

## **STATEMENT**

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

**Tbilisi, 11 of March 2020**

On March 11, 2020, the third court hearing in the appeal trial of the case of the murder of Georgian human rights defender Vitali Safarov, was held in the Tbilisi Court of Appeal. Both prosecution and defense had filed appeals against the decision of the first instance court. The second court hearing in the appeal process was held on November 20, 2019. The hearings scheduled in December and February were postponed due to the inability of one of the judges to participate in the hearings. The case is judged by a panel of judges including Nino Sanodze, Natia Barbakadze and Vepkhia Lomidze. The court hearing was attended by representative of the Civic Solidarity Platform Elena Pershakova (“Public Verdict,” Russia) accompanied by Salome Mezurnishvili and Lasha Dzigrashvili (‘Center for Participation and Development, Georgia).

The two defendants, 23-year-old Giorgi Sokhadze and 20-year-old Avtandil Kandelakishvili, who are allegedly affiliated with a neo-Nazi group (not proven by the court), were found guilty in the crime of a premeditated group murder, under Article 109.2.d of the Georgian Criminal Code. Charges by the prosecution included also the qualification of the crime as having been committed under aggravating circumstances on the grounds of racial, religious and ethnic hatred (part “e” of Article 109.2). Prosecutor Mikheil Chkheidze demanded a term of imprisonment close to a maximum for both of the defendants. If convicted, the defendants would face a sentence of 13 to 17 years in prison. However, the judge dismissed the qualification of the crime on the grounds of ethnic intolerance, because she considered that hate was not the only or the decisive motive in committing the murder. By the verdict of the Tbilisi City Court delivered on June 27, 2019, Giorgi Sokhadze and Avtandil Kandelakishvili were found guilty of the murder of Vitaly Safarov and sentenced to 15 years of imprisonment . The defendants pleaded not guilty.

The prosecution insisted in its appeal that the group murder of Vitali Safarov was committed on the ground of ethnic hatred and it should be considered as an aggravating circumstance. The defense demands to overturn the conviction as ungrounded and acquit the defendants.

On March 11, 2020 the court continued handling appeals from the prosecution and the defense. Malkhaz Salakaia, the lawyer of Giorgi Sokhadze, stated the innocence of his

defendant, pointing at the contradictory nature of witnesses' testimonies and the absence of evidence directly proving Sokhadze's involvement in the murder of Vitali Safarov. Furthermore, the lawyer denied the presence of the ground of ethnic intolerance and Sokhadze's affiliation with neo-Nazi groups. He also stated that Sokhadze's tattoos by themselves do not mean that he is guilty in the murder of Vitali Safarov or had an intention to kill him. In support of his disagreement with the verdict, he claimed that there is no evidence of Vitali Safarov or his relatives' Jewish culture and faith. The lawyer insisted on his defendant's innocence and demanded his acquittal.

Defendant Giorgi Sokhadze took the floor next. He continued to insist on his innocence. In his opinion, the evidence was falsified and the witnesses' testimonies were contradictory and given under pressure from the prosecution and NGOs.

The other defendant, Avtandil Kandelakishvili, expressed his intention to take the floor at the next hearing.

The prosecutor Mikhail Chkheidze reiterated the arguments from his appeal and noted that the first instance court did not sufficiently explain the absence of the ground of ethnic intolerance in its verdict, whereas it was proven in the case. The prosecutor believes that the defendants' past, the way the murder was committed, witnesses' testimonies and expert conclusions, which are consistent with each other and together prove the aggravating circumstances according to part "e" of Article 192, should be taken into consideration in the elaboration of a verdict.

International observers, Georgian non-governmental organizations, Safarov's family and their lawyer categorically disagree with the verdict of the first instance Court. First, the picture of the crime which the observers have developed and which was presented by the side of defense, clearly shows that initially the conflict that occurred between witnesses Beltadze and Gelashvili, from the one side, and the defendants and witness Shanava, from the other side, started from a discussion about Georgian language and a quarrel about the 'Kartveloba' (devotion to Georgian traditions) and rapidly intensified when witness Shanava allegedly heard that witness Gelashvili swore about Georgia. Thus, the conflict itself from the very start originated around the issues of language, cultural identity and ethnicity. Vitali Safarov, trying to stop the confrontation, told the defendants that he was working in an NGO, was Jewish and loved Georgia. This caused an outburst of violence by defendants and their assault on Safarov. All the witnesses unanimously testified to have heard racist chants by the defendants during the murder of Vitali Safarov.

According to the international procedures of hate crime investigation, based on OSCE/ODIHR standards, not only the circumstances of the crime scene should be taken into account but victim's and defendants' personalities as well. The witnesses exhaustively described Vitali Safarov as a well-known human rights defender and a person devoted to tolerance who for many years had been working in educational youth programs on interethnic dialogue. At the same time, the testimonies and materials from the internet point out at the defendants' affiliation with neo-Nazi groups and their extreme nationalist beliefs which coincide with their violent behavior towards people of different ethnic groups, religions, citizenship, etc., as well as their previous attacks on such people. Absence of bodily injuries (except several bruises) of other participants of the conflict serves as an additional proof of aggression directed specifically at Vitali Safarov. As witness Gelashvili stated earlier during the court hearing, 'If it were only about the initial conflict, they should have killed me or Beltadze'. At the same time witness Shanava stated: 'If we had met Vitali in some other place and found out that he was a Jew, we would most likely attack him physically or insulted verbally.'

The international observers would also like to remind about repeated questions by the defendants' lawyers about ethnic origin and racial features of the victim, his family and witnesses, which were of unethical and extremely racist nature. We also would like to remind you about attempts of denigration of Georgian NGOs by the defense, in respect of their work on combating hatred and developing tolerance in Georgia.

In respect of the verdict delivered, we would like to reiterate 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 session is scheduled for March 18, 2020 at 16:00. The Civic Solidarity Platform will continue to monitor the trial on the appeal hearing of the murder of Vitali Safarov.



*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>*

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