

Tamar

ZAMBAKHIDZE

Judge of Tbilisi Court of Appeals

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

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In 1999–2005, candidate Tamar Zambakhidze worked at the Department of Civil Law of Tbilisi State University, Faculty of Law – first as a teacher and then as an associate professor. In 2005–2007 she held the position of judge of Tbilisi City Court. In 2007–2017 Tamar Zambakhidze was a judge of the Chamber of Civil Cases of Tbilisi Court of Appeals, and since May 11, 2017 the candidate has been appointed for the term of 3 years in the Chamber of Civil Cases of Tbilisi Court of Appeals.

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

1. DECISIONS, DISSENTING OPINIONS, COURT SUBMISSIONS

1.1. LEGALLY INTERESTING OR PRECEDENTIAL DECISIONS

Legal issue: Annulment of verdict on supporting judgment by default.

Facts: On October 22, 2018, the Chamber of Civil Cases of Tbilisi Court of Appeals, with the participation of Tamar Zambakhidze, made a decision on the verdict concerning annulment of the judgement by default.

The dispute concerned compensation for damages involving both a natural person and a public agency. The basis for satisfying the claim was defendant's failure to appear at a court hearing, which was appealed by the defendant, however the courts of both instances upheld the ruling. The party argued that the failure to appear at the trial was due to a justifiable reason, namely, the precise time of the trial was made known to the defendant only after the hearing was over.

The Chamber of Civil Cases of Tbilisi Court of Appeals held that the party received the writ of summons about the date of the hearing according to the rule prescribed by the law; accordingly, the substantiation for their absence at the hearing was not a valid reason for annulling the judgement by default.

Significance of the case: In this case, the court discussed the grounds for annulment of the judgement by default, based on the right to a fair trial and the principles of equality of arms.

Decision:

- The Court of Appeals considered the request of the party for the annulment of the judgment by default in the light of the right to a fair trial and explained that this right implies the obligation of the court to decide the case in a timely and effective manner.
- The court stated: **"Under the circumstances, if the parties participating in the process have an opportunity to request postponing the hearing subject to the existence of unjustified and unsubstantiated reasons, the timely and cost-effective decision of the case will be impossible, which will undoubtedly violate the right to fair trial of the plaintiff, and will also cast doubt on the obligation of equal protection of the rights of parties participating in the process."**
- The Court also noted that **"... with regard to natural persons in view of their spatial and legal preferences, the public authority must substantiate with high legitimacy arguments the reasons for not appearing at a court hearing, which was not done in the present case, and only interest towards the subject of the dispute cannot be considered as the legal basis for annulment of the judgment by default."**

Legal issue: annulment of orders, imposing compensation

Facts: On October 12, 2017, judge of the Chamber of Civil Cases of Tbilisi Court of Appeals, Tamar Zambakhidze, heard a labor dispute involving the dismissal of one of the employees of Georgian Water and Power LLC.

The plaintiff sought annulment of the order of dismissal on the basis of reorganization and compensation. The claim was satisfied in part, which was appealed by both parties. The Court of Appeals satisfied the plaintiff's claim (changed the decision in the part of the amount of compensation). The Chamber dismissed the defendant's complaint (Georgian Water and Power LLC).

Significance of the case: In this case, the court reviewed the employee's rights and the burden of proof in the reorganization process.

Decision:

- A judge discusses labor rights based on documents such as: the Constitution of Georgia; International Covenant on Economic, Social and Cultural Rights; And the Universal Declaration of Human Rights.
- The court explained that the termination of the employment agreement with the employee on the basis of reorganization of the enterprise does not, in itself, imply reasonableness of termination of the agreement. Referring to the decision¹ of the Supreme Court of Georgia, the judge emphasized the burden of proof: **“When an employer makes a decision on reorganization, they must make sure that the measure is in the interests of the organization and at the same time does not unduly violate the employees’ legal rights. The employer’s decision requires justification, some calculations, comparison of the structure before and after the reorganization, determination of the pros and cons of reorganization.”**
- A judge views an employer as a strong party that has certain obligations before its employee – the weak side. **“It is vital to establish equilibrium between the parties involved in labor relations. When exercising its powers by the strong party, we must not forget the weak party’s interests. The reasonable basis for dismissal of an employee should be related to:**
 - a) worker’s incompetence and/or inappropriate behavior, or:
 - b) arise from the operational need of the enterprise, establishment or their service.

