were denied by the investigator and the judge. The investigator immediately acted as though I were guilty and took into account only negative testimony about me. During the investigation, it was noted that he practically told the witnesses what testimony was necessary. The bread seller who I bought my bread from and who saw everything from the beginning, and who stood several meters from the fight, started to give testimony during the investigation, but then stopped talking and her testimony was not included. I walk around the city with a big backpack on my back, and many recognize me because of that backpack. Before the incident I had purchased 3-4 kilograms of groceries, the backpack was full and sticking out on my back when I held A. Kazakov, bent over. It would be impossible not to notice the backpack. Witnesses have not said that I had a backpack—meaning that they did not see the moment the fight began and are speaking secondhand. The main thing is—they did not see the key moment, the beginning of the fight. And those who did see it were not questioned as witnesses.

Andrey also fully described the other inconsistencies in the testimonies of the witnesses.

The speech of the lawyer, Tuvak Yagmirov, in defense of the defendant, A. L. Zatoka:

Dear Judges:

My client, Andrey Lvovich Zatoka is accused of the following: on October 20, 2009 at approximately 12:20, finding himself between counters in the bread and roll department, located in the eastern part of the central market of the city of Dashovuz, allegedly stepped on the foot of citizen Adylbek Artykovich Kazakov, who, using this as an excuse, hit him in order to free his foot. In response, Zatoka allegedly behaved like a hooligan, grossly violating social norms and violently twisted Kazakov's left arm behind him in order to punch him. As a result, Kazakov fell, and A. L. Zatoka, standing over him, grabbed his neck with his left hand, squeezing hard, and held on until he was detained by the police.

As a result, A. Kazakov's health has suffered harm of a moderate degree. On this basis, A. L. Zatoka was charged according to Article 108, ch. 2, point "E", and Article 279, ch. 1 of the Criminal Code of Turkmenistan.

The charge is unfounded based on the following:

The alleged acts of by A. Zatoka do not correspond with reality and are not supported by any evidence. As asserted by A. Zatoka himself, until the moment of the incident, he was watched carefully and followed by two policemen.

When he approached the bread stands and bought bread, he was bumped into by a person he did not know. Defending himself from blows, in self-defense, A. Zatoka decided to hold his arms in a manner that would encircle him without being dangerous. In order to do this, A. Zatoka hugged the body of the unknown person with his hands, holding his arms to his torso. When the unknown person—A. Kazakov—tried to hit A. Zatoka in the face with his head, A. Zatoka placed his head under his left armpit.

A.Zatoka did not hit A. Kazakov. A. Kazakov did not fall. A Zatoka asked bystanders to call the police. Two policemen approached quickly, it appears they were very close to the place of the incident, which again proves their goal—persecution of A. Zatoka. They separated them and took them to the police point in the market. They held them until 3PM, after which they sent A. Zatoka to the holding area and let Kazakov go, although at that moment they had not clarified all the points of the incident.

At 3:15PM the conclusion of the legal-medical expertise regarding the physical harm to A. Kazakov was ready.

From October 20 to October 21, at night, at 1AM, A. Zatoka was presented with the charge according to the above-mentioned article. On October 21 he was imprisoned. The investigation was held on October 22-23. On October 24 the case was closed and at 5:20pm, A. Zatoka was handed the guilty conclusion. The case was turned over to the city court at 5:40 PM and the hearing was immediately scheduled for

October 29 in the city court. The unusual speed gives the impression that the case bears a patently made-to-order character.

Now we will analyze the facts.

First of all, is A. Zatoka capable of causing a fight in a public place, of saying profane words and attacking an unknown person?! First, October 20 was A. Zatoka's birthday, he was expecting guests, and was in a festive, uplifted mood. Second, A. Zatoka, according to many friends and his wife, does not drink, does not smoke, does not use drugs, and does not swear—he has not only an advanced degree in biology, but has also studied yoga and healing system of reiki for many years; any violence is unacceptable to him for moral principles. Third, he has been hoping to soon receive permission to leave Turkmenistan to visit his relatives in Russia, and knew that he could not break the law because, if he broke the law, his long awaited visit with his relatives would again be pushed back. How can one suggest that a person, on his birthday, in a public place, in front of many witnesses, without even removing his glasses, would attack an unknown person?!

I repeat again that this is a pretense to achieve some goal that is unknown to us.

The investigation was carried out day and night, from 3PM on October 20 to 5:40 PM on October 24. The kind of witnesses that were selected has given us cause for doubt from the very beginning. A number of obvious witnesses, the bread sellers, the buyers, who saw the entire incident from the beginning to the end, were not even called in as witnesses. The seller, from whom A. Zatoka had purchased bread a moment before the incident and who was closest to it, was not called in as a witness.

The assertion by A. Kazakov that A. Zatoka "started to swear at me, and then started to beat me; I fell from the blow," is not confirmed by any real facts. Even if A. Zatoka had accidentally stepped on the man's foot, he would have excused himself: "Excuse me, brother!" Living in Turkmenistan for at least 30 years, he knows well and respects the mentality of the local residents, and follows their customs and ways of interacting.

