



# Miranda

## EREMADZE

a judge of Tbilisi Court of Appeals appointed for indefinite term

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

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In 1999–2005, Miranda Eremadze worked as an assistant judge at the Tbilisi District Court. In 2006–2016 she exercised judicial authority in Java, Mtskheta and Tbilisi City Courts. In 2016 she was appointed as a judge of the Chamber of Administrative Cases of Tbilisi Court of Appeals for a three-year term, and since October 20 of 2017 she has been appointed to the same position for indefinite term.

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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 DECISIONS

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**Legal Issue:** Requesting public information from the administrative body; Basis for restricting access to information.

**Facts:** non-commercial legal entity “The Institute for Devealopment of Freedom of Information” (IDFI) requested information from the Ministry of Justice of Georgia about activities of the Ministry, including copies of letters sent and received by e-mail in connection with state procurement in 2015. The Ministry did not provide requested information on the ground that the e-mail was not an official document and therefore it had no obligation to provide this information.

Tbilisi City Court upheld position of the Ministry and stated in its decision that the Ministry had no obligation to retain this information as it was not covered by the definition of an official document.

On December 27 of 2016, Judge Miranda Eremadze dismissed the appeal of IDFI and, consequently, the appellant was not given the opportunity to obtain the requested information.

**Significance of the case:** In this case, the Court had for the first time to consider whether the electronic correspondence of representatives of public bodies represents an official document and, consequently, the extent to which such correspondence is subject to the rules established by legislation, regulating openness of public information.

#### **Decision:**

- **The court deemed, that e-mail correspondence was a means of informal communication.** The judge indicated that the correspondence sent and received by the head of the ministry or an authorized person from the service email was protected by the constitutional right to privacy. On this basis, the plaintiff was denied access to the content of such communication.
- In particular, the judge explained: **“E-mail is, in its essence, a means of informal communication and is a temporary record used for exchange of intermediate information and final decisions are not contained in such correspondence”.**
- The judge does not substantiate on what basis the court considered, that for information to be considered public, it should contain only final decisions and not the exchange of intermediate information or communication, reflecting the decision-making process.

**Note:** According to the law, **public information** is defined as “an official document (including drawing, model, plan, chart, photograph, electronic information, video and audio recordings), that is protected by a public agency, as

well as information obtained, processed, created or exported by a public agency or its employee, as well as information proactively published by a public body”.

It is noteworthy that on September 14 of 2017, by the decision of the Supreme Court of Georgia, the decision of the Court of Appeal was overturned and a new decision was adopted.<sup>1</sup>

The Supreme Court, with reference to the case law of the European Court of Human Rights, did not accept the Court of Appeal’s reasoning on deeming of email communication as informal; It also noted that the Court of Appeal had wrongly applied the ruling of the Constitutional Court of Georgia.<sup>2</sup>

**Legal Issue:** Issuance of a document, replacing an expired ID card by an administrative agency.

**Facts:** On September 20, 2016, Judge Miranda Eremadze, considered in Tbilisi Court of Appeals the issue of expired ID card, where the plaintiff requested extension of its validity until the dispute was settled. The case concerned the annulment of Tbilisi City Court’s ruling on the basis of a complaint filed by LEPL Public Service Development Agency.

Tbilisi Court of Appeals overturned the first-instance court’s ruling that upheld claim of N.S. and extended his ID until the dispute was over.

**Significance of the case:** In this case, the court had to discuss a matter that is not directly regulated by Georgian law.

**Decision:**

- The substantiation of the judge in the legal assessment part is contradictory. In one part of the reasoning the judge states that in resolving the disputed issue, the court must arrive to decision in strict compliance with the substantive law, and in the second part of the reasoning the court of first instance points to application of a purposive method of interpretation of the norms for the purpose of foregoing.

**Note:** The teleological (purposive) interpretation of the norm is used when the substantive law does not explicitly regulate the disputed issue and, consequently, precise compliance with the law is impossible.<sup>3</sup>

**Legal Issue:** Construction permit in recreation area within increased coefficient<sup>4</sup>; the legality of the acts and the grounds for nullity.

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<sup>1</sup> The decision of the Supreme Court of Georgia on the case Nbs-286-284(k-17)

<sup>2</sup> The Court of Appeal referred in its decision to the ruling of the Constitutional Court of Georgia of 14 July 2006 (N2/3/364) on the case of *the Georgian Young Lawyers’ Association and the citizen of Georgia Rusudan Tabatadze v the Parliament of Georgia*.

