



# Shalva

# TADUMADZE

Prosecutor General of Georgia

CANDIDATE'S PROFESSIONAL /  
ACADEMIC PERFORMANCE AND  
IDENTIFIED TRAITS / BEHAVIOR

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In 2003-2004 Mr. Shalva Tadumadze served as Deputy Chief of the Legal Department at the Ministry of Defense. In various periods, he worked as a lawyer, and in 2008 he founded the law firm "Shalva Tadumadze and BLP Consulting", where he worked until 2012. In 2012-2018, he was the Parliamentary Secretary of the Government of Georgia, and since July 2018, Shalva Tadumadze has been the Prosecutor General of Georgia.

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# 1

## CANDIDATE'S PROFESSIONAL / ACADEMIC PERFORMANCE AND IDENTIFIED TRAITS / BEHAVIOR

### 1. DECISIONS, DISSENTING OPINIONS, COURT SUBMISSIONS

#### 1.1. LEGALLY INTERESTING OR PRECEDENTIAL CASES

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**Legal issue:** Use of a preventive measure – imprisonment against a Member of Parliament of Georgia.

**Facts:** On 25 June 2019, the Prosecutor General of Georgia, Mr. Shalva Tadumadze, issued a decree about accusation of the Member of Parliament of Georgia, Nikanor Melia. The Member of Parliament was accused of organizing, leading and participating in a group violence in front of the Parliament of Georgia on June 20-21, 2019. The Parliament of Georgia supported the appeal to the court for the preventive measure for Nikanor Melia with the aim of imprisonment. However, the Courts of the first and second instances rejected the prosecutor's motion/complaint for imprisonment and considered it appropriate to apply only bail and additional preventive measure.

**Significance of the case:** The case concerns criminal prosecution of a Member of Parliament. According to the Constitution of Georgia, the independence of the Member of Parliament is protected by special immunity. Consequently, it is particularly important to maintain a high standard of justification at all stages of criminal prosecution of a Member of Parliament, especially when the Prosecutor General addresses the Parliament of Georgia.

#### Decision / proposal:

- The document submitted to the Parliament by the Prosecutor General consists of only 4 pages. There is no reference to an attachment or any supplemental material in it. The document does not have a clearly expressed structure, though the reasoning develops in some order.
- Both the Constitutional Court of Georgia and the European Court of Human Rights unequivocally indicate that when applying a preventive measure, it is necessary to have a reasonable expectation that the person has committed a misdemeanor<sup>1</sup>. The document submitted to the Parliament conventionally indicates that the prosecution has obtained evidence that, by the standard of the reasonable belief, confirms the unlawful act committed by Nikanor Melia. **The document does not say anything about what kind of evidence was obtained in the case and what specific information each of them provided. The actual basis for the use of a preventive measure is therefore unclear.**

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<sup>1</sup> *The right to liberty and security of the person: A guide to the implementation of Article 5 of the European Convention on Human Rights (2002)*, p. 22-34; Judgment of the Constitutional Court of Georgia on the case of citizen of Georgia Giorgi Ugulava v. Parliament of Georgia, 2015, (№3/2/646), § 71.

- Both the European Convention on Human Rights and the Constitution of Georgia reinforce the presumption of freedom. This implies that imprisonment, as the most severe form of preventive measure, is used only in extreme cases where the other less restrictive measure fails to achieve its intended purpose<sup>2</sup>. The case law of the European Court has established that there is usually no single reason for detention and several factors need to be considered (cumulatively).
- The document indicates the need for a cumulative assessment of the circumstances, although it is not convincingly shown how the circumstances individually and/or together justify the need for detention and why legitimate objectives cannot be achieved by any other less preventive measure.
- To substantiate that Nikanor Melia was hiding from investigation when at liberty, the following circumstances are mentioned in the document: Nikanor Melia is charged with committing a grave offense which envisages imprisonment by all means; he has crossed the border 24 times in the last four years (including through the use of a diplomatic passport, enabling a person to use simplified procedures to enter a foreign country); the document also mentions his “financial capabilities” (without relevant specification).
- The document further states: **“We have a well-founded assumption that Nikanor Melia will be free to create appropriate conditions abroad, establish appropriate contacts, in order to avoid justice in future. In addition to the foregoing, there is a well-grounded assumption ... that is also confirmed by the fact that many persons who have close contact with him live in many foreign countries.”**
- The case law of the European Court of Human Rights stipulates that the risk of hiding cannot be regarded as substantiated solely on the grounds that it is possible/easy for the accused to cross the border and that there is no hindrance factor to hiding.<sup>3</sup>
- However, the document does not specify the countries, “connections” and details of their relationship with Nikanor Melia. It is also unsubstantiated why the above risks cannot be neutralized, such as the use of passport deprivation as a preventive measure.
- According to the case law of the European Court of Human Rights<sup>4</sup>, the severity of the crime and the severity of the punishment expected, taken separately, cannot serve as a justification for detention.
- The document refers to 3 cases of the European Court to show that “the court considered the international contacts of the accused to be a sufficient argument to justify the threat of avoidance of justice” and considered it to be the grounds for detention. However, the quality and specificity<sup>5</sup> of these contacts differs significantly from the general reference given by the prosecution in case of Nikanor Melia: “There are many persons in close contact with [the defendant].” Notwithstanding these differences, the document does not discuss the relation of the quoted decisions with individual circumstances of the case.
- The document states: “The European Court has stated in its numerous rulings that the high official standing of the accused in the past and the risks of influencing witnesses in the light of this background actually substantiated the expediency of the preventive measure.” As an example, the document refers to the cases: “Mikiashvili v. Georgia”, “Conrad v. Italy” and “Ghavitadze v. Georgia”.

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<sup>2</sup> *The right to liberty and security of the person: A guide to the implementation of Article 5 of the European Convention on Human Rights (2002)*, p. 27.

