

The Fourth Trial Monitoring Report of High-Profile Criminal Cases

Monitoring Period: June 2015 - March 2017

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Executive Summary

Since the change of government in 2012, former public officials have become subjects of criminal prosecution, causing doubts, both inside and outside of the country, regarding the politicization of trials. Transparency International Georgia has been monitoring the hearings of high-profile criminal cases since February 2013. Three reports have been published in this time. The first report covers the period from February 2013 to July 2013, the second report covers July 2013 to April 2014, and the third covers the period from May 2014 to June 2015. The organization's observers have attended court hearings and documented trials for the purpose of further assessment. The purpose of this report is to make information related to the proceedings and positions of the parties accessible to the wider public, in order to reveal procedural violations as well as certain tendencies related to high-profile cases.

The fourth report covers the period from June 2015 to March 2017. Observations were made on 12 criminal cases, where the accused were former officials of the previous government: Mikheil Saakashvili, Gigi Ugulava, Vano Merabishvili, Zurab Adeishvili, Nikanor Melia and others.

The following main tendencies and facts were identified as a result of our monitoring:

- Circumstances surrounding the case of former high-ranking officials of the Ministry of Defense (the so-called Cable Case) have raised serious doubts about the fairness of court proceedings and their independence from political influence.
- The decision to classify the Cable Case as secret hindered the defense from accessing case files for a certain period of time, during which, the defense was unable to fully realize its legally guaranteed right to defend.
- After the Constitutional Court granted Giorgi Ugulava's claim, the unconstitutional practice of using imprisonment as a preventive measure was eliminated. Particularly troubling was the repeated use of detention against Gigi Ugulava. In some cases, the use of detention as a new preventive measure suspiciously coincided with the expiration of another preventive measure against the same accused. This created an impression that the prosecution's main purpose at the time was to simply keep Ugulava detained.
- In some cases, there was confrontation between the judges of the Constitutional Court, which damages the court's authority and the parties' respect towards it. On several occasions, the judges also exhibited an unethical attitude towards a party, which is also incompatible with the principle of fair trial.
- Problems were identified with the use of asset freezes as a procedural measure of compulsion against Mikheil Saakashvili. The monitoring revealed that there was insufficient factual basis for the freezing of assets of persons related to the accused. The decision also did not allow for the future possibility to review the asset freeze.
- Problems related to separation of witnesses have still not been solved completely. In most cases, proper prevention of communication between witnesses during hearings was not ensured. In some cases, witnesses were able to attend court hearings before being questioned.
- The media faced no problems in making audio or video recordings of trials; they freely exercised the right granted to them by law.
- There were still cases when not all interested parties were able to attend the hearings. The reason in some cases was the limited size of the courtroom, or a large number of attendees. In

some cases, hearings of special public interest were not held in larger courtrooms, even though they were available.

- Technical problems with microphones were common during court hearings. This made it difficult for the attendees to hear witness testimonies.
- In a number of cases, the process was postponed and artificially delayed.
- On several occasions, the judge was unable to maintain order in the courtroom. However, this was not a systemic problem. In some cases, the judge fined and expelled offenders from the courtroom.
- A more general problem are the comments made by high-ranking officials about ongoing high-profile cases and persons involved in them. Such comments may have a negative influence on the court.

Gigi (Giorgi) Ugulava, Vano (Ivane) Merabishvili, Zurab Adeishvili, Davit Kezerashvili

I. Invasion and confiscation of Imedi Television Company

II. Confiscation of Mtatsminda Park

III. Confiscation of Rustavi Metallurgical Plant

IV. Raid on the protest rally of November 7, 2007

1. The accused and the charges brought:

Gigi (Giorgi) Ugulava (former Mayor of Tbilisi) – abuse of authority, assistance in conspiracy to embezzle in large volumes (embezzlement of the property of Mtatsminda Park) and assistance in legalization of illicit income, with the abuse of public office to derive additional income (episode involving Imedi Television Company)

Ivane Merabishvili (former Minister of Internal Affairs) – abuse of authority including violence or use of arms, and the offense of personal dignity of the victim (episodes involving Imedi Television Company, raid on the November 7, 2007 protest, and invasion of Mtatsminda Park)

Davit Kezerashvili (former Minister of Defense) – abuse of authority (raid on November 7, 2007 protest, confiscation of Imedi Television Company and Rustavi Metallurgical Plant), legalization of illicit income, with the abuse of public office to derive additional income (episode involving Imedi Television Company)

Zurab Adeishvili (former Chief Prosecutor, thereafter Minister of Justice) – abuse of authority including violence or use of arms, and the offense of personal dignity of the victim (confiscation of Imedi Television Company and raid on the November 7, 2007 protest)

Mikheil Saakashvili (former President of Georgia) – abuse of office by a state-political official in such a way as to substantially damage the legitimate interests of a natural or legal person, society or the State, by violence or use of arms, and with the offense of personal dignity of the victim (raid on the November 7, 2007 protest, invasion of Imedi Television Company, and illegal seizure of the property of Arkadi Patarkatsishvili)

2. Description of the offenses:

Episodes related to the confiscation of Imedi Television Company, Mtatsminda Park and Rustavi Metallurgical Plant

According to the prosecution, from 2006-2007 the television company Imedi often broadcast programs criticizing the government, which negatively affected the perceptions of the ruling party; for this reason, representatives of the ruling party, under the leadership of President Mikheil Saakashvili, orchestrated the seizure of Imedi Television Company. Arkadi Patarkatsishvili and his family became the subject of persecution and oppression under the guidance of Mikheil Saakashvili. Finally, by means of pressure and intimidation, Imedi Television Company was confiscated from the Patarkatsishvili family.

The authorities also confiscated Mtatsminda Park from the Patarkatsishvili family. Specifically, on November 7, 2007, in concert with the raiding of protesters on Rustaveli Avenue, and under the instructions of the Minister of Internal Affairs, the special armed forces of the MIA broke into Mtatsminda Park without any legal warrant and unlawfully drove out the employees of Mtatsminda Park. On the same day, Tbilisi City Hall held a press conference, alleging that Ltd. Links had not been paying its rent on Mtatsminda Park, due to which the Government of Tbilisi unlawfully terminated the contract with it, whereas in actual fact the Patarkatsishvili-owned company had been performing all its obligations in good faith and there was no ground for termination of the contract at that time.

The prosecution also argued that the accused had illegally seized Rustavi Metallurgical Plant from Patarkatsishvili family. According to the charge, following pressure and intimidation, a fictitious contract was concluded, as a result of which the property of Rustavi Metallurgical Plant had been transferred to the offshore company of Davit Kezerashvili. The documents were drawn up in such a way to make it seem as if Rustavi Metallurgical Plant had been indebted to the offshore company owned by Davit Kezerashvili. Subsequently, with the involvement of National Bureau of Enforcement and the court, on the grounds of settling of the debt, the property of the Plant was transferred into the ownership of Davit Kezerashvili's offshore company.

Raid on the Protest Rally of November 7, 2007

According to the prosecution, on November 4, 2007, under the instruction of Mikheil Saakashvili, an extraordinary meeting was held at the office of Ivane Merabishvili in the Ministry of Internal Affairs, chaired by Ivane Merabishvili himself. The deliberation was attended by then Chief Prosecutor Zurab Adeishvili, Minister of Defense Davit Kezerashvili, Head of the Constitutional Security Department Data Akhalaia, Mayor of Tbilisi Gigi Ugulava, and governors.

The group, headed by Ivane Merabishvili, decided to compile a list of people participating in the protests, who were to become the subject of intimidation, physical and psychological pressure, and assault. Using various means, including the slipping of drugs, participants in the protest were to be arrested as well. According to the prosecution, it was also resolved at the deliberation that the businessmen supporting the opposition should be "taken care of" by the head of the financial police and by then Minister of Defense Davit Kezerashvili.

According to the prosecution, the order issued by Ivane Merabishvili at the deliberation – to intimidate, assault and arrest people – was executed on November 7, 2007. On the basis of a criminal order to raid the protest, issued by ex-President of Georgia Mikheil Saakashvili, law enforcement officers raided the protest on Rustaveli Avenue and the adjacent area of Rike.

Invasion of Imedi Television Company

According to the prosecution, on the same day (November 7, 2007), in line with the predetermined plan, a special-purpose detachment from the Ministry of Internal Affairs broke into Imedi TV Company without any legal warrant, and unlawfully damaged equipment, shut off the broadcast of Imedi TV and expelled the employees from the building by physically assaulting them. As a result of this raid on Imedi TV, the television company incurred losses from physical damage, loss of equipment, and lost profits totaling GEL 3,158,307.

3. Key facts identified and assessments made during previous monitoring periods:

Based on the complexity of the case (the fact that charges were brought against the highest officials of the state, as well as the fact that the case was high-profile and large in volume) the judge decided that the case should be tried by a panel of three judges. Charges against ex-President Mikheil Saakashvili and ex-Minister of Internal Affairs Vano Merabishvili on this case were specified, while charges against Davit Kezerashvili, Zurab Adeishvili and Gigi Ugulava were aggravated. Aggravation of charges against Giorgi Ugulava gave the prosecution the possibility of requesting his detention as a preventive measure. At this time, Gigi Ugulava had already been detained for the case of legalization of illicit income. It is noteworthy that at the request of the prosecution, the case of Mikheil Saakashvili was separated from this case. Later, however, again at the request of the prosecution, these cases were joined. It should also be noted that the judge decided on the issue of detention as a preventive measure against Gigi Ugulava on a Sunday. The defense argued that this was a deliberate act to ensure that the case was tried by a judge acceptable to the prosecution.

In the case of Imedi TV, Gigi Ugulava faces three separate charges. It is noteworthy that in the 2014 and 2015 resolutions, factual circumstances and evidence are to a large extent repeated, and partially also cover the same facts noted in the February 22, 2013 resolution. It is true that the prosecution is fully authorized to ascertain new factual circumstances and/or change the qualification of the offense, however, the circumstances of the case are indicative of artificial protraction of investigation and raise well-founded suspicions that the prosecution artificially divided what was one case in substance into three separate stages, so that it could have a basis to apply to the court with a request for Ugulava's detention at a convenient time. The Constitution of Georgia states that the total term of a person's pre-trial detention may not exceed nine months. Where several charges against the same person exist, fixing the term of pre-trial detention separately for each of them was being used to artificially extend the prescribed nine-month period of pre-trial detention. Application of the law in this way left room for practically unlimited and arbitrary extension of pre-trial detention, which in itself created real danger that the accused may have remained in detention forever, without a guilty verdict against him. This was exactly the case with respect to Gigi Ugulava. His charge of abuse of office, presented on July 28, 2014 (November 7 episode), was aggravated. Specifically, the existing charge was complemented by assistance in embezzlement (episode relating to the embezzlement of the property of Mtatsminda Park) and the legalization of illicit income (episode relating to Imedi TV Company). During this time, Gigi Ugulava was already in pre-trial detention for a different case (relating to money laundering and the Marneuli affair), the term of which expired on April 2, 2015. It is suspicious that the aggravation of the charge and the new motion of the Prosecutor's Office of Georgia on granting a second term of pre-trial detention for Gigi Ugulava coincided with the approach of April 2, 2015. The chronology of actions carried out by the prosecution created the impression that Gigi Ugulava's pre-trial detention was an end in itself for the prosecution. This problem was also identified in relation to Bachana Akhalaia in Transparency International Georgia's second monitoring report of high profile cases.

Our observations also revealed yet another significant problem, which relates to the burden of proof when considering the alteration of a preventive measure. Pursuant to Section 8 of Article 206 of

Criminal Procedure Code of Georgia, the motion (on alteration of a preventive measure) must note what new circumstances have been revealed, which were not known at the time of consideration of the preventive measure, and must be accompanied by corresponding evidence (materials) related to this new circumstance. In other words, the law obligates the accused/defense to prove that there is no longer any ground for applying the preventive measure. This norm and the deriving practice contradict Section 2 of Article 40 of the Constitution of Georgia (presumption of innocence) since they obligate the accused to prove his/her innocence. Important to note is the fact that this problem was solved with recent legislative amendments, according to which, if pre-trial detention of the accused is used as a preventive measure, the judge, until the verdict is reached, will at his/her own initiative periodically - at least once every two months - reconsider the necessity of maintaining pre-trial detention as a preventive measure. In addition, the burden of proof when requesting imposition, alteration or abolition of preventive measures will at all times fall on the prosecution.

In the case of Gigi Ugulava and of other high-ranking officials, the defense had several times brought up the problem of case assignment, which has been subject to frequent criticism from civil society. It is vital that the system of case allocation in courts not be predictable and be strictly based on the principle of random selection.

