

## STATEMENT

### **by international observers representing the Civic Solidarity Platform at the appeal trial in the case of the murder of a human rights defender Vitali Safarov**

Tbilisi, Georgia, 21 October 2019

On October 17, 2019 the first court hearing on the appeal of the case of the murder of Georgian human rights defender Vitali Safarov was held in Tbilisi Court of Appeal. The court hearing was attended by the representative of the Civic Solidarity Platform, Alexandra Novitchkova (“Public Alternative”, Ukraine with the support of “International Partnership of Human Rights” (Belgium). The court hearing at the second instance is to be conducted by a collegium of three judges. This case is judged by Nino Sandodze, Natia Barbakadze and Vepkhia Lomidze.

The court hearing on October 17 lasted for 10 minutes and was of technical nature since Zurab Begiashvili, the only defense lawyer of the convicted Kandelakishvili, was absent. The hearing was rescheduled for November 20, 2019.

We are reminding that Vitaly Safarov, a Georgian Human Rights Defender was killed on September 30, 2018 in the Tbilisi city center. Vitali, aged 25 at the moment of his murder, was a project assistant at the “Center for Participation and Development” and a case-manager at the Tbilisi Shelter City project that is relocating human rights defenders at risk. His colleagues knew him as a kind and caring person, a good friend for numerous human rights defenders all over the world and mentor for children he instructed in human rights and non-discrimination in educational summer camps.

Two persons Giorgi Sokhadze, 23 years old and Avtandil Kandelakishvili, 20 years old, alleged members of a neo-Nazi group (was not established by the court) were convicted guilty. They both were sentenced for 15 years of imprisonment under article 109.2, part d - premeditated murder committed by a group of individuals during the trial conducted by the judge Shorena Guntsadze. The sentence was announced on June 27, 2019.

The appeals were filed by both parties. The defense is demanding to cancel the sentence as being unjustified and declare the convicted not guilty. According to the Georgian legislation the sentence could be appealed either because it was unlawful, or because it was unjustified. During the court hearing at the second instance only new evidence can be examined. The old evidence examined during the court of the first instance could be presented only in the case if it was examined with violation of legal procedures.

When passing the sentence in the first instance, the judge dismissed the qualification of the crime on the grounds of hate (ethnic intolerance), the article 109.2 part e, which was in the initial charge brought by the prosecutor Mikheil Chkheidze, because she considered that hate was not the only or decisive motive in committing the murder. At the same time, the judge emphasised the motive of personal hostility, which suddenly arose during the conflict between the defendants and the witnesses, which the murdered Safarov had been trying to defuse. In addition, the judge underscored that since the murdered Safarov was not the initiator of the conflict, but was targeted by the defendants in response to his attempts to resolve the conflict by non-violent methods, in spite of the racist cries directed at him by the defendants, any person of any ethnic origin could have been killed instead of him.

International observers, family, close friends and Vitali colleagues from the “Center for Participation and Development” as well from other Georgian NGOs, in particular, the “Human Right Center” that provides the assistance to Vitali’s family and personally the lawyer Eka Kobesashvili, the representatives of the coalition “No Phobia” categorically disagree with this court decision. The office of Public Defender (Ombudsperson) of Georgia and NGO “Human Rights Education and Monitoring Centre” (EMC) have sent amici curiae briefs, that is an expression of their support of the necessity to return the qualification of the motive of hate to the qualification of the case of Vitali Safarov murder (article 109.2 paragraph e - “murder on the grounds of racial, religious national or ethnic intolerance”) to the Court of Appeal. The documents are as well stating that the recognition of the motive of hatred in this crime is very important for further prevention of hate crimes in Georgia.

Thus, according to international practice in the investigation of hate crimes, and in accordance with the standards developed by ODIHR of the OSCE, the circumstances of the crime and the personal characteristics of the victim and defendants should be taken into account. Witnesses characterised Safarov as a well-known human rights defender and a strong supporter of tolerance, who worked for many years in educational programs for young people on interethnic dialogue. Meanwhile, the witness testimonies and material from the Internet, gathered as a result of investigations by NGOs, showed clearly that the defendants belonged to neo-Nazi groups<sup>1</sup> and shared ultra-nationalistic ideas that are accompanied by aggression towards the people of other ethnic, religious, nationality, or other visible minority groups. An additional fact demonstrating that the focus of the defendant's aggression was aimed specifically at Safarov is the absence of any injuries (except for several abrasions) on other participants of the conflict.

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<sup>1</sup> Photos from open sources that point out at least the sympathies for neo-Nazi ideas by the convicted were collected by Vitali Safarov’s colleagues from the “Center for Participation and Development”  
<https://www.facebook.com/Centerforparticipationanddevelopment/posts/2449137185184983>

International court monitors would like to emphasize again our position, previously expressed in the statement by international observers on April 25, 2019, "... as world practice shows, the consistent denial of existing xenophobia in a society only indicates that the authorities are ignoring these problems and do not have the internal mechanisms to solve them. Human rights defenders have repeatedly noted that the Georgian law enforcement ignores reports of hate crimes and assaults. Thus, de-facto, they encourage the perpetrators. We believe that this trial can be a starting point for developing such mechanisms and can contribute to the prevention of hate crimes."

The next court of appeal sessions are scheduled for the following date and time: 20 November at 13:00. The Civic Solidarity Platform will continue to monitor the trial.

*The Civic Solidarity Platform is a network of independent civic groups from across the OSCE region, bringing together non-governmental organizations, activists and experts committed to improving the situation with human rights, rule of law, and democratic institutions in Europe, Eurasia and North America. Its aim is to serve as a conduit through which civic activists can build alliances, strengthen mutual support and solidarity, and improve their influence on national and international human rights policy. For more information, please visit <http://civicsolidarity.org>*