<sup>3</sup> George Khubua “Theory of law”, Tbilisi, 2004, p. 184-185

<sup>4</sup> According to the decision of the City Hall, the coefficient of development of the land plot – K1 has been increased in this area, which determines the maximum scope of the land-plot, on which construction is permissible. In given case, the coefficient of the territory was increased from K1 = 0.2 to 0.5 =. By the decision of the City Hall Tiflis Kostava LLC and Graal LLC they were allowed to use for construction of the hotel the 1431.5 sq.m. instead of 572.6 sq. m.

**Facts:** A non-profit organization “Green Alternative” filed a lawsuit in Tbilisi City Court challenging the legality of the acts issued by Tbilisi City Hall to Tiflis Kostava Ltd and Graali Ltd. According to the disputed acts, Tiflis Kostava Ltd and Graali Ltd were granted permit to build a hotel in the area of Vake Park, which has the status of a recreation zone, within the increased coefficient.

By March 2, 2016 ruling the judge partially upheld the claim. The order of Tbilisi City Hall Architectural Service of September 20 of 2013 was annulled without considering of the disputed issue, and the Service was assigned to adopt a new act upon further examination and verification of the circumstances of the case.

**Significance of the case:** Conditions of use of the recreational zone for construction.

**Decision:**

- The judge, after examining the evidence and hearing the parties’ explanations, determined that the outline of the architectural project was falling within the red lines<sup>5</sup>, while some element of were intruding into the public space. On the basis of the above, he considered the construction permit to be incompatible with the law and found it invalid.
- The reasoning reflected in the decision is based on the right to live in a safe environment for health, guaranteed by the Constitution of Georgia and the positive obligation of the state to take appropriate action to eliminate or minimize negative impact to the environment, caused by its activities;
- The judge discussed in the present case the need to maintain balance between private and public interests and the role of the state’s positive and negative obligations in the process. Namely, the judge explained: **“... it is a negative obligation of the State to refrain from any actions that would interfere with property rights. At the same time, the state carries positive obligation to create such legal system, that shall ensure a fair balance between members of the public.”**
- In her decision the judge discussed the role of urban development coefficients, the possibility of their increasing, and the need to justify their modification in the recreational area. On the grounds of legal assessment of the above-mentioned issues was established the fact of violations by the administrative authority in regard to issuing of the permits.
- The burden of proof has been correctly distributed by the judge between the parties. In particular, the plaintiff’s obligation to substantially justify the claim, on the one hand, and the obligation of the administrative authority to substantiate the legality of the acts issued by it on the other hand, has been clearly separated. According to explanations of the judge: **“[...] the respondent is an administrative authority, and it is obligated to prove that the administrative act was issued in compliance with administrative law, and that its issuance did not violate the plaintiff’s legal rights, which means, that the requirement of the law [...] relieves the plaintiff from the burden of proof till the relevant impugned act shall be considered unlawful by the body, which adopted it”**.
- In the judgment, the Court explains that the administrative body is obliged to act in accordance with the principles of proportionality and legality in its decision-making.
- **“In the Court’s view, the exercise of discretionary power requires special attention to avoid procedural violations and breaches of the law, which may ultimately result in encroachment of property, infringement of legality, and the rights of a subject.”**
- The judge ruled that the construction companies involved in the case – Tiflis Kostava LLC and Graali LLC had legal confidence in the act, that prevented the nullity of the unlawful act. Nevertheless, the legislation provides

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<sup>5</sup> **Development Regulation Lines (Red Lines)** – are the imaginary boundaries for a land plot(s) under an urban planning document, within the limits of which buildings must be located.

for the circumstances of exclusion of legitimate trust. The decision examines the legal basis for exclusion of trust of the addressees of the Act (Tiflis Kostava LLC and Graali LLC) (if the administrative act violates the legal rights or interests of the state, public or other persons). The judge indicates that failure to comply with the rules governing the use and development of the site may constitute a substantial violation of the legal rights and interests of other persons.

