

MAMUKA VASADZE

Deputy Prosecutor General

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In 2005-2014 Mamuka Vasadze worked in the Financial Police of the Ministry of Finance of Georgia, as well as at various positions in the Revenue Sere services. In 2014-2015 Mamuka Vasadze was the Head of the Investigation Unit of the Chief Prosecutor's Office of Georgia. He has been the first Deputy Prosecutor General of Georgia since November 2015, and in June-July of 2018 Mamuka Vasadze served as the Prosecutor General.

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

1. HIGH-PROFILE CASES

While Mamuka Vasadze served as the First Deputy Prosecutor General, there were many high-profile cases, which came to the attention of the public due to their content, as well as their protracted and ineffective investigation. In many cases, neither victims nor the public has been informed of the outcomes of investigations. These are:

- Ineffective, non-transparent and protracted investigations of alleged violations of the right to life (Khorava Street Case¹, Machalikashvili Case²);
- Ineffective investigation of cases of ill-treatment;³
- ineffective investigations of threats to disseminate/dissemination of video and audio materials on the Internet reflecting private life;⁴
- Ineffective investigation by law enforcement of alleged violations of rights (Birzha-Mafia case⁵; alleged abuse of power during the special operation at Club Basiani and Gallery⁶; Zviad Ratiani case⁷, etc.);
- Ineffective investigation of pre-election incidents⁸ (Kortskheli incident, etc.)⁹;

¹ Public Defender's Report, 2017, pages 37-40; See Conclusion of Inquiry Commission;

² Statement of the State Security Service; Public Defender's Report, 2018, page 32;

³ The Public Defender's Report for the year 2016 stated: "According to the Prosecutor's Office data, in 2016 investigations into alleged ill-treatment by police was initiated in 173 cases, of which only 5 cases have been prosecuted, and in 2 cases the alleged perpetrators were convicted. It is noteworthy, that the prosecution did not initiate proceedings on the grounds of ill-treatment or torture, but qualified cases as abuse of authority". In the report of June 26 of 2019 is also stated the following: "38 criminal cases were initiated and terminated in 2013-2017. Case analysis has shown, that effective investigation remains a major challenge for the investigative system. Failure of investigation, delayed and improperly conducted investigations have revealed inadequacy of the investigative system, and its incapacity to adequately respond to the positive obligation of the State to investigate cases of mistreatment effectively. The Public Defender has been indicating to ineffective investigation into ill-treatment for many years, and the response in such cases is always the same - "Investigation is ongoing". The public does not see results, and consequently, loses trust in this process and the investigative bodies in general".

⁴ See Public Defender's Report Submitted to the Parliament, 2018, page.110-113; The public Defender's Report states: „The Public Defender of Georgia has repeatedly applied to the Prosecutor's Office of Georgia and called for timely and effective investigation. Despite the prosecution's actions to prove that many people were being held accountable, the answers to the questions remain unclear: who planned, produced and disseminated the information related to personal life in each individual case.

⁵ See Public Defender's Report Submitted to the Parliament 2017, pages.169-170; See the program of the Public Broadcaster in given regard;

⁶ See the statement of GYLA;

⁷ See Article in Tabula;

⁸ See Public Defender's Report Submitted to the Parliament, 2018, page 219-222;

⁹ For facts, see GYLA's statement; Also, statement of Transparency International;

- ineffective investigations of alleged pressure on judicial officials (alleged threats in address of the former chairman of the Constitutional Court¹⁰);
- Ineffective investigation of alleged crimes committed by the judiciary and in connection with this system (the alleged beating of a minor by Giorgi Mikautadze, the deletion of an electronic archive at the Council of Justice¹¹, the case of leak of information on exam tests);¹²
- Ineffective investigation of alleged crimes committed against the state (so-called tires case, an investigation launched in 2015 on the basis of internet communication, concerning conspiracy to seize state power by the opposition¹³, etc.);
- Other high-profile cases of high public importance: (Rustavi 2 Television Founders' complaint on extortion of shares of the company through coercion¹⁴, the case of Afgan Mukhtarli¹⁵, Attorney General's Attack on the Auditor General¹⁶, Deacon Mamaladze's Case¹⁷, Demur Sturua's Case¹⁸, Ia Kerzaia's death case¹⁹, the case of violation of the rights of Muslims in Mokhe and Chela²⁰, the case of a cyber attack on TBC Bank²¹, Malkhaz Machalikashvili case and etc).²²

Due to ineffective investigation of high-profile cases, the prosecution has repeatedly been the subject of criticism from both local²³ and international organizations²⁴.

