

# Zaza

## TAVADZE

Chairman of the Constitutional Court of Georgia

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

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In 2004–2008 Zaza Tavadze worked as deputy head of the Staff Department of the Prosecutor General's Office of Georgia. Later he became head of the same department, while in 2008–2010 he worked as Deputy Minister of Justice of Georgia. In 2010–2016 he was both judge and Deputy Chairman of the Constitutional Court of Georgia. On October 20, 2016 he became its chairman.

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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

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**Legal issue:** Freedom of expression, including freedom of assembly and public demonstration.<sup>1</sup>

**Facts:** In this particular case, plaintiffs were disputing constitutionality of certain provisions stipulated by the Georgian law “On Assembly and Public Demonstration”. The Court deemed most of the aforementioned provisions unconstitutional due to the Georgian Constitution guaranteeing the right to assembly and public demonstration.

Constitutional Court’s plenary assembly, which included the candidate, singled out and explained several important legal issues, some of which are focused upon in this document:

**Legal issue:** Unconstitutionality of reasoning for suppression of assembly and demonstration.

- “The contentious provision envisions suppression of unlawful gatherings and demonstrations without issuance of warnings or permission to continue upon meeting legal requirements. The Constitutional Court considers the measure chosen by the legislator to achieve lawfulness in the given case to be disproportional”.

Based on this judgment, the Court deemed the provision, as it stood, to be unconstitutional.

**Legal issue:** Prohibition of organization of assemblies or demonstrations by non-Georgian citizens.

The Court deemed the regulation to be unconstitutional, remarking that:

- “While the Constitution envisions certain means of limiting non-Georgian citizens’ participation in political activities, its Article 47 cannot serve as foundation for reasoning behind the contentious provision in cases when non-citizens’ actions are not political by nature. Essentially, the provision in question represents a blanket ban on any kind of assembly or demonstration organized or initiated by non-Georgian citizens, without exception”.

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<sup>1</sup> Judgment of the Constitutional Court of Georgia of April 18, 2011 on the case 2/482,483,487,502 “Youth political organization ‘Movement for United Georgia’, civil political organization ‘Conservative Party of Georgia’, Georgian citizens Zviad Dzidziguri and Kakha Kukava, Georgian Young Lawyers’ Association, citizens Dachi Tsaguria and Jaba Jishkariani, Public Defender of Georgia vs. the Parliament of Georgia”.

**Legal issue:** Prohibition on calls for dismantlement or forcible alteration of the constitutional order during organization and conduction of assemblies and demonstrations.

The Court deemed the prohibition to be constitutionally appropriate, although offering its own opinion on the provision's sensible interpretation; it also elaborated on real danger (or lack thereof) stemming from such calls:

- **“Dismantlement of the constitutional order** is always associated with violent actions. “Dismantlement” implies abolition of the existing order by anti-constitutional and illegal, and therefore violent means [...] for a democratically elected government, alteration of constitutionally established order and form of governance is possible only by employment of constitutional and therefore legal means. Any other way of bringing about changes is essentially violent and inherently dangerous for a democratic society’s continued existence”.
- “However, calls for **dismantlement of public authority** should not be equated to changes that might take place following a peaceful assembly or demonstration. Under the Constitution, all citizens are guaranteed the right to gather and express their will and/or attitude towards the government, which in turn might influence ongoing political or social processes, lead to resignation of the government or its members, or cause changes to the existing form of governance. For all intents and purposes, it is incorrect to compare and equate such processes, typical of democratic societies, with dismantlement of public authority”.
- “With sensible interpretation of the contentious provision, the prohibition [on **calls for dismantlement of constitutional order**] imposed by it exists due to association of such acts with **intention for and/or instigation to illegal activity**”.
- “Protests held by people unsympathetic to the government are usually accompanied by calls for its change or resignation. Such calls do not fall under the regulatory scope of the provision in question... Neither do those that, **while formally espousing the government’s dismantlement, are made in context that envisions no actual intention of breaking the law** [and thus constitutes no real danger]”.

**Legal issue:** Restriction of property rights of foreigners in regard to agricultural land.<sup>2</sup>

**Facts:** The contentious provisions limited the rights of foreign citizens to plots of agricultural land available in Georgia (which included not only ownership<sup>3</sup> but also possession and use). Constitutional The Court’s plenary assembly, which included judge Zaza Tavadze, deemed these regulations unconstitutional and incompatible with property rights guaranteed by the Georgian Constitution.

**Legal issue:** A foreigner may obtain property only as inheritance or if he had legally owned it in the past as a Georgian citizen.

The Court elaborated the following:

- “The right [**to property**] guaranteed by Article 21 of the Constitution applies to everyone, and this constitutional provision does not establish an exclusive pool of legal subjects, **by citizenship or otherwise**”.

<sup>2</sup> Judgment of the Constitutional Court of Georgia of June 26, 2012 on the case 3/1/512 “Danish citizen Heike Kronqvist vs. the Parliament of Georgia.