<sup>3</sup> See case *Strogmuller v. Australia*, App. No. 1602/62, ECtHR, 1969

<sup>4</sup> *The right to liberty and security of the person: A guide to the implementation of Article 5 of the European Convention on Human Rights (2002)*, p. 29.

<sup>5</sup> In the judgment of the European Court of Human Rights on case of *W v. Switzerland* focuses on the fact that the person’s place of residence was no longer Switzerland. At the same time, he had expressed a desire to move to the United States and owned property in other countries; lastly, the court noted that as a single person, he would not have difficulty hiding in another country; in the judgment on case *Barfuss v. Czech Republic*, it is indicated that if a person fled to Germany and obtained citizenship, it would not be possible to extradite him to the Czech Republic. It was also mentioned that he had a large amount of debt in the Czech Republic and suffered conviction in the past.

- The case “**Ghvtadze v. Georgia**”<sup>6</sup> does not address the standards of imposition of a preventive measure at all: in this case, the applicant argued ill-treatment (and not the lawfulness of the preventive measure) and the Court’s reasoning is only given in this regard.
- The case “**Conrad v. Italy**”<sup>7</sup> does not exist in the case-law of the European Court.<sup>8</sup>
- In the case, “**Mikiashvili v. Georgia**” the accused was not a high-ranking official, but the main witnesses were his friends, which the court considered an important factor in the context of the pressure of the accused on the witnesses. The document does not substantiate how this case would fit into the individual circumstances of Nikanor Melia’s case.
- The document also indicates that Nikanor Melia committed a new crime during the period of bail for another case. In particular, he is accused of persuading citizens to commit crimes. Accordingly, Nikanor Melia has the ability to influence people, some of the witnesses support him, and based on grounded assumption, he will be able to persuade these people and/or influence them, not to give testimony incriminating him.

**Note:** According to the Constitutional Court of Georgia, Article 18 of the Constitution (edition effective until December 16, 2018) the protected right of freedom is contradicted by the fact that when sentencing to imprisonment the court relied on the information and circumstances of the criminal case, that indicate hypothetical threat(s) of escaping of the accused, committing a new crime or destroying evidence (influencing witnesses)–the theoretical possibility of illegal activity and not the real risks.<sup>9</sup> Similar is the explanation of the European Court of Human Rights on this issue.<sup>10</sup>

**Legal issue:** Independence and impartiality of the judge.

**Facts:** Mr. Shalva Tadumadze raised the issue of impartiality of the judge at one of the hearings at the trial of the client under his defense and demanded his challenge.

**Significance of the case:** The documents reveal the candidate’s view on judicial ethics and the presumption of innocence.<sup>11</sup>

## Motion

- The main argument of the defense was the bias of the judge, although the issue mentioned in the motion does not address the fundamental constitutional right of an independent and impartial court.
- The reasoning is not based on standards established by local and international law on the impartiality and independence of the judge and does not indicate inconsistency of the facts found in the case with these standards.

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<sup>6</sup> European Court of Human Rights case “*Ghvtadze v. Georgia*” (№23204/07), 2009.

<sup>7</sup> Presumably, case *Conrada v. Italy* should be indicated, European Court of Human Rights (92/1997/876/1088), 1998. However, this case deals with the investigation of mafia-related offenses and given the structure and nature of the mafia, his ability to influence the members of the mafia group who gave testimony, and in practice, the main evidence was presented in the case.

<sup>8</sup> The motion to the court to apply preventive measure no longer mentions the case “*Ghvtadze v. Georgia*” and the non-existent case “*Conrad v. Italy*” is still referred to.

<sup>9</sup> Judgment of the Constitutional Court of Georgia on the case “*Citizen of Georgia Giorgi Ugulava v. the Parliament of Georgia*”, 2015, (№3/2/646), §71

<sup>10</sup> *The right to liberty and security of the person: A guide to the implementation of Article 5 of the European Convention on Human Rights (2002)*, p.22-34

<sup>11</sup> The candidate himself submitted the document to the Council of Justice, along with other documents.

- The motion states that the defense did not respond appropriately and in a timely manner to the statement made by the judge during the examination of the evidence, namely: the judge noticed the defendant's close relationship with police officers questioned as witnesses in the courtroom and addressed the defendant at the process that he would have much time to make friends with the prison convoy in the prison. The motion states that at that stage such a statement did not constitute grounds for challenge because it was "humorous and indirect".

**Note:** A person will be presumed innocent until proved guilty by the court judgment of guilt, which is in force. Holding a position before the judgment on the person's guilt is a violation of the presumption of innocence of the accused and creates a clear perception of judge bias. According to the Criminal Procedure Code, a judge cannot participate in the review of the case, if there is a circumstance that makes the judge's objectivity and impartiality doubtful. The authorized person shall file a motion for challenge as soon as possible. Otherwise, the motion will not be considered.

## 1.2. HIGH-PROFILE CASES

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Before and after the election of Shalva Tadumadze as Prosecutor General, many cases fell under public attention, due to the content of the alleged crime and their protracted, ineffective investigation. The investigation into these cases has not been completed during Shalva Tadumadze's prosecution activities and the public remains unaware of their results.

According to the legislation of Georgia, regardless of which state agency is investigating a particular case, the Prosecutor General's Office oversees this process. This means that protracted or incomplete investigation, wrongful qualification of a crime or improper investigative actions are the responsibility of both the particular investigating agency and the Prosecutor's Office.

The Prosecutor's Office of Georgia is a unified centralized system, where all prosecutors and employees report to the Prosecutor General. The Prosecutor General is responsible for the operation of the system. The subordinate prosecutors must follow his/her instructions. According to the law, the higher-level prosecutor is entitled to annul the decision/act of the subordinate prosecutor, amend it or replace with another decision/act.

Based on the legislation, it is legitimate to expect that protracted and ineffective investigations of high-profile cases are the sole responsibility of the Prosecutor General as the first person and the head of the system.

