

VLADIMER

KAKABADZE

A judge of Tbilisi Court of Appeals for indefinite tenure

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

2

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

7

PROMOTIONS AND REWARDS/ SCHOLARSHIPS AWARDED FOR PROFESSIONAL ACTIVITIES

7

CONFLICT WITH THE LAW, CONFLICT OF INTERESTS

8

CANDIDATE'S PUBLIC ACTIVITIES/ POSITIONS AND BEHAVIOUR

8

CANDIDATE'S FINANCIAL LIABILITIES AND INCOME

12

In 1997-2006 Vladimir Kakabadze worked as a lawyer in various companies. In 2006 he was a consultant to the Secretariat of the Cassation Chamber of Civil and Bankruptcy Cases of the Supreme Court of Georgia. In 2006-2016 Vladimir Kakabadze exercises judicial authority in Tbilisi City Court. In 2016 he was promoted to the same position for a three-year term, and from 2017 he was appointed to the same position for indefinite term. Since July 15 of 2019 Vladimir Kakabadze has been exercising judicial powers in Tbilisi Court of Appeals Chamber of Civil Cases.

1

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

1. DECISIONS, DISSENTING OPINIONS, COURT SUBMISSIONS

The candidate heard one of the high-profile cases, which took place in recent years, which is known to the public as the "Philip Morris" case. The decision adopted concerning this case will be analyzed in detail below, given its importance.

● "Philip Morris" case ¹

Legal issue: Dumping, market competition, indemnification of damages

Facts: The plaintiff, JSC Tbilisi Tobacco, has filed a lawsuit in Tbilisi City Court against Philip Morris Georgia LLC and JSC Philip Morris Inc. The plaintiff sought compensation for the material damage caused by the dumping actions of the defendants. The main claim was "compensation of damages caused to the competitor by "unlawful" dumping actions of the defendants in 2013-2015. All other requirements were related to and derived from this claim.

The plaintiff alleged that Philip Morris Georgia LLC and JSC Philip Morris Inc. had violated the requirements of Georgian law for years (Georgian Law on Tobacco Control, Georgian Law on Competition), selling cigarettes at a lower cost than production cost, which, in his view, constituted dumping and thus inflicted damage to the plaintiff, as their sales, revenue and market share have declined significantly during this period. More specifically:

According to the position of the plaintiff:

- Since September 1 of 2013, defendants have been selling various types of cigarettes at low cost, thus not only violating the law but also harming JSC Tbilisi Tobacco. The damage was caused by the fact, that the plaintiff's company sales have virtually halved and its market share has declined;
- Since September 1 of 2013, i.e. since defendants began selling cigarettes at a lower cost, plaintiff's sales and, consequently, revenues for the class of cigarettes that defendants have been selling at a dumping price, have declined sharply;
- Dumping prices (lower prices than cost price) have also led to a decrease in the market share of the company from 15% to 5%, while the share of dumping entities has increased from 30%-35% to 45-48%;

The plaintiff was requesting the following:

- Reimbursement of 8 571 954 GEL as the principal damage;

¹ Decision of the Chamber of Civil Cases of the Tbilisi City Court of February 10 of 2017 on the Case No. 2 / 4760-16

- Reimbursement of 10% of 8 571 954 GEL as unearned income from September 1 of 2015 until enforcement of the decision. According to the plaintiff, he would have received this income by depositing this amount in a bank. According to the claimant, the 10% accrual corresponds to the average annual interest rates published on the National Bank of Georgia's website;
- Reimbursement of 42 859 770 GEL **for income to be received for the next 10 years**, which the plaintiff could not receive due to the continuing nature of the defendants' actions. In support of this claim, the plaintiff's representative indicated that as a result of the defendants' dumping policy, the share of his plaintiff's company had decreased from 15% to 5%, resulting in the company sustaining multimillion-dollar damage. Annual damage amounted to 4 285 977 GEL.
- Reimbursement of GEL 25,000,000 to **reinstate to initial situation**. According to the plaintiff's explanation, multi-year advertising campaigns and multimillion-dollar advertising costs were needed to remedy the situation created by the defendant's unlawful actions. Specifically, putting up of billboards and banners, promotion and sponsorship of promotional products, gift accessories, inventory and products, organizing of events for 10 year period.
- **Reimbursement of income from unjust enrichment** in the amount of 15,000,000 GEL. Unlawful enrichment compensation is based on the fact that the defendants collectively received approximately the same amount of benefits they would not have received, had they not violated the law and had they not reduced the plaintiff's market share and sales.
- **Reimbursement of court proceedings costs**, including state tax, attorneys' fees and costs of the National Bureau of Forensic Examination, totaling 15,000 GEL.