<sup>3</sup> Georgian law “On ownership of agricultural land”: “A foreigner may obtain property only as inheritance or if he had legally owned it in the past as a Georgian citizen”.

- “In the given case, it’s not possible to highlight a single argument in the defendant’s position that would explain the connection between a ban on ownership of agricultural land by foreigners and improvement of agrarian structure. The latter is possible for the government to accomplish regardless of whether agricultural land is owned by foreigners residing in Georgia or Georgian citizens. [...] In addition, the country’s economic growth, related to technological or scientific growth in the agricultural field, will be improved rather than weakened by emergence of new market players”.
- “Georgia has sovereignty over its territory, which means that it is free to define its own legal space, including the essence of its property rights and their framework. In the same vein, existence of property rights cannot be perceived as somehow belittling or depreciatory for the country’s sovereignty”.
- “Ownership of a particular plot of land might be of concern for state security due to its strategic importance; however, agricultural land is not generally perceived as possessing such”.

Based on the aforementioned arguments, the Court deemed the contentious provision to be unconstitutional in regard to property rights. It is noteworthy that following the Court’s decision, similar legislative regulations (before their reflection in the Constitution and coming into effect) by the Parliament were deemed unconstitutional twice more<sup>4</sup>.

## 1.2. POSITION ON SOCIAL GROUPS/MINORITIES

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Second judicial bench of the Constitutional Court of Georgia, presided over by Zaza Tavadze, made one of the most important decisions in the Court’s history. It concerned the legal status and limitations for people with psychosocial disabilities, changing significantly the essence of the term and improving this social group’s standing in the eyes of law.<sup>5</sup>

**Facts:** Persons deemed to be disabled due to their recognition as mentally deficient or mentally ill<sup>6</sup>, were constrained in the following under the contentious provisions:

- Voluntary and demonstrable attainment of civil rights and responsibilities;
- Marriage;
- Resort to legal action to be recognized as able and functional.

Plaintiffs considered the contentious provisions to be blanket limitations, heedless of individual capabilities or lack thereof in restrictions imposed on autonomy of disable persons. In their opinion, this was incompatible with several rights guaranteed by the Constitution, including **the right to freedom of personal development**. The Court deemed the provisions to be unconstitutional, thus fundamentally changing the essence and understanding of the term “disability”. The Court also commented on several aspects of the issue it considered particularly noteworthy:

- “The contentious provisions significantly alter a person’s legal status, which results in severed legal and practical problems. In fact, the person is indefinitely deemed incapable of being a party to any legal or civil agree-

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<sup>4</sup> Judgment of the Constitutional Court of Georgia of June 24, 2014 on the case №563 “Austrian citizen Mathias Huter vs. the Parliament of Georgia; Judgment of the Constitutional Court of Georgia of December 7, 2018 on cases №1267 and №1268 “Greek citizens Prokop Savvid and Diana Shamanidi vs. the Parliament of Georgia”

<sup>5</sup> Judgement of the Constitutional Court of Georgia of October 8, 2014 on cases №532 and №533 “Irakli Kemoklidze and David Kharadze vs. the Parliament of Georgia”

<sup>6</sup> Note: Terms “mentally deficient” and “mentally ill” were used by the legislator in issued acts. These terms are also encountered in Clause 4 of Article 12 of the Civil Code of Georgia (pre-April 1 2015 edition).

ments; essentially, this makes him/her fully dependent on the guardian's will and robs him/her of ability to participate in all fields of public life, including those directly connected to his/her own daily life, well-being and development".

- "Total and blanket suppression of rights is an extremely powerful legal intervention, which results in its subjects losing their autonomy in almost all aspects of life. As a consequence, they become completely deprived of the freedom to act independently. Not to mention this suppression is indefinite. Therefore, such a strong intervention should not take place without a very compelling and legitimate reason; it should also be the least restrictive measure when implemented".

**Legal issue:** Homosexuality as basis for prohibition on donation of blood or its components.<sup>7</sup>

**Facts:** Plaintiffs disputed the regulation that assigned homosexuals to a high HIV risk group and thus prohibited them from donating blood or its components. Second judicial bench of the Constitutional Court of Georgia, presided over by Zaza Tavadze, deemed the regulation unconstitutional due to its incompatibility with equality and the right to personal development guaranteed by the Constitution.

**Legal issue:** Essential equality of persons for blood donation purposes.

- "A desire to be a blood donor is connected to putting one's personal value to practical use; such a desire can grip any person, regardless of their sexual inclinations or orientation. Therefore, the Court considers the differentiated persons to possess essential equality to other subjects within the framework of the legal interaction in question".<sup>8</sup>
- "In this particular case, the limitation imposed by the contentious provisions creates a strict unjustifiable barrier between essentially equal persons, restricting rights to an extent far greater than necessary to achieve a legitimate goal".

**Legal issue:** Degree of protection of a person's self-identification under the right to personal development.

The Court elaborated the following:

- "Considering that Article 16 of the Constitution affords its subjects the right to freely and independently determine their own identity, character, lifestyle, path of personal development, ways and forms of interaction with other persons as well as moral, social, intellectual and other needs and interests, this also extends to a person's intimate life, up to and including freedom to choose one's sex, sexual orientation and behavior".