Comment [SK1]: ქართულში ეს წინადადება არასრულია. აბა ნახეთ სწორად შევავსე თუ არა.

4. Overview of court proceedings in the reporting period:

4.1 Cancellation of Giorgi Ugulava's pre-trial detention

On September 15, 2015, the Constitutional Court of Georgia satisfied Giorgi Ugulava's claim. The applicant claimed that the fact that in case of several charges it was possible to use pre-trial detention independently for each case and for its total duration to exceed the constitutional limit of no more than 9 months was unconstitutional.

The Constitutional Court of Georgia found that the ongoing detention of the accused equally satisfies the goals of a preventive measure for each allegation against them. Therefore, when calculating the duration of detention for any particular case, the duration the accused has been spending in detention due to another case must be included in the upper limit of 9 months. Consequently, the court declared Article 205, Part 2 of the Criminal Procedure Code unconstitutional, which allowed for extension of the duration of a pre-trial detention beyond the 9 month limit.

The Constitutional Court also referred to the decision of the European Court of Human Rights (*Šebalj v. Croatia*, N - 4429/09, June 28, 2011), according to which, the extension of the term of detention based on a similar legislative norm was considered to be a violation of Article 5 of the Convention. Therefore, the Constitutional Court accepted the applicant's argumentation that the disputed norm allowed for the accused to be imprisoned for longer than it is permitted by the Constitution, which violated his rights under Article 18, Paragraphs 1 and 6 of the Constitution. This decision of the Constitutional Court ended the practice that created the possibility of arbitrary and indefinite extension of pre-trial detentions, which we have repeatedly criticized in our previous reports.

On the basis of the decision of the Constitutional Court, Tbilisi City Court released Giorgi Ugulava from pre-trial detention on September 18, 2015; however, on September 19, he was convicted for the Development Fund case and sentenced to 4 years and 6 months in prison.

Interest towards the September 18 hearing at the Tbilisi City Court was high. Even though courtroom number one of Tbilisi City Court was available and could fit the highest number of people, it was not used.

The hearing started late, since the prosecutors arrived 50 minutes late.

During the hearing, the prosecution raised a motion on recusing the newly elected judge. According to the prosecutors, one of the judges on the case was in Strasbourg, while the reserve judge did not attend the hearings, was not involved in the case, and therefore was not authorized to consider changing the pre-trial detention.

The defense stated that the prosecution was requesting the recusal in order to delay proceedings. In the end, the motion was not satisfied. After this, the prosecution raised a motion to recuse the whole panel of judges, which was also not satisfied. After the defense read their motion to cancel Giorgi Ugulava's pre-trial detention, the prosecution requested a reasonable period of time, a few days, to consider the decision of the Constitutional Court. The court partially satisfied the request and gave them additional 2 hours.

After the resumption of the trial, the prosecution stated that the time given to them by the court was absolutely unreasonable. According to them, this violated the principles of equality and adversariality between parties. The prosecution also stated that the decision of the Constitutional Court did not mention anything about the factual and formal basis of the case, which was important for this case.

The court explained that the most important part of the Constitutional Court decision was its operative part and that 2 hours had to be sufficient to review it. After this, the panel of judges deliberated on the case and satisfied the defense's motion to release Giorgi Ugulava from pre-trial detention.

4.2 Motion to recuse Judge Lili Mskhiladze from the case

At the court hearing held on October 6, 2015, the defense raised a motion to recuse the panel chairperson Lili Mskhiladze. The attorneys had prepared their motion in the form of a presentation involving audio and video demonstration.

Lili Mskhiladze, who was the chairperson of the court hearing, stated that she would not allow the defense to make the presentation because it would be against the law. Mskhiladze addressed the attorneys by saying, "I want to explain to you as lawyers that your legal thinking, to say simply, is very disturbing, to say nothing about your incompetence". The defense responded by saying that they had the right to present their motion in the form of their choosing. The attorneys also stated that since the motion concerned the recusal of the panel chairperson, the other two judges should have been the ones to make the decision whether to allow the presentation.

In the end, the two judges allowed the presentation. Lili Mskhiladze expressed her disagreement with her colleagues at the hearing and stated that she was concerned about the precedent that their decision had set. In her opinion, this was a very bad precedent and her colleagues had made an absolutely wrong decision about setting it.¹ In response, panel member Liana Orkodashvili stated that by making such remarks, the chairperson of the panel was raising a motion of self-recusal; however, the panel then decided to first hear the motion of the defense.

The defense raised a motion to recuse the panel chairperson Lili Mskhiladze. According to the attorneys, one of the main evidence put forth by the prosecution was a report prepared by the Public Defender's Office, which was put together at the time when judge Lili Mskhiladze worked at the Public Defender's Office as an adviser to the then Public Defender Sozar Subari. During this period, Mskhiladze had prepared conclusions on the cases of Arkadi Patarkatsishvili and Valerian Gelbakhiani; she is also well acquainted with Sozar Subari and Valeri Gelbakhiani, who are the main

¹For making this statement, the Disciplinary College of the Common Courts of Georgia issued a formal reprimand against Judge Lili Mskhiladze on January 21, 2016.

witnesses in the case at hand. According to the defense, it is unacceptable for a judge to consider a case, the evidence for which she helped create.

The attorneys also presented an article published by the newspaper Alia that was titled - A Judge Exposes Mikheil Saakashvili. According to the defense, this judge was Lili Mskhiladze, who spoke in the article about the falsification of evidence that was used to detain her husband. The defense believes that the judge harbors negative attitudes towards the previous government and therefore cannot be objective and impartial in considering the case. The party also presented various statements made by Lili Mskhiladze on television and on Facebook.

In response to the motion, Judge Lili Mskhiladze said that the defense had staged a show aimed at insulting the court, and that she would appeal to relevant bodies for a response.

The remaining two judges clarified that they had no doubts about Lili Mskhiladze's objectivity and impartiality, but that the party's motion to recuse her must be granted in order to avoid any doubts appearing among the public.

4.3 Important motions

The defense raised a motion to attach the September 18, 2015 verdict of the Tbilisi City Court to the case file. According to the party, even though they do not fully share the substantiation of the verdict, they believe that for the case at hand, it is important to note that Judge Lasha Chkhikvadze acquitted Giorgi Ugulava and Davit Kezerashvili in relation to the TV Imedi episode. The defense believed this judgment to be relevant to the case, since it contained acquitting evidence in relation to the accused and was connected to the double jeopardy principle, since a number of factual circumstances and some witnesses were identical to the case at hand.

The prosecution opposed the motion. In their opinion, the factual circumstances of the presented judgment did not hold any importance for the case, where charges were pressed based on different factual circumstances.

The court unanimously satisfied the defense's motion. According to the court, a verdict on another case should be attached to a criminal case against the same person simply for the purpose of assessing their character; after this, the court will itself decide which circumstances to take into account when making the final decision.

The defense also raised a motion on attaching a resolution of the Council of Europe to the case file. According to the party, the resolution describes the cases of Giorgi Ugulava and Bachana Akhalaia, members of the opposition party United National Movement, violations of the terms of pre-trial detentions and cases of their discrediting.

The prosecution opposed the motion by saying that the document was political in nature. According to the prosecution, the court should only examine the evidence, and political assessments should not be relevant to it.

The court did not satisfy this motion, as it was related to the factual circumstances of the case.

During the trial, the prosecution raised a motion to join another case with the case at hand. The case concerned Mikheil Saakashvili's decision to pardon convicts sentenced for the murder of Sandro Girgvliani. According to the prosecution, the two cases shared the accused as well as witnesses: Zurab Noghaidei, Nino Burjanadze, Sozar Subari. The prosecution requested the cases be joined for the purpose of saving time and ensuring swift justice.

The defense opposed the motion by saying that a joinder would delay court proceedings. The court accepted this argument and did not satisfy the motion of the prosecution.

On October 6, 2015, the court discussed the motion of changing the preventive measure against Mikheil Saakashvili and Davit Kezerashvili. The defense referred to the decision of Interpol as a new circumstance, according to which, it had denied the request to include Mikheil Saakashvili and Davit Kezerashvili on its search list due to their cases exhibiting political signs. The defense also referred to another judgment that had acquitted Davit Kezerashvili as a new circumstance.

The court deliberated in the courtroom and made the decision to keep the preventive measure unchanged. According to the court, Interpol's decision was not binding for the Georgian judiciary, and an acquittal on another case could not be relevant for changing pre-trial detention on the case at hand. The court also noted that the accused were avoiding the investigation and did not attend court proceedings, which meant that the necessity of pre-trial detention remained unchanged.

4.4 Witnesses questioned

Several former journalists of Imedi TV were questioned on the case of invasion of Imedi TV.

During her questioning by the prosecution, journalist Diana Trapaidze stated that TV equipment was damaged and many journalists were injured as a result of the invasion. She was in the studio when the special forces entered the television. The journalist recalled that 20-25 special force members invaded the television, some with masks, some without, and started breaking the equipment and physically abusing employees. The witness also stated that she was hit by a bullet in her legs when trying to flee from the television.

Journalist Giorgi Targamadze was also questioned at the trial. According to the witness, he managed to enter the television studio during the invasion, from which he told viewers about what was happening in Imedi TV. This was followed by the special force members breaking down the studio door and cutting off the broadcast. According to the witness, the special force members first damaged the surveillance cameras, then the newsroom computers, archive footage, the main control panel, monitors; everything was also destroyed in his office and the processor was seized from his computer.

Journalists Levan Javakhishvili and Tea Sichinava were also questioned at the trial. They also described the November 7 event and explained the circumstances that preceded the invasion.

Other witnesses called by the prosecution also described the developments in the Georgian National Communications Commission on November 7. One of these witnesses was Zurab Nonikashvili, a former member of the Commission, who is an advisor to the Commission chairperson.

According to Zurab Nonikashvili, on November 7 he was called by the Head of the Technical Operations Division of the Ministry of Internal Affairs and requested to meet him at the Moduli building. In one of the offices he was met by several persons, including Ivane Merabishvili and Zurab Adeishvili. According to the witness, Adeishvili ordered him to return to his workplace, where he would meet Murtaz Zodelava regarding the Imedi TV. Murtaz Zodelava told him that Imedi TV must stop its broadcasting and presented a project to this end. According to the witness, he expressed his opposition to the project based on its legal faults. This was followed by the deputy head of the Counter Intelligence Service showing up at the Commission and stating that state security was in danger and that they were taking over the Commission building. The witness stated that armed men started patrolling the building. They nevertheless opposed the approval of the presented project, since there was no factual or legal basis for terminating Imedi TV's broadcasting. However, ultimately, decisions were made to fine Imedi TV and cancel its broadcasting license. According to the witness, these decisions were the result of pressure against them and were not in line with the Law on Broadcasting.

Commission employees Giorgi Ratishvili, Davit Pataraiia, Giorgi Pruidze and Kakhi Kurashvili were also questioned at the trial. These witnesses confirmed that they were pressured to make the above decisions.

The trial is pending. A verdict has not yet been delivered.

5. Our assessment:

This decision of the Constitutional Court to grant Giorgi Ugulava's claim ended the practice that created the possibility of arbitrary and indefinite extension of pre-trial detentions, which we have repeatedly criticized in our previous reports. The media was not hindered from covering court proceedings. However, despite high public interest towards the case, the court did not hold its hearings in a larger courtroom.

There were cases of confrontation between judges during court proceedings, which damage the court's authority and the party's respect towards it. One of the judges exhibited an unethical attitude toward a party, which is also incompatible with the principle of a fair trial.

There were also cases when witnesses attended court hearings prior to being questioned themselves.

Otherwise, no serious violations were identified during court proceedings that would damage the principle of adversariality between parties. Therefore, parties had equal opportunity to present their arguments and evidence, carry out procedural actions and defend their interests.