Legal issue: Labor rights, establishment of the fact of discrimination on political grounds and non-pecuniary damage.

Facts: On July 12, 2018, judge of the Chamber of Civil Cases of Tbilisi Court of Appeals, Tamar Zambakhidze, single-handedly reviewed a case related to dismissal of a person.

Tbilisi Court of Appeals satisfied the appeal and annulled the employer's order on dismissal on the grounds that the employee had not grossly violated obligations imposed by the employment agreement/internal regulations. However, the Chamber imposed an obligation on the employer to pay compensation in favor of the employee, as at the time of the review of the case, there was no longer the position held by the employee or a similar one. In addition, the Court of Appeals found that the plaintiff had been discriminated against on political grounds, thereby imposing on the employer an obligation to pay non-pecuniary damage in favor of the employee.

¹ Judgment of the Supreme Court of Georgia on case №16-115-111-2016, April 8, 2016.

Significance of the case: In this case, the court discussed a number of aspects of the relationship between an employee and an employer.

Decision:

- The judge correctly applies the Ultima Ratio principle to determine the lawfulness of an employer’s decision, according to which: **“An employee’s dismissal should only be applied where the lighter sanction against the employee, given the nature and severity of the misconduct or ill-treatment committed by the employee, makes no sense.”** The court held that the employer had violated the above principle.
- Based on the case law of the Supreme Court of Georgia², the Court emphasizes the alleged circumstances of the plaintiff and the defendant. Specifically, as explained: **“If the position requested by the party to be reinstated in no longer exists, an employer will have to prove the absence of a particular staffing position, and if proved, the burden of proof shall shift to the opposing party to indicate and prove which is an equivalent (according to the function, job description and salary) position, that he/she can occupy. When requesting to reinstate in similar position, the burden of proof of this circumstance shall be imposed on the employees (and not employers).”**
- When substantiating the issue of distributing the burden of proof, the judge relied on the case law³ of the European Court of Human Rights and concluded that the plaintiff managed to submit to the court such facts and evidence, which provided sufficient grounds for it to allege discriminatory treatment (violation of labor rights in a discriminatory manner) and the defendant could not overcome the burden of proving the contrary.
- The judge relies on the Constitution of Georgia, the Law of Georgia on the Elimination of All Forms of Discrimination and local or international practice⁴ in assessing the disputable discriminatory treatment in the case.

The Court explains: **“A different treatment should exist with respect to the use of any right or benefit recognized by law, in that the institution of discrimination taken separately is not subject to independent protection. Thus, in order to establish the fact of discrimination, there must be a protected area – the right that is intervened; comparator – a person in a similar or substantially similar relationship; and the main difference between the two is the so-called “protected area”. Contrary to these facts, the justification for interference with reasonable and weighty arguments rests with the initiator of the different treatment.”**

- The judge found the establishment of the fact of discrimination to be sufficient to justify the imposition on the defendant of the obligation of reimbursement of non-pecuniary damage to the plaintiff.

“The Chamber indicates that the existence of discriminatory treatment automatically allows for the award of non-pecuniary damage, and in view of the severity of the damage, the subjective attitude of the victim, the intensity of the moral harm and the importance of the violated right, the Court shall determine the amount of

² სსსს 931-881-2015, 29.01.2015; №სსს -951-901-2015,29.01.2016; სსს-902-864-2014, 30.03.2015; №სსს-475-456-2016, 24.06.2016; №სსს-665-636-2016, 09.12.2016; №სსს- 969 -934 -2016, 17.03.2017; №სსს-1032-993-2016, 31.03.2017; სსს-761-712-2017, 10.07.2017.