The Court established the following:

- "Detection of the HIV virus in blood after the so-called window period is possible via laboratory analysis. Accordingly, indefinite exclusion of homosexual men from the donation process, despite their high-risk sexual behavior, is a disproportionate measure".

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<sup>7</sup> Judgment of the Constitutional Court of Georgia of February 4, 2014 on the case 2/1/536 "Georgian citizens Levan Asatiani, Irakli Vacharadze, Levan Berianidze, Beka Buashvili and Gocha Gaboidze vs. the Parliament of Georgia"

<sup>8</sup> *ibid*, II-20.

### 1.3. HIGH-PROFILE CASES

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**Legal issue:** Rules of suspension of the suspect<sup>9</sup> from office for procedural purposes of the Criminal Court.<sup>10</sup>

**Facts:** The contentious provisions envisioned a possibility for the suspect's suspension from office held, if there was reasonable suspicion that by continuing to occupy that office (position), he/she would interfere with the investigative process. Giorgi Ugulava, former mayor of Tbilisi, argued against these provisions, claiming that they violate the constitutionally guaranteed right to occupy a public office.

Constitutional Court's plenary assembly, which included the candidate, established the following: Normative content of the contentious provisions, with envisions a possibility of suspension from office of persons elected into local government via a general, equal and direct election by ballot, is incompatible with the right to occupy a public office. The Court also commented on several aspects of the issue it considered particularly noteworthy:

- "The contentious provision envisions intervention into the right guaranteed by Article 29 of the Constitution, namely by limiting a person's right of performing duties assigned to him for a term of 4 years by the virtue of a general, equal and direct election by ballot conducted among denizens of Tbilisi. [...] Article 29 is even more relevant here due to the fact that the plaintiff, as an elected official, performs his duties in accordance to his electorate's will. It is impermissible to so callously disregard interest of the public in the official in question, and therefore the official should be permitted to perform locally important duties via a directly selected representative".
- "Considering there is a fixed term for a mayor's authority, the longer he is suspended from office the more intense does the intervention in his rights become, as it has an irreversible character – it is objectively impossible to restore the time spent out of office to the person in question. [...] Maintaining periodicity of elections serves important legal goals and ensures the citizens' voting rights do not come into question. Therefore, using the measure envisioned by Article 159 of the Criminal Code of Georgia does not represent a temporary intervention in a mayor's duties, but rather a permanent removal from office".

Constitutional Court's plenary assembly, which included the candidate, also made a decision on Giorgi Ugulava's second constitutional lawsuit.<sup>11</sup>

**Facts:** Giorgi Ugulava argued against a procedural provision of the Criminal Code that made possible for the court to use 9-month detention as a measure of pre-trial restriction per every criminal charge filed against the suspect. According to the plaintiff, this provision contravened the right guaranteed to him by Clause 6 of Article 18 of the Constitution (pre-December 16 2018 edition), which stated that pre-trial detention of the suspect could not exceed 9 months.

**The plenary assembly satisfied the plaintiff's request, to an extent:** The Court deemed that Clause 6 of Article 18 of the Constitution is indeed in conflict with the contentious provision that allows to exceed the max-

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<sup>9</sup> A person elected into local government via a general, equal and direct election by ballot.

<sup>10</sup> Judgement of the Constitutional Court of Georgia of May 23, 2014 on the case 3/2/574 "Georgian citizen Giorgi Ugulava vs. the Parliament of Georgia."

<sup>11</sup> Judgement of the Constitutional Court of Georgia of September 15, 2015 on the case 3/2/646 "Georgian citizen Giorgi Ugulava vs. the Parliament of Georgia."

imum pre-trial detention term of 9 months based on the number of criminal charges (or sufficient reasoning for them) filed against the suspect.



**Legal issue:** Constitutionality of provisions of public law “On the Constitutional Court of Georgia” that took effect on June 3, 2016.<sup>12</sup>

**Facts:** On June 3, 2016, a whole range of new provisions of public law on “The Constitutional Court of Georgia” took effect, mainly concerning the following issues: jurisdiction of the Court’s plenary assemblies, the Court’s power of suspension against legal provisions, the Court’s quorum and rules of derogation of a judge’s powers. These provisions essentially envisioned establishment of a completely new set of rules for the Constitutional Court by the Parliament.

The Court’s plenary assembly, which included judge Zaza Tavadze, deemed most of the provisions to be unconstitutional, elaborating upon some of the aspects of its decision:

**Legal issue:** Need for presence of at least 7 judges at the plenary assembly for a verdict and consent of the majority of the Court’s full assembly in order to satisfy a plaintiff’s request.

The Court elaborated the following:

- “Evaluation of constitutionality of provisions of public law by the Constitutional Court is a totally different affair. The Court is obliged to provide a substantiated decision as to whether public law established by the Parliament is compatible with the Constitution. As was previously noted, the Constitutional Court is not a political authority; its decisions are made in accord with objective and impartial word of the Constitution. The requirement of consent of the Court’s majority for a decision stems not from a need for the Court’s political legitimization, but to ensure consistent constitutionality of verdicts as they are passed on various issues”.