Gigi (Giorgi) Ugulava and Davit Kezerashvili

I. The so-called Rike episode

II. Employment of United National Movement activists to work at Ltd. Tbilservice

1. The accused and the charges brought:

Gigi (Giorgi) Ugulava (former Mayor of Tbilisi) – illegal embezzlement of property of others in large amounts through abuse of office, when such property was at the legitimate disposal of the embezzler (so-called Rike and Tbilservice episodes)

Davit Kezerashvili (former Minister of Defense) – encouragement of illegal embezzlement of property of others in large amounts through abuse of office, when such property was at the legitimate disposal of the embezzler. Legalization of illicit income, i.e. giving legal form to illegal property with the purpose of concealing its illegal source, as well as concealing its true nature, and in the process gaining income in large amounts (the so-called Rike episode)

2. Description of the offense:

According to the prosecution, at the end of 2008, former Minister of Defense Davit Kezerashvili had certain financial obligations towards businessman Joseph Kay and intended to repay this sum by using funds from the state budget. For this purpose, he contacted then Mayor of Tbilisi Gigi Ugulava and proposed that he set aside sums from the city budget, the source of which he would conceal and give a legal form; he would thereby fulfill his obligation to Joseph Kay. Giorgi Ugulava agreed to this proposal, as a result of which a 43,350-square-meter plot of land on the territory of Rike, which had been sold to Ltd. Akhali Rike for USD 7,000,000, was purchased for a price significantly higher than the market value: USD 17,000,000, of which USD 10,000,000 was the amount owed by Davit

Kezerashvili to Joseph Kay. The accused therefore embezzled USD 10,000,000 of government's money which should have been allocated for the promotion of investments on the territory of Old Tbilisi, its development, restoration and reconstruction.

According to the prosecution, Davit Kezerashvili, for the purposes of concealing and disguising this illegal source of the money, contacted Joseph Kay and made an agreement that he would cover the outstanding financial obligations from the funds available on the account of Ltd. Akhali Rike. With this intention, in January 2009, under the instruction of Davit Kezerashvili, a fictitious contract was formed on management and operation services, dated April 5, 2008, between Ltd. Lakebrow, a company registered in Great Britain and owned by Joseph Kay, and Ltd. Akhali Rike. The contract, which in effect was a legal mechanism to give a lawful appearance to the USD 10,000,000 embezzled by Giorgi Ugulava, contained an artificial clause pursuant to which Ltd. Akhali Rike had to pay USD 10,000,000 as a penalty for non-performance of its obligations. Later on, as though for breach of contract, under the instruction of Davit Kezerashvili Akhali Rike transferred USD 8,811,189 - what was left of USD 10,000,000 after payment of taxes - to the account of Joseph Kay's company; this covered outstanding obligations towards him.

The second episode related by the prosecution has to do with the employment of 764 activists, so-called coordinators of the United National Movement party, to work at Tbiliservice Group. According to the investigation, they were paid salaries totaling GEL 4,130,728 out of the budget of the Capital. Specifically, on December 31, 2009, under the instruction of Gigi Ugulava, with the purpose of distributing money to activists of United National Movement, a department for public relations was specially created at Ltd. Tbiliservice Group, where 712 activists, so-called coordinators of the party, were subsequently hired. According to the prosecution, the majority of them did not work a single day and were instead conducting party activities, even though they received salaries totaling GEL 4,130,728 from the budget allocated to the Capital.

3. Key facts identified and assessments made during previous monitoring periods:

In the course of court hearings, several cases have been recorded where spectators verbally assaulted witnesses. It is worth noting that the troublemakers were penalized for such misconduct or expelled from the courtroom by the judge. Tensions outside the courtroom were also frequent. During observation of court hearings, several cases were noted where witnesses were allowed to stand together in the hallway outside the courtroom, waiting to be called in. In this time span, they had full opportunity to communicate with one another. Relevant services of the court took no measures to separate the witnesses. At one of the hearings, the accused Gigi Ugulava asked the judge to have the court security officer let him communicate with his attorneys without hindrance – he was passing questions on to them in a written form on paper. The judge called on the court security officer not to hinder the right of the accused to have confidential communication with his attorneys. The defense and the accused often made political statements. The judge called upon them to abstain from such statements several times. The judge considered some of the conduct of the defense as a dilatory tactic and called on them to obey the procedural regulations. The judge's feedback was triggered by the fact that the defense interrogated one witness for a long period of time. The defense noted that the examination of the prosecution's evidence took almost two years; therefore, the defense should not be requested to interrogate witnesses with great haste and should not be accused of delaying the proceedings.

On February 27, 2014, Aix-en-Provence Court of Appeals in France refused to extradite Davit Kezerashvili to Georgia. The refusal was caused by the existing threat of political persecution against him. Various television companies recorded the proceedings. The media was not allowed to record on only one occasion, which was when they did not have advance permission from the judge. According to an order of the Chairperson of Tbilisi City Court, media must address the court with the

corresponding motion one hour before the start of the hearing. The motion was presented after the trial had already started, so the judge did not grant it.

4. Overview of court proceedings in the reporting period:

Giorgi Ugulava refused to attend court hearings as a sign of protest.

During the reporting period, from September 3 to September 18, 2015, the court hearing was postponed a number of times based on the defense's request. The reason given by attorneys was their involvement in other criminal cases and a funeral of their former client.

At a court hearing held on September 9, the judge stated that the reasons provided by the defense were irresponsible and not serious. The judge stated that it was unclear why the attorney could not attend a court hearing on the 9th if the funeral was on the 10th. The court concluded that this was an attempt to deliberately delay proceedings and fined the attorneys for GEL 500.

The judge also made the decision to appoint a public attorney to represent Giorgi Ugulava.

After the Constitutional Court satisfied Giorgi Ugulava's claim related to the terms of pre-trial detention on September 15, 2015, the defense raised a motion requesting immediate release of Giorgi Ugulava. According to the defense, even though no preventive measure was used against Giorgi Ugulava for the case at hand, any judge could cancel Ugulava's pre-trial detention based on the decision of the Constitutional Court.

The court stated that legally it was not authorized to consider this motion, after which the defense attorneys were informed that their motion was transferred to another panel of judges, headed by judge Lili Mskhiladze, and that the hearing was scheduled on the same day. The defense attorney then raised a motion to postpone the hearing, which was satisfied by the court and the hearing was postponed for the next day.

After the Tbilisi City Court cancelled Giorgi Ugulava's pre-trial detention based on the decision of the Constitutional Court, there was high public interest towards the court hearing that was scheduled for September 18, 2015, since it was possible for the court to find Ugulava guilty and sentence him to prison after just one day of freedom.

The defense pointed to a statement made by an MP representing parliamentary majority, according to which, Giorgi Ugulava's joy would last only for a few hours and he would definitely get the punishment he deserved. According to the defense, such statements constituted a kind of pressure on the court and violated the presumption of innocence of the defendant. Consequently, the party requested court proceedings be postponed for a week until the circumstances were different.

The public attorney appointed by the court also requested more time by stating that even though he had prepared the final plea, it was incomplete, since 2 weeks were not enough for him to study the case materials sufficiently.

According to the prosecution, politicians are free to make any statements they wish and it does not have any connection with the case. The prosecutors also pointed out that they had presented their final plea as early as June, and that the defense was deliberately delaying the process.

The court did not satisfy the motion to postpone proceedings, which continued with the final plea of the defense. The defendant refused to give his final plea in protest. After this, the judge left the courtroom for deliberation and the verdict was announced the same day.

According to the court, the prosecution had failed to present unequivocal evidence that would be enough to find the defendants guilty in the so-called Rike episode; consequently, Giorgi Ugulava and

Davit Kezerashvili were acquitted of the charges against them. As for the so-called Tbiliservice episode, based on the unequivocal evidence presented during court proceedings, the court found Giorgi Ugulava guilty of illegal embezzlement of the property of others in large amounts through abuse of office. According to the verdict, based on the December 28, 2012 Law of Georgia on Amnesty, Giorgi Ugulava was sentenced to 4 years and 6 months in prison and was deprived of the right to hold office for 6 months.

5. Our assessment:

The fact that the court convicted and sentenced Giorgi Ugulava to prison just one day following his release from pre-trial detention based on the decision of the Constitutional Court, and the expedited manner with which the verdict was reached, created an impression that the goal was to immediately restrict Ugulava's freedom. This suspicion is further strengthened by the chronology of actions taken by the Prosecutor's Office, which created the impression that its goal was to keep Ugulava detained, even beyond the constitutional limit of 9 months.

The media was not hindered from covering court proceedings. Court hearings proceeded in an orderly manner for the most part and parties had the opportunity to exercise their procedural rights.

Gigi (Giorgi) Ugulava, Aleksandre Gogokhia

I. Legalization of illicit income

II. CT Park episode

III. Marneuli episode

1. The accused and the charges brought:

Gigi (Giorgi) Ugulava (former Mayor of Tbilisi) - compulsion, organizing group activity which violates public order (Marneuli episode), legalization of illicit income in particularly large quantities and usage of fake official document (legalization of illicit income), abuse of public office (CT Park episode)

Aleksandre Gogokhia (director of offshore company Eximus Holding) – legalization of illicit income in large quantities

Giorgi Ghoniashvili (brother-in-law of Gigi Ugulava) – conspiracy to legalize illicit income in particularly large quantities, use of fake official documents, trading in influence

Note: The accused Giorgi Ghoniashvili asked for his case to be tried by a jury; consequently, his case was separated from that of Gigi Ugulava and the others. Criminal prosecution against the accused Davit Chedia has been ceased.

2. Description of the offense:

I. Legalization of illicit income

According to the prosecution, Giorgi Ugulava, together with other people engaged in this criminal act – including Giorgi Ghoniashvili, his brother-in-law, and Aleksandre Gogokhia, former director of Georgian Lottery Company and business-partner of Davit Kezerashvili – had been illegally bringing in “dirty money” in particularly large quantities from an offshore company. These sums were intended for use in the financing of the pre-election campaign of the political party United National

Movement. Specifically, the money was being transferred on the basis of a fictitious contract from an offshore BVI-registered company related to Davit Kezerashvili (Eximus Holding); from there to a company called Brukttrade, likewise registered offshore; and then from the latter to a Georgian company within the disposal of Giorgi Ghviniasvili and Gigi Ugulava, for the purposes of financing the pre-election campaign of the United National Movement.

In total, on the basis of a fictitious contract and for the purposes of money laundering it was planned that USD 1,500,000 was to be transferred from the offshore company into Georgia; but as a result of the operative-investigative action, they only managed to transfer USD 760,000. Giorgi Ugulava used this sum for political-party purposes.

II. Marneuli episode

Gigi Ugulava is charged with compulsion and organization of group activities against the chairperson of Marneuli District Election Commission on June 5, 2014, aiming at obstructing the normal operation of the District Election Commission. Gigi Ugulava and members of his party broke into the building of Marneuli District Election Commission and demanded that its chair explain why he had annulled the registration of Akmamed Imamkhuliev, a candidate of the United National Movement.

III. CT Park episode

With respect to the CT Park episode, Gigi Ugulava is charged with abuse of authority to give privilege to a company. In particular, on the basis of legislative amendments that were passed and a contract that was concluded by him, income received from ticketing by a private company (CT Park) was not distributed to state and local self-government budgets, but rather was accumulated by CT Park; this loss was then incurred by the budget. The company received additional funds of GEL 1,086,718.

3. Key facts identified and assessments made during previous monitoring periods:

In this case, the accused Gigi Ugulava was arrested at the airport, whereas several days before, in yet another case, the court had not granted a motion by the prosecution requesting his pre-trial detention, and released the Mayor of Tbilisi on bail. The accused Gigi Ugulava stated at the hearing where the preventive measure was discussed, that he had been deprived of his right to an attorney because his attorneys were not permitted to see him for three hours after his arrest. His attorneys also stated at the hearing that nobody explained to the accused what offense he was being arrested for. In addition, the defense stated that the principle of adversariality was also breached since they had limited access to case materials. In response, the prosecution stated that the attorneys' orders did not have the required signatures; in addition, the case number was incorrectly noted and it was for these reasons that the attorneys were not given a chance to see the accused. According to the prosecution, they had complied with the reasonable time requirement and had transferred the case files to the attorneys within 10 hours, though the defense did not appear to receive the delivery of the case files. According to the prosecution, a record on the above delivery had been made. One of the accused, Davit Chedia, stated that the prosecution offered him diversion on this case. Later on, on the basis of the defense's motion, criminal prosecution against him was ceased. The attorney of Giorgi Ghoniashvili stated that the evidence was given to him within the time frame envisaged by the law; however, the accused himself had no chance to get acquainted with the materials obtained as a result of operative-detective measures. He noted that they sent a letter to the Prosecutor's Office and the Prosecutor's Office referred them to the corrections institution to give Giorgi Ghoniashvili the technical possibility of seeing the materials. The same problem occurred with respect to Giorgi Ugulava, but as per the defense's statement, it was resolved with the prosecution's assistance. At one of the hearings the prosecution accused the defense of delaying the case

proceedings. According to them, the defense was aware that showing discs in prison was technically impossible; despite that, they brought information on hard drives to Giorgi Ghviniashvili, in order to delay the process. The prosecution asserted that the defense's plan was to later accuse the prosecution of delaying the process. At the next hearing it turned out that the problem had been resolved and the accused had seen all the materials. Gigi Ugulava refused to attend the trial. After this declaration he never attended the trial.

