



Giorgi MIKAUTADZE

A judge of Tbilisi City Court for indefinite tenure

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

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In 2006–2010 Giorgi Mikautadze worked as a prosecutor at the Tbilisi Isani-Samgori District Prosecutor's Office. In 2010 he was a chief of the secretariat at the Administrative Cases Chamber of the Supreme Court of Georgia, at the end of 2010 he was enrolled as a justice student at the High School of Justice. Since 2012–up to present, he is a judge of the Tbilisi City Court. In 2016–2017 Giorgi Mikautadze was a chairperson of the Tbilisi City Court. Since 2017 he is a member and a secretary of High Council. Since 3 June, 2019 judge Giorgi Mikautadze became a judge appointed for life at the Administrative Cases Panel of Tbilisi City Court.

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

1. DECISIONS, DISSENTING OPINION, COURT SUBMISSIONS

1.1. LEGALLY INTERESTING OF PRECEDENTIAL DECISIONS

Legal issue: In 2015, Giorgi Mikautadze reviewed the dispute, concerning the wrongful dismissal of an employee from the public service and the political discrimination in employment.

Facts: The plaintiff claimed that they were a victim of discrimination in the workplace, which they publicly talked about. Consequently, they were dismissed from the service. In addition to the establishment of discriminatory treatment, the plaintiff sought for the annulment of the dismissal order, reinstatement, compensation for lost earnings and compensation for moral damages.

Significance of the case: The plaintiff was one of the first to appeal to court on the basis of the newly adopted anti-discrimination law and sought for the establishment of the fact of discrimination. According to evidence presented in the case, the employer (Tbilisi City Hall) dismissed a number of civil servants on the grounds of their political views during that period. This fact was confirmed by the public statements made by the President of Georgia and human rights organizations.

Decision:

- The grounds of dismissal were created by the disciplinary proceedings against the civil servant due to his statement made with media about being forced to leave a workplace. According to legislation in effect, such action is qualified as acting as informant, and informers are protected under the Law of Georgia on Freedom of Speech and Expression. However, judge Giorgi Mikautadze does not discuss the mentioned issue in his decision at all.
- In addition, the judge refused to examine the legitimacy of the dismissal and remanded a case to the administrative body, which was accused of the violation of his rights by the citizen. Despite the fact that the legislation in effect provided him with the opportunity to decide the dispute.
- During the review of the discrimination case, the judge did not evaluate any piece of presented evidence. The judge fully neglected the requirements of the anti-discrimination law. He pointed out, that “without reviewing the legitimacy of the decision on the dismissal of the plaintiff, he had not ability to establish the fact of discrimination towards him.”

Note: Later, the Court of Appeals clarified concerning to this dispute that firstly, establishing the fact of the discrimination was of the material importance and this would provide the possibility of evaluating the legitimacy of plaintiff's dismissal from service. The Court of Appeals established the fact of discrimination.

Legal issue: Illegal Contributions

Facts: In 2012, Chamber of Control of Georgia appealed to court requesting the sanctions for 17 persons who made illegal contributions to the political associations of citizens, called “Georgian Dream”. All of these 17 persons were found guilty in offence and the total sum of the penalty imposed on them amounted to 202 thousand GEL.

Significance of the case: In the given dispute, the resolution of two legal issues had fundamental importance: The issue of compatibility of the law with constitutionality and international standards, which was questioned by a number of experts¹ and the qualification of the action under dispute as administrative or criminal offence (accordingly, the resolutions of the application of the burden of proof).²

Decision:

- Regarding the qualification of the action under dispute, the defense, in accordance with the best practice of the European Court of Human Rights, claimed that the illegal contributions should be reviewed as criminal action rather than administrative action. Accordingly, burden of proof should lie on not with citizens that they had to prove the ownership of relevant funds that they would donate, but the state bodies had to prove that these funds were not in their ownership. However, this issue is not reviewed in the decision. Moreover, without studying the case materials, the interested reader will be unable to obtain the information that the defense argued about this issue from the decision.
- The judge did not exercise the opportunity provided for by the legislation to assess the constitutionality of the law, and submit the motion with the Constitutional Court. The decision does not contain any opinion relating to this issue.
- **The judge granted only one day for collecting evidence and developing relevant arguments for court trial.** The court session continued for several hours, and the motions on the adjournment of the hearing were rejected.