³ European Court of Human Rights Judgments on cases: *Chassagnou and Others v. France [GC]*, no.25088/94, N28331/95; *Nachova and Others v. Bulgaria [GC]*, no.43577/98 დს 43579/98; ECHR 2005; *Aktas v. Turkey*, no.24351/94, § 272, ECHR 2003 V; *Salman v. Turkey [GC]*, no.21986/93, § 100, ECHR 2000-VII; *Anguelova v. Bulgaria*, no. 38361/97, § 111, ECHR 2002-IV.

⁴ European Court of Human Rights Judgments on cases: *Willis v. the United Kingdom*, no.36042/97; *Konstantin Markin v. Russia*, no.30078/06; *Petrovic v. Austria*, no.20458/92; *D.H. and others v. the Czech Republic*, no.13378/05

non-pecuniary damage. It is also noteworthy that moral harm may be linked to discriminatory treatment and dismissal on this ground, but also the moral harm may arise later, given the state of unemployment, the impossibility of active living, changing lifestyle and rhythm, and other factors. ... Non-pecuniary damage is, in its substance, an intangible notion, and hence there is the law's provision for determining its size on taking into account only reasonableness, fairness and not factual pecuniary loss.“



Legal issue: Pecuniary and non-pecuniary damage

Facts: On February 28, 2019, the Chamber of Civil Cases, with the participation of Tamar Zambakhidze, reviewed the appeal of the medical institution according to the rule of appeal. A person filed a lawsuit on the court of the first instance on the grounds, that a doctor at the medical facility had failed an eye operation. He sought compensation for pecuniary and non-pecuniary damage. Tbilisi City Court partially upheld the plaintiff's claim and imposed reimbursement of non-pecuniary damage on the medical institution.

The Court of Appeals upheld the first-instance judgment.

Significance of the case: The decision deals with an important issue for the development of judicial practice.

Decision:

- The party complained that the treatment received was unsuccessful, claiming reimbursement of pecuniary damage. According to the decision of the Court of Appeals, **“ineffective treatment or adverse outcome of treatment does not in itself (mandatorily) entail the responsibility of medical personnel.”**
 - The Court of Appeal upheld this position with reference to the decision of the Supreme Court.⁵
- However, the judges considered the information provided to the patient incompletely and incomprehensibly as grounds for imposing an obligation to reimburse non-pecuniary damage to the medical institution.
 - **“The Court cannot consider a plaintiff's will as an indicator of legitimacy of ‘informed consent’, especially when it does not meet the mandatory criteria for the ‘informed consent’ to be considered legally binding by the case law of the European Court of Human Rights, such as: clearly stated; conscious, voluntary and informed.”**⁶
- In substantiating its decision, the court relied on the divisions of the Supreme Court of Georgia to assess the responsibility⁷, evidence⁸ and non-pecuniary damage⁹ of medical personnel.
- In assessing violation of the patient's rights, the Court did not rely on the rights guaranteed by the Constitution of Georgia, but referred to the Council of Europe Convention “On Human Rights and Biomedicine”.¹⁰ While discussing the issue of patient's informed consent, it referred to Article 8 of the European Convention on Human

⁵ Judgment of the Supreme Court of Georgia of June 27, 2011 in case N As-260-244-11; in this case, the Supreme Court explained: for reimbursement of pecuniary damage, **“the injury must be caused by mistakes in treatment, that is, if the treatment was properly performed, even if the result is adverse, it does not entail the responsibility of the physician.”**

⁶ The court in this section referred to the decision of the European Court in case V.C. v. Slovakia, no.18968/07, 2011;

⁷ Judgment of the Supreme Court of Georgia of June 27, 2011 in case N 16-260-244-11.

⁸ Judgment of the Supreme Court of Georgia of February 28, 2018 in case N 16-28-25-2017.

⁹ Judgment of the Supreme Court of Georgia of March 19, 2005 in case N 16-912-874-2014 and judgment of June 4, 2011 in case N 16-762-818-2011.

¹⁰ Council of Europe Convention on Human Rights and Biomedicine (1997).