- One of the contentious issues was the deliberation and adoption of the final decision by the Advisory Commission<sup>6</sup> and the administrative body (City Hall). The court explained: **“The Commission’s conclusion on a special (zonal) agreement should be the subject of an assessment by the administrative body and not the sole, unconditional and binding basis for adoption of a decision.”**

**Legal issue:** Entering amendments to the record of court proceedings.

**Facts:** Tbilisi City Court judge Miranda Eremadze rendered a judgment on June 24 of 2009 regarding amendments to the records of proceedings, thereby amending the records of June 15, 2009 hearing on the case of Ivane Tamazashvili.

Ivane Tamazashvili’s lawyer appealed to the court, alleging inaccuracies in the minutes of the hearing, noting in particular, that identity of the person, drafting the records was not indicated, and the records did not contain explanations of the police officer present at the hearing, that **“Ivane Tamazashvili had *almost* committed a violation”**.

The court concluded, that after examining the case file and the application, the police officer drafting the records, present at the hearing explained that **“Ivane Tamazashvili had *almost* blocked the road”**.

**Significance of the case:** The case is significant as it shows that the in the trial records was not properly recorded important factual circumstance of the case, and when the records were amended at the request of the defense, it still did not affect the judge’s decision.

**Decision:**

- The wording of the judgment establishes, the fact of the offense has not occurred, and furthermore, argues that Ivane Tamazashvili had virtually did not block the road. However, the judge did not take into account the aforementioned circumstance and Ivane Tamazashvili was found guilty.

**Note:** It is noteworthy that because of this case, Judge Eremadze was also mentioned in the report of the human rights defender organization. Specifically, in the Human Rights Center’s Report of Monitoring Courts for the year 2009 is stated the following:

The judge’s decision was based on the only circumstance – the statement of the inspector-investigator Avtandil Poladashvili, according to which Ivane Tamazashvili “almost committed an offence ... Judge Miranda Eremadze did not pose a single questions to the accused Ivane Tamazashvili or any witness at the trial.

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<sup>6</sup> The Commission on Regulation of the Use and Development of the Territories of the City of Tbilisi (hereinafter referred to as “the Council”) is a consultative body established by the order of the City Hall of Tbilisi for the purpose of provision of advice on construction related issues to Tbilisi City Hall.

The court did not take into account Tamazashvili's or his witness's testimony, or the video footage presented by Tamazashvili's defense, depicting how police officers beat protesters without any prior request, order or instruction.<sup>7</sup>

## 1.2. HIGH-PROFILE CASES

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**Legal issue:** Freedom of assembly guaranteed by the Constitution, recognition of a person as an administrative offender, standard of proof.

**Facts:** On March 9 of 2009, Judge Miranda Eremadze considered the case of Dachi Tsaguria, a civil activist. Dachi Tsaguria participated in a rally organized outside of the Parliament. According to the resolution, he crossed the roadway and hindered movement of traffic, and failed to comply with a lawful police officer's request to leave the roadway, and used obscene words in policemen's address. The judge found Dachi Tsaguria guilty of offence and fined him for hooliganism and disobeying lawful orders of police.

**Significance of the case:** the law on the basis of which a person was convicted was adopted in the Soviet period, and in the course of proceedings it failed to provide for the proper protection of a person found guilty of a criminal offense, it did not provide for the presumption of innocence, etc. This law offers a lower standard of protection to a defendant than criminal law<sup>8</sup>. In this context, it is particularly important for the judge to adopt a fair and well-substantiated decision.

### Decision:

- The hearing took place on the same day that the police drafted the record of the offense, and accordingly, the accused person **in fact was not given adequate time and opportunity to collect evidence and formulate arguments in his defense.**
- During the trial, Dachi Tsaguria was given only **30 minutes to ensure that his interests were represented in the case by a lawyer.**
- The resolution states: **"Having examined the record of the offense and the materials in question, and having heard the parties' explanations, the Court considers that the fact of the offense has been confirmed by the materials in the case. Accordingly, Dachi Tsaguria should be recognized as an administrative offender." The judge does not specify, on the basis of which materials and evidence the offense was found to be proven.** The only thing, that the resolution indicates to, is that the record of the offence and notice prepared by the patrol police are adduced to the case file. No other evidence is present.
- The resolution mentions the freedom of assembly is guaranteed by the Constitution, but the case is not actually considered in the light of the substance of this right.
- The resolution only reads: **"Freedom of peaceful assembly and association is one of the essential components of a democratic society. The constitution of Georgia recognizes freedom of assembly and manifestation, but it is not an absolute right and may be restricted by law".**
- The judge did not sufficiently reason on the importance of the right in a democratic society, the spheres protected by the right, the grounds for restriction, the balance that the state should maintain between the interests of protesters and other parties, using the road, and the proportionality of the restriction. Discussing and

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<sup>7</sup> Report of the Human Rights Center of 2009

<sup>8</sup> the Law of Administrative Violations of Georgia: Long-expected reform, Georgian Young Lawyers' Association (2018)

evaluating all of these issues was critical to reaching a well-substantiated and fair decision in the case.