1.2. APPLICATION OF THE PRACTICE OF THE SUPREME / CONSTITUTIONAL AND INTERNATIONAL / REGIONAL COURTS

None of the obtained decisions reviewed by judge Giorgi Mikautadze includes the reference to the practice of the Supreme/Constitutional and International/Regional Courts, despite the fact that the two reviewed cases were directly concerned with the restriction of the fundamental rights.

In May, 2019, Giorgi Mikautadze stated during the interview with the High Council of Justice “**Upon reviewing, I took pride in the fact that I reviewed 73 pending cases of offence in one day, a record was set at that time**”.³

¹ **ibid**

² **Material changes in the legislation – on the basis of which the judge imposed penalties of the citizens – become effective several months before the elections 2012. According to widespread opinion, the changes aimed to create problems to the public association of Bidzina Ivanishvili and suppress the opposition.**

³ [https://www.facebook.com/MikautadzeOfficial/videos/1992683467512809/minutes 3:41:-4:00](https://www.facebook.com/MikautadzeOfficial/videos/1992683467512809/minutes%203:41:-4:00)

2.

MISCONDUCT REVEALED IN PROFESSIONAL ACTIVITIES (DISCIPLINARY PROCEEDINGS, PROFESSIONAL ETHICS)

1. DISCIPLINARY PROCEEDINGS – EXISTING COMPLAINTS

- The disciplinary panel has not applied any disciplinary measures or penalties against the candidate.

2. ALLEGED VIOLATION OF PROFESSIONAL ETHICS

- There was no case of alleged violation of professional ethics.

3. ACTIVITIES IN THE CAPACITY OF A SECRETARY OF THE HIGH COUNCIL OF JUSTICE

- Judge Giorgi Mikautadze's name is connected with the ongoing flawed processes in the Council relating to the selection and appointment of judges, promotion of judges without competition, drawing up so-called 10 person list of judge candidates of the Supreme Court.
- During the period of holding the position of a Secretary of High Council of Justice, the Council supported the appointment of Levan Murusidze as a judge for indefinite term to Tbilisi Court of Appeals Chamber of Administrative Cases.
- During the period of holding the position of a Secretary by judge Giorgi Mikautadze, the information on **the destruction of the Council's server and deletion of a number of records of the Council sessions during the term of office of previous Secretary** was released to public. According to the comment made for media, Giorgi Mikautadze did not conducted investigation on this fact.
- **In 7 months after the election** of Giorgi Mikautadze as a Secretary of High Council of Justice, his wife, **Maia Kvirikashvili** was appointed as a judge at Tbilisi Civil Court.¹
- Judge Kvicha Kikilashvili, who had reviewed a case where judge Giorgi Mikautadze had been recognized as a victim, was appointed as a judge for indefinite tenure; Giorgi Mikautadze participated in his job interview.² However, after being criticized by the civil society organizations, he asked for self-recusal during the voting stage.

¹ When interview was conducted behind closed doors, Mikautadze did not attend the interviewing process but he participated in other stages of the competition.

² Does a Secretary of High Council of Justice abuse his official power? available at <http://bit.ly/2YffyXw>

3.

PROMOTIONS AND AWARDS/SCHOLARSHIPS GRANTED FOR PROFESSIONAL PERFORMANCE

1. LOGICAL NATURE OF THE PROMOTION

- After 4 year working-period at the Prosecutor's Office (2006–2010), Giorgi Mikautadze was employed as a Chief of the Secretariat at the Administrative Cases Chamber of the Supreme Court for 3 month (**Mikheil**

Chinchaladze, a Chairperson of the Administrative Cases Chamber) and was enrolled as a justice student at the High School of Justice (December, 2010).