Position of the defendants

Position of JSC Philip Morris Inc:

- JSC Philip Morris Inc. was a legal entity registered under the Swiss law and located in Switzerland, and Georgian courts had no jurisdiction in its regard.
- It was only the founder of Philip Morris Georgia LLC, although it was not involved in the day-to-day operations and decision-making of the Georgian company, which was unequivocally confirmed by the Philip Morris Georgia Charter.
- The joint liability could have been imposed only when the partner had misused the legal form of limitation of liability, which in this case could not be proved by the claimant;
- No company operating in a free market could guarantee that its market share or profit would remain unchanged – on the contrary, the constant fluctuation of market share and profitability among economic agents represents the perceived, well-known risk of each economic agent operating in a competitive market.

Position of Philip Morris Georgia LLC

- The conclusion of forensic examination on which the plaintiff based his position was drawn on the basis of illegally obtained information and evidence;
 - The conclusions drawn by the expert on the damage and unearned income to the company were ungrounded and did not establish a causal link between the defendant's conduct and damage caused to the plaintiff.
- Georgian legislation did not define the concept of cost price, therefore, the plaintiff's arguments and the conclusion of forensic examination in regard to the cost price of the production was inconclusive and vague.
- Retail prices of Philip Morris brand cigarettes in the disputed period were, in the absolute majority of cases, higher than those produced by JSC Tbilisi Tobacco;
- Defendant's link to the decrease of plaintiff's sales and share of the company has not been identified, since the production of Philip Morris's from December of 2015 till April of 2016 was not sold in Georgia at all due to collateral measure imposed by the court in regard to other case.

- During the period, when Philip Morris's products were not sold on the market, the plaintiff could have taken its place, increased his sales due to the fact, that its competitor was not present on the market, and recovered lost market share, although the plaintiff indicated, that due to management, marketing problems, quality of the product and other factors he could not do that, which could not be connected in any manner with the defendant;
- Regarding unjustified enrichment, the respondent stated that in 2012–2015 his own sales decreased significantly and the company lost its market share; consequently, his condition did not improve, but worsened.

Tbilisi City Court judge, candidate Vladimir Kakabadze, fully upheld the plaintiff's position and, consequently, fully satisfied his claims. Vladimir Kakabadze ordered the defendants to pay approximately 92 million GEL in favor of the plaintiff.

According to explanations of the candidate:

- **In the present case, the court had to determine whether the defendants had infringed the law/acted unlawfully, and if so, what was the extent to which the plaintiff had suffered damages.**

Unlawful actions

- The judge referred to Article 6 (1) of the Competition Law, which was in force at that material time, which stated, that abuse of a dominant position by one or more economic agents (in the case of group dominance) is inadmissible. According to subparagraphs (a) and (c) of paragraph 2 of this Article, as abuse of a dominant position may be regarded direct or indirect determination of unfair purchase or sale prices, or imposition of discriminatory conditions on identical transactions on certain trading partners, thus placing them at disadvantageous position.
- The judge also referred to Article 5 (2) (i) of the Law of Georgia on Tobacco Control, which prohibits the sale of tobacco products for free or at a low price.

Dumping

According to explanation of the judge:

- **„Dumping is the sale of a product or service at a low cost price for the purpose of expelling other market participants and expanding the market share. Dumping pricing can be referred to as "predatory" pricing. Under "Predatory Pricing" in the competition law is implied the price, that an economic agent establishes and inflicts losses upon himself in order to oust competitors from the market. If the dominant company offers its product on the market at a higher than average total cost, it is not a predatory price, and if the dominant company offers the product at a lower than average variable cost, the presumption of predatory pricing applies. ”.**

In the present case, the court held that the defendants were selling the products not at the price composed of actual costs and economic benefit, but at a lower cost price; The court also found that as a result of the actions of the defendants named in the original claim, JSC "Tbilisi Tobacco" suffered damages in the amount of 8 571 954.16 GEL.

