

STATEMENT

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

Tbilisi, 26 November 2019

On November 20, 2019 the second court hearing (the first on merits) in the appeal of the case of the murder of Georgian human rights defender Vitali Safarov was held in the Tbilisi Court of Appeal. The court hearing was attended by representative of the Civic Solidarity Platform, Alexandra Novitchkova (“Public Alternative,” Ukraine with the support of “International Partnership of Human Rights” (Belgium) and Maria Chichtchenkova (“Front Line Defenders,” France). The court hearing at the second instance (appeal) is to be conducted by a collegium of three judges. This case is judged by Natia Barbakadze (the chief judge), Nino Sandodze and Vepkhia Lomidze. The collegium shall rule on their verdict in two month (starting from this hearing), although if new evidence arises, this timeframe could be extended.

The court hearing started at one p.m. In the court room were present the collegium of three judges, the prosecutor, two accused, three defense lawyers (one was absent), five guards and 24 attendees supporting both sides (almost everybody was able to get to the court room). The monitors did not notice any journalists in the court room.

We are remind the reader that on June 27th, the court of first instance, found Giorgi Sokhadze, 23, and Avtandil Kandelakishvili, 20, alleged members of a neo-Nazi group (the fact was not established by the court) guilty in the murder of Vitali Safarov, a Georgian human rights defender. Both were sentenced to 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.

Appeals were filed by the parties, the prosecution, and the defense. The defense is demanding the sentence be cancelled as unjustified and claims the convicted are not guilty. The Prosecutor’s Office of Georgia represented, by the state prosecutor Mikheil Chkheidze, insists that group murder of Vitali Safarov was committed on the grounds of ethnic hatred and this fact should be accepted as an aggravating factor. According to Georgian legislation the sentence could be appealed 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 may be presented only if there were violations in the legal procedures when it was examined the first time. The first instance court admitted that the

grounds of ethnic hatred were present, but not decisive, and therefore it did not qualify as “an aggravating factor.”

After the hearing began, the collegium of judges reviewed the procedural rights for all parties of the process. Further, the collegium received the permission of the accused Sokhadze to start the appeal hearing without one of his three lawyers present. The collegium decided that there were no grounds to challenge any member of the collegium of judges of the prosecutor.

The collegium of judges respected the principle of equity of arms and all the willing participants were provided the opportunity to take the floor and it was noted that all the parties will receive the same opportunity at the following hearings.

Afterwards, the floor was given to the prosecutor Mikheil Chkheidze. In his speech Chkheidze once more listed the circumstances of the case, the witnesses’ evidence and the forensic results. Subsequently, he recalled that the fact of group murder was proven; however, the judge Guntsadze had her doubts of hate grounds being the aggravating circumstances. The prosecution did not agree with such a position and asked that the verdict review admit hate grounds as an aggravating factor.

Following the prosecutor’s speech the floor was given to the defense lawyers. Zurab Begiashvili, Kandelakishvili’s defense lawyer, appealed to the court to acquit his defendant in full. In particular, Begiashvili highlighted that there was pressure on the first instance court from the Georgian Ombudsperson, as well from the international organisation planned and implemented by Safarov’s colleague, Giorgi Marganishvili, from the Centre for Participation and Development. Malkhaz Salakia, Sokhadze’s defense lawyer, did not finish his speech due to the time limit and he would resume it at the following hearing.

The head judge interrupted the defense lawyers once to make a remark to the accused about the rules of behaviour in the court room.

After the hearing, the relatives of the accused verbally insulted the prosecutor in the building of the court; they threatened him with “Divine justice.” They also verbally assaulted the monitors.

Unfortunately, unlike the previous hearings when the judge and security did not create obstacles for the work of interpreters who interpreted for monitors from Georgian, the head judge made a last warning to the interpreter at 13:46, during the prosecutor’s speech. Consequently, the monitors could not fully understand what was going on in the court room and were obliged to verify their impressions with the transcript, which they received later. A letter about the

necessity of interpretation of the hearing for the international monitors will be sent to the Tbilisi Court of Appeal.

The next court of appeal session is scheduled for 18 December 2019 at 16:00. The Civic Solidarity Platform will continue to monitor the trial on the appeal hearing of the hate crime murder of human rights defender 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>