The witness Kurbangeldyev, a policeman, in his testimony incorrectly evaluates the situation. His testimony also does not correspond to reality:

A.Zatoka did not choke A. Kazakov, but simply held him in a manner that protected himself.

The testimony of the witness A. Yusupova is also not plausible. She did not see the beginning of the incident. As indicated in the Prosecutor's conclusion, the testimony of A. Yusupova was formulated by the witness and differs from the testimony that she gave before us in Turkmen. She was unable to answer our concrete questions. The initial explanation of A. Yusupova is written by someone else, and not in her own handwriting.

I can also say that the initial statement of A. Kazakov and his explanation is also written by a different person, but not by A. Kazakov.

With regard to the other witnesses—R. Kurbanov, A. Karimov—they also did not see the beginning of the incident, and came up to the place of the incident when they saw a crowd and heard the noise. That is, there is no way they could have witnessed the beginning of the incident—and could not give an answer to the main question: “Who started the fight.”

A. Zatoka’s argument that he did not start the fight, that the unknown person attacked him, and that Zatoka simply defended himself and tried to disempower the attacker, has not been disputed by any of the witnesses who have been questioned.

Now we review the act of the legal-medical expertise. Disagreeing with the conclusion of the legal-medical expertise, during the process of the investigation we asked that a repeat legal-medical analysis be conducted on A. Kazakov. Our petition was denied by the investigator, and today by the judge. The conclusion of the expert was not objective and does not correspond to the real condition of the victim. In the conclusion, it is stated that A. Kazakov lost consciousness for a short period of time. However, this is a made-up fact, which has not been confirmed.

It was also patently clear that A. Kazakov underwent unprofessional medical assistance given the level of severity that was confirmed by the legal-medical expert.

A trauma doctor was not involved in the investigation, and we have doubts about the age of the x-ray: doubts that the image that was presented during the investigation was taken of A. Kazakov’s arm.

It is possible to say a lot about the quality of the investigation and the collected evidence. Briefly: the requirements of Article 23 of the Criminal Code of Turkmenistan for a complete, full and objective investigation into the facts of the case were not fulfilled.

I hope that the court, fulfilling the requirements of the law, will be objective with regard to the material of the case with regard to A.L. Zatoka. The arguments against A.L. Zatoka are not fully verified and are not disproved, therefore I request that the unquestionable doubt in the court about the guilt of the defendant be interpreted in his favor.

I request that attention be paid to the character of the defendant and to compare it with the character of the victim: A.L. Zatoka is a scholar, a biologist and an environmentalist with an international reputation; for many years he has studied nature in Turkmenistan; he has educated more than one generation of school children in the basics of environmental activity; he is an authority in the area of organic farming and running a nature reserve. Everyone who knows Andrey Zatoka will be in shock when they learn of what he now accused. Zatoka the scholar and Zatoka the rowdy—these are two mutually-exclusive characteristics in one person.

And if you look at A. Kazakov—here is a questionable character in all senses.

The factual circumstances of the case exclude the criminal prosecution of A. Zatoka because his behavior excludes the conditions of the crime: A. Zatoka defended himself, and even if in that defense he brought harm to his attacker, A. Kazakov (which, by the way was not confirmed during the course of the lawsuit),

then according to the law, the harm to the attacker during the necessary defense is not a crime. Furthermore, it is not considered to be an excessive necessary defensive action by the defending person, if that person (in this case, A. Zatoka), as a result of the unexpected infringement, was unable to evaluate the level and character of the danger of the attack.

Considering all the circumstances, and in connection with the absence of criminal action by the accused in this situation, I request that you find my defendant, A.L. Zatoka, not guilty. This will be in accordance with the law, with honor and with justice.

In his final statement, A. Kazakov said something like, “I thought that Zatoka would apologize, but he stomped on me with his foot.

In his final statement, A. Zatoka said approximately the following: “If I were guilty, I would ask forgiveness from that person on my knees. But, respected judge, I ask you to excuse me, I am not guilty, and I will not do that. Yesterday in Turkmenistan was a good holiday—Independence Day. I would like it if the decision of the court was independent and fair.”

The judge retired to make her decision. They led the accused away. We waited for the decision without much hope.

#### **The Verdict:**

It found A.L. Zatoka guilty of committing the crime, according to Article 108, ch. 2, p. “E” and 279, ch. 1 of the Criminal Code of Turkmenistan.

On the basis of Article 108, ch. 2, p. “E” of the Criminal Code of Turkmenistan, Andrey Zatoka will serve five years in prison, on the basis of Article 279, ch. 1 of the Criminal Code of Turkmenistan, one year in prison.

In accordance with Article 63, ch. 2 of the Criminal Code of Turkmenistan, by means of absorbing a less severe punishment into a more severe punishment by combining them, in the end, A. L. Zatoka will serve five years in a correctional colony of general conditions.