- After graduating of the school (December, 2011) he was appointed as a judge of Tbilisi City Court (January, 2012). Since 1 December, 2015, he was appointed as a Chairperson of the Administrative Cases Panel of Tbilisi City Court (he replaced judge Shota Getsadze), and in 4 months, since March 5 of 2016 he held the office as a Chairperson of the Court (he replaced Mamuka Akhvlediani). Since June, 2017, he was elected a member and a secretary of High Council of Justice.

2. AWARDS / SCHOLARSHIPS

- Giorgi Mikautadze has not received any awards / scholarships.

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CONFLICT WITH LAW, CONFLICT OF INTEREST

1. CRIMINAL LIABILITY, ADMINISTRATIVE OFFENCES / PENALTIES, LITIGATIONS

- Judge Giorgi Mikautadze has no record of conviction. However, he has been engaged in two incidents:
 1. **In August, 2016**, in Adjara, on the coast of the settlement of Gonio incident took place between judge Giorgi Mikautadze and citizen Tamar Khachapuridze, whose case on the administrative offence was reviewed by judge Giorgi Mikautadze a year earlier.¹ According to Tamar Khachapuridze the judge beat his 13 year old son. The investigation was initiated under the article of beating a minor. According to the investigator, Giorgi Mikautadze, a Secretary of High Council of Justice was interrogated in relation to the fact of beating a minor. However, the case was not investigated² and as off today, the limitation period of the investigation has expired.
 2. **In 2015** judge Giorgi Mikautadze made a statement on the operative part of the judgment, but the reasoned decision given to parties stated different reasoning. Zaza Khatiashvili, a lawyer, appealed to the Prosecutor's office and requested the investigation (under the Article 341 of the Criminal Code). However, his did not receive a response.³
- **Administrative Offences:** Traffic violations are identified. (**1 traffic ticket**,⁴ for parking without parking permit payment receipt, dated 2017 on the car registered on the name of judge Giorgi Mikautadze's is published on the web-page of CT-Park). The ticket has not been paid up to present.⁵
- The judge is recognized as a victim in one criminal case.⁶ Namely, in connection with the above-mentioned incident in Gonio, the Prosecutor's Office changed the qualification of the case which was initiated under

¹ The incident involving judge Giorgi Mikautadze, available at <https://bit.ly/2MmGw8u>

² Judge refuses to question the witnesses of the accused – Giorgi Mikautadze's Case, available at <https://bit.ly/332X77d>

³ Khatiashvili submitted the evidence confirming the unlawful acts conducted by Giorgi Mikautadze, available at <https://bit.ly/2Znj9Q6>

⁴ Traffic tickets issued throughout the recent 3 years are published on the web-page.

⁵ <http://bit.ly/2LNWMjx>

⁶ Judge refuses to question the witnesses of the accused – Giorgi Mikautadze's Case, available at <http://bit.ly/2Zf7xhT>

the Article of beating a minor and the investigation was carried out on the fact of making death threat against a judge, consequently, the court imposed a fine of GEL 4000 on the parents of the minor.⁷

2. PARTY AFFILIATION, CONFLICTS OF INTEREST WITH A MEMBER OF HIGH COUNCIL OF JUSTICE, LINKS WITH POLITICIANS/INFLUENTIAL PERSONS