High-profile cases:

- Inappropriate, non-transparent and protracted investigations into alleged violations of the right to life (Khorava Street Case<sup>12</sup>, Machalikashvili Case<sup>13</sup>);
- Ineffective investigations of facts of ill-treatment;<sup>14</sup>

<sup>12</sup> Public Defender's Report, 2017, p. 37-40; See conclusion of temporary Investigative Committee;

<sup>13</sup> Statement by the State Security Service; Public Defender's Report, 2018, p. 32.

<sup>14</sup> In 2016, report the Public Defender states: "According to the Prosecutor's Office, in 2016, investigation of facts of alleged misconduct by the police was initiated on 173 cases, of which only 5 cases were prosecuted, and two of them were convicted. *The prosecution did not in any case begin with qualifications for ill-treatment or torture, but rather with abuse of official authority.*"

In June 26, 2019 report, he also noted: "The Public Defender has been talking about an ineffective investigation into the facts of ill-treatment for years and the same response - the "investigation is ongoing" is heard. The public sees less results and as a result, the trust in this process and the investigative bodies in general is lost."

- Ineffective investigations of dissemination/threats to disseminate video and audio material on the Internet;<sup>15</sup>
- Ineffective investigation<sup>16</sup> of cases of human rights violations committed prior to 2012, problems of non-transparent priorities and selective justice (e.g., investigation has been carried out for several years of the founders of TV Company “Rustavi-2”, despite the particular public interest in the case<sup>17</sup>);
- Ineffective investigation of alleged human rights abuses by law enforcement officers (Birja-Mafia case,<sup>18</sup> alleged facts<sup>19</sup> of abuse of power during a special operation at Club “Basiani” and “Gallery”, Zviad Ratiani<sup>20</sup> case, etc.);
- Ineffective investigation<sup>21</sup> of incidents that occurred during the pre-election period (Kortskheli incident, etc.);<sup>22</sup>
- Ineffective investigations of facts of alleged pressure on judicial officials (alleged threats against former chairman of the Constitutional Court<sup>23</sup>);
- Ineffective investigations of alleged crimes committed by judicial officials and related to the judicial system (the alleged facts of beating of a minor by Giorgi Mikautadze, deletion of an electronic archive at Public Service Hall<sup>24</sup>, disclosure of exam tests)<sup>25</sup>;
- Ineffective investigation of alleged crimes against the state (so-called tire case; investigation launched on the basis of a dialogue disseminated in the internet in 2015, concerning plot<sup>26</sup> of seizing state power by the opposition, etc.);
- Other high-profile cases (Afgan Mukhtarli case<sup>27</sup>, attack on General Auditor<sup>28</sup> by the former Prosecutor General, Deacon Mamaladze’s case<sup>29</sup>, Demur Sturua’s case<sup>30</sup>, Ia Kersaya’s death case<sup>31</sup>, Muslim rights violation case in village Mokhe and Chela<sup>32</sup>, cyber attack on TBC bank case<sup>33</sup>, Malkhaz Machalikashvili case<sup>34</sup>, etc.).

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<sup>15</sup> See Public Defender Parliamentary Report, 2018, p: 110-113;

The Public Defender’s report stated: „The Public Defender of Georgia has repeatedly appealed to the Prosecutor’s Office of Georgia and called for a timely and effective investigation. Despite the prosecution’s actions to prove that many people were being held accountable, still some questions remain unanswered: who planned, created and initially disseminated the information reflecting secrecy of private life in each individual case.“

<sup>16</sup> <http://www.hridc.org/admin/editor/uploads/files/pdf/hrcrep2018/reaserch-geo.pdf>

<sup>17</sup> See „Article in “Tabula”;

<sup>18</sup> Public Defender Parliamentary Report, 2017. p. 169-170; See the footage of the Public Broadcaster with regard to this case;

<sup>19</sup> See the statement of the Georgian Young Lawyer’s Association;

<sup>20</sup> See article in “Tabula”;

<sup>21</sup> Public Defender Parliamentary Report, 2018, p. 219-222;

<sup>22</sup> See the statement of the Georgian Young Lawyers’ Association regarding the fact; also, Transparency International Georgia statement;

<sup>23</sup> With regard to the case see the statement by the Coalition “For an Independent and Transparent Judiciary”; See article of „Radio Tavisupleba”;

<sup>24</sup> See article in “Netgazeti”; With regard to the topic please see article in kavshirebi.ge;

<sup>25</sup> See TV company „Rustavi-2” footage;

<sup>26</sup> See article;

<sup>27</sup> See Public Defender Parliamentary Report, 2018, p. 156-157; Also, Tbilisi Human Rights House Report, Afgan Mukhtarli Case, Facts and Assessment, Tbilisi, May 2018;

<sup>28</sup> Public Defender Report, 2017, p. 84;

<sup>29</sup> See: Georgian Young Lawyers Association Statement; Also, portal about human rights, Humanrights.ge statement;

<sup>30</sup> See the statement by the Human Rights Education and Monitoring Center on this topic; Also, „Palitra News” footage and article;

<sup>31</sup> See „Radio Freedom“ article;

<sup>32</sup> See Public Defender report-2015, p. 487-489;

<sup>33</sup> See „Tabula” article

<sup>34</sup> See „Liberali” article;

Due to ineffective investigation of high-profile cases, the Prosecutor General’s Office has repeatedly been criticized by both local<sup>35</sup> and international organizations<sup>36</sup>. Civil society and experts have repeatedly spoken publicly about selective and politicized justice (Cables Case<sup>37</sup>, investigation initiated on financial transaction carried out 11 years ago by the founders of TBC Bank and charges<sup>38</sup>, investigation initiated against the former Director General of TV company “Rustavi-2” and charges<sup>39</sup>, investigation<sup>40</sup> of facts of excessive use of power on rally of June 20-21, 2019 by police officers and charges brought against Member of Parliament Nikanor Melia for the events that took place, the arrest of opposition politician Irakli Okruashvili<sup>41</sup> and others<sup>42</sup>, etc.).