Rights – “Respect for Private and Family Life”. With reference to the role of the national court, when discussing evidence and awareness of the patient, it referred to the practice of the European Court of Human Rights.¹¹

1.2. HIGH-PROFILE CASES

SO-CALLED “WINERY CASE”

Candidate Tamar Zambakhidze was mentioned in the so-called “winery case”. Tbilisi Court of Appeals considered the case in the following composition: Ketevan Meskhishvili – chairman of the Chamber, Judge Rapporteur, Tamar Alania, Tamar Zambakhidze.

Historic building of wine factory in Tbilisi, Petriashvili str. N1, was acquired by current owners from two largest commercial banks operating in Georgia.

On December 23, 2014, a civil dispute was initiated in Tbilisi City Court against factory buyers (acting owner). The plaintiff was joint stock company “Savane Winery N1”, represented by Archil Kbilashvili, the former Prosecutor General of Georgia. The plaintiff requested the court to transfer the real estate (the winery area, with its buildings) located in Petriashvili Street to JSC “Savane winery No. 1” on the grounds that in 2004–2006 JSC “Savane winery No. 1” lost ownership of this property as a result of criminal conduct of its directors and shareholders, and then investigators and prosecutors of the General Prosecutor’s Office of Georgia participated in the process.¹²

On October 21, 2015, Tbilisi City Court (judge Lasha Kochiashvili) dismissed the claim of the plaintiff JSC “Savane Winery N1”, which was appealed in the Court of Appeals. On October 20, 2016, Tbilisi Court of Appeals (composed of: Ketevan Meskhishvili – Judge Rapporteur, Tamar Alania, Tamar Zambakhidze) also dismissed the claim of JSC “Savane Winery N1”, i.e. it upheld the decision of Tbilisi City Court. The decision of the Court of Appeals was appealed in the Supreme Court of Georgia.

On February 18, 2018, the Supreme Court of Georgia (composed of: Besarion Alavidze – Judge Rapporteur, Zurab Dzlierishvili, Paata Katamadze) returned the dispute won in the lower two instances to Tbilisi Court of Appeals.

The Chamber of Appeals held six hearings on this case from February 2018 through June 19, 2019, but the summary decisions were not made due to adjournment of the hearings, and finally the Chamber was dissolved.

According to public reports, the Chamber experienced pressure to remove its chairman from office because they failed to influence him/her.¹³

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

In the reasoning part of the decisions, the judge actively applies the practice of the Supreme Court of Georgia and the European Courts of Human Rights.

¹¹ *Garcia Ruiz v. Spain* [GC], no.30544/96, January, 1999, Strasbourg, p. 28.
AFFAIRE FARANGE S.A. c. FRANCE, no. 77575/01, July, 2006, Strasbourg.
V.C. v. Slovakia, no. 18968/07, November, 2011, Strasbourg.

¹² <https://www.timer.ge/skandali-akhdens-thu-ara-gavlenas-archil-kbilashvili-sasamarthlo-kolegiaze/>

¹³ See footage of TV company “Rustavi 2”: <http://rustavi2.ge/ka/news/139787>

Local¹⁴ and international¹⁵ practice is referred to when assessing the distribution of the burden of proof in labor disputes.

In one case, the issue of discrimination is assessed on the basis of judgments of the European Court of Human Rights¹⁶, as provided by the Law of Georgia.

¹⁴ სსსს 931-881-2015, 29.01.2015; № 951-901-2015, 29.01.2016; 902-864-2014, 30.03.2015; N 475-456-2016, 24.06.2016; N 665-636-2016, 09.12.2016; N 969-934-2016, 17.03.2017; N 1032-993-2016, 31.03.2017; 761-712-2017, 10.07.2017.

¹⁵ European Court of Human Rights Judgments on cases: *Chassagnou and Others v. France [GC]*, no.25088/94, N28331/95; *Nachova and Others v. Bulgaria [GC]*, no.43577/98 და 43579/98; ECHR 2005; *Aktas v. Turkey* no.24351/94, § 272, ECHR 2003 V; *Salman v. Turkey [GC]*, no.21986/93, § 100, ECHR 2000-VII; *Anguelova v. Bulgaria*, no. 38361/97, § 111, ECHR 2002-IV.