- Giorgi Mikautadze has not been a member of any political party.
- Giorgi Mikautadze is a judge candidate in the Supreme Court and at the same time, he is a Secretary of High Council of Justice. Judge Giorgi Mikautadze manages the administration office of the Council of Justice, which processes the information relating to the judge candidates.
- Judge Giorgi Mikautadze indicated **only two job referees instead of no less than 3 job referees requested under the legislation in effect in his application** submitted to High Council of Justice. Judge Giorgi Mikautadze did not observe the rule, however, the administration office of High Council of Justice did not consider this fact as a violation of official requirements.
- The Coalition for an Independent and Transparent Judiciary has been reporting on the dominant group of judges (clan) throughout recent years. The coalition considers Giorgi Mikautadze as one of the influential members of this group (clan).⁸ The connection of Giorgi Mikautadze with the clan is also pointed out by on-judge members Nazi Janezashvili and Ana Dolidze.⁹
- In December, 2018, after presenting so called 10-member list of candidates to the Supreme Court, a group photo¹⁰ of Giorgi Mikautadze, Levan Murusidze, Mikheil Chinchaladze, Valerian Tsertsvadze and Vano Zardiashvili, which was shot at a mini-part of the Parliament was disseminated through media. However, it is not the first time when judge Giorgi Mikautadze is seen in the company of Vano Zardiashvili and Mikheil Chinchaladze. In 2017, a photo¹¹, showing them in informal setting was disseminated.

⁷ “The persons accused of making death treat against judge Giorgi Mikautadze were charged with GEL 4000”, available at. <http://bit.ly/317FiIB>

⁸ “Appeal of the Coalition to the Parliament”, available at. <https://bit.ly/2Jc8ow5>

⁹ “Clan, Group and Judges for indefinite tenure”, available at. <http://bit.ly/2YdBnHg>

¹⁰ “Judges meet Vano Zardiashvili at a mini-park of the Parliament”, available at. <http://bit.ly/2Kb7fSW>

¹¹ “The informal meeting of a Member of the majority party and representatives of judicial authority one day before the session of the Council of Justice”, available at <http://bit.ly/2YrMTKk>

5.

CANDIDATE’S PUBLIC ACTIVITIES / POSITION AND BEHAVIOR

1. OPINIONS OF GIORGI MIKAUTADZE, EXPRESSED IN SOCIAL MEDIA

- Judge Giorgi Mikautadze has no personal account on social networking sites, however, he has an official web-page, where the information relating to his official meetings and activities of the High Council of Justice is regularly uploaded.

2. GIORGI MIKAUTADZE'S PUBLIC STATEMENTS ON THE SITUATION IN THE JUDICIAL SYSTEM

2.1. GIORGI MIKAUTADZE PUBLIC STATEMENTS ON THE APPOINTMENT OF LEVAN MURUSIDZE AS A JUDGE FOR INDEFINITE TENURE

In 27 December, 2018, after the appointment of Lavan Murusidze as a judge for indefinite term a Secretary of High Council of Justice declared that Levan Murusidze answered all questions during the interview held in the Council of Justice:

I believe no unanswered question is left by Levan Murusidze.... Nobody has ever doubted the fact that Mr. Levan Murusidze is a competent judge and he has major experience in judicial activity. Regarding the issue of good faith, if I am correct, 12 members believed that Mr. Levan has good faith”¹

2.2. GIORGI MIKAUTADZE'S POSITION IN REGARD TO THE SELECTION OF CHAIRPERSONS OF COURTS BY JUDGES INSTEAD OF HIGH COUNCIL OF JUSTICE

On 10 May, 2019, Giorgi Mikautadze referred to the non-governmental organization's request to give right to courts to elect their chairpersons as unsubstantiated statement. According to his statement:

The high interest shown regarding to this issue is obscure. It can't be perceived in this manner, a chairperson of the court needs a number of managerial qualities. He has to be elected by a competent body according to such qualities. A chairperson of the court cannot be elected by change“²

Note: According to the assessment of the Coalition for an Independent and Transparent Judiciary, a broad discretionary power of the chairpersons of courts/chambers/panels and the non-transparent practice of their appointment has been a serious problem for the judicial system for a long time. Frequently, the chairpersons of courts are viewed as the persons implementing the interests of dominant group of judges (clan) of judicial system in a specific court.