Practice, according to which in many high-profile cases the defense has signed so-called “nondisclosure letter”<sup>43</sup>, deserves criticism of experts. As a result, the party failed to speak publicly about the case, while the prosecution disseminates different information/comments on the case, which puts the parties in an unequal position.<sup>44</sup>

<sup>35</sup> E.g.: the Public Defender reports indicate that cases of torture and ill-treatment are not properly qualified and investigated, and that no other high-profile cases are effectively investigated. See: Public Defender Parliamentary report, 2018; Also, Public Defender special report: effectiveness of investigation of ill-treatment criminal cases, 2019.

<sup>36</sup> Report Association Implementation Report on Georgia, JOINT STAFF WORKING DOCUMENT, Brussels, 30.1.2019 SWD(2019) 16 final states: *“The cases of ill-treatment in the penitentiary institutions have reduced, unlike the cases of ill-treatment by the police. Since September 2018, the Public Defender’s Office has received 149 complaints of mistreatment by prison staff or police officers and has requested the Prosecutor General to investigate eight cases. No criminal prosecution was carried out on any of the cases.”* Report Association agreements between the EU and Moldova, Georgia and Ukraine European Implementation European Parliamentary Research Service (2018) states: *“Georgia is trying to make progress in building democratic institutions. ... The Prosecutor General’s Office remains the weakest link in this system.”*

<sup>37</sup> See „Radio Freedom“ article;

<sup>38</sup> See „Radio Freedom“ article, also statement of “International transparency-Georgia”;

<sup>39</sup> See Statement of non-governmental organizations;

<sup>40</sup> See „Tabula“ article;

<sup>41</sup> See „International transparency-Georgia“ statement;

<sup>42</sup> See TV company „Rustavi-2“ footage;

<sup>43</sup> Criminal procedure law authorizes a party, to oblige participant of criminal proceedings not to disclose information in the case without their permission and to warn of criminal liability (Article 104 of CPCG), however, given the fact that such an opportunity has often been used frequently on high-profile cases, raises suspicion.

<sup>44</sup> See Public Defender’s comment on the subject.

## 2.

## VIOLATIONS REVEALED IN PROFESSIONAL ACTIVITIES (DISCIPLINARY PROCEEDINGS, PROFESSIONAL ETHICS)

### 1. DISCIPLINARY PROCEEDINGS-EXISTING COMPLAINTS

- No disciplinary penalties have been applied against the candidate.

## 2. ALLEGED VIOLATION OF PROFESSIONAL ETHICS NORMS

- While practicing law, Mr. Shalva Tadumadze did not file a motion to challenge the judge, while the judge noted during the trial that the defendant would have time in the future to become friends with the representatives of so-called “Convoy service” of the Penitentiary department. In doing so, the judge, in fact, in advance expressed his opinion of finding the offender guilty, and lawyer Tadumadze did not respond. Moreover, he raised the judge’s motion for challenging on other grounds and called the judge’s phrase “humorous” and “indirect” in the same motion<sup>1</sup>.

## 3. ACTIVITIES IN THE PROSECUTOR’S OFFICE

- Mr. Shalva Tadumadze, as Prosecutor General, in June 2019, applied to the Parliament of Georgia to obtain the consent envisaged by the legislation for the imprisonment of its member, Nikanor Melia.<sup>2</sup>

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<sup>1</sup> Article 5 of “Professional Ethics Code of Lawyers” points to the principle of the preference of client’s interests, according to which, the lawyer should always act in the best interests of the client and put them above the personal and other interests.

<sup>2</sup> The Prosecutor’s Office introduced the ruling on the charge against MP Nikanor Melia to his lawyer, See: <http://bit.ly/2GAWet9>

# 3. PROMOTIONS AND AWARDS / SCHOLARSHIPS GRANTED FOR PROFESSIONAL PERFORMANCE

## 1. CAREER DEVELOPMENT

- In 2001-2003, candidate Shalva Tadumadze practiced law in various organizations. In 2003-2004 he was Deputy Head of Legal Department at the Ministry of Defense. In 2005-2007 he resumed practice of law and in 2008 he founded Law Firm “Shalva Tadumadze and BPL Consulting”, where he worked until 2012.
- In 2012-2018, the candidate was the Parliamentary Secretary of the Government of Georgia and in the last 3 months, he was the Head of Government Administration.
- Since 2018, Mr. Shalva Tadumadze has been the Prosecutor General of Georgia.

## 2. AWARDS / SCHOLARSHIPS

- Shalva Tadumadze has not received any awards / scholarships.



# 4.

## CONFLICT WITH LAW, CONFLICT OF INTEREST

### 1. CRIMINAL LIABILITY, ADMINISTRATIVE OFFENCES / PENALTIES, LITIGATIONS

- Candidate Shalva Tadumadze has no record of conviction.
- No administrative penalties have been applied against Shalva Tadumadze.
- Shalva Tadumadze was not a party to the litigation.

### 2. PARTY AFFILIATION, CONFLICT OF INTEREST WITH A MEMBER OF THE HIGH COUNCIL OF JUSTICE, LINKS WITH POLITICAL / INFLUENTIAL PERSONS