The Court has also established the following: Utilization of the term “full” in the contentious provisions, according to which consent of the majority of the Court’s full assembly is required to establish constitutionality of a plaintiff’s lawsuit concerning public law or suspend a provision, is in conflict with Clause 1 of Article 42 of the Constitution (pre-December 16, 2018 edition), which guarantees the right to a fair trial.

**Legal issue:** Suspension of a normative act by the Constitutional Court, referral of cases to the Court’s plenary assembly and need for consent of the majority of the Court’s full assembly to suspend a normative act.

The Court elaborated the following:

- “Suspension of a contentious normative act does not by itself represent an issue of systemic importance from the constitutional point of view. While the Court does not rule out suspension of a normative act becoming a

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<sup>12</sup> **Judgement of the Constitutional Court of Georgia of December 29, 2016 on cases 3/5/768,769,790,792**  
“Members of the Parliament of Georgia (Davit Bakradze, Sergo Ratiani, Roland Akhalaia, Levan Bezhashvili and others, 38 MPs total), Georgian citizens Erasti Jacobia and Karine Shakhparonyan, Georgian citizens Nino Kotishadze, Ani Dolidze, Elene Samadbegishvili and others, as well as Members of the Parliament of Georgia (Levan Bezhashvili, Giorgi Ghviniashvili, Irma Nadirashvili, Petre Tsiskarishvili and others, 38 MPs total) vs. the Parliament of Georgia.”

systemic, structural constitutional issue occasionally, such cases are exceptions rather than rules. As a rule, the Court suspends normative acts that represent unjustified and unreasonable deviations from general rules governing its decision-making process”.

The Court’s plenary assembly also established that referral of cases involving suspension of provisions to it stands in conflict with the constitutionally guaranteed right to a fair trial.

**Legal issue:** Derogation of Constitutional Court members’ powers immediately upon expiration of a 10-year term.

The Court elaborated the following:

- “In cases when it is not possible to replace a member of the Constitutional Court in a timely fashion, extension of this member’s term should be allowed until a replacement is found and appointed, lest functionality of the Court be disrupted. By the latter we mean developments such as responsible state authorities failing to select a new member within a required timeframe, thus robbing the Court of a quorum necessary for review of cases and making judicial procedure impossible. In order to avoid the Court’s institutional paralysis, it is necessary to be able to provide an extension of Court members’ 10-year terms till they are replaced by new members. Otherwise, the Court’s competence will come into question, its authority as an efficient institution will be undermined and its main purpose – protection of essential rights – will be rendered null”.

The Court also established: Normative content of the contentious provision envisions immediate derogation of a Court member’s powers upon expiration of a 10-year term even if the responsible state authority fails to select and appoint a new member in a timely fashion, which makes performance of the Constitutional Court’s collective duties impossible due to absence of the legally required quorum. Accordingly, this provision stands in conflict with first clauses of Articles 42 and 88 of the Constitution of Georgia (pre-December 16, 2018 edition).

## 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 years 1999–2000 candidate Zaza Tavadze was head of staff and organizational departments of Zestafoni District Sakrebulo (Assembly). Later he became an advisor to Imereti regional office of the Ministry of Justice of Georgia on affairs of local governance and liaising with self-governing bodies. In 2000–2004 he worked as chief legal specialist for the Bureau of Information on Assets and Finances of Public Officials of Georgia, while in 2004 he became head of the Legislative and Parliamentary Liaison Service of the Ministry of Internally Displaced Persons, Accommodation and Refugees of Georgia.
- In 2004–2007 he served as deputy head of the Staff Department of the Prosecutor General’s Office of Georgia. In 2007–2008 he became the department’s head.
- In 2008–2010 he held the post of the Deputy Minister of Justice of Georgia.
- On March 30, 2010, following the decision of the plenary assembly of the Supreme Court of Georgia, the candidate was appointed to the Constitutional Court as a judge and was officially sworn in on June 15, 2010. In years 2010–2016 Zaza Tavadze served as Deputy Chairman of the Constitutional Court of Georgia. On October 20, 2016 he became its chairman.

### 2. AWARDS/SCHOLARSHIPS

- Zaza Tavadze has not received any awards/scholarships.

# 4.

## CONFLICT WITH LAW, CONFLICT OF INTEREST

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

- Judge Zaza Tavadze has no record of conviction.
- The only recorded administrative violation involves an inaccuracy in a public official’s financial declaration, which resulted in Zaza Tavadze receiving a 1400 GEL penalty.
- The candidate was not a party to litigation.

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

- Judge Zaza Tavadze was not a member of any political party.