Civil society and experts have repeatedly made public statements regarding selective and politicized justice (Cables Case²⁵; investigation launched in regard to founders of TBC Bank and charges brought against them

¹⁰ See the statement by the Coalition for an Independent and Transparent Judiciary in regard to the case; See Article of Radio Freedom;

¹¹ See article in Netgazeti; On this subject, see the article in „kavshirebi.ge“;

¹² See the program of TV company Rustavi 2

¹³ See. article.

¹⁴ Public Defender's Report Submitted to the Parliament, 2018, pages156-157; Also see: Tbilisi Human Rights House Report, Afgan Mukhtarli Case, Facts and Assessment, Tbilisi, May, 2018;

¹⁵ Public Defender's Report Submitted to the Parliament, 2018, p.156-157; Also see. Tbilisi Human Rights House Report, Afgan Mukhtarli Case, Facts and Assessment, Tbilisi, May, 2018;

¹⁶ Public Defender's Report, 2017, p. 84.

¹⁷ See the statement of the Georgian Young Lawyers' Association; Also see, Statement of Humanrights.ge Human Rights Portal;

¹⁸ See the statement by the Human Rights Education and Monitoring Center on this topic ; Also see „Palitra News story and article;

¹⁹ See. „Radio Freedom” article;

²⁰ Public Defender's Report, 2015, p. 487-489;

²¹ See. „Tabula” article;

²² See. „Liberal” article;

²³ For example, the Public Defender's reports state, that cases of torture and ill-treatment are not adequately qualified and that no effective investigation into these and other high-profile cases is conducted. See. Public Defender's Report Submitted to the Parliament, 2018; Also, Public Defender's Special Report: „Effectiveness of investigation of criminal cases related to ill-treatment”, 2019;

²⁴ E.g. the Report Association Implementation Report on Georgia, JOINT STAFF WORKING DOCUMENT, Brussels, 30.1.2019 SWD(2019) 16 final states, that: “The number of cases of ill-treatment in penitentiary establishments has decreased, unlike the cases of ill-treatment by police officers. Since September 2018, the Public Defender's Office has received 149 complaints of ill-treatment by prison staff or police officers and has applied to the Chief Prosecutor with the request of investigation of eight cases. No criminal prosecution was conducted in regard to any of the cases.” In the report Association agreements between the EU and Moldova, Georgia and Ukraine European Implementation European Parliamentary Research Service (2018) is stated, that: “Georgia is trying to achieve progress in building democratic institutions. ... The prosecution remains the weakest link in this system.”

²⁵ See. „the Radio Freedom” article;

in regard to alleged unlawful financial transaction implemented 11 years ago²⁶; investigation launched against former Director-General of Rustavi 2 and charges brought against him²⁷; the facts of exceeding of power by police during the rally on June 20–21, 2019²⁸; charges brought against MP Nikanor Melia; arrest of opposition politician Irakli Okruashvili²⁹ and other person³⁰, and etc.).

Note: The Prosecutor's Office of Georgia coordinates the fight against crime and its prevention. In cases provided for by law, it conducts its own investigation, and when investigations are led by other agencies, directs the investigation process. The Prosecutor's Office conducts criminal prosecutions and upholds state prosecution charges at the trial, oversees the activities of operative–investigative bodies, responds to violations of the rights of persons deprived of their liberty and freedom of movement, etc.

The Prosecutor's Office of Georgia is a unified, centralized system – all prosecutors and other staff are subordinated to the Attorney General. The functions of the First Deputy are determined by the Chief Prosecutor himself. The First Deputy performs the functions of the Prosecutor General in the event of his absence or termination of office.