¹⁶ European Court of Human Rights Judgments on cases: *Willis v. the United Kingdom*, no.36042/97; *Konstantin Markin v. Russia*, no.30078/06; *Petrovic v. Austria*, no.20458/92; *D.H. and others v. the Czech Republic*, no.13378/05

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.

PROMOTION AND AWARDS / SCHOLARSHIPS GRANTED FOR PROFESSIONAL PERFORMANCE

1. PROFESSIONAL DEVELOPMENT

- Candidate Tamar Zambakhidze worked in 1998 as a Senior Specialist in the Department of Problem Loans at the Credit Department of JSC “Bank of Georgia”.

- In 1999–2004 she was a lecturer of the Civil Law Department at Tbilisi State University, Faculty of Law, and in 2004–2005 she was an Associate Professor at the same Department.
- In 2005–2007 Tamar Zambakhidze was a judge of Tbilisi City Court and in 2007–2017 she was judge of the Chamber of Civil Cases of Tbilisi Court of Appeals. From May 11, 2017, the candidate has been appointed for the term of 3 years in the Chamber of Civil Cases of Tbilisi Court of Appeals.
- Since 2005 up to present Judge Tamar Zambakhidze is an Associate Professor of Law at Ivane Javakhishvili Tbilisi State University.

2. AWARDS / SCHOLARSHIPS

- Judge Tamar Zambakhidze has not received any awards / scholarships.

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CONFLICT WITH LAW, CONFLICT OF INTEREST

1. CRIMINAL LIABILITY, ADMINISTRATIVE OFFENCES/PENALTIES, LITIGATIONS

- Candidate Tamar Zambakhidze has no record of conviction.
- Administrative violations are identified due to traffic violations.
- In 2017, Judge Tamar Zambakhidze was fined by the Civil Service Bureau for failing to provide full details of her husband’s business activities in the property declaration submitted by the candidate. In particular, she did not indicate her husband’s connection with two enterprises which, at the time of filing the declaration, conducted no economic activities, had no turnover and no income. It is noteworthy that under current legislation, failure to indicate such an enterprise is no longer the basis for a fine.
- Candidate Tamar Zambakhidze was not a party to the litigation.

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

- Judge Tamar Zambakhidze was not a member of any political party.
- Her connection with politicians or influential people is not identified.
- Tamar Zambakhidze’s father, Tariel Zambakhidze, is the head of the Legal Division of Administration of Levan Samkharauli National Forensics Bureau.

5.

CANDIDATE'S PUBLIC ACTIVITIES / POSITION AND BEHAVIOR

1. OPINIONS OF TAMAR ZAMBAKHIDZE, EXPRESSED IN SOCIAL MEDIA

Candidate Tamar Zambakhidze is registered on social networking site Facebook, however she does not express public opinions on her page.

2. PUBLIC STATEMENTS OF TAMAR ZAMBAKHIDZE

2.1 STATEMENT MADE WITH REGARD TO LEAVING "UNITY OF JUDGES OF GEORGIA"

On May 30, 2017, the Association of Judges of Georgia responded to the appointment of judges and court presidents by the Council of Justice. The organization believed that the High Council of Justice had not yet taken steps to gain public trust. They say, "It is not news that the current staff policy of the Council is aimed at ousting open-minded judges and maintaining a competitive environment in the system."¹

Following the declaration of the Association, candidate Tamar Zambakhidze, along with other judges, left this association. According to them, the published statement was not agreed and did not reflect their position.²

3. TAMAR ZAMBAKHIDZE'S INTERVIEW IN THE HIGH COUNCIL OF JUSTICE



Question posed by member of the Council, NAZI JANEZASHVILI to the candidate: „What body is the conference of judges? Was it of any use for you?“

Judge Tamar Zambakhidze's response:



The Conference of Judges is a self-governing body of judges and is, of course, a very important body. Starting with the selection of Council members and assigning appropriate mandates, and ending with the adoption of judicial ethics-these are the functions of the conference. So, of course, this is a very important body where every judge has the opportunity to express their position verbally or by voting."