- During his time as deputy head of the Staff Department of the Prosecutor General’s Office of Georgia (2004–2007), his direct superior was **Vasil Roinishvili** (currently Vice Chairman of the Supreme Court of Georgia and Chairman of the Administrative Division), while upon becoming head of the same department (2007–2008) he reported directly to **Zurab Adeishvili**.
- During his time as Deputy Minister of Justice of Georgia (2008–2010), **Nika Gvaramia** served in the capacity of a minister (2008) and was succeeded by **Zurab Adeishvili** (2008–2010). Maia Kopaleishvili served as Second Deputy Minister of Justice (2007–2009) alongside Zaza Tavadze.
- Zaza Tavadze was appointed to the Constitutional Court as a judge by the Supreme Court’s plenary assembly, which at the time was comprised of the following persons: **Konstantine Kublashvili, Mikheil Chinchaladze, Levan Murusidze, Zaza Meishvili, Valeri Tsertsvadze, Vasil Roinishvili and Paata Silagadze**.

# 5. CANDIDATE’S PUBLIC ACTIVITIES / POSITION AND BEHAVIOR

## 1. OPINIONS EXPRESSED ON SOCIAL MEDIA

Judge Zaza Tavadze does not use social media. He has neither a personal page nor an official page related to the post he occupies.

## 2. PUBLIC STATEMENTS

### 2.1. COMMENT ON THE CONSTITUTIONAL COURT’S PROCUREMENT OF A TOYOTA LAND CRUISER VEHICLE (176,150 GEL) AND TWO TOYOTA CAMRY VEHICLES (124,000 GEL EACH)

On April 18, 2017 Zaza Tavadze, Chairman of the Constitutional Court of Georgia, made a statement in regard to the institution’s purchase of expensive vehicles:

**“By November 2016 the Court had residual budget that could not be disbursed till the end of the year and I decided to utilize it to renew the Court’s obsolete car fleet. By “obsolete” I mean cars manufactured in 2007-2008 that are in need of repairs. Previously, the Court’s Chairman used to have two cars at his disposal: a Mercedes S-Class and a Toyota Land Cruiser 200. I decided instead to procure one vehicle to replace two expensive ones”<sup>1</sup>**

### 2.2.COMMENT ON THE PARLIAMENT OF GEORGIA’S ELECTION OF MANANA KOBAKHIDZE TO THE CONSTITUTIONAL COURT AS A JUDGE

The candidate commented on the issue on April 18, 2017:

<sup>1</sup> Chairman of the Constitutional Court on purchase of a SUV worth 176,000 GEL: “Disbursement of residual budget”, available at: <https://bit.ly/2OSyPd>

**” As for Manana Kobakhidze, journalists often ask whether a political leader becoming a Constitutional Court judge is a source of embarrassment for me. Well, I am not the person responsible for selection or appointment of the Court’s members, so embarrassment is hardly an issue for me. I might not like something that lies beneath the judicial robe, but when one is wearing such a robe, the issue of embarrassment shouldn’t even be on the table... In many European countries it is not allowed for MPs to become members of the Constitutional Court, but we do not have any limitations in this regard. Therefore, it’s not prohibited”<sup>2</sup>**

### 2.3.COMMENT ON THE CONSTITUTIONAL REFORM AND APPOINTMENT OF THE PRESIDENT OF GEORGIA BY THE PARLIAMENT

On November 27, 2017, at the time of parliamentary discussion of constitutional changes, the candidate stated the following:

**” Considering the Constitution (and the level of legal power this document represents), I think the rule concerning appointment of the President probably needs to be reviewed and tweaked further... We have discussed quite a few models, including the German one – models of parliamentary rule, I mean – and how presidents are chosen – by indirect election, I mean. If you ask me, the President should be appointed by the Parliament, as was previously said.”<sup>3</sup>**

### 2.4. JULY 29, 2016 ADDRESS BY THE CANDIDATE AND FOUR OTHER CONSTITUTIONAL COURT JUDGES TO GIORGI PAPUASHVILI, THE COURT’S CHAIRMAN AT THE TIME

In the context of several high-profile cases, including that of Rustavi 2 television broadcaster, being on review, five judges of the Constitutional Court, including Zaza Tavadze, used the Prime Time media outlet to disseminate a public address to Giorgi Papuashvili, then-chairman of the Court. The judges expressed their protest at “fast-tracking” of several cases while quite a few others submitted earlier had not yet been reviewed. Their statement is as follows:

**” Following the Constitutional Court Chairman’s July 21, 2016 statement (in which he discussed facts of pressure exerted upon judges) we consider it necessary to urge the Constitutional Court to wait till all of the so-called politically marked cases are fully reviewed and render verdicts only after authenticity of claims of undue influence on judges described by the chairman is fully examined by corresponding authorities. We call for this to prevent any doubts or suspicions of the judges’ impartiality and objectivity”<sup>4</sup>**

### 2.5. COMMENT ON THE CONSTITUTIONAL COURT REVIEWING THE RUSTAVI 2 CASE AND THE SO-CALLED CABLES CASE

On October 10, 2016 Zaza Tavadze, the recently elected Chairman of the Constitutional Court, commented on deadlines for verdicts on the Rustavi 2 case, the so-called Cables case and other high-profile cases:

**” All cases are the same to me, just the way human rights and basic freedoms are the same for all of us. Accordingly, we are going to follow the rules established by law (in regard to deadlines) and achieve constitutional justice as we always do”<sup>5</sup>**

<sup>2</sup> „I might not like something that lies beneath the judicial robe” – Zaza Tavadze on Manana Kobakhidze, available at: <https://bit.ly/31A6n15>

<sup>3</sup> Zaza Tavadze – “The President should be appointed by the Parliament, available at: <https://bit.ly/33te6zS>

<sup>4</sup> Five judges address Giorgi Papuashvili in regard to the Rustavi 2 case, available at: <https://netgazeti.ge/news/131911/>

<sup>5</sup> Zaza Tavadze on high profile cases: “All cases are the same to me”, available at: <https://netgazeti.ge/news/149221/>

### 3. INTERVIEW WITH CANDIDATE ZAZA TAVADZE AT THE HIGH COUNCIL OF JUSTICE OF GEORGIA



Question posed to candidate Zaza Tavadze by NAZI JANEZASHVILI, member of the High Council of Justice: “Is the High Council’s system objective and impartial enough to pass a just verdict regarding you? [...] Do you have trust toward this process and how organized do you consider its governing legislation to be?”

Zaza Tavadze’s answer:



**I am going to summon my magic wand now – by that, I mean a particular article of the public law “On the Constitutional Court of Georgia”. Obviously, I cannot answer this question as a judge, but if you want to know a regular lawyer’s opinion”.**



Additional question by NAZI JANEZASHVILI: “When a candidate enters the High Council, he is a candidate, no more, no less... I think that you are also here as a candidate rather than Chairman of the Constitutional Court, and that is why I am asking you this question”.

Zaza Tavadze’s answer:



**Despite the fact that I am officially on vacation and my powers are frozen at the moment, I am not entirely without my authority as a member of the Constitutional Court. So you have me in a bind here: If I pass an evaluation on pros and cons of a particular legislative act, it might become grounds for a future lawsuit, should someone decide to challenge that act in court. Therefore, I cannot answer you in my capacity as a Constitutional Court judge”.**



NAZI JANEZASHVILI: „Could you explain the difference between independence and partiality and say whether our court can be considered independent as of today?”

Zaza Tavadze:



**A court’s independence is a trait that is subject to evaluation. It was with pride that I previously mentioned the Constitutional Court’s ratings and independence. Naturally, this is caused by an increase in the number of lawsuits. Look at the dynamics, we got five or ten lawsuits in 2014, while today they number in the dozens. It’s a domino effect – the court finishes dealing with one lawsuit, another comes in and so on. People see that their suits are being reviewed and verdicts rendered, which increases the Court’s ratings. While there is no set formula for how exactly we should behave, nothing stops us from utilizing the Constitutional Court’s behavior as a template”.**



NAZI JANEZASHVILI: “A few years ago there was an incident when the house of your predecessor got pelted with eggs. Do you think the state’s reaction to that incident was adequate?”

Zaza Tavadze:



**Inadequate. Not only the Court’s chairman, but every single judge should be unconditionally protected by the state – something that is guaranteed by law to begin with”.**



NAZI JANEZASHVILI: “You are participating in the contest in which one of your competitors is Irakli Shengelia’s brother-in-law. Your another competitor is Tamar Oniani’s current or former brother-in-law; Zaza Kharebava and Irakli Shengelia are connected by baptismal bonds. What do you think of this? Is there

a conflict of interest here, a source of embarrassment, maybe? Would you consider the High Council not ruling in your favor to be an act of injustice?”

Zaza Tavadze:

**“The facts that you just described had not been known to me, although I’ll take your word for them. My answer is as follows: violation of any regulations by one person or another (I am talking about public officials here) should be followed by an adequate reaction. I not, however, the person responsible for reacting so. I am a participant of a contest and now that I stand before you here, it is up to you to decide who to remove from this contest and who to allow. It is also up to you to decide whether there is conflict of interest, regardless of the source”.**



Question posed to candidate Zaza Tavadze by SERGO METOPISHVILI, member of the High Council of Justice: “Any judge is sooner or later confronted with a dilemma of making a lawful decision versus making a just one. Which kind of judge are you and which kind of decisions do you lean towards?”

Zaza Tavadze:

**“Obviously, I’d make a lawful decision; however, should I get reservations about the process that led me to it, I’d present the case before the Constitutional Court and allow its members to evaluate whether the law governing my decision is in accord with the Constitution”.**



SERGO METOPISHVILI: “Who is responsible for recognition and execution of verdicts rendered by foreign courts?”

Zaza Tavadze:

**“If I’m not mistaken, the Ministry of Justice deals with regulations governing this issue. I cannot tell you for certain, my apologies”<sup>6</sup>**



Question posed to candidate Zaza Tavadze by IRAKLI BONDARENKO, member of the High Council of Justice: “The Supreme Court has rendered a verdict concerning evidence obtained via clandestine recording, stating that information obtained via wiretapping, hidden cameras, etc. is inadmissible in court and cannot serve as evidence proving or disproving a particular act or lack thereof. In the constitutional field, how likely are attempts to use covertly obtained recordings as evidence of violation of law or just to prove facts concerning a particular case?”