2.3. GIORGI MIKAUTADZE'S STATEMENTS ON THE SUBMISSION OF THE SO-CALLED 10-PERSON LIST OF JUDGE CANDIDATES IN THE SUPREME COURT

On 24 December, 2018, High Council of Justice has presented the so-called 10-member list of candidates of Supreme Court elected by voting to the Parliament. In regard to the process of compiling the list, judge Giorgi Mikautadze made the following statement:

We, Judge Members, made a group decision. I think, these are the candidates who meet any criteria”³

¹ „Nobody has ever doubted the competency of Murusidze – Mikautadze“, 27 December 2018, Netgazeti, <https://netgazeti.ge/news/332149/>

² “Giorgi Mikautadze referred to the request to give right to courts to elect their chairpersons made by the third sector and opposition as unsubstantiated statement. 10 May, 2019

³ “Giorgi Mikautadze – The members of the Council made a group decision during the process of compilation of the list of candidates of Supreme Court” First Channel, 24 Decemeber <https://bit.ly/2KBUqZe>

2.4. GIORGI MIKAUTADZE'S COMMENT ON THE JUDICIAL ACTIVITIES AND THE LACK OF DISSENTING OPINIONS DURING THE RULE OF THE FORMER GOVERNMENT

Judge Giorgi Mikautadze stated during the live interview in the program of Imedi TV “Kronika” that the judgments made in the past periods were fully due to the shortcomings that existed in the legislation in effect at that period.⁴

In addition, to the question asked by journalist: “How could the legislation interfere with issuing a verdict of not guilty, as it depended on the internal faith of a judge? “

Giorgi Mikautadze responded:

“ I would say that the judicial system is developing and progressing at any stage, which is shown by the statistics. A serious progress has been made particularly in recent years since the adequate legislation is support the judicial system. Nobody can defy this fact “.

The journalist also asked Giorgi Mikautadze regarding the lack of dissenting opinions at present and its reasons. On this question Giorgi Mikautadze pointed out that

“ judges cannot have dissenting opinions regarding the independence of court. It is not our legislative duty to protect the court form external pressure, whether the threat comes from the part of political authorities or non-governmental sector”.

3. GIORGI MIKAUTADZE'S STATEMENTS IN REGARD TO THE NON-GOVERNMENTAL ORGANIZATION AND INTERNATIONAL INSTITUTIONS

3.1. GIORGI MIKAUTADZE'S SPEECH AT THE XVII CONFERENCE OF JUDGES, WHERE HE TALKED ABOUT THE CAMPAIGN INITIATED BY NON-GOVERNMENTAL ORGANIZATIONS ON THE SELECTION OF JUDGES

In 2016, at the XVII Conference of Judges, Giorgi Mikautadze indicated:

“ How should we give a priority to a person out of the system over the person who is experienced in working in the system, who had no misconduct thought the period of judicial activity. Much ado is relating to halting the process of return experienced judges in the system”.

Judge Giorgi Mikautadze answered the following to the allegations relating to the presence of “the clan” in court:

“ We never attack anybody, we are attacked and we have the right to defend ourselves. Today, judges are independent to the extent they have never been before. The allegation is unsubstantiated and ungrounded. If we unite against this, we should not be referred as the clan because of this”.

3.2. GIORGI MIKAUTADZE'S STATEMENT IN REGARD TO THE US DEPARTMENT OF STATE REPORT ON THE SITUATION RELATING TO COURTS

On 19 March, 2019, Giorgi Mikautadze stated that the critical opinion of the US Department of State is based on the false information.