- In the resolution we find extremely problematic discussion of the standards of interference with the freedom of assembly. **“The authorities apply broad criteria of evaluation and are entitled to legitimately restrict freedom of assembly if an assembly may turn into public disorder.”**

**Note:** Georgian legislation, as well as the European Convention on Human Rights, does not provide for the authority of the state to restrict freedom of assembly in advance, in preventive manner, on the grounds that it “may turn into a public disorder”. Restrictions on freedom of assembly are justified if the following circumstances are present: Restrictions are provided by law, serve a legitimate purpose, are proportionate and necessary in a democratic society; all three of these preconditions need to be present in order to legitimize state intervention in the protected rights.

- The resolution also states that if a rally can turn into turmoil, **“such interference of authorities is absolutely proportionate, as the freedom of assembly is restricted not in general, but in regard to one particular fact.”**

**Note:** Existence of a legitimate ground for interference does not automatically mean that the interference is proportionate. Interference may be justified to achieve a legitimate aim, but may be disproportionate. Proportionality is measured by three criteria: appropriateness of the applied measure, its necessity and proportionality in a narrow sense (the limitation imposed must be proportionate to the legitimate purpose for which it was established). Proportionality obliges the State to choose the least restrictive form of interference with the right<sup>9</sup>. In assessing the legitimacy of action of the state, the judge has the greatest role to play in assessing proportionality.

**Legal Issue:** Indemnification for damage caused by a state representative, burden of proof in case of forcibly concluded transaction.

**Facts:** In 2011, Levan Lebanidze, the founder of Constanta Foundation, was found guilty of abuse of managerial authority contrary to the interests of the Foundation for the purpose of obtaining gain, which caused significant harm. A plea bargain was signed and the convicted person was fined in the amount of 12 million GEL. Constanta Foundation took a loan under the collateral of 100% share in Ltd in Constanta Plus. The purpose of the loan was to pay Levan Lebanidze a fine.

Later, the Constanta Foundation filed a lawsuit with the Georgian Prosecutor’s Office, alleging that the fund was forced to take a loan, and also filed a civil lawsuit to the court requiring revocation of the contract, signed under coercion.

**Significance:** After change of the government in 2012, dozens of citizens applied to the Prosecutor’s Office of Georgia, while some applied to courts. They requested that it be investigated/ruled that under the previous government, various forms of coercion were inflicted on them by state officials, thereby violating their property rights and/or a number of other rights. Dozens of citizens are still demanding that they are reinstated in their rights. Consequently, the case is important not only for the complainant but also for a much wider circle of citizens.

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<sup>9</sup> European Court of Human Rights, CASE OF MAKHMUDOV v. RUSSIA (Application no. 35082/04), 2007

## Decision:

- The court did not thoroughly study the facts of the case, failed to provide a complete, comprehensive and objective assessment of the evidence, and disregarded important issues that would have a material bearing on the case, such as: fine in the amount of 12 million GEL was paid by the Foundation the day before the prosecution concluded a plea bargain with the founder of the Fund, which stipulated for imposition of such fine; consequently, the amount paid by the Fund was a penalty imposed under the agreement, which was not concluded at that material time, which naturally raises doubts;
- However, the court did not satisfy the request of the party to request from the Prosecutor's Office the materials of the ongoing investigation. There were also numerous witness statements in the case that indicated to the fact of coercion, although the court did not consider some of them to be "irrefutable", as they belonged to persons related to the fund (the plaintiff). It is noteworthy that the defendant (Prosecutor's Office) was not disputing credibility of the witnesses.

**Note:** The terms "undisputed" and "disputed" are used to refer to facts and not to evidence, such as e.g. witness testimony.

