

STATEMENT

by international observers representing the Civic Solidarity Platform at the trial of suspects in the murder of Vitali Safarov

Tbilisi, Georgia, 25 April 2019

On 24 April 2019, representatives of the Civic Solidarity Platform (CSP) observed the first session of the court hearing on the merits in the case of suspects in the murder of Georgian human rights defender Vitali Safarov. The trial was held in Tbilisi city court. The group of CSP observers included Albert Kuznetsov (Committee Against Torture, Russia), Alexandra Novitchkova (Public Alternative Foundation, Ukraine), and Svitlana Valko (Truth Hounds, Ukraine).

Two suspects, Giorgi Sokhadze, 23, and Avtandil Kandelakishvili, 20, alleged members of a neo-Nazi group, are accused of premeditated group murder on the basis of racial, religious, national, and ethnic hate, in accordance with Article 109.2.4 of the Georgian Criminal Code. If convicted, the accused face a sentence of 13 to 17 years in prison. The accused did not admit guilt. This is the first murder case qualified as a hate crime murder. All parties involved in the process are admitting the unprecedented character of this case. The fair court sentence has the potential to become a cornerstone for further activities of Georgian law enforcement in prevention of hate crimes.

The court hearing began with two defence motions. The first motion was about the consideration of the case by a judicial panel of three judges since it is a resonant and unprecedented case with broad media coverage (that was presented by the defence as a pressure on the investigation). This motion was rejected as according to Georgian legislation a judicial panel considers cases only when the process is conducted in conflict with legislation and there are previous ambivalent rulings. However, since this case is unprecedented, there is no such need. Subsequently, the defence filed a second motion to reschedule the hearing claiming that the defence had been preparing for a judicial panel and some of the defence lawyers did not have adequate time to study the case files. The judge rejected the second motion as well, mentioning that the defence had enough time to study case files and prepare the defence strategy. The judge added that she could consider the second motion an attempt to delay the court hearing.

In accordance with the Criminal Procedure Code of Georgia the limit for holding suspects in pre-trial detention is nine months. The trial monitors are deeply concerned about the court's ability to process all the evidence for the case, forensic conclusions and witnesses' statements. If the court does not rule on the case in the remaining period, the accused would have to be released and could be able to influence the witnesses' testimonies, which are very important for the process. From the results of the preliminary (16 April) and the first hearing on the merits (24 April), the monitors have a clear idea that the defence strategy is designed to delay the trial so that the court will not be able to give a verdict by the end of the maximum period of the pre-trial detention.

Afterwards, the defence, consisting of four lawyers (three for one accused and one for the other) delivered their opening remarks. All the defence lawyers, justifying the mitigation of the qualifications of the case, appealed to the kindness and humanity of Vitaly who would want to see the establishment of the truth; spoke about the positive characters of the defendants; and expressed their condolences, which seemed to be clear speculation in the light of the defendants' behaviour. The defendants did not even try to express any sympathy and demonstrated a complete lack of repentance. Moreover, the lawyers stated that the defendants were not guilty and basically could not commit a hate crime since they were from well-educated multinational families and were students themselves. From the defence speeches the monitors have no clear impression of the lawyers' position; either they are trying to weave the qualification of a hate crime or they are proving their defendants not guilty.

The defence also insisted that since this case is the first court trial in Georgia of a murder case presumably made on the grounds of xenophobia, this fact allegedly indicates the absence of such a problem in society and, consequently, the impossibility of committing a crime on such grounds in Georgia per se. The defence also accused our colleague Giorgi Marjanishvili, one of the campaign leaders of "Georgia: No Place for Violence", of pressuring the press through his actions. They also stated that the investigation "compromised the image of Georgia as a tourist destination". However, 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.

After the opening remarks of the defence, Marina Alanakyan, Vitaly Safarov's mother, gave her witness statement. Both the prosecution and the defence were able to ask questions of her.

Our observation of this first court trial on the merits allows us to conclude that international standards of a fair trial have been upheld by the court. The hearings were open to the public and the media. Due to broad public interest, in order to meet the demand, the session was moved to the largest room of the court, which could seat 150 persons. The judge Shorena Guntsadze duly ensured the principle of equality of arms, providing the prosecution and the defence equal opportunities to present their positions, arguments, and motions. Decisions on the motions and other court actions were taken according to the Georgian legislation. Both of the accused were present in the room and were able to present their positions directly and through their lawyers.

When choosing the dates of the next court sessions, the judge has accented once again the importance and priority of this case and scheduled the following dates and times: 3 May at 12:30, 10 May at 15:00, 17 May at 13:00, 20 May at 11:00, 23 May at 11:00, 28 May at 11:00, and 31 May at 11:00. The CSP will continue monitoring 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>

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