Question posed by NAZI JANEZASHVILI to the candidate: "At one of the conferences you, the judges, elected a member of the High Council of Justice by about 260 votes. The person elected by the conference did not make a speech, did not say anything, neither declared the program nor visions ... How do you explain this phenomenon that judges elect a member of the High Council of Justice to perform functions, including taking part in the disciplinary proceedings of judges, appointments, etc. [...]. Due to high performance, it would be interesting to know the visions of that person. How do you explain the fact that there was no speech, but people still supported the candidate?"

¹ „Eight judges leaving “Unity of Judges”, May 31, 2017, available at: <https://bit.ly/2mdxbov>

² “Six more judges left the unity of judges“, June 1, 2017, available at: <https://bit.ly/2mcFjFM>

Judge Tamar Zambakhidze's response:



I will try to answer this question globally. First, I would say that in relation to the election of members of the High Council of Justice, we do not have norms at this stage in the context of ethical regulation, apart from statutory regulation. Nevertheless, I deliver specific trainings on professional ethics at the High School of Justice, and we have a section on ethical values associated with conducting elections. I would like to tell you that there are different approaches in different countries. In most countries, ethical standards for conducting elections are not separated and general ethical standards apply when discussing this issue. However, there are some very interesting approaches. As for the Georgian reality, it is naturally problematic that we are a small number of judges. I wish there were more judges in the judges' corps, but on the other hand, the positive effect of this is that we know each other well. We know each other's professional skills well [...] Therefore, the fact that there are few of us plays a positive role. When I was running, there was always a candidate whom we had information about and there was no need to present his/her views separately, because we know them. If the judicial corps will be expanded and if colleagues do not know each other and have no contact with one another, there is an ethical question of how to conduct a campaign, meet with colleagues to determine whether or not to vote for a candidate."



Question posed by NAZI JANEZASHVILI to the candidate: "Have you seen the Public Defender's report on the election of judges to the Supreme Court? The report notes that the first stage of the selection raises some questions. As an experienced lawyer with the ambition to make more career progress in your activities, do you have the discomfort of having such an assessment by the Public Defender, which is substantiated and based on specific numbers?"

Judge Tamar Zambakhidze's response:



This is an assumption. The first ballot was held on the basis of the relevant documentation that existed. I need to make a specific statement, different individuals might have the same idea as a result of checking the documentation of specific candidates. [...] there was probably relevant documentation that several persons supported the candidate."



Question posed by member of the Council, SERGO METOPISHVILI to the candidate: "We have two members, let me say directly: Ana Dolidze and Nazibrola Janezashvili, whose decisions coincide in 99% of the cases. Do you think this is a preliminary agreement, a conspiracy or ...?"

Judge Tamar Zambakhidze's response:



I can say nothing except that they may have the same opinion on the same issue individually and in this case their position will coincide."



Question posed by SERGO METOPISHVILI to the candidate: "Ms. Tamar, you have extensive experience in both civil and administrative areas. Do you know of any constitutional or collegial body where consultations are prohibited? I don't mean the Council. I say openly that before I made decision I consulted several people. Are members of the collegial body prohibited from it?"

Judge Tamar Zambakhidze's response:



The issue you mentioned is very important. Not only 3-4 members, but all members of the collegial body can jointly discuss a particular issue, but after that the decision of the collegial body is based on the individual decision made by each member whether to support a particular candidate or not."



Question posed by member of the Council, NAZI JANEZASHVILI to the candidate: “When did you become interested in becoming a judge of the Supreme Court? For example, in December, when the High Council of Justice submitted a ten-member list to the Parliament of Georgia, were you willing to be on that list as well?”

Judge Tamar Zambakhidze’s response:



I cannot name the exact date, but in light of past experience and accumulated knowledge, I think that I am ready to have claim to this important position. As for this ten-member list, under the existing legislative regulation, when this list was submitted, there was no specific regulation prohibiting it. Therefore, submitting that list would not be unlawful. Then, when the issue was already settled, I decided to take part in the competition. This does not mean that I would negatively assess submitting that ten-member list a while back. However, the more open and transparent the process is and the public will be able to exercise more control, the better it will be reflected on the court’s image.”