- Candidate Shalva Tadumadze was not a member of any political party.
- Shalva Tadumadze defended the interests of Bidzina Ivanishvili and his wife, Ekaterina Khvedelidze, in court over their deprivation of Georgian citizenship. In this case, lawyers Eka Beselia, Aleksandre Baramidze, Zakaria Kutsnashvili and Archil Kbilashvili supported him.
- Shalva Tadumadze was elected Prosecutor General by the Prosecutorial Council<sup>1</sup>. One of the members of the council was the Minister of Justice Tea Tsulukiani, who is the godmother of the candidate's child<sup>2</sup>. Despite participating in the interview, the Minister of Justice was not involved in the voting process.
- Endorsers of the candidate Shalva Tadumadze are Irakli Sesiashvili (MP from the Georgian Dream party), Koba Kobaladze (MP from the Georgian Dream party), Maia Tskitishvili (Vice Prime Minister of Georgia, Minister of Regional Development and Infrastructure).
- As soon as Shalva Tadumadze was appointed Prosecutor General, the public raised questions about his legal education. "Transparency International-Georgia" tried for six months to obtain a copy of the Prosecutor General's diploma, and then had to apply to the court<sup>3</sup>. The information posted on the website of the Prosecutorial Council indicates that Shalva Tadumadze studied at Tbilisi Humanitarian Institute in 1994-1999<sup>4</sup>. According to the website of the Prosecutor General's Office, Shalva Tadumadze graduated from this Institute in 1999<sup>5</sup>, in the application submitted to the High Council of Justice, he indicated that he studied in Nodar Dumbadze Tbilisi Humanitarian Institute in 1994-1998, however in the diploma the following years are indicated 1993-1998. The issue of Tbilisi Humanitarian Institute itself is also vague: no such accredited University was found on the websites of the Ministry of Education. The list includes Tbilisi Humanities Teaching University, whose representatives say that Shalva Tadumadze has not studied at this University.<sup>6</sup>

<sup>1</sup> The Prosecutorial Council has selected a candidate for Prosecutor General, see: <http://bit.ly/2LU4IoL>

<sup>2</sup> Tsulukiani: I am the godmother of Shalva Tadumadze's child, not a relative, see: <http://bit.ly/2Kb67zG>

<sup>3</sup> "Transparency International" appeals to the court for a copy of Shalva Tadumadze's diploma, see: <http://bit.ly/2KhPu5J>

<sup>4</sup> Prosecutorial Council Website, Candidate # 9 – Shalva Tadumadze, see: <http://bit.ly/2GMx6Qm>

<sup>5</sup> Prosecutor's Office of Georgia, see: <http://bit.ly/2T7rvsB>

<sup>6</sup> TV company "Rustavi-2" footage, see: <http://bit.ly/2Khk3Z8>

# 5.

## CANDIDATE'S PUBLIC ACTIVITIES / POSITION AND BEHAVIOR

### 1. OPINIONS OF SHALVA TADUMADZE, EXPRESSED IN SOCIAL MEDIA

Candidate Shalva Tadumadze does not use social networks. He has neither personal profile, nor a page related to the official position.

### 2. SHALVA TADUMADZE'S PUBLIC STATEMENTS

#### 2.1. STATEMENT ON THE QUESTION RELATED TO HIS DIPLOMA

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According to the resume, Mr. Shalva Tadumadze studied at Tbilisi Humanitarian Institute in 1994-1999. Regarding the media information<sup>1</sup> about the validity of his diploma, the candidate explained:

**“ I can tell you that there were two billionaire families living in this country and I have provided services to both families with this diploma. I have provided services as a lawyer to several dozen generals in this country. With this diploma, I managed to work on legislative initiatives for six years on the part of the government, and during six years all political teams in the Parliament had the opportunity to take part in discussing these laws which I either drafted personally or personally participated in. I don't understand where questions about my education come from, because I have been unemployed for the last two days for 17 years. There was no single day for me when I was not employed as a lawyer“<sup>2</sup>**

#### 2.2. STATEMENT ABOUT THE FORMER PROSECUTOR GENERAL OF GEORGIA OTAR PARTSKHALADZE

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On July 23, 2019, Mr. Shalva Tadumadze explained that he cannot assess the competence of Otar Partskhaladze, though he has extensive experience and qualifications in the part in which he worked<sup>3</sup>. Shalva Tadumadze further stated:

**“ One of the things that he has really put in place and I know from daily activities in this system, established a standard of fair attitude inside. Today, we have an opportunity, in spite of the vertical in the Prosecutor's Office, to have very friendly, collegial, open relationship. I am sure this is Mr. Otar's merit. He created this system of transparency and openness.“<sup>4</sup>**

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<sup>1</sup> “Chief Prosecutor's Controversial Diploma – NGOs plan to obtain education certificate through the court”, January 31, 2019; available at: <https://bit.ly/2YUObhe>

<sup>2</sup> “Shalva Tadumadze – two billionaire families lived in Georgia and I provided services to both of them with this diploma,” July 16, 2018, available at: <https://1tv.ge/news/shalva-tadumadze->

<sup>3</sup> “I know them and have a good relationship – Shalva Tadumadze characterizes Otar Partskhaladze positively”, July 23, 2019, available at: <https://on.ge/story/411>

<sup>4</sup> Ibid.

### 2.3. STATEMENT ABOUT PUBLIC DEFENDER REPORT

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On May 5, 2016, Shalva Tadumadze, Parliamentary Secretary to the Government, commented on the Ombudsman’s report:

**“ For two years, daily work was ongoing to draft new Code of Offenses. The Public Defender representative was also involved in this process and all comments and suggestions were sent to him/her in electronic format. I think the Public Defender’s report should not be a document outlining comments and suggestions on draft laws“.**<sup>5</sup>

### 2.4. STATEMENT ABOUT THE ACTIVITIES OF BIDZINA IVANISHVILI

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On December 22, 2011, at the hearing of Bidzina Ivanishvili and his wife Ekaterina Khvedelidze citizenship case, lawyer Shalva Tadumadze made a replication and emphasized Ivanishvili’s merit before Georgia. In particular, he spoke of \$ 1.6 billion spent on “protecting culture, sports and sending children abroad for treatment.” According to Shalva Tadumadze, Bidzina Ivanishvili built and restored more than 500 temples and became the author of a centuries-old event – Trinity Cathedral. He also said:

**“ Like all Georgians, I hate the executioner who cut the right arm of the builder of the first cathedral. Such things should not be repeat“.**<sup>6</sup>

### 2.5. 2012 INTERVIEW ABOUT PROBLEMS IN THE JUSTICE SYSTEM OF GEORGIA

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Mr. Shalva Tadumadze said in 2012 interview:

**“ I remember many trials when a judge directly asserted that white was black. But not in a figurative meaning, really ... There were cases when the judge during the whole trial was sitting with a bent head, because he/she had to make a deliberately unfair decision“.**<sup>7</sup>

## 3. INTERVIEW OF THE CANDIDATE SHALVA TADUMADZE IN THE HIGH COUNCIL OF JUSTICE



Question posed by the member of the High Council of Justice, DIMITRI GVRITISHVILI, to candidate Shalva Tadumadze: “Only politicians from the ruling party are mentioned in your recommendations. According to journalists, this may raise questions about impartiality. What can you say about this?”