4. Overview of court proceedings in the reporting period:

4.1 Important motions

The defense raised a motion on January 25, 2016, to attachment a statement made by the President of the Parliamentary Assembly of the Council of Europe to the case file. According to the defense, the statement referred to the political nature of the criminal prosecution against Ugulava.

According to the prosecution, this motion should have been satisfied, since the court must be free of subjective assessments when making its decisions. According to the prosecutor, the statement did not mention the specific case anywhere.

The judge did not satisfy the motion raised by the defense, since the statement neither denied nor confirmed facts that would influence the criminal case, did not represent personal characteristics of the defendant, and constituted an opinion of a politician.

The defense also raised a motion to attach a resolution of the Parliamentary Assembly of the Council of Europe to the case file. According to the defense, the resolution states that members of the previous government of Georgia are being pressured, and pre-trial detention as a preventive measure is being abused.

The prosecution opposed the motion and explained that evidence must characterize the defendant directly, either positively or negatively, while the presented document did not include any factual circumstance, and did not mention any episodes related to the case. The resolution mentioned only the 9 months detention, on which the Constitutional Court had made its decision.

The judge satisfied the motion and explained that the evidence was in line with the requirements of the law.

The defense also raised a motion to attach the Interpol's decision to remove Aleksandre Gogokhia from its search list to the case file.

The prosecution opposed the motion by claiming that the presented documentation was incomplete.

The judge satisfied the motion. According to the court, the presented information satisfied the standards of evidence and was related to the case at hand.

The defense raised a motion to attach a letter by Tbilisi City Hall confirming Gigi Ugulava's innocence in the CT Park episode to the case file. According to the defense, the criminal case is based on an order issued by Giorgi Ugulava on February 11, 2009. The defense pointed out that Irakli Abesadze, chairperson of the United National Movement faction in Tbilisi City Council, had received a response letter from the City Hall, according to which, the February 11, 2009 order constitutes a financial regulatory act between CT Park and Tbilisi City Hall, and is still in force. According to the defense, this proves that Gigi Ugulava did not commit any crimes, because if he did, then current public officials are also guilty.

The prosecution opposed the motion. In their opinion, the authenticity of the evidence must first be verified. In addition, the document did not mention exactly what information was requested by Irakli Abesadze.

The court satisfied the motion. This evidence was obtained in accordance with Article 239 of the Criminal Procedure Code. In addition, since Irakli Abesadze was on the list of witnesses, both sides would have the opportunity to question him. According to the judge, the presented document was important in relation to Ugulava's case.

During the reporting period, the motion to change the preventive measure against Aleksandre Gogokhia was considered several times; however, it was not satisfied, since there were no new circumstances that would serve as the basis for canceling his detention.

The defense also raised a motion to attach the interview with the witness called by the prosecution Rizha (Giorgi Kapanadze) to the case file, in which he stated that Ugulava is a criminal official and will be held responsible before the law. According to the defense, this evidence is important because Kapanadze is one of the main witnesses of the case. This statement was made on the 9 o'clock television news program Kurieri on October 16, 2015. According to the defendant, this evidence confirmed that the witness was subjective.

The prosecution opposed the motion and stated that the presented information did not constitute evidence, since it neither proved nor denied any factual circumstances. The witness had already been questioned before the court and the defense had the opportunity to ask him any questions.

The court satisfied the motion. It decided that the presented document was directly related to the case, and therefore would give the court the opportunity to assess the validity of the testimony of this witness.

4.2 Witnesses questioned

Nodar Chagunava was called as a witness by the prosecution. Chagunava is a district inspector-investigator in the Marneuli Police Division. According to him, members of the United National Movement were demanding from the chairperson of the local District Election Commission not to sign the document that would cancel the election candidacy of UNM candidate Akmamed Imamkuliev. According to the witness, when one of the employees brought the relevant document for a signature, the defendant Giorgi Ugulava grabbed it out of their hand, read it and tore it to pieces. According to the testimony, Giorgi Ugulava stated afterwards that he already had 7 charges against him, and that adding one more would not be a problem.

The court also questioned witness Vakhtang Charkviani, head of Marneuli Police Division. According to the witness, on June 5, 2014, the police was alerted to the developments in the election commission building. According to Charkviani, Koba Asanidze, chairperson of Marneuli District Election Commission, was demanding he be given the opportunity to sign the document, which Giorgi Ugulava was not allowing. According to the witness, Ugulava ended up tearing the document to pieces.

Similar testimonies were given by Gela Kravelidze and Davit Shubitidze, employees of the Counterintelligence Department of the State Security Service, and several employees of the Kvemo Kartli Division of the Ministry of Internal Affairs.

5. Our assessment:

No serious violations were identified during court proceedings that would have a substantial effect on the principle of adversariality and realization of the procedural rights of parties.

The media was not hindered from covering court proceedings.

Gigi (Giorgi) Ugulava, Aleks Tabuashvili and others (Tbilisi Development Fund case)

1. The accused and the charges brought:

Gigi (Giorgi) Ugulava (former Mayor of Tbilisi) – conspiracy to embezzle state funds in large quantities using public office

Aleks Tabuashvili (former Head of City of Tbilisi's Municipal Procurement Service) – conspiracy to misappropriate or embezzle large amounts of property belonging to others

Davit Avaliani (former Governor of Old Tbilisi) – misappropriation or embezzlement of property belonging to others

Dimitry Chkheidze (former deputy of Governor of Old Tbilisi) – participation in misappropriation or embezzlement of property belonging to others

Davit Alavidze (former deputy Mayor) – misappropriation or embezzlement of property belonging to others

2. Description of the offense:

The prosecution argued that Gigi Ugulava, together with the other accused, created a criminal scheme, whereby he embezzled funds of up to GEL 48,180,460 from the Tbilisi Development Fund, allocated for the rehabilitation of Tbilisi. This was done for the purposes of financing the United National Movement's pre-electoral campaign. According to the prosecution, activists from the United National Movement received salaries totaling GEL 13,852,497 through their debit cards. According to the second part of the charge, in order for the funds not to be taxed, the accused withdrew the funds and then distributed them to the activists. The Fund's losses amounted to GEL 34,328,463.

3. Key facts identified and assessments made during previous monitoring periods:

Based on the December 21, 2013, request of the Prosecutor's Office, Tbilisi City Court suspended Gigi Ugulava's Mayoral authority. The court considered the motion without the parties being present. After this, on the basis of Ugulava's constitutional complaint, the Constitutional Court of Georgia found unconstitutional the normative meaning of Article 159 of Criminal Procedure Code, which envisages the dismissal of officials of local self-government elected through universal, equal and direct suffrage, as well as Paragraph 2 of Part 1 of Article 160 of the same code, which allows rulings on such decisions without the requirement of an oral hearing. The Constitutional Court noted that suspension or dismissal of an authority of an official elected by the people amounted to suspension or dismissal of the mandate of the people and constitutes one of the harshest intrusions into the autonomy of self-governance. The Constitutional Court also established that consideration of dismissal of a person from office (work) without oral hearing constitutes a disproportionate limitation of constitutional rights to fair trial and defense.

Following the ruling of the Constitutional Court, the defense was in a position to request reinstatement of Gigi Ugulava into his position of Mayoral authority. However, the defense was not

able to raise the motion due to the actions of the prosecution. Representatives of the prosecution requested time to determine their position in one case, and in two other cases did not appear at the hearing due to business travel. They requested adjournment of hearings. In one case, the court considered the prosecution's request for ten day adjournment to be unreasonable and postponed the hearing for five days, and in another case postponed the hearing for ten days. Later, the defense withdrew their motion.

4. Overview of court proceedings in the reporting period:

4.1 Important motions

During the reporting period, the court considered the motion to change the preventive measure against the defendants several times. The defense pointed to the circumstance that the defendants had been granted the status of a political refugee in EU member states, and that they were not avoiding investigation, but were currently residing outside the territory of Georgia.

The court had initially imposed a bail on the defendants, who at first did attend court hearings. However, they ended up violating the conditions of this preventive measure, which prompted the court to impose detention as a preventive measure. According to the judge, since this reality had not changed, detention remained necessary.

Based in the motion raised by the defense, Tbilisi City Court issued a decision on February 23, 2016, cancelling the GEL 50,000 bail on Gigi Ugulava and unfreezing his apartment. The court agreed with the defense's argument that since Giorgi Ugulava was serving a prison sentence on another case, there were no grounds for using preventive measures against him for the case at hand. The prosecution opposed the motion and stated that the property should have been transferred to state ownership, since the defendant had violated bail conditions.

On January 6, 2017, Tbilisi Court of Appeal issued a verdict reducing Giorgi Ugulava's sentence and releasing him from prison. Ugulava nevertheless refuses to take part in court proceedings.

According to Ugulava's attorney, since he had been imprisoned for more than 9 months, based on the decision of the Constitutional Court detention could no longer be used against him as a preventive measure. According to the defense attorney, it is the defendant's right not to attend a court hearing, which cannot be considered as avoidance of investigation. The defense raised a motion for the case to be reviewed without the defendant; but also requested the case be postponed by saying that he needed extra time for preparation.

The prosecution opposed the motion and stated that it can be considered by the court only after the defense presents an authentic document that expresses the position of the defendant.

The motion to postpone the case was also opposed by the defense attorney of another defendant in the case, who stated that his client had been attending every trial and frequent postponements would delay the overall process and violate the other defendants' rights.

The judge stated that according to Article 38 of the Criminal Procedure Code of Georgia, the defendant has the right to attend a court hearing, which also implies the defendant's right not to attend court proceedings.

The defense attorney Beka Basilaia was unable to attend the court hearing of February 17, 2017, due to health issues. The judge fined the attorney and, due to his frequent absences, appointed a public attorney to represent the defendant.

Court proceedings were postponed several times based on motions raised by the prosecution. The hearing of March 17, 2017, was postponed until April 4, 2017 based on a motion raised by the

prosecutor Giorgi Mujiri. According to the prosecutor, they did not have a witness because they did not know whether the defense - Beka Basilaia was going to attend the hearing, and whether the public attorney would have had enough time to study the case materials. In the end, Beka Basilaia did show up to the hearing and the public attorney was familiar with the case materials.

4.2 Witnesses questioned

The prosecution called Giorgi Darchia as its witness. Darchia stated that in 2011-2012 he served as deputy head of Temka Administration and head of the United National Movement's door to door campaign in the Temka district. According to the witness, he was being told that party employees would receive salaries, which he assumed was coming from party funding. He did not know that the money was coming from the state budget or the Tbilisi Development Fund, or that Giorgi Ugulava was connected to these funds.

The exact same testimonies were given by Giorgi Khakhnelidze, head of the UNM Samgori regional organization in 2011-2013, and Giorgi Godabrelidze, MP and head of the UNM Vake regional organization in 2011-2012.

5. Our assessment:

Court proceedings on this case were postponed frequently. Even though it is possible to refuse to exercise one's right to swift justice in order to prepare a proper defense, this right does have its limits. One must consider the resources available to the court and ensure that they are not being misused.

Otherwise, no serious violations were identified during court proceedings that would have a substantial effect on the realization of the procedural rights of parties.

Mikheil Saakashvili (case of physical assault of Valeri Gelashvili)

1. The accused and the charges brought:

Mikheil Saakashvili – abuse of authority by state political official, by violence and use of arms, which has caused infringement of a right of a physical person or severe violation of the legal interests of the state; organization of intentional damage to health, in a group

2. Description of the offense:

According to the investigation, on June 29, 2005, following publication of an article in newspaper Rezonansi, which was insulting towards Mikheil Saakashvili and members of his family, Mikheil Saakashvili decided to take revenge and make an example of the author of the article, Valeri Gelashvili. For this purpose, he instructed the then Minister Defense Irakli Okruashvili to physically attack Valeri Gelashvili, which Okruashvili refused to do. After this, Mikheil Saakashvili charged the then Minister of Internal Affairs Ivane Merabishvili with the task of physically assaulting Valeri Gelashvili, who executed the task with the help of the special operations department subordinate to him. The car that Valeri Gelashvili was driving was blocked. Following the order, the driver and passengers were neutralized and documents were removed from the car. According to the medical examination report, Gelashvili received less severe injuries, with signs of long lasting disruption of health.