#### **After the Trial**

Andrey was immediately taken from the courtroom in handcuffs and placed in a special car. I threw myself at the judge, G. Muradova, to ask for a meeting with him. “Return to this office in three days.” I: “How can that be, I request a meeting tomorrow!” “After three days. It is written according to the law that in ten days we will grant you a meeting.”

The next day. October 30.

In the morning, at 7:45, the lawyer called me and said that “the question about the meeting has been decided. Come to the judge in 40 minutes; she will give permission.”

The secretary of the court took my passport in order to give the permission. I waited a relatively long time—about thirty minutes. I asked when the permission would come. The judge answered that they needed my marriage certificate. If it is in Russia, call them. They should fax it here. I went home and with difficulty found a copy of the marriage certificate and gave it to the judge. After 15-20 minutes I asked the judge where the permission was. “There is no representative of the court, and we need a stamp, we wrote the permission for today.” I asked the judge, “Could I give a package tomorrow? Or only during a visit?” “Only during a visit. What? You didn’t bring anything?!” I rushed to gather the things on Andrey’s list: t-shirts; socks; underwear; shoes; medicine; the book, “From Khazar to Dzheikhun,” on the nature of Turkmenistan; 10 copies of the booklet, “Live Earth,” about the beginnings of organic farming; a teach yourself French book; books on yoga; and more. I called friends – to help buy groceries quickly. In a crazy rush, we bought everything and got it together and I went to the court—Judge G. Muradova gave me permission for a meeting. I asked her: when do I need to go, is there a lunch break, and I received the answer: you need to go now, the break is from 1-2 (It was around 11:30-11:45). When I arrived at the isolation unit [SIZO] with three bags of groceries and things, I was very surprised.

It turned out that I needed to go to the meeting at 3PM with the permission of the judge, without the things, and write a statement asking for a meeting, leave it and my passport with the isolation unit [SIZO] and only on the next day, in the morning, with the permission, come to the meeting. And of course, Judge G. Muradova knew about all of these rules. Again, I came to the isolation unit at 3PM in order to write the statement and, with surprise heard from the isolation unit worker, that “the judge called and you need to go to the court.” At the court, Judge G. Muradova told me that for the permission, “there were no forms for the representative, and the representative had left and would only return...on Tuesday after lunch.” I: “Who, besides the representative can provide the stamp?” “No-one. Only he.” I: “I am going with my statement to the Prosecutor.” The judge: “Your statement will come here from the Prosecutor. I give permission for the meetings.” I: “If we give your permission, then is the stamp of the court representative necessary?” “Necessary.” I talked with the lawyer and then I wrote a statement to the city and oblast prosecutors and went there. Neither in the city nor in the Oblast Prosecutor’s office did they even accept my statement. The City Prosecutor, S. B. Berkeliev, did not want to see me and let me know, through an assistant, that I should go to the Oblast Prosecutor, “because A.L. Zatoka is in the isolation unit and the isolation unit is connected, not with the city, but with the Oblast Prosecutor’s office.” At the Oblast Prosecutor’s office the orderly, who had not been warned ahead of time, was surprised that in order to get permission for a visit the issuing judge would require an additional signature—she did not demand it! But, after receiving an order over the telephone, he did not take my statement and sent me to the Oblast Court—on the basis that the City Court was subordinate to the Oblast Court.

I did not go anywhere else, being convinced of the total absurdity of the appeal for observance of the law, where there was none.

On the morning of October 31, I flew to Ashgabat and appealed for legal and other help from the Russian Embassy. I gave the embassy copies of all the documents I have: the guilty statement, the

verdict of the court, the lawyer's speech, the petitions that had been filed, and the original appeal by A. Zatoka to the Russian Embassy with a request for help and his readiness to give up his Turkmen citizenship.

At the present time I am very concerned about two circumstances.

1. During the entire week that I was in Dashovuz (I flew to Dashovuz on October 25), unknown people were openly watching our apartment, me personally, and our friends. This attention was also obvious in Ashgabat—the car I rode in to the embassy and the apartment where I was staying was watched. It is very unpleasant and makes me afraid. I really do not want to cause any danger for my friends or for the known and unknown people who are helping me out in a very difficult time, and who are demonstrating their civic bravery.
2. I am very disturbed by the fact that through various pretexts I was not allowed to see my husband. I cannot understand the reason for the refusals. I have not seen my husband since January 2008 and, obviously, I would like to be near him and at least talk a little bit. What is that?! –a subtle mockery by the judge? Or are they afraid that Andrey will tell me something? And if, on October 30, the lawyer was able to meet with Andrey, on October 31, the lawyer was not able to see my husband. I do not understand what is going on, and what the reason is for what is happening and I am very concerned for Andrey's life and health.

I repeat again, I do not understand why my husband was arrested and convicted; for what he has fallen into this mess, and why he and I and our friends are going through this complicated ordeal.

Evgeniia Zatoka  
October 31, 2009  
Ashgabat, Turkmenistan

*Translated by Crude Accountability*