Shalva Tadumadze’s response:

**“ All three of them are people who know exactly my qualification. None of them has been elected for political reasons and identification with the ruling party. I have spent 11 years with Irakli Sesiashvili at the NGO, he was my supervisor and if anyone in this country knows my qualifications, Irakli Sesiashvili does ... If anyone else knows what potential I have in professional and human terms; it is Maia Tskitishvili, because Ms. Maya and I have worked together for 6 years in the government administration. She was the**

<sup>5</sup> “Tadumadze: there should be no remarks on the draft law in the Public Defender’s report”, May 5, 2016: <http://www.tabula.ge/ge/verbatim/>

<sup>6</sup> Bidzina Ivanishvili’s “Cut right arm”, December 22, 2011, available at: <https://netgazeti.ge/law/12059/>

<sup>7</sup> “The phenomenon of Georgian Justice, i.e. whether black and white are different colors,” October 17, 2012, available at: <https://bit.ly/2ZGtXI>

head of the government administration and I was the parliamentary secretary of the government and we often intersected while working together ... Koba Kobaladze, who is a friend of mine, also a member of the Parliament and the only defendant I was able to get out of the courtroom when there was little opportunity to have judgment of acquittal. These people know well my abilities and there is no political proclivities here. I was convinced that these people could speak of my professional and human qualities openly, freely and confidently”.



Question posed by the member of the Justice Council, IRMA GELASHVILI, to the candidate: “You wrote in the cover letter that ‘The judge in the justice system is God. The parties may repudiate or deny it, but the judge’s will shall surely be executed.’ What does ‘Judge is God’ mean, and to what extent can he or she be repudiated or his will necessarily be executed, what do you mean by that?”

Shalva Tadumadze’s response:



**It is expressed a bit figuratively. Exactly one year ago, at the Prosecutorial Council I was asked about my attitude towards judges, and to be honest, I always had that attitude. This is a figurative expression, I will tell you the basis for it: I had an opportunity (also seen in my biography) ... I did not want to repeat that, but ... I had an opportunity to meet a Navy judge in the United States. As you know, the military have a different romanticism to their profession, and he told me that phrase that I liked very much. Accordingly, it has become part of my value that in the justice system the judge is God for the parties, his/her decisions may be denied, appealed, he/she may be accused of wrong behavior, his/her decisions may be disliked, but the legislation provides an opportunity to him for his/her final decision to be executed by all means. So this is a figurative expression“.**



Question posed by IRMA GELASHVILI to the candidate: “According to the legislation, the activities of the judge are incompatible with other remunerated activities. The legislation also provides for the social security of a judge. For example, a judge is in need of treatment each month due to his or her poor health condition, let’s say that he/she needs transfusion of immunoglobulin, which costs a judge a month’s salary. In order to survive (physical survival is meant, not preserving the work), a judge is forced to work extra hours in the evening, during non-working hours (e.g. receive students at home and deliver lectures, or he/she wrote thesis and wants to sell it to a senior official to survive). Evaluate the judge’s actions, but tell me the argument, what can be the counterargument, and your assessment in the end.“

Shalva Tadumadze’s response:



**Had I not the burden of my position, I would give a more radical response. I think that such judge should die, because if it is done for self-preservation, I am talking about it as a human and not as a professional, it does not comply with the judge’s ethical rules. I think that the case is completely wrong, because when a judge writes a thesis and sells it, it is a crime. The thesis is a way to obtain a right and if he/she has an opportunity to write and sell it, as far as I remember, there is international experience that the thesis writers and then the sellers of this thesis will be held accountable, as this thesis gives the person an opportunity to gain something, be it scientific degree. A judge’s behavior is unethical because, in order to survive, he/she commits an act that violates ethical rules - on the one hand, and on the other, may be set equal to an offense“.**



Question posed by the member of the Justice Council, NAZI JANEZASHVILI to the candidate: “When Ms. Anna and I speak about the problems the court is facing today, does leave an impression that the court is not independent?”

Shalva Tadumadze's response:

**” To put it to modern standards, there is a saying:” If you want to win a war, CNN must say you won the war. “That is to say, the role of the media is very well illustrated in this expression and the unified system as well. The problem is public relations and I am not talking about restricting expression. There is a difference of opinion in the collegial body, in the collegiate body there is a feeling that my opinion is taken into consideration and that of another person-not. My point was not taken into account, but systematic statements when a citizen sees that a person faces council emblem, who says that nothing is going on here, it is natural that the standing of this institution and this government is hard... As a citizen, I should not look at a Justice Council member's statement about how bad Justice Council or Court are.”**



Question posed by a member of the Justice Council, ZAZA KHAREBAVA, to the candidate: “There is one activity in the development strategy of the judiciary –perception and assessment of the corruption risks and subsequent response in the judicial system. It was probably recorded because somebody saw some signs. What is your perception and assessment of corruption risks in the judiciary today?”