According to the Prosecutor's Office, law enforcement agencies were involved in the incident. They acted upon Mikheil Saakashvili's order. MP Valeri Gelashvili was assaulted on Mikheil Saakashvili's orders. Valeri Gelashvili had given an interview to the media saying that his property had been taken

away. The interview also included details of Saakashvili's personal life that were portrayed in an insulting manner. Because of this, Mikheil Saakashvili ordered the then Minister of Defense Irakli Okruashvili to punish Gelashvili. He wanted to organize a crime where everything would be hidden. According to the Prosecutor's Office, Okruashvili refused the order, after which Saakashvili ordered Ivane Merabishvili to do the same. The crime resulted in an indelible disfigurement of the victim's face.

2.1. Preventive measures

Prosecution did not refer to the court with a request to issue a preventive measure.

Note: The accused Mikheil Saakashvili has been ordered detention on the so-called November 7 case and he is a fugitive abroad. Within the reporting period, consideration of the merits of the case has not commenced. At the same time, the organization was not able to fully attend the hearings, since case files contained confidential information, which was the basis for holding closed hearings.

3. Overview of case proceedings in the reporting period:

3.1 Important motions

The prosecution raised a motion to join cases. The prosecutor explained that another judge was considering a criminal case, in which Vano Merabishvili, Erekle Kodua and Gia Siradze were accused of acting under Article 333, Paragraph 3 of the Criminal Code of Georgia, where court proceedings had already been launched and only 4 witnesses had been questioned; and that the criminal prosecution against the accused in the case at hand, Mikheil Saakashvili, was based on the same Articles. According to the prosecutor, both cases deal with the same incident, with the evidence and the list of witnesses being almost identical. Therefore, in order not to delay the process, the prosecutors requested a joinder of the two cases.

The defense disagreed with the prosecution and explained that initially the prosecution had refused to join the two cases despite their request. Now that the consideration on the merits of the second case been launched, a joinder would, on the contrary, cause more delays in both cases.

The court denied the motion, since consideration on the merits of the case against Vano Merabishvili, Erekle Kodua and Gia Siradze had already begun, and a part of the evidence had already been examined; therefore, joining the cases at this stage would cause delays in both of them and fail to ensure the principle swift justice.

3.2 Witnesses questioned

The victim Valeri Gelashvili was questioned during court proceedings. According to him, he was the director of Ltd. Era and was engaged in construction activities. At the meeting with Mikheil Saakashvili, an agreement was made that the company would build a house. Compensation for this construction should have been more than GEL 4 million, which Gelashvili did not receive even after 6 months.

After this, Gelashvili met with Gigi Ugulava, who threatened him and warned him not to request compensation. This was followed by the witness giving an interview to newspaper Rezonansi, where he spoke about Mikheil Saakashvili's wife Sandra Roelofs and Alana Gagloyeva. After this interview, he was threatened with a terrorist attack. The witness also described the assault. According to him, 5-6 persons beat him with gunstocks in the face, and also seized his diamond ring.

Megi Lomidze, director of Ltd. Era was also questioned at the trial. She was accompanying Valeri Gelashvili during the assault. According to Lomidze, she was taken out of the car and removed from the place where the victim was subsequently beaten.

Next was prosecution's witness Aleksandre Nachkebia, who currently works as an Instructor at the Ministry of Defense. According to Nachkebia, in July 2005, he worked in the Special Operations Department of the Ministry of Internal Affairs, which was headed by Irakli Kodua. The witness described that he was ordered by his supervisor to go to Gia Siradze's office, where he was shown a black-and-white picture of a person he did not know. The witness was told that they had to assault this person because he was the enemy of the state. They had to beat him and take his personal belongings.

The witness described they beat this person they did not know with their feet, hands and gunstocks. They took the items they found in his car. According to the witness, they wore masks and civilian clothes.

A similar testimony was given by Giorgi Chkhetia, who is currently unemployed, but was a regular employee at the Special Measure's Unit of the Special Operations Department in July 2005. The witness also added that after the assault they met with Irakli Kodua, who thanked them and told them not to speak about what happened to anyone, and handed them USD 500 as a bonus.

The witness also stated that he learned only through media that they had actually assaulted a Member of Parliament and not a spy, as they were told.

The defense stated that not only were the witnesses called by the prosecution not reliable, but they were persons directly interested against the United National Movement. The defense stated that the prosecution's claim that the order was given by Saakashvili could not be found in the case. In this regard, the case only includes statements by Irakli Okruashvili and Nino Burjanadze, who cannot be considered as credible witnesses.

A verdict has not yet been delivered.

5. Our assessment:

Several court hearings on this case were closed upon the prosecution's request. Therefore, our monitors were unable to attend them. In all other cases, hearings proceeded without significant violations and parties had the opportunity to exercise their procedural rights.

The media was not hindered from covering court proceedings.

Ivane Merabishvili, Erekle Kodua, Gia Siradze (case of physical assault of Valeri Gelashvili)

1. The accused and the charges brought:

Ivane Merabishvili – Former Minister of Internal Affairs. **Erekle Kodua** – Director of the Special Operations Department. **Giorgi Siradze** – Division Head at the Special Operations Department. Intentionally inflicting serious damage to health and abuse of official authority (Article 333, Part 3, Subparagraph b), Article 25, Article 117, Part 5, Subparagraph e) of the Criminal Code of Georgia).

2. Description of the offense:

According to the prosecution, on June 29, 2005, the newspaper Rezonansi published an article by Member of Parliament Valeri Gelashvili titled - Valeri Gelashvili to Give his House to Saakashvili. In

this article, Valeri Gelashvili expressed dissatisfaction with the current President, namely, that he was deprived of his property without compensation. In the same article, Gelashvili spoke about the private life of the former President Mikheil Saakashvili in an insulting manner.

Following the publication of this article, Mikheil Saakashvili ordered the former Georgian Defense Minister Irakli Okruashvili to organize a physical assault on Valeri Gelashvili for the purpose of punishing him in an exemplary manner. Okruashvili refused this order, after which Mikheil Saakashvili ordered the same to the then Minister of Internal Affairs of Georgia Ivane Merabishvili.

Ivane Merabishvili executed the assignment with the help of his subordinate Erekle Kodua, Director of the Special Operations Department (SOD), on July 14, 2005. More specifically, operative employees of the SOD and members of the armed special force blocked Valeri Gelashvili's vehicle on Mirtskhulava Street in Tbilisi, and assaulted him and his accompanying persons. Under orders from Erekle Kodua, and headed by the SOD Division Head Giorgi Siradze, members of the special force made Valeri Gelashvili and his accompanying persons step outside their car using force and firearms, brought Valeri Gelashvili to the ground and beat him mercilessly in the face with gunstocks.

3. Preventive measures:

The accused Gia Siradze and Irakli Kodua were given pre-trial detention as a preventive measure. They avoided the investigation and were declared as fugitives. Vano Merabishvili had already been arrested on another case and the prosecution did not request any additional measure.

4. Motions raised by parties:

The issue of changing the preventive measure against Irakli Kodua and Gia Siradze was raised several times during court proceedings. According to the prosecution, Kodua and Siradze had refused to answer the repeated summons to the Prosecutor's Office. According to prosecutors, the defendants refused to cooperate with the investigation. There was also a danger of them destroying evidence and influencing witnesses.

The court shared the prosecution's argumentation and extended the pre-trial detention.

The defense requested the June 14, 2016 decision of the European Court of Human Rights on the case of Merabishvili v. Georgia be attached to the case file. The defense stated that, according to this decision, Ivane Merabishvili's detention was unlawful and constituted political pressure.

The prosecution stated that the motion should not have been satisfied, since the decision applied to pre-trial detention, which was not used against Merabishvili in the case at hand. The court did not satisfy the motion; it did not consider the motion to contain relevant information.

The defense requested a change of preventive measure against Kodua, indicating the fact that he had been sentenced to 2 years of imprisonment in another case.

The prosecution did not agree with the motion and explained that the preventive measure should have remained in force, as it was possible for Kodua's sentence to be removed due to an amnesty.

The judge did not satisfy the motion because the verdict was to enter into force in one month's time, upon expiration of the term of appeal. The verdict could be appealed and changed before then. Therefore, the court ruled that there was need to keep the pre-trial detention in force as a preventive measure.

5. Witnesses questioned:

During the trial, Nino Burjanadze, former Chairperson of the Parliament of Georgia and a witness called by the prosecution, said that since Valeri Gelashvili was a Member of Parliament, she heard about the assault soon after. She also noted that for the first few hours she had insisted that the government did not have any part in the incident and, in fact, believed it to be so. However, later, after considering the facts, she started having questions. Burjanadze pointed out that when she visited Valeri Gelashvili, she saw that he was brutally beaten and that it was clear that the assault was done in some sort of retribution. Valeri Gelashvili told her that the assault was organized by the government and that there was also a plan for his murder.

Burjanadze stated that she spoke about the incident with the then President of Georgia Mikheil Saakashvili. Upon voicing her suspicion about the involvement of government members in the assault, Saakashvili had replied: "What, didn't he deserve it?", "He got what he deserved". Consequently, she began to suspect that Saakashvili was aware of everything and in fact had ordered the assault.

The prosecution also called Vakhtang Zukhbaia as a witness, who is head of the Special Tasks Division of the Strategic Defense Department at the Ministry of Internal Affairs. In 2005, Zukhbaia was head of the Special Tasks Operative Division. The witness stated that before the assault, Erekle Kodua summoned him and told him that an operation was being planned, for which an experienced person was needed. After this, a group of 6 persons was selected: Nachkebia, Chkhetia, Getia, Tsinaridze, Tsotsonava, who did not know who they were going to assault.

The witness also said that later, during an unrelated event at the presidential palace, when he asked Vano Merabishvili to take a photo with the President, Merabishvili told Saakashvili, "Vakho has good boys; they were the ones who took care of Gelashvili". According to the witness, Saakashvili told him to thank the boys.

Other persons involved in the assault were also questioned at the trial. According to witness Manuchar Getia, on July 13, 2005, he was told by the department head to put on civilian clothes, prepare weapons, put on body armor and wait for orders. After this, Aleksandre Nachkebia called for him and told him that their target was moving by car, was armed and was accompanied by one bodyguard. Their assignment was to stop the car, beat the subject and take whatever documents they could find. The witness said that they split into two groups, three men were ordered to do the beating, and the remaining three were ordered to disarm the bodyguard and take the documents.

After the operation was over, Getia was told that Erekle Kodua wanted to see them. According to the witness, Erekle Kodua met them in his office and thanked them for the successful execution of the task. Kodua had also said that everything that happened must have remained a secret. The assault participants then found money on the table and were told that it was payment for their services.

The witness added that when he came home, he learned that the beaten person was a Member of Parliament Valeri Gelashvili. Similar testimonies were given by other participants of the assault: Mamuka Tsiradze, Aleksandre Nachkebia, Giorgi Chkhetia, Manuchar Tsotsonava and Levan Gersamia.

6. The verdict:

On September 22, 2016, Tbilisi City Court found Vano Merabishvili, Erekle Kodua and Gia Siradze guilty in the case of physical assault of Valeri Gelashvili.

Former Minister of Internal Affairs Vano Merabishvili was sentenced to 6 years and 9 months in prison, while the former head of the Special Operations Department Erekle Kodua and the former SOD division head Gia Siradze were both sentenced to 9 years in prison.

In the end, based on the Law of Georgia on Amnesty, the principle of absorption and aggregation of sentences, Irakli Kodua and Gia Siradze were sentenced to 9 years in prison each, while Ivane Merabishvili, based on his conviction, Law on Amnesty, the principle of absorption and aggregation of sentences, was sentenced to 6 years and 9 months in prison. Based on the principle of absorption, all three convicted persons were also deprived of the right to hold office in the public service and local self-government bodies for a period of 2 years and 3 months.

7. Our assessment:

Several court hearings on this case were closed on the grounds of protecting state secrets. Upon request of the prosecution, the closing hearing was also closed, even though the defense opposed this motion. Therefore, our monitors did not have the opportunity to attend all of the hearings.

Otherwise, no serious violations were identified during court proceedings that would have a substantial effect on the rights of the parties.

The media was not hindered from covering court proceedings.