Liability for damages

According to explanation of the judge:

- Liability for damages arises when conditions for imposing liability for damage are present: if the fact of causing damage is established, it is caused by an unlawful act, there is a causal link between the unlawful act and the resulting damage and the culpability of the person causing damage is established. The combination

of these conditions constitutes a legal component and absence of even one of these conditions precludes the possibility of imposing liability for damages;

- Damage should be compensated not only for actual losses, but also for unearned income. As unearned income is considered such income, that the person would have received if the obligations were duly fulfilled;
- Unearned income by its very nature implies a "pure economic loss" suffered by the contracting party, which would not have occurred, had the obligation been properly performed. In order for an income to be considered as unearned, it must have a direct link with the debtor's breach of obligation. Under the direct link is meant the logical link between events, actions and outcomes, that leaves no doubt about the real possibility of earning income;
 - In the present case, the court found that as a result of the defendants' unfair pricing and establishment of a non-competitive environment with regard to JSC Tbilisi Tobacco products, the plaintiff had incurred loss in the amount of 8 571 954.16 GEL.
 - The court held that the defendant was not only liable for damages/actual property loss suffered by the plaintiff during two years, but should additionally be liable to reimburse the defendants for the loss of profits due to unavailability of operation starting from September 1 of 2015;
 - The plaintiff's explanation that he could have received income in the event of a different turnover is reasonable and thus must be satisfied in the part of imposition of a 10% penalty. The defendant failed to adduce any evidence to prove the contrary, which was his obligation under the adversarial principle;
 - Causing damage continues and there is the prospect of its lasting effect; Thus, in the light of the principle of fairness, the defendants must be ordered to reimburse unearned income, both, in the period from September 1, 2015 and till the judgment is enforced, and for the subsequent 10 years at the annual rate of 10%, in order to reimburse for the unearned income from a business activity.

Reinstatement to the initial state

According to explanation of the judge:

- "The fact that the defendant had applied to a dumping policy and that the actions have not stopped, allows the Court to come to a reasonable assumption that the plaintiff will not be able to recover the amount of sales and lost market share in the long run. It is established that the plaintiff suffered damage. Accordingly, in the Court's view, the claim in the part of requiring imposition of liability for reimbursement of actual damage is justified. The court agrees with the plaintiff's statement that a number of marketing measures have to be taken to restore the plaintiff's position on the tobacco market, which requires investment of GEL 25,000,000. The respondent has not submitted any opposite calculation, which is his obligation under Article 102 of the Civil Procedure Code of Georgia, therefore, the claim against the defendants is also fully substantiated in the part of imposition of GEL 25 million".

Unjust enrichment

According to explanation of the judge:

- In this case, it is not disputed that the defendant was engaged in implementation of the dumping policy for years; it is also undoubted, that this has led to a decrease in the sales and profit margin of JSC Tbilisi Tobacco products. As has already been explained, this is the purpose of dumping - to exclude other competing enterprises from the market. The Court finds that the defendants benefited from the action, which would not have happened, if they have not "enriched" at the plaintiff's expense. Therefore, the demand in this part is also subject to satisfaction."

The judge imposed on the defendants the obligation to fully reimburse all the above referred amounts for damages.

Note: It should be noted that the above-mentioned decision of Judge Vladimir Kakabadze, which caused high public attention, is ambiguous in several respects; In particular, there is no (anti-dumping) legislation in Georgia that would specifically address dumping cases. Accordingly, there is no legal basis in the national law for assessment of an entrepreneur's activity as dumping.

As for the regulations of the Law of Georgia on Tobacco Control, namely, provisions related to prohibition of the sale of tobacco products free of charge and at a low price, according to the Code of Administrative Offenses of Georgia, this act is a violation². Such action of an entrepreneurial entity is not a delict, in case of which any other entrepreneurial entity has the right to claim damages. This is a legal relationship between a particular entrepreneur and the state, whereby the state, through a specific regulation, considers the sale of tobacco products by the entrepreneur at a low cost or at cost price as action, contrary to the requirements of the Code of Administrative Offenses and such action shall fall within the scope of this Code. The purpose of this ban is to restrict spread of tobacco use by the state and not to ensure of the risks of competition on the market.