- The Court considered that the circumstances of the case did not give the **"unconditional prerequisite to prove"** the fact of coercion. No such standard has been established by law or by judicial practice, and the Court has not proved that deviation from the standards established by the Supreme Court, including the Grand Chamber, was justified.<sup>10</sup>
- **The court wrongly distributed the burden of proving the fact of coercion and fully imposed it only on one party** – the plaintiff and completely exempted the prosecution from the burden of proof, which had a significant effect on the decision.
- Although the Court has referred to the practice of the Supreme Court in certain aspects, as well as a number of decisions of the European Court of Human Rights, it has bypassed the Supreme Court's well-established case-law on the most critical issue, namely the burden of proof.
- The Court has stated that the fact of coercion must be based "only on a logical and factual link to the clearly established evidence of such circumstances of the case." However, the court did not specify what would be considered as such.
- Due to such approach, the court has actually ruled out (or, at least made it inappropriately difficult) the possibility to establish through civil law proceedings the fact of coercion, without a judgment reached in a criminal case.
- In such case, when a person was complaining on the subject of coercion by the Prosecutor's Office, the Court left the Prosecutor's Office as the only competent authority to investigate the case and establish its own offense; this put the complainant in a particularly difficult situation and rendered his rights practically illusory.

**Note:** According to the case law of the Supreme Court of Georgia, in civil litigations, where the state is a civil law party, the conduct/action of a "strong" party to the transaction should be examined at a very high standard ... especially when it is clear that for the most part the state benefits from the transaction, at the expense of the "weak" party (a private person) ...<sup>11</sup>

... **The burden of proof rests with the State if the plaintiff states with reference to particular facts, that he has been subjected to coercion. It is presumed, that coercion was used in his regard, and the burden of proof reverses to the State, which has to substantiate, that there was no coercion; The State must also prove why such a presumption should not be allowed, which in each particular case requires a detailed examination of the substance of the transaction.**<sup>12</sup>

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<sup>10</sup> See The burden of proof: Analysis of the case law of the Supreme Court of Georgia, Tbilisi 2018

<sup>11</sup> See The burden of proof: Analysis of the case law of the Supreme Court of Georgia, Tbilisi 2018

<sup>12</sup> Ibid



### 1.3 APPLICATION OF THE PRACTICE OF THE SUPREME/CONSTITUTIONAL AND INTERNATIONAL / REGIONAL COURTS

The candidate incorrectly applied the ruling of the Constitutional Court of Georgia in one of the disputes<sup>13</sup>. In other cases the candidate has referred to several international treaties and international/regional court practices.

In the Case of “Constanta Foundation” the Judge refers to several decisions of the European Court Human Rights, including the case of “Jgharkava vs. Georgia.”<sup>14</sup> It should be noted that reference to this case is a very formulaic practice in the general court system, as majority of judgments contain reference to this case, when a judge considers the issue infringement of the right guaranteed by article 6 of the European Convention Human Rights (right to fair trial). It is noteworthy, that judges refer to this case to argue, that the obligation to adopt a reasoned decision does not entail **“the requirement to give a detailed answer to each argument.”** However, at the same time, the same paragraph of the case states, that the national courts are **“required to determine with sufficient precision”** the reasons of their decision. The above-mentioned important reference is not quoted in any other case, where the reference is made to this decision, including in the decision on the case of Constanta Foundation.

Additional Information: In the course of assessment of statements, made by the Supreme Court judicial candidates Miranda Eremadze and Ilona Todua, it was identified, that to the question – what do you think, **why a judge’s work is important, and what is your general idea about the status of a judge**, both candidates give identical answers with exactly the same phrase:

**“A strong judicial system that safeguards human rights and freedoms, the rule of law and public order is essential for building of a democratic state and establishing a rule of law.”**

<sup>13</sup> Judgment of the Supreme Court of Georgia of 14 September 2017 on the Case No.bs-286-284 (k-17), p. 12.

<sup>14</sup> Judgment of the European Court of Human Rights on the case of Jgarkava vs. Georgia (appeal no. 7932/03), par 71.