2. GENERAL STATISTICS

Legal issue: Resolution on charges brought against a person

Facts: Mamuka Vasadze has filed a person's indictment for an offense under Article 126 (11) (b) of the Criminal Code of Georgia. This action involves beatings or other forms of violence, that have caused the victim physical pain, although this has not had the effect of Article 120, an offence committed by a group of persons. Mamuka Vasadze, who was Acting Chief Prosecutor of Georgia at that time is indicated as a person, who drew the indictment.

Significance of the Resolution: Candidate Mamuka Vasadze (along with his diploma and other qualification documents) submitted the above document to the High Council of Justice himself as a sample of his legal opinion.

Resolution

- The resolution does not specify the person's identity, and the father's name is not indicated.

Note: The Criminal Procedure Code of Georgia imperatively specifies the mandatory requirements and content, that should be contained in a resolution on person's charges. This includes the defendant's father's name.

- The resolution on bringing charges reads as follows: "**(The person) physically assaulted another person, causing physical pain to the victim, but the offence does not cause the result stipulated by Article 120 of the Code**". The wording of the charge in this formulation refers not to a substantiated assumption that the court must confirm or deny, but to a credible and proven fact of guilt of the accused.

Note: According to the law, the accused is a person, in regard to whom there is a reasonable suspicion that he has committed a crime. The indictment indicates sufficient evidence to substantiate the assumption that the person committed the crime. The court has the exclusive power of finding and confirming the fact of committing of offence.

²⁶ See „the Radio Freedom” article; Also, „Transparency International Georgia’s” statement ;

²⁷ See. Statement of NGOs.

²⁸ See. „Tabula” article;

²⁹ See. „Transparency Internatoinal Georgia’s” statement;

³⁰ See. TV Company Rustavi 2” news story.

- The information in the resolution is not exhaustive. For example, it only lists the evidence confirming committing of offence: "Protocols of interviewing of witnesses (persons), requested information, protocol of investigative experiment, video recordings, material evidence seized in regard to the case, and other evidence in the case." The resolution does not specify the types of information requested, the evidence seized, etc.
- The resolution does not specifically state what information each of the above listed evidence provides, which has served as basis for a reasonable suspicion that the accused has committed the offence.

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

1. DISCIPLINARY PROCEEDINGS - EXISTING COMPLAINTS

- Any disciplinary measures or penalties have not been applied against the candidate.

2. ALLEGED VIOLATION OF PROFESSIONAL ETHICS

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

3. PROMOTIONS AND REWARDS / SCHOLARSHIPS AWARDED FOR PROFESSIONAL ACTIVITIES

1. PROFESSIONAL DEVELOPMENT

- In 2005–2007 Mamuka Vasadze worked as an investigator at the Financial Police Investigation Department of the Ministry of Finance of Georgia. In 2007–2009 he was the Investigator of the Investigation Department of the Revenue Service of the same Ministry; In 2009–2014 he was the investigator of the Investigative Department of the Investigation Service, the Deputy Head of Division, the Head of Division, the Deputy Head of Department, the Head of Department.
- In 2014–2015 Mamuka Vasadze was the Head of the Investigation Unit of the Chief Prosecutor's Office of Georgia. From November of 2015 he served as the First Deputy Chief Prosecutor of Georgia. Prior to appointment of the Chief Prosecutor by the Prosecutorial Council, in June–July of 2018 Mamuka Vasadze was Acting Prosecutor General.

2. AWARDS/SCHOLARSHIPS

- In March of 2014 (two months after starting work in the Prosecutor's Office) the then Chief Prosecutor Giorgi Badashvili granted to Mamuka Vasadze a special state rank of Senior Justice Advisor for excellent performance his official duties.

4.

CONFLICT WITH LAW, CONFLICT OF INTEREST

1. CRIMINAL LIABILITY, ADMINISTRATIVE OFFENSES / PENALTIES, LITIGATIONS

- Mamuka Vasadze has no record of conviction
- No administrative violations have been identified.
- Mamuka Vasadze 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

- Mamuka Vasadze has never been a member of any political party.
- In 2018 “Kviris Palitra” published an article stating that Otar Partskhaladze was controlling the Prosecutor's Office through Mamuka Vasadze¹
- His candidature is supported by: the acting Prosecutor General Shalva Tadumadze and his two deputies – Giorgi Badashvili and Giorgi Gogadze

¹ „Mamatsashvili, Chkartishvili, Gakharia“ available at: <http://bit.ly/2Ykflx9>

5.