Shalva Tadumadze's response:

**” As these risks do not exist, I do not have to work in this direction, which is really welcome. In my opinion, speaking of these risks in the court is not appropriate, given that the system, the government that says that it is administering justice in this country, has the legal right to prove and establish the rule of law in this country that has legislative guarantees that on the one hand, have demand for high value and high qualification and, on the other hand, considerable social guarantees not to have in this direction so-called undersense, I think that this government should not talk about the risks of corruption in its strategy. The Prosecutor's Office may speak of risks in its own strategy in relation to risks related in the court”.**



Question posed by NAZI JANEZASHVILI to the candidate: “A few weeks ago the Public Defender released a report, assessment in which it was alleged that 10 members of the High Council of Justice acted according to a unified scheme and thus 50 candidates were shifted to the second (interview) stage. When such serious doubts arise with regard to the candidate judges of the Supreme Court, if you were elected as a judge of the Supreme Court as a result of the process that was distinguished for violations, can such a judge be considered legitimate? Moreover, is it possible that the right to a fair trial in the cases considered by this judge be violated because he/she was elected on the basis of violations?”

Shalva Tadumadze response:

**” I think I'll get into 50, 20 and the Supreme Court fairly. I know the Ombudsman's conclusion. I would not have talked about this, if not your question, on the one hand, and on the other hand, had not I declared my critical position on the Ombudsman's conclusion openly in 2016 . It is the Ombudsman's constitutional authority to respond to human rights violations in the country, and in this conclusion I could not find what human rights have been violated. I do not think that the Ombudsman is a person who enjoys a high degree of credibility in these matters, as the Ombudsman should not have these experiences. I assure you that I know mathematics better than a lawyer, including probability theory, even higher mathematics, and in my case if the opinions of two judges coincide, there is high degree of probability; if four coincide, there is probability of this (for example, the decision of all 11 members of the Prosecutorial Council coincided with mine and the position of 101 members of the Parliament coincided with my election as Prosecutor General)“.**



Question posed by NAZI JANEZASHVILI to the candidate: “My question concerns Giorgi Mikautadze. This concerns the criminal case involving Khachapuridze-Khachidze family, and the incident that took place in Gonio in summer of 2011. Two criminal investigations have been initiated into the case. A judgment has already been delivered for one of them and it is appealed in the Supreme Court, where Giorgi Mikautadze is a victim, and on the other criminal case, where the person involved is Giorgi Mikautadze, is being investigated, even though the statute of limitations expired almost a year ago. Do you consider it to be right, when the investigation against a judge does not end? Is this a lever for any influence on the judge? If the investigation failed to establish anything, why the investigation did not end? And secondly, why investigation on the cases, whose statute of limitations expired, is still ongoing?”

Shalva Tadumadze’s response:



**I think your question is the basis for raising your challenge. Just to avoid wasting time, I refuse to do so, but I will explain that you are neither constitutionally nor legally entitled to hear reports on investigations in the Prosecutor General’s Office and simply violate the law when requesting a report on Mikautadze’s case. You do not have the right to do so and when a member violates the law, this is the basis for challenge ... The question, whether failure to end the investigation might mean influence over the judge, is offensive to me because I am not the Prosecutor General who is pressuring somebody by cases.”**



Question posed by NAZI JANEZASHVILI to the candidate: “There is a suggestion that those judges who still work in the system used to be bad previously and now became good. To what extent do you agree with this opinion?”

Shalva Tadumadze’s response:



**I do not agree with this opinion. I think that earlier the legislation, the system, and the government (and not just judges) were not carriers of democratic values (I mean the system) and the judges made a decision that they made, which I might dislike or disagree with, but I appealed those decisions. I think the system was not good, including the judiciary, but the guarantor of this situation was legislation that made it possible.”**



Question posed by NAZI JANEZASHVILI to the candidate: “I wonder what you think about the rights of LGBT people? In general, what your attitude is and problems they face in Georgia from a legal point of view and what should be done to realize the rights of LGBT people in life?”

Shalva Tadumadze’s response:



**I recognize the equality of all people. Every human being, despite his/her distinctive features, has the same rights in the country and in the world. I do not know what their problem is, to be honest. To be honest, I have not watched TV for a year now. Accordingly, I do not know the details of the problem. However, I will not complain and say that I did not participate and that I was not personally involved in the anti-discrimination law in the Parliament of Georgia.”**

During the interview in the High Council of Justice, Mr. Shalva Tadumadze also said:



**Ms. Nazi will not be offended, Ms. Ana will also not be offended, but when I, as a citizen, am told by the High Council of Justice that the court is not independent, they say it themselves, and I am a citizen. I do not know when and how he/she was elected, I know, that the High Council of Justice is the court management body,**

where there is Ms. Nazi, Ani...Some come out and say, I am independent, others come out and say that they are not independent: we are not independent and we are under pressure. It is very difficult to overcome this when you say that you are not independent, you cannot prove to anyone that you are independent. Therefore, I think that the feeling of the fortress that it is the government that ensures the rule of law is important. I will do the modeling between the court and the Prosecutor's Office; here I will no longer avoid delicate approaches: You all remember how the Prosecutor's Office had a role and impact on the court until 2012, even in case of judgment of guilt. I would deceive myself to say that at that time it was comfortable to defend a person in court because nothing made sense whatsoever. It is not so today. I am responsible for these words that today the court is not communicating with the Prosecutor's Office and no instructions come from the Prosecutor's Office; and secondly, judges are involved in the management of the Prosecutor's Office. I am accountable to the judges at all times. It is a completely different picture. [...] I think the problem, on the one hand, is that there is no feeling in the government – the feeling that it is a fortress that should not be broken from inside. For an ordinary person who has no contact with the court, has seen it only on TV, is not a court. When I see a person on TV who is backed by the High Council of Justice and says that the court is not independent, the court is not independent to me. I did not go to court, but it is not independent. The second is who your customer is. In the customer part, 100% cannot be satisfied with the court. It is impossible to be satisfied. The adversarial principle is: one party wins, the other loses. The degree of satisfaction is important. [...] How do other countries ensure that the judiciary is more rated than the executive authorities and the legislature? These models exist. These models should be studied and implemented.”