## 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.

## PROMOTIONS AND AWARDS / SCHOLARSHIPS GRANTED FOR PROFESSIONAL PERFORMANCE

### 1. PROFESSIONAL DEVELOPMENT

- In 1994-1995, Miranda Eremadze worked as a lawyer at the Ministry of Finance, and from 1999-2005 she was an assistant to the Tbilisi District Court Judge.
- In 2006, Miranda Eremadze was appointed as a judge at Java District Court. In 2007-2010 she was a judge at Civil Cases Panel of Mtskheta District Court, from where she was assigned to Tbilisi City Court Administrative Cases Panel, where she served during 2008-2010. In 2010 Miranda Eremadze was assigned to the Administrative Cases Panel of Tbilisi City Court.
- In 2016 she was appointed as a judge of the Administrative Chamber of Tbilisi Court of Appeals for a three-year term. In 2017, before the expiry of her tenure, she was appointed as a judge to Administrative Cases Chamber of Tbilisi Court of Appeals for indefinite term.
- In 2016, Miranda Eremadze was Chairman of the Association of Judges.

# 4.

## CONFLICT WITH LAW, CONFLICT OF INTEREST

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

- Candidate Miranda Eremadze has not been convicted.
- Administrative violations are identified due to traffic rules violations, although the candidate states in the application that she was not driving the vehicle herself when violation was registered.
- In 2015, Miranda Eremadze was a plaintiff during administrative litigation in Tbilisi City Court. The subject of the dispute was the annulment of the individual-administrative act. Miranda Eremadze's suit was upheld by the court.

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

- Miranda Eremadze was not a member of any political party.
- Links of Miranda Eremadze with politicians / influential persons have not been established.

# 5.

## CANDIDATE'S PUBLIC ACTIVITIES / POSITION AND BEHAVIOR

### 1. OPINIONS OF MIRANDA EREMAZDE, EXPRESSED IN SOCIAL MEDIA

Candidate Miranda Eremadze's personal account is registered on the social networking site Facebook, although she does not post any opinions on her page regarding public activities.

Among other activities, it is worth noting, that the candidate endorsed a video shared by the Supreme Council of Justice member Sergo Metopishvili<sup>1</sup>, which states that **“Georgia was ranked 6th out of 190 countries in terms of ease of doing business. With this position, Georgia is ahead of Norway, the US and the UK.”** The video is accompanied by Sergo Metopishvili's comment: **“This is the best and well-founded response to the fake news, fake surveys, dirty rumors and brazen attacks by Gigauri, Verdzeuli, Saladze, Benidze and politicians like them!”**

Also, Miranda Eremadze endorsed the post<sup>2</sup>, of the member of the Council Dimitry Gvritishvili, where he discusses details of meeting with representatives of the Venice Commission delegation, and notes the following: **“we expressed concern, that the Parliament of Georgia did not accept the Venice Commission's recommendation, according to which judge candidates to the Supreme Court should be selected by the High Council of Justice, which would have excluded from the political component. Instead, a mixed and two-tiered model was chosen, where the Council nominates candidates and the Georgian Parliament adopts the final decision. That is what our opponents, certain political groups and NGOs have used against us, and since December 2018, launched an unprecedented, orchestrated attack on judicial power. Their “arsenal” is diverse: hate speech, threats and abusive language, and incitement of aggression of public against incumbent judges, production of libelous videos, accusations of crime, etc.”**

Miranda Eremadze also endorsed the post of Dimitri Gvritishvili<sup>3</sup>, in which he talks about the research on the topic of judicial system, conducted as a result of cooperation of companies Ipsos and Gorbi: **“Here are the results of the research. The researchers' reputation does not raise doubts, and only persons like Janezashvili can doubt it! The researchers have clearly stated that these are good results and that the country is moving in the right direction through judicial reforms!”**

### 2. PUBLIC STATEMENT OF MIRANDA EREMAZDE<sup>4</sup>

In online sources public statements of candidate Miranda Eremadze have not been found.

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<sup>1</sup> Full version of the post is available at: <https://drive.google.com/file/d/1m>

<sup>2</sup> Full version of the post is available at: <https://drive.google.com/file/d/1f>

<sup>3</sup> Full version of the post is available at: <https://drive.google.com/file/d/1>

<sup>4</sup> Note: It is noteworthy that during the interview stage of the candidate, non-judge members of the High Council of Justice, Ana Dolidze and Nazi Janezashvili did not ask questions to the candidate, because they left the meeting to express their protest. Non-judge members demanded that interviews with candidates should not be conducted during late hours and in a hurry.

### 3. INTERVIEW OF MIRANDA EREMAZDE AT THE HIGH COUNCIL OF JUSTICE<sup>18</sup>



Question posed to the candidate by a member of the High Council of Justice SERGO METOPISHVILI: “One of the countries has adopted the law on criminalizing hate speech. What do you think in given regard?”