As for the of the Law of Georgia on Competition, which prohibits abuse of a dominant position by one or more economic agents (in the case of group dominance), and establishing of unfair purchase or selling prices or other unfair trading conditions directly or indirectly, it is unclear why the judge Vladimir Kakabadze considered that defendants are dominant economic agents, and why he did not pay attention, that it could have been an ordinary competition in conditions of free market. In this context, the court did not reason sufficiently on the respondent's position, or how the plaintiff was imposing unfair price on the product and creating unfair trading conditions, when the plaintiffs' products were more expensive than the defendants' products, contrary to what court deemed as proven (selling at a lower price).

Even more vague is the judge's reasoning about the amount to be paid over the next 10 years and the imposition of damages on the defendant. It is unclear how, on the basis of what mechanism and circumstances, the judge was able to calculate this damage and, in general, to link the defendants' actions to those amounts.

Judgment of the Tbilisi Court of Appeals of June 9 of 2017

It is noteworthy that Tbilisi Court of Appeals upheld the defendants' appeal: the abovementioned decision of Judge Vladimir Kakabadze was completely overturned and the obligation of payment of damages was lifted from the appellants.³

² Section tertia, Article 115, paragraph 13 of the Code of Administrative Offenses of Georgia, Legislative Herald of Georgia N161, Agencies of the Supreme Council of Georgia, Annex 12, 31/12/1984.

³ "The Court of Appeal fully exempted 'Philip Morris' from payment of 92 million GEL ", available at <https://urlzs.com/5gX8B> [last accessed 11/09/2019]

2.

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

1. DISCIPLINARY PROCEEDINGS - EXISTING COMPLAINTS

- In 2012, in regard to Judge Vladimir Kakabadze was applied disciplinary measure in the form of reprimand by the decision of the Disciplinary Panel. As the basis for initiation of disciplinary proceedings and imposition of disciplinary measure served unjustified prolongation of consideration of the application by the judge.

2. ALLEGED VIOLATION OF PROFESSIONAL ETHICS

- Violation of professional ethics was not identified.

3.

PROMOTIONS AND AWARDS/ SCHOLARSHIPS GRANTED FOR PROFESSIONAL PERFORMANCE

1. PROFESSIONAL DEVELOPMENT

- Candidate Vladimir Kakabadze was an assistant lawyer at the law firm Rcheulishvili & Company from 1997-1998. In 1998-2006 he worked as a lawyer at the Center for Protection of Constitutional Rights, and in 2000-2006 he worked as a lawyer at the Georgian National Committee against Torture.
- From February to June of 2006 Vladimir Kakabadze was a consultant to the Secretariat of the Chamber of Civil and Bankruptcy Cases of the Supreme Court of Georgia.
- In August 2006 Vladimir Kakabadze was appointed as a judge to Tbilisi City Court. After expiring of his 10-year tenure, he was appointed to the same position for a 3-year term, and from 2017 has been appointed to the same position for indefinite term. Since July 15 of 2019 Vladimir Kakabadze has been exercising judicial powers in the Chamber of Civil Cases of Tbilisi Court of Appeals.¹
- Since January 20 of 2018, Vladimir Kakabadze is a member of the Judicial Conference's Administrative Committee (elected with 254 votes).

2. AWARDS/SCHOLARSHIPS

- Judge Vladimir Kakabadze has not received any awards/scholarships.

¹ By decision # 1/141 of the High Council of Justice of July 9, 2019, Vladimir Kakabadze was appointed as a judge of the Administrative Cases Chamber of Tbilisi Court of Appeals, from July 15 of 2019, see <http://bit.ly/2m6olcf>, by Decision # 1/165 of the same Council dated July 12 of 2019, from July 15 of 2019, Judge of the Administrative Cases Chamber of Tbilisi Court of Appeal Vladimir Kakabadze was appointed as a Judge of the Chamber of Civil Cases, see <http://bit.ly/2lFkvqg>

4.