⁴ “Giorgi Mikautadze’s live interview in Kronika”, available at – <https://www.youtube.com/watch?v=ujLjFXL3RsE>

He commented that,

” The opinion directly indicated the source based on which the authors of the report develop their opinion and this source is again and again the Coalition and non-governmental organization, which as it has become obvious make the same complaints against the judicial system. I can respond to each presented allegation one more time. For instance, I can provide an example of the electronic software distributing the cases about which we held a number of meetings with non-governmental organizations and refuted all complaints relating to them with the evidence that the electronic distribution software works without a hitch and no interference takes places. However, we still receive the information disseminated by them based on false facts”⁵

4. INTERVIEW OF CANDIDATE GIORGI MIKAUTADZE AT THE HIGH COUNCIL OF JUSTICE



To a question posed by SERGO METOPISHVILI, a member of the Council of Justice: “In the case of facing dilemma, if he would make a legitimate or fair decision”, Judge Giorgi Mikautadze replied the following:

” I belong to the category of people who believe that the law should be fair. If as a judge I have to face the fact to make an unfair decision and to justify this decision due to its legitimacy, I will not do this. I will find the way to decide fairly”. To the question relating to the investigation and consideration of the exculpatory evidence proving the innocence of convicted if such evidence has been submitted by the defense after the stage allowed by the legislation, Giorgi Mikautadze explained that “I will violate the norms of the Procedure Code, I will return to investigate the evidence, consider it admissible and release the convict. I declare this unequivocally”.

- To a question relating to his connection with Vano Zardiashvili, a member of the parliament, the response of the candidate was the following:

” Vano Zardiashvili is a long-time friend of mine and we meet frequently. Imagine, we have met each other even at the restaurant. If we want to change this fact, either Vano or I should give up our friendship. Which do you suggest? I am not planning to do either the first or the second...”



In answer to the question of the member of the Council NAZI JANEZASHVILI, if he, like Levan Murusidze, believes that he is the leader of the judicial system, Giorgi Mikautadze declared, that:

” I am supposed to believe in this to a certain extent and this has to be my duty. We, judges have very high obligation of tolerance, judges have not right to resound their public position on a number of issues, i.e. we, judges have particularly restricted freedom of expression and we experience such moments. A speaker-judge, who can more or less make certain explanations, High Council of Justice and a Secretary of High Council of Justice, who is elected by the conference and I, I believe that this is my duty to a certain extent to present the common view on the number of issues relating to Judicial system, when it is required. But you are eager to make such parallels between Mr. Levan, (Murusidze) or Mr. Misha (Mikheil Chinchladze) or others, without having evidence and arguments... They do not need my protection at this stage, and if this was needed, I would have defended them by all means, I will do it and express my public opinion, but I do not see any material fact or argument beyond the false allegations, which would give me the grounds to think that my active involvement is necessary and I should start defending someone, I honestly think and believe that they perform their duties extremely well”.

⁵ Giorgi Mikautadze – the opinion made by the US Department of State refers to the false information submitted by non-governmental organisations, 14 March, 2019, available at: <https://itv.ge/news/giorgi-mikautadze-ashsh-is-sakhelmwifo-departmentis-daskvna-arasamtavrobo-organizaciebis-mier-miwodebul-cru-informacias-eyrdnoba/>.

- In answer to the question if he believes that transgender people should be given the right to change the gender in legal documents without being operated, Giorgi Mikautadze said the following:

” It is a very complex issue, I cannot tell you that I have thought a lot about this issue, neither can I tell you that I had experienced such case in practice, therefore, I do not have any particular experience. I am also guided by the existing opinions and decisions that are accessible to us. Perhaps, a human should be given the right to be considered having the gender they believe they are. However, this circumstance will bring up many other questions and gives rise to a number of problems...”

- In answer to the question regarding his opinion on the change of the definition of marriage in the Constitution and if he finds the existing definition discriminatory, the candidate replied the following:

” It is not discriminatory, but it will become a hindrance. And the constitutional norms are changed according to other standards – in the case when we decide to allow the single sex marriage. It is a very complicated topic, I have not thought about this, but do you know what I keep thinking about? Everything that has material existence is better to exist in the regulated form. If the events that existed and will exist in the society are handled roughly by us with the interferences such as granting or not granting rights on the legislative level, this will always result in negative consequences and will not bring us to the rightful goal. Thus, it is better that the relationships, which we all recognize and which exit independent from us, are regulated by the law.