Candidate’s response:



**In this case, the American and European approaches are different. I think our legislation is more American. I do not support criminalization of hate speech and I believe that in this case it would be better for the state influences the public indirectly, raise awareness in this regard so that the public would not be homophobic, xenophobic and therefore the media would not be infused with hate speech.”**



Question posed to the candidate by a member of the High Council of Justice LEVAN GZIRISHVILI: “One of the amendments in the new Constitution, along with other amendments, was the definition of the notion of family. What do you think, as a citizen and as a lawyer, was it necessary to include such interpretation in the provision, and is it in conflict with anti-discrimination legislation? And in general, are the interests of the LGBT community infringed in our country? Did you wish to participate in the march?”

Candidate’s response:



**I had no desire to participate, because I believe that a judge should refrain from participating. As for the wording of the Constitution, I believe that, this provision is prompted by the public opinion, and I believe that whether it is contained in the Constitution or not, it shall not have impact on the situation. As for discrimination, I do not know, I have not thought about it, the Constitution has superseding power, so I think that the law should be in compliance with the Constitution and not vice versa.”**



Question posed to the candidate by a member of the High Council of Justice IRAKLI SHENGELIA: “What is the approach of the European Court of Human Rights in regard to same-sex marriage and child adoption by such couples?”

Candidate’s response:



**As you know, approaches have changed over the years. This is the issue in regard to which the European Court has radically changed its practice. [...] The convention initially held that the family is a union of a man and woman, but was adopted the Seventh Additional Protocol, which revoked given provision and currently it no longer contains emphasis on gender. The EU Treaty adopts the same approach. When the Luxembourg court started functioning and the human rights issue was put on the agenda, the treaty regulating relations between European countries did not contain many references to human rights. Then the European Charter was adopted, which defines these rights. Here too, there is no emphasis on sex. The public’ attitude is taken into account when the state decides to allow same-sex marriage. Public perceptions are changing. Accordingly, the approach of the Court is changing as well. However, given the recent approaches, there is no obligation to marry, the key is to grant to these people to register legally their relationship, which is not only marriage. As for the issue of adoption, the approach of the European Court of Human Rights in this regard is, that it is discriminatory to refuse adoption only on this protected grounds, and it is not permissible. What is important and essential here, is that it is not researched and proved whether raising a child in such an environment will affect the child’s upbringing. In this case, it is important to assess the best interests of the child. Accordingly, this circumstance alone does not constitute grounds for refusal of adoption.”**



IRAKLI SHENGELIA's question to the candidate: "What would you do if the Convention and the Constitution contradict each other?"

Candidate's response:



**There is no ready-made recipe in this case. On the one hand, if we follow the Constitution and do not apply the international treaty, we will violate the treaty. The best solution in this case is that the Constitution complies with basic human rights and freedoms, international requirements and norms. There is no ready answer in regard to the solution. If the European Convention on Human Rights contradicts the Constitution of Georgia, then the Constitution is hierarchically higher than the international treaty. We have the following hierarchy: the Constitution, the Constitutional Agreement, and then the International Treaty. When we have conflict, we use the hierarchically superseding act".**



Member of the High Council of Justice, IRMA GELASHVILI, asked the candidate the following question: "Let's say, you take your children to Mtatsminda Park for a walk and you find out from a signboard, that the entrance fee is 5 GEL for Georgian citizens and 10 GEL for foreign citizens. Will this be an unequal treatment, will it be justified, and will your approach will be different, if it is not a citizen of Georgia, but a Georgian will have to pay 5 GEL and for everybody else 10 GEL?"

Candidate's response:



**I have seen many such signboards, both in Georgia and in Europe. In order to assess whether an approach is discriminatory, we therefore need to know what is the purpose, and whether there exists reasonable and objective justification for it. Taking into consideration European approaches, I believe it is important to understand the purpose of such different treatment. Given that this is European approach, I think it is not discriminatory. If nationality is emphasized, there will be discrimination based on nationality."**



LEVAN GZIRISHVILI's question to the candidate: "You said that one of the main functions of the Supreme Court is to interpret the norm and establish uniform judicial practice. Do you find that uniform court practice limits the independence of a judge?"