CONFLICT WITH LAW, CONFLICT OF INTEREST

1. CRIMINAL LIABILITY, ADMINISTRATIVE OFFENSES / PENALTIES, LITIGATIONS

- Judge Vladimir Kakabadze has no record of conviction.
- Administrative violations are identified due to traffic violations.
- In February 2014, Judge Vladimir Kakabadze represented the plaintiff in a contractual dispute. The plaintiff was requesting refund of the transferred sum due to the failure of the other party to fulfill the contractual obligations. As a result of reaching settlement with the defendant, Vladimir Kakabadze dropped the lawsuit.
- Judge Vladimir Kakabadze represented the plaintiff in a dispute with businessman Fadi Asli. The judge has filed a lawsuit seeking compensation for non-pecuniary damages after the businessman described him as corrupt. Although the judge won the case in Tbilisi City and the Court of Appeals, the Supreme Court of Georgia overturned the lower court's ruling and did not satisfy Judge Vladimir Kakabadze's appeal.¹

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

- Judge Vladimir Kakabadze was not a member of any political party.
- Candidate Vladimir Kakabadze's links with politicians or influential persons have not been identified.

¹ Fadi Asli won the case against a judge, whom he called corrupt, see <http://bit.ly/2k8iXVt>

5.

CANDIDATE'S PUBLIC ACTIVITIES/ POSITION AND BEHAVIOR

1. OPINIONS OF VLADIMIR KAKABADZE, EXPRESSED IN SOCIAL MEDIA

The candidate does not use social networks. He has neither a personal profile nor an official, job-related page

2. PUBLIC STATEMENTS MADE BY VLADIMIR KAKABADZE

Public statements made by Vladimir Kakabadze on the Internet were found only the answers given by him during interviews with the High Council of Justice.

3. INTERVIEW OF THE CANDIDATE VLADIMIR KAKABADZE AT THE HIGH COUNCIL OF JUSTICE



Member of the High Council of Justice SERGO METOPISHVILI posed following question to the Candidate: "In case of a dilemma, whether to adopt a lawful or a fair decision, what decision would you adopt?"

Judge Vladimir Kakabadze's response:



Ideally, a fair and lawful decision should be synonymous and a lawful decision must be fair at the same time... I may be more conservative in some matters. I may not be like when a judge interprets the norm so broadly, that it completely changes the content of the norm. This may not be entirely acceptable to me. I still believe that if a judge considers that some norm contradicts the supreme values, basic human rights guaranteed by the Constitution, basic human rights guaranteed by the European Court, it is better to apply to the Constitutional Court with a constitutional submission."



Question of the Member of the Council IRMA GELASHVILI to the candidate: "In the well-known dispute you were talking about at the beginning¹, as compensation for non-pecuniary damage you imposed 3,000 GEL. Why did you establish this amount, why you did not establish as compensation symbolic amount in 1 GEL, or more, when the defendant was quite wealthy? "

Judge Vladimir Kakabadze's response:



If I remember correctly, I was demanding 20,000 GEL. It was set at 3,000 GEL. There is no recipe for this. Based on my individual emotions and the feeling of anguish, inflicted on me as a result of publication of this information, on the basis of my individual assessment I considered that 20,000 GEL was more or less adequate amount".



IRMA GELASHVILI'S Question to the Candidate: "You requested that amount as compensation or as punishment of the respondent?"

Judge Vladimir Kakabadze's response:



As you know, compensation also has a preventative effect, so that this violation is not repeated. I thought that 20,000 GEL is not a small amount in our reality. Consequently, so that somebody would not perceive it, as if the Judge Vladimir Kakabadze wanted to enrich himself at someone's expense and get an unreasonable amount of money, I thought that 20,000 GEL was enough to prevent them from further disseminating such statements in regard to a judge, and, on the other hand, I considered it as justified amount as a compensation for the inflicted spiritual suffering. However, even this 20,000 GEL was not adequate, as I value my dignity and honor very much. However, considering all this, I have chosen this amount".



IRMA GELASHVILI'S Question to the Candidate: "If you (as a judge of the Court of Appeals) will be assigned such a case (similar to the Fadi Asli's case), what decision would you adopt after the decision of the Supreme Court? Would you take into consideration the practice of the Supreme Court, or you would decide on the case adopting the same approach as you did?"

¹ Here is implied a lawsuit filed by Judge Vladimir Kakabadze against businessman Fadi Asli. The claims in the lawsuit included recalling of information disseminated against the judge, as well as appropriate compensation. In particular, in Fadi Asli's statement against the judge was indicated, that Vladimir Kakabadze is corrupt, etc., available at: <https://www.bm.ge/en/articl>

Judge Vladimir Kakabadze's Response:



I am deeply convinced that the kind of insult and abuse, that has been inflicted on me, is an act punishable by international law, our legislation, civil law, and it must, of course, result in compensation for moral damages. i.e. satisfaction of a claim, say, monetary compensation, a reasonable amount, and also by obligation of the respondent to retract the slanderous information."