Giorgi Oniani

1. The accused and the charges brought:

Giorgi Oniani (former deputy head of Gldani-Nadzaladevi Main Division) – falsifying evidence of a grave or particularly grave crime, persecution of an individual through abuse of office, abuse of authority, intentional unlawful detention (Davit Shatirishvili episode). Intentional unlawful detention or arrest, persecution of a person through abuse of public office, abuse of authority and falsification of evidence on a grave or particularly grave crime (Mdinardze episode)

2. Description of the offense:

According to prosecution's assertion Giorgi Oniani unlawfully, without factual evidence, detained Levan Mdinardze, supporter of political party Georgian Dream (DJ Rembo). In order to artificially create a criminal offense and to falsify the evidence, Giorgi Oniani presented to the case investigator marihuana and instructed him to indicate in case records that the narcotic substance was taken off Levan Mdinardze, which in reality did not happen. Levan Mdinardze was prosecuted under part one of Article 260 of the Criminal Code of Georgia for unlawful purchase and storage of narcotic substances. Under the same pretext, Giorgi Oniani unlawfully detained manager of Ltd. Dao-Print Davit Shatirishvili for printing T-shirts with the logo of political party Georgian Dream.

3. Key facts identified and assessments made during previous monitoring periods:

On the day when Giorgi Oniani was arrested, the search of him and his property was conducted without a warrant. Since no pressing necessity was established, both procedural actions were found unlawful by the Court of First Instance as well as the Court of Appeal.

The prosecution requested detention as a preventive measure since there was a danger of the accused influencing the witnesses. The defense requested that none of the preventive measures be used, and proposed bail as an alternative. In addition, the accused Giorgi Oniani had a personal guarantee from 26 MPs. The court took into account the fact that the accused had a permanent place of residence, a family, and that he did not avoid appearance in the court or in the investigation agency, and therefore denied prosecution's motion on pre-trial detention of Giorgi Oniani. He has been assigned a bail of GEL 20,000.

The defense presented a video, in which witness Giorgi Sharipashvili, who was an inspector-investigator at the Gldani-Nadzaladevi Main Division at the time when the alleged crime was committed, was saying that the Prosecutor's Office had offered him a position if he spoke out against Giorgi Onioni on television. This evidence was not attached to the case, since its authenticity could not be confirmed. However, this fact nevertheless places the credibility of the witness in doubt, which is further strengthened by the fact that the witness was originally accused alongside Giorgi Oniani, but was later diverted from the case.

4. Overview of court proceedings in the reporting period:

4.1 Witnesses questioned

During his questioning, Giorgi Oniani stated that he was informed about Davit Shatirishvili by Guram Mirtskhulava. After this, he went to Tbilisi Central together with other employees, where the drug transfer was to take place. According to Oniani, upon seeing Shatirishvili, they explained that they were going to search him. According to the witness, Shatirishvili had a lot of papers on him, one of which was crumpled and contained a mass of green grass.

Shatirishvili was then taken to the police station, after which Oniani met him on only one occasion. According to Oniani, this person had been convicted in the past, which was what the Prosecutor's Office was using against him now.

According to Oniani, he was being criminally persecuted only because he was a defense attorney on high profile cases involving former high-ranking officials, who were acquitted by the court. He also noted that his party activities started only during local self-government elections. After the change of government, his sister and wife were fired from their jobs and he also had to leave the Ministry of Internal Affairs.

Regarding the Mdinardze episode, Giorgi Oniani stated that he was given information about this case again by Mirtskhulava. They received consent from the Prosecutor's Office on detaining this person. At the time of his detention, Mdinardze told them that he was a friend of Bera's and was also acquainted with Tako Salakaia, wife of Vano Merabishvili, Minister of Internal Affairs.

Oniani commented on the witness Sharipashvili called by the prosecution by saying that he had recommended Sharipashvili to his current job and that he was very angry with the testimonies he was giving. However, later, Sharipashvili had initiated a meeting with him, where he explained that he did not give a testimony that Oniani had been arresting people simply for being members of the Georgian Dream. Sharipashvili also told Oniani that he was ordered by the Prosecutor's Office to appear on the TV programs of Tea Sichinava and Inga Grigolia and speak out against Giorgi Oniani.

According to witness Soso Todua, witness Sharipashvili had told him that the Prosecutor's Office was pressuring him to give a testimony against Giorgi Oniani, but that he was resisting and did not agree with the demand.

Guram Mirtskhulava was also questioned at the trial. According to Giorgi Oniani, it was Mirtskhulava who had provided him with information about Shatirishvili's and Mdinardze's possession of drugs.

The witness stated that he met Giorgi Oniani in 2006, when he was detained on a case he had nothing to do with. The witness explained that Giorgi Oniani was the only person who understood the situation correctly. After the incident, Oniani gave him his number and told him to provide him with information about any possible crimes. According to the witness, he had been informing Giorgi Oniani about various crimes for 6-7 years. This was not his obligation and he did not receive any material benefit from doing so; he was doing this for personal reasons because he had lost many of his friends to crime and drug use.

The witness stated that in 2011 he had overheard a conversation between Shatirishvili and one other person about a transfer of drugs in Tbilisi Central. He later gave this information to Giorgi Oniani.

The witness also described circumstances of the Mdinardze episode. More specifically, 2-3 days after the previous incident, he learned about Mdinardze's drug possession, of which he also informed Giorgi Oniani. According to the witness, he was not aware of Shatirishvili's and Mdinardze's political views.

Witness Levan Kopaliani was also questioned at the trial. Kopaliani is the former chief inspector at the Gldani-Nadzaladevi Division. According to the witness, on October 15, 2011, Giorgi Oniani summoned him to his office and gave him information about Davit Shatirishvili together with a photograph. According to Kopaliani, during Shatirishvili's search at Tbilisi Central, two policemen found a wallet and papers on his person. Oniani took one of these papers, which was white and crumpled, and put it in his pocket.

The witness stated that he did not see any drugs during the detention. Later, on the table in Oniani's office, he saw something that looked like drugs wrapped in a piece of paper.

The defense asked Kopaliani whether he had been diverted from the criminal prosecution against him and who had initiated it. The witness replied that he was diverted from the case based on the request of the Prosecutor's Office.

The next witness at the trial was Guram Kadeishvili, inspector-investigator at Gldani-Nadzaladevi Division. The witness stated that during the search Shatirishvili did not have anything in his wallet except some empty papers. The police officers that had performed the search handed everything they found over to Oniani. The witness stated that he had not seen anything illegal in the items he found during the search, and neither had the other police officers said anything about finding something illegal. Upon arriving at the station, the witness explained that he saw Shatirishvili's possessions on the table in Oniani's office, among which was a large crumpled piece of paper that visibly contained a green plant. According to the witness, this piece of paper was not found during the search.

Regarding the Mdinardze episode, the witness stated that he was ordered to take Mdinardze for a drug test, which turned out to be negative.

Another witness questioned during the trial was Giorgi Chkhetia, who was a district inspector-investigator at the Gldani-Nadzaladevi Division in October 2011. The witness described that in October 2011 he was sent to Gldani-Nadzaladevi Division to see Giorgi Oniani, who told him that he had detained DJ Rembo (Mdinardze) on drug possession. According to the witness, Mdinardze was then brought into the office and sat a meter in front of Oniani's table, who told Mdinardze to start telling the story. After a pause, the defendant took a piece of folded paper out of his pocket, which contained a large amount of green colored plant matter, much like marijuana. According to the witness, Oniani called Sharipashvili in an angry voice, asked him who had searched Mdinardze, and ordered him to immediately call the prosecutor and to explain the situation. Sharipashvili then folded the paper and left.

Finally, an inspector-investigator was questioned at the trial, who also described the search and detention of Shatirishvili in Tbilisi Central. The witness stated that it was clear to him that this arrest was politically motivated and was not connected to a real crime. According to the witness, the initiative to arrest the Shatirishvili came from Oniani. He was forced to follow Oniani's instructions, whether or not he knew the circumstances of the case. The witness also stated that he was accused of a crime in another case, which he confessed and was released after paying a fine.

4.2 Important motions

During court proceedings, the judge stated that on February 23, Davit Bakradze, chairperson of the United National Movement political council appealed to the court through the State Chancellery. According to the statement, Giorgi Oniani's candidacy is being considered for the position of Isani-Samgori district majoritarian MP. Bakradze stated that relevant activities were underway, and requested court hearings not to take place in March-April.

The defendant added that if the court refuses this request, he will no longer be able to participate in the elections.

The prosecution opposed the motion by stating that finding a few hours per month for the court hearings would not hinder any pre-election activities.

The court granted the motion and postponed proceedings until April.

The defense raised a motion to attach a letter sent from the Public Defender's Office to Giorgi Onioni to the case file. These documents contain information on the diversion of persons accused alongside Oniani.

The defense also requested the following be attached to the case file: ad posters that were put up in Vazisubani microdistrict #4 containing defaming information about Onioni; and inspection protocols of Zurab Kadagidze's Facebook page and the Rustavi 2 website.

The court decided to partially satisfy the motion. More specifically, only the first part of the motion was satisfied. The judge stated that it was important for the case to include all evidence and documents that may show discrimination against the accused. The two other parts of the motion were denied. Regarding the second part of the motion, the court explained that the defense had failed to confirm who had put up the ad posters. As for the third part, the judge stated that these statements should be disputed under civil law.

The defense raised a motion to attach a complaint submitted by its witness Shota Shekiladze regarding his dismissal to the case file. According to the defense, Shekiladze had suspected that his dismissal was connected to the case at hand and his conversation with the defendant. The defense stated that Shekiladze was the only one of its witnesses that still worked for the Ministry of Internal Affairs and had now been fired as well.

The defense raised a motion to attach a resolution of the Council of Europe to the case file, which stated that attorney rights had deteriorated in Georgia and attorneys working on sensitive cases were being harassed. This resolution also specifically mentioned Giorgi Oniani.

The prosecution opposed these motions by stating that Shota Shekiladze's complaint was not related to the case since was not fired, but simply transferred to another position. Moreover, if someone intended to retaliate against Shekiladze, he would have been fired earlier, after he gave a testimony that was unfavorable to the prosecution. As for the second motion, the prosecution stated that it should have been raised earlier.

The court denied the motion of attaching the Council of Europe resolution to the case file, since it could have been presented at earlier hearings and it was not directly connected to the case at hand. The resolution mentions Giorgi Onioni as an attorney.

The court decided to allow Shota Shekiladze's complaint to be attached to the case file, since it would have to make the final judgment based mostly on witness testimonies. Since the case includes almost no written evidence, this document would be of interest in terms of the credibility of the witness.

The defense also raised a motion to attach a report by a non-governmental organization Transparency International Georgia to the case file, which questions the credibility of witnesses.

The prosecution opposed this motion by stating that only the judge decides whether a witness or a piece of evidence is credible, which made the report irrelevant for the case.

The judge stated that he was aware of the report and that it had unjustifiably concluded that court proceedings had been delayed, indicating that the organization had failed to study the case in a complex manner. According to the judge, since this part of the report was not presented objectively, there were grounds to believe that its other parts were also incomplete. This served as the reason for denying the motion.

A verdict has not yet been delivered, court proceedings are ongoing.

5. Our assessment:

Court proceedings were accompanied with high levels of tension. On several occasions, there were exclamations from the audience directed at the witnesses and parties, for which the judge issued warnings.

Technical problems with microphones were a common occurrence, which made it hard for the audience to hear the full testimonies.

Media coverage was hindered during court proceedings. Witnesses were also successfully separated before court hearings.

Important to note is the fact that several witnesses that were initially accused alongside Giorgi Oniani, gave testimonies against Oniani after they were diverted from the case.

Nikanor Melia, Zurab Adeishvili and others (case of bankruptcy of Kartu Bank)

1. The accused and the charges brought:

Nikanor Melia, former chair of the National Bureau of Enforcement – conspiracy to assist a person having representative, management and other executive powers in a company or other organization, in concealing a property by false transaction, committed in avoidance of an anticipated economic obligation, in large amounts; abuse of public authority

Zurab Adeishvili, former Minister of Justice – conspiracy to assist a person having representative, management and other executive powers in a company or other organization, in concealing a property by false transaction, committed by avoidance of an anticipated and current economic obligation; abuse of public authority

Tsezar Chocheli, former governor of Mtskheta-Mtianeti – conspiracy to conceal property through false transactions, committed in relation to an anticipated economic liability, in large amounts; conspiracy to falsify a confirmation document

Others accused: Jambul Ebanoidze, Davit Giorgadze, Grigol Morchiladze, Gocha Tkhenosanidze, Nugzar Sajaia, Davit Kodua, Vasil Chigogidze, Levan Sakvarelidze, Ilia Antadze, Laura Ghachava, Nika Kubaneishvili, Irakli Taktakishvili.