Question posed by NAZI JANEZASHVILI to the candidate: “You have indicated Irakli Shengelia as a supervisor, the Chairman of the Chamber. What is your attitude towards him? I see you look in his eyes when you say something and he nods his head. I have the impression that you perceive him as a supervisor.”

Judge Tamar Zambakhidze’s response:



In this case, I can say that the position of judge is the only one that acts to the highest standard of independence. [...] Therefore, as far as the administration of justice is concerned, neither the Chairman of the Chamber nor the Chairman of the Court is the entity with which the judge may be held accountable or subordinated. This is only a subject with an administrative function. Communication with them, with Mr. Irakli or Mikhail [Chinchaladze], is about administrative matters. [...] As for the so-called eye contact, just imagine that with twenty-one years of teaching experience and fourteen years of judicial experience, I make eye contact with everyone so that my lecture or process does not resemble a dialogue with one person.”



Question posed by NAZI JANEZASHVILI to the candidate: “You have been a judge for 14 years. In any format for 14 years, be it a conference, a council or any other format, on any major issue that the judiciary faces, have you expressed a different position and spoke openly? For example, on the system of appointment of judges that is criticized by all external actors, or business trips of judges, discipline, etc.?”

Judge Tamar Zambakhidze’s response:



I cannot recall directly regarding the functions of the Council. However, when there were meetings with regard to drafting legislation, including those concerning the Council, etc. my subjective opinion was expressed at one of the conferences several years ago, which was not shared by everyone at that time. For example, when it comes to judge members in all three instances in [the council], my views on disciplinary litigation have also been expressed in relation to the school, the duration of studies and the increase of board functions.”



Question posed by NAZI JANEZASHVILI to the candidate: “Mr. Murusidze said he is a leader. Do you think Levan Murusidze is your leader?”

Judge Tamar Zambakhidze’s response:



To make my answer more perceptible for you, I will clarify what I mean: Who is the leader? What does leadership mean? In psychology, leadership is perceived as a social influence on a particular social group, which means that a particular person in a particular society will gain leadership. As for Mr. Levan, at a time when there was very negative attitude towards the court, Mr. Levan made clear that he wanted to take some steps to protect the court. He was secretary of the High Council of Justice, which in itself means that he obtained the votes required by law. The second factor is that he was and is the chairman of the Association of Judges. Both of these issues are evidence that he has gained votes in this community, among colleagues. Therefore, being a leader in this society is a fact. However, no leader stands above the law ...”



Question posed by member of the Council, IRMA GELASHVILI to the candidate: “Suppose a judge’s spouse is a leader of any political party. Obviously, just because he/she is a spouse, to seem impartial, no one will ask him/her not to go public together, but if members of the political party gather in the family of the judge, do you think the judge will violate judicial ethics? For example, in the event of an election dispute, should a judge avoid the relevant dispute?”

Judge Tamar Zambakhidze’s response:



The legislation directly regulates in detail the political activity of a judge (membership of a political party, any activity); moreover, even holding a public office for a political official is considered unethical. When it comes to his/her family members, there is no such prohibition ... According to the Bangalore Principles, not to create the public perception that even a judge loses political neutrality, it is a recommendation that if the judge’s spouse is involved in political activities, it should not be done in a way that the perception arises about the judge that the latter loses political neutrality, it is recommended that if the spouse of the judge is involved in political activities, it should not be done so that the same perception is formed about the judge. For example, active political gatherings should not take place in their home, symbols of the political party should not be hung out of the window where the judge lives, and so on. As far as challenge is concerned, it is so sensitive that it is difficult to give an unambiguous answer, but on the other hand, in order to present a reasonable observer standard, we should be guided by whether or not a reasonable observer would have a motion about challenge.”

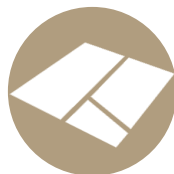
6.

FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

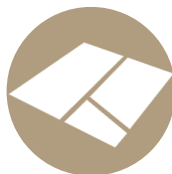
1. REAL ESTATE



2018
COUNTRY HOUSE
MTSKHETA
151 294 GEL
(243.4 SQ.M.)



2017
LAND PLOT
MTSKHETA
88 200 GEL
(1 300 SQ.M.)



1987
PLOT OF LAND
TBILISI,
INHERITANCE
(440 SQ.M.)



1987
RESIDENTIAL HOUSE
TBILISI, INHERITANCE
(160 SQ.M.)



2014
PASSENGER CAR
NISSAN JUKE (2014)
34 825 GEL

2. FINANCE

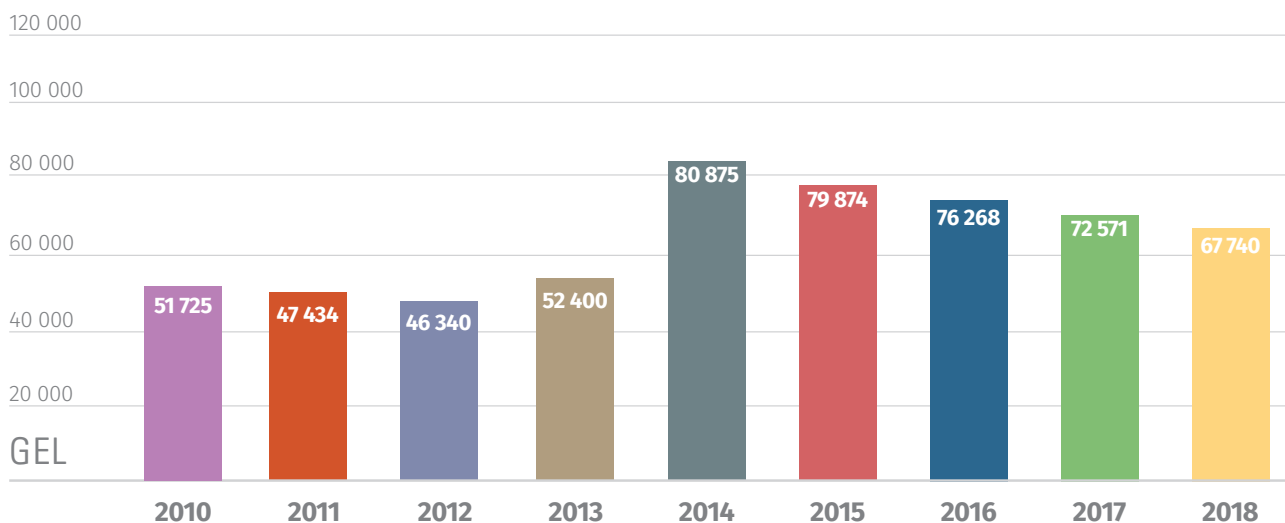
Judge Tamar Zambakhidze received GEL 575,227 from judicial activities in 2010–2018. The highest income – GEL 80,875 – was received in 2014.

During the same period, in parallel with the judiciary, the candidate was engaged in academic activities, from which she received salary of 155,538 GEL.

The judge's husband, Varlam Kalandadze, is a director and partner of several companies, in particular: Geoalco LLC (founded in 2000), Brauda LLC, Bobulu LLC and Kazbegi + LLC. The last two companies have not been operating for years. According to the declaration filled in 2016, Varlam Kalandadze received income GEL 500 from Brauda LLC.

According to the declaration filled in 2019, Judge Tamar Zambakhidze has two current loans at TBC Bank totaling USD 93,500. She took a loan to build a country house in Mtskheta.

Her husband, Varlam Kalandadze, has an agreement, whereby he acts as guarantor to the third party to secure the obligation (12,423 GEL). For this reason, in 2018 he had expenditure in the amount of GEL 5,408.



The candidate's spouse owns 17% shares in Kazbegi + LLC and is a director. It is noteworthy that the company shares are shared by other partners, 3 of whom – Irakli Topadze (GEL 20,000), Nikoloz Svanidze (GEL 20,000), Nikoloz Bakhtadze (GEL 70,000) – are the contributors of the ruling Georgian Dream party. They contributed total of 120,000 GEL to the Georgian Dream party. This company has not been economically active for years, but it is a fact that the partners of the judge's spouse are actively associated with the ruling party.



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