IRMA GELASHVILI'S question to the candidate: "If you were assigned other case of Fadi Asli, what do you think, you should apply to self-recusal?"

Judge Vladimir Kakabadze's response:



Due to the very high ethical standards that I follow in my judicial work, of course, I would recuse. I believe that in accordance with the rules of judicial ethics, and the Bangalore principle, my action would be correct. The slanderous remarks in my address and my subsequent actions (I was the plaintiff and that person was the defendant) could leave the impression that I would not be objective in this case in the eyes of a third party."



The High Council of Justice member NAZI JANEZASHVILI'S question to the candidate: "Have you come up at the Conference of Judges' with a dissenting opinion on any ongoing case?"

Answer by Judge Vladimir Kakabadze:



As far as I can remember, I did not speak at the conference. Maybe public speaking and participation in public discussions is not my strongest feature, that is why I have not made such public statements. As for a dissenting opinion, if I had such on a principally important issue, of course I would have stated it".



NAZI JANEZASHVILI'S question to the candidate: "How would you assess Mr. Mikhail Chinchaladze as the President of the Court?"

Judge Vladimir Kakabadze's response:



I have been appointed to the Court of Appeal a week ago. I did not have meeting with him yet. I knew him before in the capacity of a judge. I have seen him several times at conferences. This is the extent of my acquaintance with him".

During the discussion, which ensued after the question, Judge Vladimir Kakabadze addressed the Chairman of the High Council of Justice, and asked him, whether he could refrain from answering. In addition, during the discussion, the judge also addressed a non-judge member of the Council Nazi Janezashvili, telling her that she could reduce probably the number of questions. He noted:



You ask unusually many questions compared to other members of the Council. This is my observation. You have to keep some balance, perhaps. I recently met one of the judges who told me that the interrogation of a witness cannot last more than 4 hours. You have to keep this balance."



NAZI JANEZASHVILI'S question to the candidate: "I am interested, whether Levan Murusidze is your leader, as he mentioned to us during the interview that he is the leader."

Answer by Judge Vladimir Kakabadze:

” Mr. Levan is the Chairman of the Association of Judges and he is one of the leaders of the judiciary. However, at the same time, I would say that the members of the Council represented here are also leaders. Leadership does not mean that someone dictates what decision to make. You, as a member of the Council, following from your status, are also one of the leaders in the judiciary. I think that Mr. Murusidze is one of the leaders. However, this does not mean that it has some influence over other people's decisions.”

When speaking to Levan Murusidze, Judge Vladimir Kakabadze also mentioned that Murusidze is the Chairman of the Association of Judges and the Association publishes the magazine the Law and Justice. Afterwards, the member of the Council Nazi Janezashvili asked Vladimir Kakabadze if he remembered when the magazine was last published. During the ensuing discussion Judge Vladimir Kakabadze stated the following:

” As a judge, who defends the rights of others, including in this competition, I will defend my rights. This style of interrogation, like KGB, is not appropriate form for interview!”.



NAZI JANEZASHVILI'S Question to the Candidate: "Suppose the chairman of your court, in this case I do not mean any personality, has decided that you should hang a picture of the President in your office, would you do it?"

Judge Vladimir Kakabadze's response:

” This is a question from the sphere of fantasy, Ms. Nazi, I do not think it is necessary to answer this question. This situation goes beyond not only the reality of Georgia, but the objective reality in general. I can't imagine the Chairman of the court coming in and telling me to hang a picture of the President. I can't imagine such situation. So this is my answer.”



NAZI JANEZASHVILI'S question to the candidate: "What would you do if you came to your office, and saw the picture of the President in your cabinet?"

Judge Vladimir Kakabadze noted:

” Which president, US president, Georgia, current or former, I am asking this question seriously. I don't know if you have to ask a candidate for office in the Supreme Court a question regarding hanging a picture of the President in the cabinet. I have not thought specifically about whether I would leave it or not, but first of all, I would inquire who hung this picture in my personal space.”



High Council member ANNA DOLIDZE'S question to the candidate: "According to the practice of the European Court, does the office of a public official, including a judge, represent his or her private space or public space?"