Zaza Tavadze:

**“This is yet another question that I’ll refrain from answering. Should I ever become a Supreme Court judge and be confronted with such a situation, then I’ll think about what measures a lone judge can resort to arrive to an informed decision”.**

During the interview, the candidate was questioned regarding his interactions with Zurab Adeishvili, to which he responded that at the time of his appointment to the Prosecutor-General’s Office, they did not know each other:

<sup>6</sup> Following Zaza Tavadze’s reply, High Council member Sergo Metopishvili clarified that it’s the Supreme Court that possesses such authority.

**I did not know Adeishvili and have not been introduced to him prior to my employment by the Prosecutor General's Office. I have occupied many public posts and would like to remind you that none of them, starting with that of a regular lawyer in Zestafoni and ending with Deputy Minister of Justice, were obtained in contravention of honest competition”.**

The candidate also elaborated on his responsibilities following the appointment as deputy head of the Staff Department of the Prosecutor General's Office in 2004:

**“ I was exclusively responsible for representing the Office in general courts. This was the cornerstone of my career's advancement. I didn't know Adeishvili; trial judges, upon becoming familiar with my representation, told the Prosecutor at private meetings that they appreciated my work. Same goes for appellate and third-instance courts. It was them, who directed Adeishvili's attention to my professionalism, leading him to put me in charge of the Staff Department. Later I advanced even further, becoming Deputy Justice Minister. I think that my becoming a Constitutional Court judge in 2010 can be attributed to simple luck”.**

The candidate also mentioned that he and Adeishvili maintained a strictly working relationship and that Adeishvili considered him to be a professional and a good lawyer.



**NAZI JANEZASHVILI: “Why did you leave your post as Deputy Justice Minister and how did you become a Constitutional Court judge? Did anyone recommend you, for example?”**

Zaza Tavadze:

**“ As I've told you already, it's not that easy to enter the Constitutional Court as a member. When a spot in the Court became vacant, Mr. Kublashvili reviewed several potential candidates to fill it – including myself. I was nominated before the plenary assembly and in 2010, the assembly appointed me as a judge. The exact words said then were: ‘We are sending you a good lawyer who satisfies your criteria and, we believe, will be successful in maintaining constitutional control’. There was no confrontation with Adeishvili; on the contrary, he wished me success”.**

## 6. FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

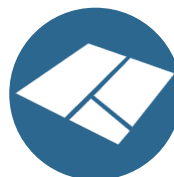
### 1. PROPERTY



**2019**  
APARTMENT  
GEL 405 000  
135,70 SQ.M)



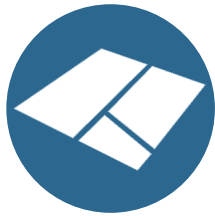
**2018**  
WOODEN COTTAGE  
GEL 40 000  
146,22 SQ.M