CANDIDATE'S PUBLIC ACTIVITIES/POSITIONS AND BEHAVIOUR

1. OPINIONS OF MAMUKA VASADZE, EXPRESSED IN SOCIAL MEDIA

Mamuka Vasadze is not a user of social networks. He has neither a personal profile nor an official page.

2. PUBLIC STATEMENTS OF MAMUKA VASADZE

2.1 MAMUKA VASADZE'S EXPLANATIONS REGARDING THE INVESTIGATION INTO THE MURDER ON KHORAVA STREET

Mamuka Vasadze, as the Deputy Chief Prosecutor of Georgia, on the July 25 of 2018 made following comments in regard to investigation of case of murder on Khorava Street: “Depending on the specifics of the investigation, when a criminal case is pending, every time when a person reads the case file, there may be a feeling that some additional measures should have been conducted. However, it is one thing, when you are an evaluator, and another thing, when you are the creator of the case. I mean the person, responsible for proceedings. You have to carry out investigative actions in the clear sky. Under the imperative requirements of the Juvenile Justice Code, the term is one month. Given these factors, and from today's standpoint, there may be investigative actions that we believe we should have conducted. The objective circumstances of failing to do so were explained by those involved in the proceedings, and to me, as a former investigator, these explanations were more or less convincing.”¹

Mamuka Vasadze also answered additional questions concerning this case, including the question, as to why the prosecution had made the case materials public before the court reached its final decision: “As we know, the public has been of the opinion lately, that there was no evidence of on the case of murder of juveniles; and that there were no knives used; that the witness who testified, changed his testimony. All this was caused by the unilateral misrepresentation of information by the defense to the public, which led to a divergence of opinion and public concern. We have been in constant contact with the victim on this issue, in the same manner, as in other criminal cases. [...] We still offer victims to meet. I'll answer all the questions. [...] As in the public formed opinion, that there was no evidence, that there where scissors, that we were covering up somebody's guilt ... taking into consideration the interest of the juveniles, we managed to publish evidence in such manner, that no juvenile's interest was undermined”.²

To the additional question of a journalist, as to why the Prosecutor's Office released the evidence two days before adoption of the final judgment³, Mamuka Vasadze stated the following: It is important that public has access to the information, as it was provided with biased information by one party. This was done by the defense. Also, some of experts were spreading incorrect information. The public was under the impression, that we were hiding something on this case, while all investigative actions were carried out in the shortest possible time”.⁴

2.2 EXPLANATIONS OF MAMUKA VASADZE CONCERNING THE SO CALLED “CYANIDE CASE”.

On February 18 of 2017, Mamuka Vasadze answered questions on "Imedi" TV concerning the so-called "Cyanide case". In particular, the journalist reminded Mamuka Vasadze of the February 13 statement by the Chief Prosecutor and quoted it: “... on the basis of the statement from one of the citizens, who addressed the Prosecutor's Office of Georgia and stated that his acquaintance, Father Giorgi Mamaladze, sought help in procuring life-threatening poisonous substance, cyanide, with which, as it was established, he was going to murder a clerical person of high hierarchy.” The journalist added that the public officials spoke of the Patriarch's safety. Accordingly, the public was of the impression, that the Patriarch was meant, but in the

¹ „Mamuka Vasadze - every time when a person reads the case file, there may be a feeling that some additional measures should have been conducted”, July 2018 of 25, available at: <https://1tv.ge/news/mamuka-vasadze>

² Mamuka Vasadze on the murder on Khorava Street”, available at: <https://www.facebook.com/OfficialPOG/vi>

³ Ibid, 4:28.

⁴ Ibid, 5:26.

middle of the week, they heard a different assessment: According to the interview of the representatives of the Prosecutor's Office, that it was not about the murder the Patriarch, or any other high-ranking clerical person, but that was an attempt of murdering of other individual. Therefore, the journalist asked: "If you can tell us what was stated in the charges, whose attempted murder is being investigated, is this person the Patriarch or a clergyman?"