2. Description of the offense:

According to the prosecution, towards the end of 2011 and beginning of 2012 the accused conducted various unlawful actions against Kartu Bank. In particular, they had been contacting managers of those organizations which had loan agreements with Kartu and forcing them to insert false data in their old declarations, so as to create the appearance of significant liabilities to the government. After the insertion of false data into the declarations, the management of these organizations was forced to acknowledge the significant liabilities owed to government before a court, after which the property of these organizations was put under liquidation. Fictitious internet auctions were held where an entity set up by the criminal group would win the bid. After the auction the winner would refuse to pay the price; therefore, the property was transferred onto the government's balance sheet. This property was then sold by the State to a pre-determined legal entity at a fictitious price, significantly lower than its market value. At the same time, the indebted organizations would default on their loan to Kartu, while the Bank was no longer able to liquidate the properties which were used to secure the loans, as those properties were now registered in the ownership of totally different legal entities without any legal deficiency. The scheme consisted of several stages. The end purpose was bankruptcy of Bidzina Ivanishvili-owned Kartu Bank.

According to the legislation of the period in question, in instances where tax liabilities were discovered, the government was able to put the organization's real estate up for auction, whether or not the real estate was being used as collateral for a loan. According to the prosecution's allegations, former high-level officials made Parliament change the law especially for this purpose.

3. Key facts identified and assessments made during previous monitoring periods:

Non-appearance of the accused or of their attorneys at the hearing took place frequently. The judge noted during consideration of the case that due to defense's fault the hearings were being postponed systematically, which was an indication that they did not want to take advantage of the right to a swift trial and a lot of court resources were being spent unreasonably.

The prosecution raised a motion on the pre-trial detention of Zurab Adeishvili as a preventive measure. With respect to Jambul Ebanoidze, Roman Chkhenkeli, Mamuka Lashkia, Otar Agladze, and Nikanor Melia, bail was requested. As per the court's ruling, Jambul Ebanoidze's bail was set at GEL 30,000, Roman Chkhenkeli's at GEL 15,000, Mamuka Lashkhia and Otar Agladze's at GEL 8,000 each, and Nikanor Melia's at GEL 25,000; Detention was applied to Zurab Adeishvili.

4. Overview of court proceedings in the reporting period:

4.1 Witnesses questioned

During his questioning, witness Giorgi Adeishvili stated that he had taken a loan of several million from Kartu Bank. According to him, in 2011, he was informed that people with a connection to Kartu Bank were being given certain offers, but he did not know specifically what. Since he had a loan from Kartu Bank, he was later offered to transfer the collateral property to another account, which would mean that he would now owe the state, and would pay them only half of the loan. This would also make it impossible for Kartu Bank to extract the loan from the mortgaged property.

Giorgi Adeishvili's accountant was also questioned at the trial, who said that Giorgi Adeishvili had told him about the scheme that the government officials had offered him to damage Kartu Bank.

The next witness – Ketevan Abashidze, employee of the National Agency of State Property, stated that she was ordered several times by the Minister to violate the rules for registering correspondences.

Witness Irakli Gulbatashvili, founder and 100% shareholder of Ltd. Award Build, stated that towards the end of 2011, he was contacted and summoned to the Revenue Service by one of its employees.

He showed up together with his business partner Levan Sakvarelidze. In the room they found employees of the Revenue Service Mamuka Lashkhia and Otar Agladze. Mamuka Lashkhia introduced them to the package of amendments to be made to the law. The amendments were related to the single satisfaction rule for mortgaged property. More specifically, if a company had taken a loan from a bank secured with a mortgage, and if the same company had come to owe to the state prior to taking this loan, then the state would have the preferential right to satisfy its claim. The witness stated that based on the conversation he got the impression that this was a state scheme directed against Kartu Bank.

The Revenue Service employees explained to Gulbatashvili and Sakvarelidze that they had to admit owing to the tax authorities, but the company that would do this would have to have existed before their company had started cooperating with Kartu Bank. After this, all of the mortgaged property would have to be transferred to this company. Finally, the property would be temporarily transferred to state ownership through an auction, until the state returned it back to them for a symbolic price. As a result of this scheme, Kartu Bank would not be able to get its loan back.

The witness stated that no threats were made during the meeting, but they realized that this was a state policy and it would not have been wise to oppose it. They also were not told that the scheme was being implemented based on Zurab Adeishvili's orders.

A similar testimony was given by another witness Levan Sakvarelidze.

Witness Gocha Tskhenosanidze, general director of JSC Okami, stated that he had taken a loan of GEL 2,400,000 from Kartu Bank, for which the property of JSC Okami and land owned by Ltd. Vazi 2002 was mortgaged.

According to the witness, in January 2012, his partner was contacted from the Revenue Service and told that he must take part in scheme of bankrupting a bank. The plan was as follows: the Revenue Service would find that Vazi and Okami owed a debt to the state, which they would not be able to pay. After this, their property would be fictitiously sold through an auction, and later returned to them, without a mortgage from Kartu Bank.

The witness stated that nobody had told him that Nika Melia knew about this scheme.

A similar testimony was given by witness Vasil Chigogidze.

Witness Tariel Gugava, employee of the National Bureau of Enforcement in 2010-2013, stated that his job involved posting property to be sold through auction on the Ministry of Finance website. Nikanor Melia was the chairperson of the National Bureau of Enforcement at the time. According to the witness, Nikanor Melia had never ordered him anything illegal.

A similar testimony was given by witness Dimitri Gugunava, former employee of the Bureau of Enforcement.

During one of the hearings, the judge asked Nikanor Melia about the reason for his absence from previous hearings. The defendant stated that he could not and would not attend court proceedings due to the existing situation in the country and that his presence in the Parliament was very necessary. The defendant expressed distrust towards the court and continued to make political statements, for which he was fined GEL 500 by the judge.

4.2 Important motions

The defense raised a motion to add the disc and the questioning protocol related to a statement made by the former Prime Minister Bidzina Ivanishvili to the case file. The Prime Minister stated on live TV that Giorgi Kadagidze had been found guilty for trying to bankrupt Kartu Bank, but that he

was not detained by the Prosecutor's Office at his request. According to the defense, this statement directly pointed to political persecution of Zurab Adeishvili, this information was relevant to the case, and since the former Prime Minister had made the statement in May 2015, they could not have presented it at earlier court hearings.

According to the prosecution, the motion was absolutely unjustified and irrelevant to the case. The prosecution stated that Giorgi Kadagidze was not part of the case and the statement does not confirm any political persecution of Adeishvili.

The judge denied the motion based on Article 3, Part 25 of the Criminal Procedure Code, and explained that a piece of evidence must be connected with the factual circumstances of the criminal case. According to the judge, the defense failed to substantiate the connection between the presented evidence and the case.

A verdict has not yet been delivered, court proceedings are ongoing.

5. Our assessment:

Court proceedings were postponed multiple times as a result of the defenders or their attorneys not showing up for the hearings. With these actions, the defense was effectively waiving its right to swift justice. Even though it is possible to refuse to exercise one's right to swift justice in order to prepare a proper defense, one must consider the resources available to the court and ensure that they are not being misused. No significant violations were identified during court proceedings that damaged the principle of adversariality. Therefore, both parties had equal opportunity to present arguments and evidence, carry out procedural actions and protect their interests.

On several occasions, court hearings were held in rather small courtrooms, despite the fact that the case has a lot of defendants. There were cases, when one of the accused continuously made remarks while a witness was being questioned, which made it difficult to hear the questioning. These exclamations continued despite warnings from the judge.

Court hearings often started late and proper functioning of microphones was not ensured, which, coupled with occasional noise in the courtroom, prevented the full realization of the principle of publicity of trials, and made it difficult for our monitors to hear all of what the witnesses had to say.

Cable Case

1. The accused and the charges brought:

Gizo Ghlonti – Former Head of the Procurement Department of the Ministry of Defense of Georgia (Gizo Ghlonti left his position on January 1, 2014)

Nugzar Kaishauri – Head of J-6 Communications and Information Technologies Department of the Joint Staff of the Georgian Armed Forces

Giorgi Lobzhanidze – Division Head at the Procurement Department of the Ministry of Defense of Georgia

Archil Alavidze – Chief Specialist at the Procurement Department of the Ministry of Defense of Georgia

Davit Tsipuria – Division Head at the J-6 Communications and Information Systems Department of the Joint Staff of the Georgian Armed Forces

The accused used their official authority to embezzle GEL 410,872.6 belonging to the state budget in favor of JSC Silknet.

2. Description of the offense:

According to the prosecution, employees of the Ministry of Defense artificially placed company Silknet in a privileged position during a secret state procurement, which resulted in Silknet winning the secret state tender. According to charges brought by the prosecution, they failed to observe the principle of efficiency and effectiveness and embezzled more than GEL 4 million in favor of Silknet.

According to the prosecution, in order to conceal the crime, the defendants announced a secret state tender, where 9 other companies were invited to participate in addition to JSC Silknet. The defendants set a short period for accepting offers, from August 27 to September 5, as a result of which only 4 companies managed to provide a general price estimate. According to the prosecution, they made sure to grant Silknet an upper hand and place it in a privileged position, which took the form of providing false information about the property and services to other companies, so that Silknet would be the one to ultimately win the tender.

3. Political context of the case:

Political events preceding the pressing of the above charges created a suspicion among the public that the case was politically motivated.

In January 2013, Prime Minister Bidzina Ivanishvili dismissed Irakli Alasania from the position of Vice Prime Minister. According to him, Alasania had “made a small mistake” when he began to discuss his presidential ambitions in a narrow circle.

In February 2013, Prime Minister Ivanishvili accused Irakli Alasania of ties with the United National Movement and stated that the UNM was trying to win Alasania over and have him leave the coalition.

In November 2013, Irakli Gharibashvili became the Prime Minister. The confrontation continued between Gharibashvili and Alasania as well.²

After the high-ranking officials of the Ministry of Defense were accused of embezzlement, the Defense Minister Irakli Alasania stated that the actions of the Prosecutor's Office were politically motivated and that the country's Euro-Atlantic choice was also under threat. This was followed by the Prime Minister Irakli Gharibashvili's decision to dismiss Alasania as the Defense Minister.

4. Preventive measures and closed hearings:

On October 30, Tbilisi City Court satisfied the motion raised by the Prosecutor's Office and sentenced the defendants to pre-trial detention.

The court hearing was closed since the case was classified as secret.

The defense stated that their rights were being violated, since the prosecution had refused to provide them with copies of case materials before the trial.

Due to the fact that the evidence contained state secrets, all preliminary hearings, where the admissibility of evidence was to be decided, were closed. The Public Defender urged the Prosecutor's Office to declassify the case, which was done later during hearings on the merits of the case.

² <http://netgazeti.ge/news/36323/>

According to the November 25, 2014 statement of the Prosecutor's Office, the Counterintelligence Department of the Ministry of Internal Affairs, as the only competent authority, based on Georgian legislation on state secrets, following requests from the Ministry of Defense and the Prosecutor's Office, examined the case files and concluded that their declassification was admissible, except for the part, which contained secret information about the country's military security. Consequently, court hearings were occasionally closed during the consideration of the merits of the case.

5. Important motions:

On June 5, 2015, Tbilisi City Court satisfied the motion raised by the defense and declared certain pieces of evidence brought by the prosecution as inadmissible. This evidence was related to the conclusions of commodity and engineering examinations. The prosecution appealed the decision to the Court of Appeal. On June 8, before the Court of Appeal had made its final decision, former Defense Minister Irakli Alasania publicly stated that a meeting had taken place and a deal possibly made between the judges and the former Prime Minister Bidzina Ivanishvili. According to Alasania, the deal involved cancellation of the proposed legislative amendment to the Organic Law on Common Courts, which would result in the pre-term dismissal of 25 district court chairpersons, in exchange for the Court of Appeal cancelling the decision of the Tbilisi City Court on the inadmissibility of evidence.³ On June 16, the Court of Appeal fully upheld the complaint of the prosecution and declared all of the evidence admissible. Worth noting is the fact that the prosecution's appeal was initially classified as secret, and was declassified at a later stage.

On June 18, 2015, the prosecution appealed to Tbilisi City Court with a motion requesting the preventive measure against the defendants be changed from detention to bail. According to the prosecution, since all evidence submitted by it was declared admissible, there was little risk that the defendants would be able to destroy evidence or influence witnesses. In addition, July 28, 2015 would be the end of the 9 month limit to pre-trial detention, while court proceedings would not be completed by then.

The defense opposed the motion involving a bail of GEL 10,000 and demanded the defendants be released without a preventive measure. The defense did not believe that there were any grounds for using a preventive measure and offered the use of personal guarantee as the alternative.