**2018**  
LAND PLOT  
GEL 285 921  
846 SQ.M



**2017**  
LAND PLOT  
GEL 13 500  
100 SQ.M



**2017**  
**LAND PLOT**  
 –  
 2 200 SQ.M  
 1 800 SQ.M  
 700 SQ.M  
 300 SQ.M



**2009**  
**CELLAR**  
 –  
 15,4 SQ.M

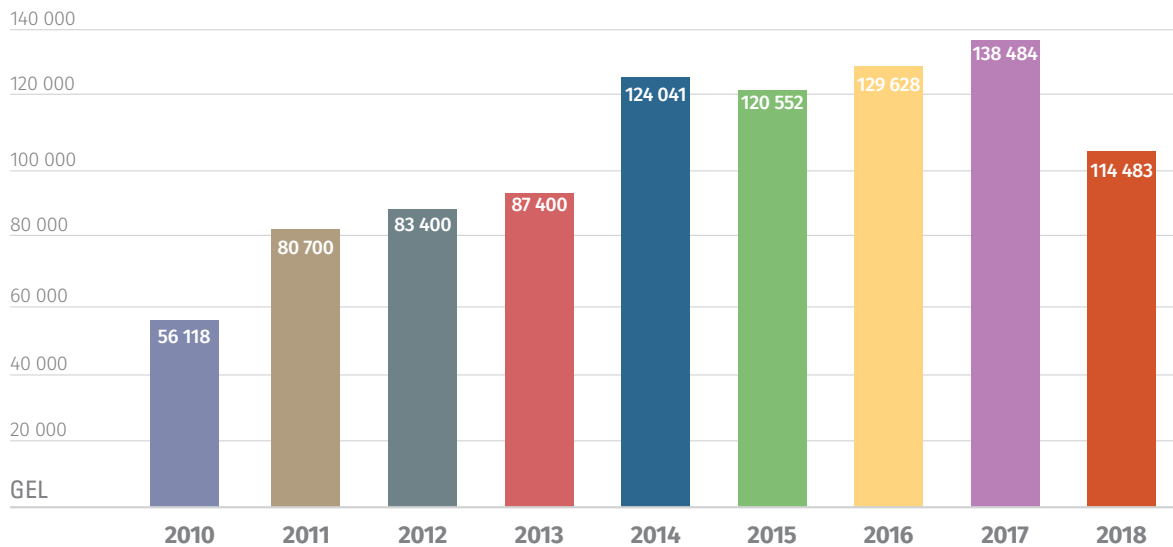


**2009**  
**CELLAR**  
 –  
 20,6 SQ.M

## 2. FINANCE

Candidate Zaza Tavadze is among the highest paid judges in Georgia. In years 2010-2018, his total income comprised almost a million GEL. His highest recorded wage was in 2017, comprising 138,484 GEL. The candidate's high wages frequently attract media attention, such as in 2016, when he received 37,478 GEL in two months as remuneration.

According to latest data, the candidate is currently managing two loans provided by the Bank of Georgia, with a total due amount of 257,000 GEL.

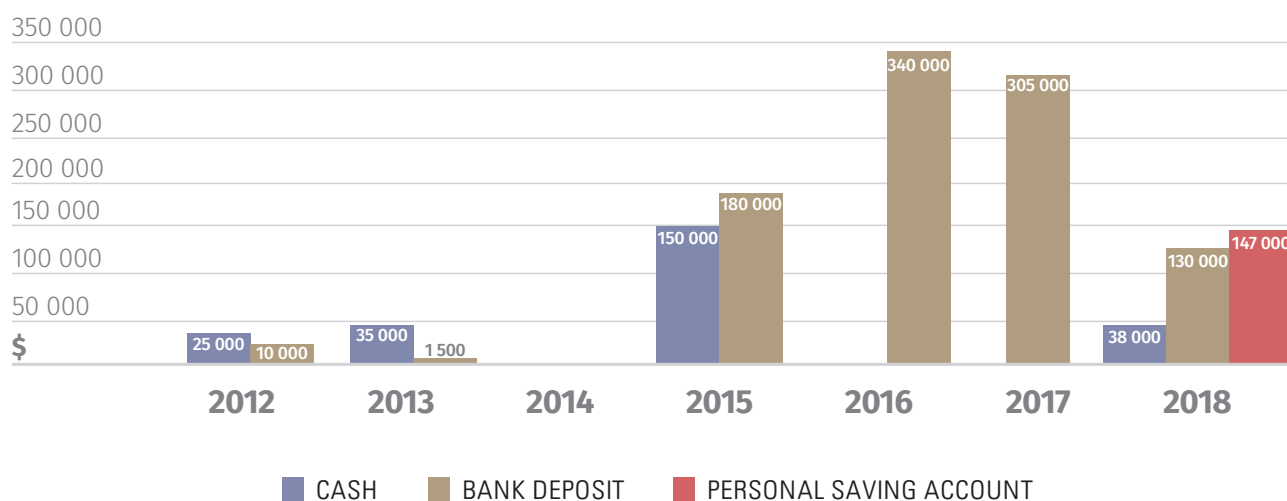


- In 2010, Zaza Tavadze became a member of the Constitutional Court, receiving an apartment in Batumi from the state at a symbolic price. In 2016, he sold the apartment to Irma Iremadze, suspected to be his brother-in-law's mother-in-law, for 250,000 USD. Prior to obtaining that apartment, which essentially cost Mrs. Iremadze over half a million GEL, she was not recorded as possessing any property of note – her only asset was an apartment she received as inheritance in 2006. Another suspicious circumstance is that a few days after obtaining the apartment, Mrs. Iremadze transferred the deed to it to one Tatiana Isotova. Conditions of purchase between the two parties are unknown.

Another strange circumstance is that even after the Batumi apartment was formally delivered into another person's possession, Zaza Tavadze and his family continued living in it. As the candidate's wife explained in conversation with a media outlet, their family had an agreement with the current owner, according to which they were allowed to use the apartment after it had been sold. Later, the apartment changed hands several more times.

- Zaza Tavadze's wife, Mrs. Tea Dzotsenidze, is employed by the Ministry of Education of Georgia since 2017, with a monthly wage of 910 GEL. In the meantime, her bank deposit runs to hundreds of thousands of GEL. No publicly available sources shed light on how and when did the candidate's wife manage to accumulate such wealth.

## SAVINGS



- The declaration of income submitted by judge Zaza Tavadze in 2019 reveals significant discrepancies between his income and spending. Namely, the candidate claims to have received 117,648 GEL as income during the year, which is complemented by previous year's savings of 17,162 GEL. However, his spending comprised 470,702 GEL. This includes purchasing a plot of land, commencement of house construction and payment of his children's tuition. Overall, Mr. Tavadze ends up with a negative balance of 335,857 GEL, and it is unclear where this money came from. By estimates, his wife's savings were not used to cover these expenses, as Mrs. Dzotsenidze's savings have grown rather than decreased in 2019.



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