Mamuka Vasadze explained:



Naturally, I will start by explaining that the investigation into this criminal case was launched on February 2 of 2017 on the basis of a statement of a citizen, namely journalist Irakli Mamaladze. The text that we have published, also speaks to this, in particular, on what grounds the investigation was initiated and the content of the statement. [...] As to the grounds established by the investigation, the investigation revealed, that as evidence indicated, and on the basis of a reasonable assumption, the murder of one of the persons was indeed planned. There may have been one or more persons, one person's identity has been established, and is indicated in the relevant documents, but I shall not divulge his identity at this stage in the interest of the investigation. [...] The investigation is working on several versions and naming all involved persons will have a negative effect on the investigation ... Investigative action are ongoing at this stage. [...] there may be large body of evidences obtained as a result of investigation that will be important to prove one or another version.”⁵

In addition, the journalist asked Mamuka Vasadze to specify whether the person whose murder was allegedly planned, was a clergyman. Mamuka Vasadze noted that he would not specify other details at this stage.⁶

3. INTERVIEW OF CANDIDATE MAMUKA VASADZE AT THE HIGH COUNCIL OF JUSTICE



Question posed to Mamuka Vasadze by the candidate by NAZI JANEZASHVILI, a member of the High Council of Justice: “A report of the Public Defender, released a few weeks ago, states that 10 members of the High Council of Justice were allegedly acting following a coordinated scheme, and were chosen out of 50 candidates to proceed with the second stage (interview) of selection process. You are one of those candidates. In your opinion, if this is true (I do not request you to assess the Public Defender's report) and presumably the members of the Council have agreed in advance and selected candidates to participate in the second stage, do you think this raises the issue of legitimacy of the candidate who may later become a judge? And does that violate the right to a fair trial? ”

Mamuka Vasadze's response:



I have not got acquainted myself with the report. However, on the basis of the information provided by you I can confirm, that the relevant provisions of the Law on Common Courts specify the procedures for selecting candidates for judicial office in the Supreme Court. I am present here in full compliance with the law. As for the evaluations by individual candidates, this is their subjective opinion. As for the coincidence, by calculating through use of complicated mathematical formulas, I can't imagine what coincidences you might be talking about, or what these coincidences are caused by, and I can't give a competent answer to that ... As for the exchange of views between the members of the Council on various issues, this is their authority and right. Moreover, in the course of adopting collegial court decisions, in a deliberative body the judges consult each other on a guilty plea, debate each issue, discuss them, there may be unanimous in their decisions, or one judge may come up with a dissenting opinion and present it”.

⁵ „The state did everything to avoid threats”, February 18 of 2017, available at: <https://www.imedi.ge/ge/video/10, 2:03>.

⁶ *ibid*, 5:01.



NAZI JANEZASHVILI'S question to the candidate: "In what case can a judge's criticism (even insulting) go beyond the limit of freedom of expression? What would you name as an example of that?"

Mamuka Vasadze's Answer:



The freedom of expression ends where the elements of offence are present and these elements occur when there are threats, etc."



Question of a member of the High Council of Justice IRMA GELASHVILI, posed to the candidate: "In several articles published in the press the interviewed persons stated, that you have exerted pressure on them. Can you answer to such allegation?"

Mamuka Vasadze's response:



I can assure you, that never throughout my career I have exerted any psychological, physical or other pressure, and there is no evidence of this."



LEVAN GZIRISHVILI, a member of the High Council of Justice, asked the candidate the following: "All layers of society are involved in the issue of decriminalization of drugs: we are talking of decriminalization, and already about legalization. What is your opinion concerning this? "

Mamuka Vasadze's response:



In this case I shall go beyond my prosecutorial role, and shall present my position as a citizen. The strict criminal policy towards drug users is unacceptable to me, as users need more attention from other institutions. As for the drug dealers, and etc. my approach to them is strict, because these are people are guided by the interest of material gain, they import, procure, and sell substances prohibited by law."



IRMA GELASHVILI'S question to the candidate: "You know, the Tbilisi Pride was held recently, which caused a stir among the public. Before the Pride was held, the organizers and participants of the rally applied to one of the service supplier to the produce flyers of relevant content in return for appropriate remuneration. The service supplier refused to sign the contract on the grounds, that he would not support promotion of LGBT persons. Can you assess whether the service supplier has exercised his rights lawfully. If possible, tell me an argument for and against. What would be your assessment as a judge? How would the European Court of Human Rights reason whether any of the rights under the Convention have been violated?"

