

FINAL STATEMENT

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

Tbilisi, Georgia, 5 July 2019

On June 27, 2019 the final court hearing was held in the trial of the two men accused of murdering Georgian human rights defender Vitali Safarov. The Judge Shorena Guntsadze made the ruling in the verdict of the defendants. Observers representing the Civic Solidarity Platform (CSP), Alexandra Novitchkova (“Public Alternative Foundation,” Ukraine), Elena Pershakova (“Public Verdict,” Russia) and Svitlana Valko (“Truth Hounds,” Ukraine) attended this hearing.

This is final statement by the international observers representing the CSP with regard to the results of the court monitoring of those accused of the murder of Vitali Safarov that was held in Tbilisi City Court. During the duration of the trial, from April to June 2019, eighteen observers from five countries including Abubakar Yangulbaev and Albert Kuznetsov (Committee Against Torture, Russia); Alexandra Novitchkova (Public Alternative Foundation, Ukraine); Almakul Turdumambetova (Committee Against Torture, Kyrgyzstan); Brigitte Dufour, Mushegh Yekmalyan, and Simon Papuashvili (IPHR, Belgium); Elena Pershakova and Natalia Taubina (Public Verdict, Russia); Maran Turner (Freedom Now, USA), Svetlana Astrakhantseva (Moscow Helsinki Group, Russia); Svitlana Valko (Truth Hounds, Ukraine); and Yuri Dzhibladze (Centre for the Development of Democracy and Human Rights, Russia) attended the court hearings. The international monitors attended 15 out of 16 hearings and issued 12 statements, including this one.

We would like to remind the reader that the two defendants are 23-year-old Giorgi Sokhadze and 20-year-old Avtandil Kandelakishvili. Sokhadze and Kandelakishvili, who are allegedly affiliated with a neo-Nazi group, were charged with the crime of premeditated group murder on the basis of racial, religious, national, and ethnic hate, under Article 109.2.d.e of the Georgian Criminal Code. The prosecutor demanded the close to maximum term of imprisonment. If convicted, the defendants

face a sentence of 13 to 17 years in prison. The defendants pleaded not guilty.

Before ruling on the verdict, the judge once again provided an opportunity for the defendants to have the last word since during the previous meeting they expressed a desire to pronounce it in the presence of the victims - the family of the murdered Vitaly Safarov. We recall that Safarov's friends, relatives, and acquaintances boycotted the previous court session at which the defence lawyers made their closing statement because they believe that the behaviour of the defence lawyers during the court process does not comply with the standards of professional legal ethics.

The defendant Sokhadze, in his final statement, offered his condolences to Safarov's family and repeated that the legal case, in his words, was falsified, and he was innocent. Defendant Kandelakishvili refused to make a final statement.

Following that, the judge Shorena Guntsadze announced the verdict. The court found Giorgi Sokhadze and Avtandil Kandelakishvili guilty of the murder of Vitaly Safarov and sentenced each of them to imprisonment for 15 years under article 109.2, part d - premeditated murder committed by a group of individuals. In her statement, the judge Shorena Guntsadze underlined that she made such a decision based on the defendants' past, their behaviour during the trial, the method of murder, as well as on the testimonies of witnesses and expert conclusions.

Since the judge saw no reason for collusion of witnesses and their hidden dislike for the defendants which could influence their testimony, and since the testimony of witnesses did not contradict each other and was supported by other evidence, she fully accepted the testimony. The judge also noted that, based on the testimony of all witnesses in relation to the witness Nikoloz Shanava, she determined that he did not take part in the murder of Vitaly Safarov.

However, 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's office, 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 Beltadze and Gelashvili, 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 and Georgian non-governmental organizations, as well as the Safarov family and their lawyer, categorically disagree with this court decision. First of all, the picture of the crime, which was formed by the observers and which was represented by the prosecution, suggests that the conflict between witnesses Beltadze and Gelashvili and the defendants and the witness Shanava initially began with a discussion of the use of the Georgian language and an argument about “Kartveloba” (respecting Georgian traditions) and sharply escalated at the moment when the witness Shanava allegedly heard witness Gelashvili using obscene language about Georgia. Thus, from the beginning, the conflict originated on the issue of language, cultural identity, and nationality. Safarov, wanting to stop the heated conflict, told the defendants that he was working for a nongovernmental human rights organization, was Jewish, and, nevertheless, loved Georgia, which caused a further outbreak of their aggression. All the witnesses unanimously confirm the racist cries of the defendants during the murder of Vitaly Safarov.

Further, 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 and shared ultra-nationalistic ideas that are accompanied by aggression towards the people of other ethnic, religious, nationality, or 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. According to the witness Gelashvili, “If it had only been the initial conflict, then it should have been Beltadze or myself who were killed.” At the same time, the witness Shanava said, “If we had met Vitaly in another place and found out that he

was Jewish, we would have most likely physically attacked or verbal abused him.”

International observers recall that the defence lawyers repeatedly asked questions about the ethnicity and racial differences of the murdered man, his family, and witnesses, which were unethical and clearly racist in nature. We also recall the attempts by the defence lawyers and supporters of the defendants to defame Georgian nongovernmental organizations in connection with their work to counter hate and promote tolerance in Georgia.

Regarding the verdict of the court, we again emphasize 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 prosecution and the family of Vitaly Safarov have announced the preparation of an appeal against the court verdict, in which they will demand the return of the qualification of the murder of Vitaly Safarov in accordance with article 109.2 paragraph e - “murder on the grounds of racial, religious national or ethnic intolerance.” The Centre for Participation and Development, where Vitaly Safarov worked, and the Centre for Human Rights, which provides legal assistance to his family, support the intention of the prosecutor's office to appeal the sentence in terms of the motive for the crime and plan to provide all possible assistance to the public prosecution in preparing the appeal.

The defence lawyers of the convicted have also announced their intention to appeal the verdict.

The Civil Solidarity Platform will continue to monitor the case of the murder of human rights activist Vitaly Safarov.

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