The candidate's response:



**There is such an opinion, however, I believe that in this case the right of the judge is not restricted. If he substantiates his decision well, and sets such a standard of substantiation of his decision, and argues against the opponent's position in such manner, that he will convince other judges, I see no problem in such case".**



Question posed to the candidate by a member of the High Council of Justice DIMITRI GVITISHVILI: "Why do you think we, judges are so unanimous? Why there is no dissenting opinion and in regard to what issues we may have such?"

Candidate's response:



**When it comes to the independence of the judiciary, how can judges have different opinion? When the judicial system is attacked and when the independence of the system is threatened, it is impossible for the judge to have any different opinion."**

# 6.

## FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

### 1. PROPERTY



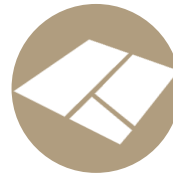
**2018**  
**LAND PLOT, MARTVILI,**  
**6,000 GEL, 2010 SQ.M.**



**2018**  
**LAND PLOT, MARTVILI,**  
**6,000 GEL, 2481 SQ.M.**



**2014**  
**HOUSE, TBILISI,**  
**202,400 GEL,**  
**210.05 SQ.M.**



**2008**  
**LAND PLOT,**  
**93,800 GEL,**  
**450 SQ.M.**



**2008**  
**VEHICLE**  
**“TOYOTA YARIS**  
**2008”, 21,868 GEL**

### 2. INCOME

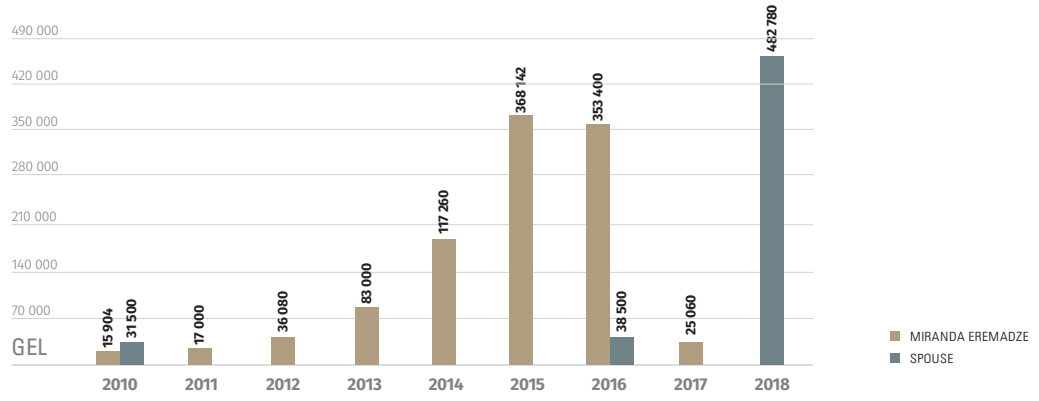
Judge Miranda Eremadze received GEL 648,726 from judicial activities in the period of 2006–2018. She served in the City Court from 2006–2016 and her salary during that period amounted to GEL 462,384, and since 2016 she was serving in the Court of Appeal and, in the period of 2016–2018 she has earned GEL 186,342. The highest income in her career is recorded in 2017, amounting to GEL 81,775.

Malkhaz Grigalava, the spouse of the judge Miranda Eremadze, is engaged in commercial activities. He owns 100% of shares of Diaron LLC, and he is the director of the company. Malkhaz Grigalava rents the office space from Gega LLC, 92.5% shareholder of which is Grigol Lekveishvili. Mr. Grigol Lekveishvili donated 107,000 GEL to the party “Georgian Dream” in 2017–2018. In addition to Gega LLC, Grigol Lekveishvili owns many other companies that actively participate in state tenders and receive large budget contracts. According to the latest data, Grigol Lekveishvili’s companies have participated in 167 tenders through simplified procurement procedure.

Miranda Eremadze and her husband have been taking large of loans each year since 2010, which they repay from a new bank loan. The largest loan that the judge took was in 2015, which amounted to 138,000 USD and in 2016 – which amounted to 140,000 USD.

According to the latest data, Miranda Eremadze has two current loans with Bank of Georgia for the total amount of 19,860 GEL. Her spouse, Malkhaz Grigalava’s loan from TBC Bank, amounts to 193,000 USD.

## BANKING LIABILITIES OF THE FAMILY



Judge Miranda Eremadze’s statement also shows that in 2013-2104, the costs of her treatment amounted to more than 12,000 EURO.





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