Mamuka Vasadze's Answer:



In my opinion and personal belief, the starting point is the Constitution. A person has the right to apply to any person and the other person, in this case, has no right to refuse and restrict exercise any right on a discriminatory basis."

During the interview Mamuka Vasadze was asked about Vazagashvili's case, to which he replied the following:



As a structure, I deservedly receive this criticism. It is not difficult for me to express my opinion openly and directly on this issue. It was a difficult case, and it was characterized by various challenges. In my opinion, this is the case, where the European Court found both material and procedural violations. In this case, the responsibility was imposed on the State of Georgia and the Court considered the issue of proportionality of the applied force. The person was prosecuted in 2015 for the offence, which he committed in 2006. This is an unreasonable time for investigation. At the same time, it coincided with the fact that in February 2015 we raised the issue of liability and in January Yuri Vazagashvili died. "

Mamuka Vasadze further stated that

“ during the investigation of the case were interviewed those witnesses who were neither identified nor interviewed during the old investigation ... nevertheless, the Strasbourg Court still found some procedural violation. As a body, I take on this responsibility, because it doesn't matter which investigator, prosecutor, or structure investigates the criminal case. It is a fact, hat for such a long period of time the State and the Prosecutor's Office have failed to ensure that they conduct a thorough, speedy investigation and achieve the result. ”

6. FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

1. REAL ESTATE:

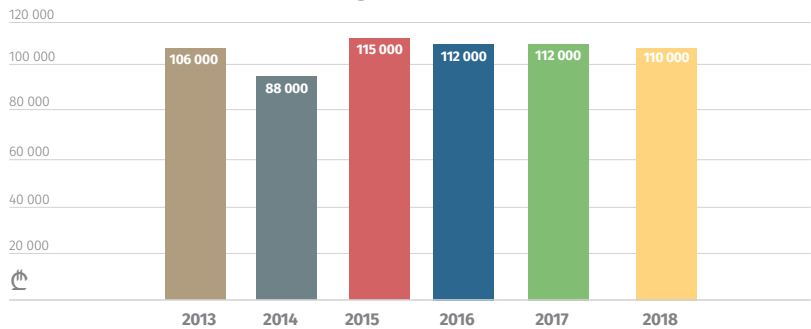


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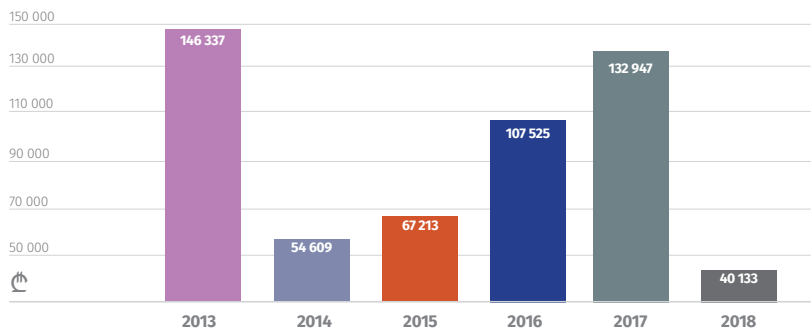
2. INCOME

In 2013–2018 Mamuka Vasadze received 646,124 GEL as remuneration. He had the highest income is in 2015 – 115,350 GEL. The candidate's wife, Nino Girgvliani, is a lawyer and her average annual salary in 2014–2017 was 15,237 GEL. In 2018 Nino Girgvliani has not received income from her professional activities.

SALARY



SAVINGS



Mamuka Vasadze's has current financial liabilities at TBC Bank. The candidate took a mortgage loan in 2018 in the amount of 180,000 USD, which in mortgage in 2018, and added to this amount 105,000 GEL in savings, and paid a total of about 558,000 GEL in a newly constructed apartment. According to the declarations, the income of the judge was increasing on almost yearly basis. The highest savings – 146,336 GEL is recorded 2013.



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