6.

FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

1. PROPERTY



2019
GARAGE
\$ 11 000
15 SQ.M



2016
\$ 10 000



2015
\$ 20 000



2014
RESIDENTIAL
FLAT IN TBILISI
\$ 30 000
65.50 SQ.M



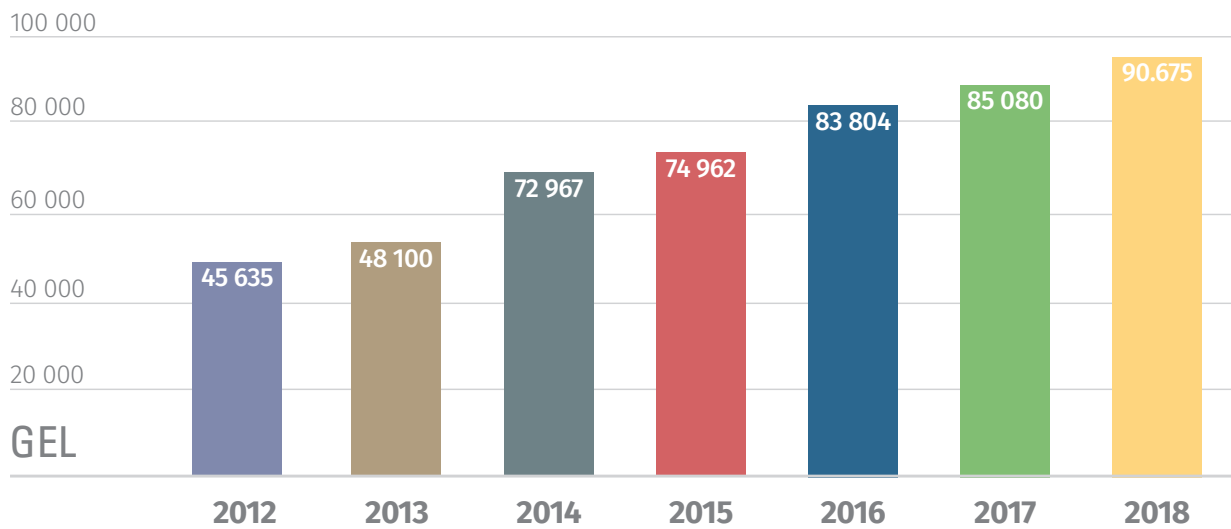
2014
RESIDENTIAL
FLAT IN TBILISI
\$ 34 000
63.20 SQ.M



2004
RESIDENTIAL
FLAT IN TBILISI
\$ 55 000
247.4 SQ.M

2. FINANCE

- According to the declarations submitted by judge Giorgi Mikautadze, his income from professional activities totaled 501 223 GEL in 2012–2018.
- His salary kept increasing from year to year, but the highest income of 90 675 GEL was generated in 2018.
- In 2018, the income of 73 514 was earned by Maia Kvirikashvili, Giorgi Mikautadzes spouse, who performs judicial activities in Tbilisi City Court since 2017, previously she was at the Prosecutor’s Office of Georgia.



- Recently, judge Giorgi Mikautadze purchased two automobiles. In 2015, he paid up to \$20 000 for her spouse's car, and the following year, he acquired a car for private purposes for \$10 000.



According to the declaration submitted in 2015, the joint income of judge Giorgi Mikautadze and his spouse amounted to 111 762 GEL in 2014. Meanwhile, in the same year, Giorgi Mikautadze purchases the immovable property worth \$ 64 000. \$25 000 out of mentioned sum of \$ 64 000 was covered by the mortgage issued to the candidate by the bank, "BANK REPUBLIC". However, the issue in question is how he managed to obtain the remaining \$ 40 000 to purchase the flat, when the savings made by the judge, except for earn salary, was only GEL 28,



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