Answer by Judge Vladimir Kakabadze:

” I do not remember the specific case that the European Court of Human Rights considered in this regard, but according to Georgian law, a judge is inviolable, which means that his work space is inviolable too. It's clear, that a judge has different status from other civil servants, consequently, privacy of his office space is also protected. However, in my view, given the high standards that the European Court of Human Rights adheres to, including protection of private life and the workplace, I would still answer the question in such manner - yes, a workplace of a judge is his personal space as well. Because I have personal items in my office as well, which reflect my private life and personality. I therefore consider it my personal space and I think it falls under the rights protected by the European Convention.”

6.

FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

1. PROPERTY:



2016
HOUSE UNDER CONSTRUCTION IN TBILISI
67,000 GEL
(180 sq.m)



1996
APARTMENT IN TBILISI
13,860 GEL
(17 sq.m)



2014
VEHICLE
9,328 GEL

SPOUSE:



2016
GARAGE IN TBILISI
18,31 sq.m



2014
LAND PLOT IN TBILISI
42,900 GEL
380 sq.m



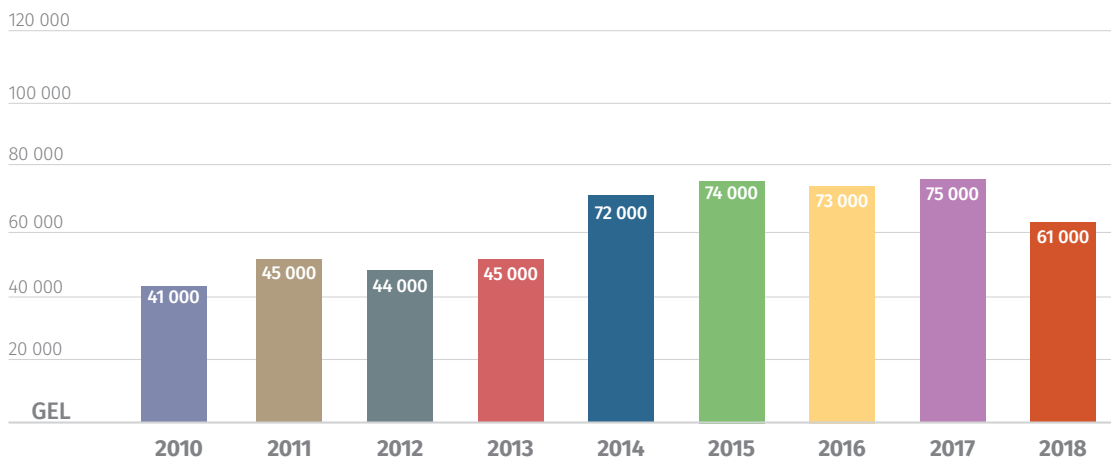
2011
COMMERCIAL SPACE IN TBILISI
52,480 GEL
52,62 sq.m



2003
APARTMENT IN TBILISI
17,280 GEL
30 sq.m



2014
APARTMENT IN TBILISI
51,563 GEL
77,87 sq.m



2. INCOME

Judge Vladimer Kakabadze received salary as a result of his judicial activities in 2006–2018 in the amount of 635,209 GEL. It is noteworthy that during this period he has not carried out any other activity other than judicial activity. The highest salary that he had during his work in judicial position was in 2017, which amounted to 75,425 GEL.

Candidate's spouse Lia Gochiashvili has held various positions in Nobel LLC since 2010. Her average annual salary is GEL 29,000. She had the highest remuneration in 2012, when she received in salary 130,000 GEL.

Judge Vladimir Kakabadze has three current loans in the amount of \$ 35,000, \$ 60,000 and \$ 25,000.



There are some minor problems with information on filed declaration. According to Declaration for the year 2014 and Public Registry, Lia Gochiashvili received as a gift from her mother a 45 sq.m. apartment in Tbilisi, with the value of \$ 55,000. Anna Gochiashvili is stated as the owner of the apartment since 2000. In 2014, in Public Registry is observed some change in the data and the apartment space is increased to 77.87 sq. m. Accordingly, in the same year, she purchased additionally the space of 32.87 sq. m, for which, according to recent declarations, she paid \$ 23,500. The problem is that the declaration for 2014 this information was not included, and it became known later.



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