- At the interview stage, Mr. Shalva Tadumadze, on the question of whether the Constitutional Court could be abolished, noted that he favored the abolition of the Constitutional Court and its reunification as a Chamber of the Supreme Court. He also noted that the judiciary should be united. The instance superior to the Supreme Court is unacceptable to him as a lawyer. Trust in the court will be even higher, “if the system is united and there will be no guard above it. Shalva Tadumadze explained: “I do not think it is right for the Constitutional Court to be higher in terms of human rights than the Supreme Court.”



NAZI JANEZASHVILI's appeal to the candidate: “One of the directions in the development strategy of the judicial system is independence, and there are numerous risks in the sub-divisions, including the ineffectiveness of the system of selection-appointment and career development of judges; risks due to management shortcomings, risks associated with the term of office. If you look at this document – and it would be nice if you looked at it - you would know where the judicial system is at this point.”

Shalva Tadumadze's response:

” Ms. Nazi, don't worry about at what stage the judicial system is, I know it better than you do. Who is more familiar with the judicial system? I know it better! I haven't prepared for the interview at all. I did not come here as a prepared lawyer, I came here with the experience that I have accumulated over the years and I am not going to get any feedback from Council members on what to read and what not. If you are wondering who is the better lawyer between you and me, I'm a good lawyer. If you are wondering who knows the judiciary better, I know it better, because I have been involved in procedural activities, worked on reforms, and I will be involved in the procedural activities in the future. This is not the category a Council member should talk to the candidate at the interview. I am not a student and I did not come here to receive a good mark“.

Shalva Tadumadze further stated at the interview:

” The development of the judicial system is not happening on paper. Whether or not I have read the strategy is another matter, but the paper does not ensure the independence of the judiciary. The independence comes in the sense that each judge has during the hearing, and the responsibility that the judge and the state, as well as the justice, take after review of the case, before the state and the court. So let us not talk who read what. Have you read as many government decrees as I had?“



Question posed by the member of the Council of Justice, ANA DOLIDZE, to the candidate: “If Zurab Adeishvili was not wanted and if he were Tbilisi prosecutor today, how would you treat him?”

Shalva Tadumadze’s response:



It is not correct to compare Adeishvili and Mikheil Chinchaladze, because Zurab Adeishvili is wanted today, so this comparison is also legally incorrect. I had my attitude about the system that existed then, and as Prosecutor General, I had the same challenge, including during my appointment. I often hear statements from the Parliament that Adeishvili’s staff is still working there; a person who was a prosecutor when Adeishvili was a Minister, cannot still be a prosecutor – such statements, in my opinion, are wrong in our systems. If the law states that a prosecutor who worked when Adeishvili was a Minister should not work for the Prosecutor’s Office of Georgia, I will make the relevant decisions, and if a politician does not like that a prosecutor appointed by Adeishvili works for the Prosecutor’s Office, I will not make a decision until the prosecutor appointed at that time carries out an action based on which he/she will cease working in the Prosecutor’s Office of Georgia. As for the statements on the “clan”, etc. such terms may be spread in the Prosecutor’s Office or say that there are some “clans” in place, but they need appropriate legal support and stating that there is some political “clan”. Therefore, politicians should make a decision to write in the law that there is “Tadumadze clan” in the Prosecutor’s Office and that those affiliated with the “Tadumadze clan” are prohibited from prosecution activities. Otherwise, you can’t adjust the system to your taste. There are a lot of people in my system who were working at that time and were my opponents in the hearings, and if I have anything to do with them, it’s a friendly relationship, because the legislation doesn’t tell me that a person who worked some time ago can or cannot speak out. If Adeishvili is not accused, I would have no reason to believe that he did ill in the Prosecutor’s Office and would not have problems with his qualifications. Naturally, I will work with Adeishvili as Tbilisi prosecutor.”

# 6.

## FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

### 1. ქონება (უძრავი/მოძრავი)



**2018**  
COMMERCIAL  
PROPERTY  
\$ 90 000  
113 SQ.M.



**2016**  
APARTMENT  
\$ 55 000  
93 SQ.M.



**2013**  
SUMMER COTTAGE  
\$ 32 000  
1100 SQ.M



**2013**  
APARTMENT  
\$ 100 000  
120 SQ.M





**2012**  
**OFFICE**  
**\$ 50 000**  
**70 SQ.M**



**1998**  
**APARTMENT**  
**\$ 8 000**  
**80 SQ.M**

## 2. FINANCE

Mr. Shalva Tadumadze's revenue analysis could not be fully completed as he did not fill the property declaration 2015–2017. According to existing information, as of 2018, it has repaid all major bank liabilities. The candidate had the highest salary in 2013 – GEL 95,700. As for his wife: Mzevinar Ansiani is a lawyer and works in several companies as a partner and as a director. However, the declaration filled by Shalva Tadumadze shows that Mzevinar Ansiani has not received any income from her business in recent years.



In 2018, Shalva Tadumadze's spouse purchased a commercial property for USD 90,000. According to the declaration, Mzevinar Ansiani's sole income in this year was USD 65,000 received from real estate, and Mr. Shalva Tadumadze's salary after paying various taxes totaled GEL 69,000. Assuming that USD 65,000 earned by the candidate's spouse was used to purchase new property, it is interesting to find out where they found the remaining USD25,000 to purchase commercial property.

According to the open sources we have analyzed, there is one way to accumulate these funds: to spend Shalva Tadumadze's entire year's salary for this purpose only, which is practically impossible. In addition, they have not used the funds on their family members' deposits, as evidenced by the following year's declaration. Accordingly, it is unsubstantiated where the money required for the purchase of the commercial space came from.

In 2013, a flat was registered in the name of the Tadumadze family in Tbilisi, which is no longer visible in 2014 declaration. Shalva Tadumadze allegedly sold real estate and bought an apartment for USD 100,000 in 2014 for that amount. If this assumption is true, then the information is incomplete, which, according to the current legislation, is violation of the rule of filling property declaration by an official.



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