The court denied the motion and released the defendants from the courtroom based on personal guarantee. The court was guided by the case-law of the European Court of Human Rights and found that there were no more relevant grounds for keeping the defendants detained. The court appointed five Members of Parliament: Nino Gogvadze, Viktor Dolidze, Zurab Abashidze, Shalva Shavgulidze and Irakli Chikovani as personal guarantors. The list of guarantors also included Tina Khidasheli, then Minister of Defense of Georgia.

The prosecution raised a motion to attach additional evidence to the case file.

According to the prosecution, on April 1, 2015, an engineering and commodity examination was ordered during a preliminary court hearing. The examination involves experts appealing to the Prosecutor's Office with requests to provide certain materials and involve certain specialists in the research. The prosecution requested these letters be attached to the case file. The prosecution also requested persons involved in these procedural activities be called as witnesses, since the evidence was generated gradually as a result of the examination, making it impossible for the prosecution to call these witnesses before the preliminary hearing.

³ <http://netgazeti.ge/news/41543/>

The prosecution also stated that they had contacted the defense a day before the court hearing and asked them to come to the Prosecutor's Office in order to study this evidence, formulate a position and save time. However, the attorney had refused to come to the prosecutor's office.

The defense requested it be given reasonable time to study the evidence and formulate a position. It also stated that submission of evidence must not be a permanent process under the cover of an ongoing examination and that the prosecution must not be given the opportunity to continuously present new evidence and summon new witnesses.

The prosecution stated that the defense was trying to delay the process.

The judge stated he could not agree with the position that the defense was trying to delay the process. The defense has the right to request reasonable time to formulate a position. Therefore, the defense will be given time until the next hearing to present its substantiated position regarding the motion. Regarding the classified documents, the judge stated that his secretary did not have the right to attend a hearing on such documents. The court had another secretary who has this right, so the judge called for a 15 minute recess, which would be used to contact the secretary and technically prepare the process for considering classified documents.

After the court satisfied one of the motions raised by the prosecution, the defense raised its own motion to recuse the judge due to their doubts about his impartiality.

The prosecution explained that just because the defense's position was not shared did not mean that the judge must be recused, since the same judge had satisfied their motions as well.

The court denied the motion by stating that in addition to the fact that the judge refused to share the defense's position there was no other objective circumstance that would cast doubt on the impartiality of this judge.

The prosecution raised a motion to attach the report of a geological examination that was part of the general examination as additional evidence to the case file.

The defense requested one hour to study this report and formulate a position.

The judge stated that he did not intend to limit the defense in time, but that the report did not require a lot of time to study.

After a recess, the defense stated that this examination did not answer any of the questions that were included in the general (commodity, financial, engineering and technical) examination ordered originally and therefore was as independent examination that was never ordered.

The court satisfied the prosecution's motion by stating that this examination was related to other examinations that had already been conducted.

This was followed by the defense once again raising a motion to recuse the judge. The defense stated that when the prosecution had presented its motion the judge had expressed his position before calling for a recess to study the new evidence: "What's to discuss here, didn't we allow a letter to be attached to the case file during the last hearing?" The judge then said, "If you shared my position, then you would agree with the prosecution". These statements gave the defense reason to believe that the judge was not impartial.

According to the prosecution, this was part of the tactic used by the defense, the judge had made an absolutely correct and reasonable decision, therefore, the motion was unsubstantiated and should not be satisfied.

After deliberation inside the courtroom, the court decided to deny the defense's motion by stating that the defense wanted to recuse the judge for simply not sharing their position. No other substantiation for his partiality was offered.

The defense raised a motion for the judge to exercise their authority to address the Constitutional Court and request that it clarify Article 239 of the Criminal Procedure Code and determine to what extent it is in line with the Constitution. This article defines the procedure for raising and resolving a motion, which the defense believed was being interpreted in way that was unconstitutional.

The court denied the motion and stated that there was no need for the Constitutional Court to clarify this norm.

On the court hearing of February 9, 2016, the judge read a motion raised by the defendant Archil Alavidze, according to which, he was sick, would not be able to attend the hearing and requested the hearing be postponed, because he wished to attend the proceedings in person. The defendant also sent a doctor's notice dated February 2 confirming his illness.

The prosecution stated that according to the Criminal Procedure Code, in such cases the defendant must present a notice that clearly states the inability of the defendant to attend a court hearing, which was not the case in the notice presented by Alavidze. This notice simply stated that the defendant was undergoing treatment. Therefore, the absence was unjustified and the defendant should be fined in accordance with the law. This led to the prosecution raising a motion to fine the defendant and continue court proceedings.

According to the judge, a notice must clearly indicate that the defendant is unable to attend a hearing, which is not so in this case. Postponement of court proceedings means that court resources are misspent. The judge stated that he would postpone the hearing this time, but urged both sides to facilitate swift justice and refrain from wasting court resources.

6. Witnesses questioned:

One of the witnesses questioned during the consideration of the merits of the case was Avtandil Cholokava, representative of Ltd. Spetskavshirmsheni. Cholokava also has experience in the field of communications.

The witness stated that in early 2013 he met with then Minister of Defense Irakli Alasania and presented an idea, according to which, the Ministry of Defense would have a communications network on the whole territory of Georgia free of charge. More specifically, he planned to build a fiber-optic highway across the whole territory of Georgia and, if the contract was signed, provide the Ministry with the number of fibers it required for free. This agreement was beneficial for both the Ministry of Defense and Ltd. Spetskavshirmsheni. According to the witness, Defense Minister Irakli Alasania liked the idea and promised Avtandil Cholokava that he would identify a contact person with whom the details would be clarified. However, Cholokava was not contacted by the Ministry for the next month, after which he met with the Chief of Staff and Head of the J-6 Communications Department Nugzar Kaishauri, to whom he also presented his plan. After the meeting, Avtandil Cholokava regularly contacted Nugzar Kaishauri, who kept telling him that the leadership had not made a decision yet.

Also questioned was witness Guria Shengelia, Director of the Design Bureau at Ltd. Spetskavshirmsheni, who stated that in 2013 they were contacted by Gocha Vashadze, a representative of the former Aieti – currently Super TV, who wanted to build a fiber-optic network covering the whole country.

After this, according to Shengelia, his boss – director of Ltd. Spetskavshirmsheni Avtandil Cholokava met with the Chairperson of the Parliamentary Defense Committee Irakli Sesiashvili and presented his idea. According to this idea, if the Ministry of Defense helped them get permits to build a fiber-optic highway in certain areas of the country, Super TV was ready provide the Ministry with as many fibers as it would require free of charge. However, the witness explained that he had not spoken with Super TV about the exact number of fibers and related details.

According to the witness, after this meeting, Avtandil Cholokava told him that he had met with Sesiashvili and the Defense Minister Irakli Alasania and personally presented this initiative; he had also provided them with a written proposal. The witness stated that Cholokava had told him that he had also met with the head of the Communications Department of the Joint Staff Kaishauri.

The witness also stated that Cholokava had a similar meeting with the head of the General Staff Vakhtang Kapanadze.

According to Shengelia, based on conversations held during these meetings they expected that the Ministry of Defense would like the idea and that this plan, of “great importance to the country”, would come to fruition. After a delay in response from the Ministry, they received a classified letter inviting Ltd. Spetskavshirmsheni to participate in a competition for building an 8 line fiber-optic highway that the Ministry was announcing.

According to Shengelia, the secret tender provided very little time to formulate a proposal, but he still managed to complete a project proposal thanks to his experience. He also stated that Cholokava's position was that this was a farce and taking part in the competition was pointless; however, they took part in it nevertheless, since they did not want to spoil their good relations with the Ministry of Defense.

The next witness was Levan Buchukuri, General Director of Silknet. The witness stated that there was no illegal agreement between his company and the Ministry, and that they were not given any undeserved advantage.

Finally, also questioned at the trial was witness Aleks Batiashvili, Deputy Defense Minister from November 22, 2013 to November 4, 2014. The witness stated that the project that was agreed with Silknet was very important for the armed forces, that he knew that quotation were requested from multiple companies and that the terms of the contract were being negotiated between Silknet and the Ministry. According to the witness, prior to signing the contract, he studied the documents on which it was based and considered it necessary to sign the contract.

7. The verdict:

On May 16, 2016, Tbilisi City Court found all five defendants guilty of the charges pressed against them and sentenced them to 7 years in prison. They were also deprived of the right to hold positions in the public service for two years.

On 26 January 2017, Tbilisi Court of Appeal changed the charges against the convicted persons from embezzlement to abuse of office, which reduced their sentence to 1 year and 6 months of imprisonment.

On January 27, 2017, the Georgian President pardoned the former high-ranking defense officials.

8. Our assessment:

This case was assessed procedurally as well as content wise by non-governmental organizations.

The public has been following the development of this case for a long time. Throughout the whole process, the public has had doubts about the extent to which the charges and the preventive measure were justified, whether the evidence was authentic and the trial was fair. Overall, circumstances surrounding the case created an impression of politicization and inadequate justice.

These doubts were strengthened from the very start by the context of the case. The accusation was preceded by an open confrontation between the former Defense Minister Irakli Alasania and former Prime Minister Bidzina Ivanishvili, which ended with Irakli Alasania's resignation. Lack of trust towards the case was also strengthened by statements made by former high ranking officials. Especially noteworthy was the extent to which the former Prime Minister Bidzina Ivanishvili was familiar with the details of the case, even though it was classified as secret. It is still unknown why and how did certain individuals know about the details of the case, when they did not have the right to be involved in the investigation and were not supposed to have access to case materials.

Initially, the whole of the Cable Case was classified as secret, which, for a time, hindered the defense's access to case materials. The Public Defender also responded to this by urging the Prosecutor's Office to classify only those materials that contained state secrets and providing the defense with access to all other parts of the case.

Even though a part of the case materials were later declassified, this was done nearly a month (November 25, 2014) after the case was launched (October 28, 2014). During all of this time, the defense was unable to study the case file, meaning that it was unable to fully exercise the right to defend.

As for the charges brought, the Prosecutor's Office is accusing employees of the Ministry of Defense of embezzling a large amount of state funds with an organized group. Several questions arise:

The positions of the accused and their official status indicate that they are not among the highest ranking officials of the Ministry of Defense, so the property that the prosecution is accusing them of embezzling could not be in their immediate ownership and management.

Their positions also suggest that would not have the authority to make the final decision independently. It is therefore unclear why the Prosecutor's Office excluded the involvement of then high-ranking officials of the Ministry of Defense and why it did not ask any questions to the former Defense Minister.

The Cable Project was initially reviewed and approved by the Government of Georgia, while the money was transferred through the Ministry of Finance, which points to the low level of involvement of the accused in the case and weakens the prosecution's argumentation.

The charges brought against the accused fail to substantiate the existence of self-interested motives and intentions, which is a necessary prerequisite for this type of crime.

The above legal circumstances, questions related to the charges brought, events preceding the detention of the accused, the general context of the case, and various shortcomings identified during court proceedings create an impression that justice in the Cable Case was carried out in an inadequate and partial manner, possibly due to political influence.

Important to note is the fact that these problems were subsequently taken into consideration by the Court of Appeal, which changed the qualification of charges and reduced the sentence.

As for the procedural side of court proceedings, since the case was initially classified as secret, our observers did not have the opportunity to attend court hearings, and even after the case was

partially declassified, some of the hearings were still closed. Otherwise, the media was not hindered from covering court proceedings, and ordered was for the most part ensured in the courtroom.

Mikheil Saakashvili (case of embezzlement of state property)

1. The accused and the charges brought:

Mikheil Saakashvili (former President of Georgia)

Teimuraz Janashia (former head of the Special State Protection Service of Georgia)

Embezzlement of government funds in large volumes through abuse of office.

2. Description of the offense:

According to the prosecution, in February 2009, Mikheil Saakashvili invited a masseuse to Georgia who provided him with a relevant service. In order for this information to not find its way to the public, in April 2009, Mikheil Saakashvili decided to use the secret procedure for spending money for personal purposes. Previously, the President's expenses were public and came from the President's Administration and LEPL State Maintenance Agency. Mikheil Saakashvili mobilized the necessary state budget funds in the Special State Protection Service that was subordinate to him, from where the secret procedure would be used to fund Saakashvili's personal expenses.

Execution of the criminal plan was entrusted to the head of the Special State Protection Service, Teimuraz Janashia. Through Teimuraz Janashia, Mikheil Saakashvili's private expenses were disguised as secret expenses, which is contrary to the Law of Georgia on State Secrecy. Reports on these secret expenses were managed by the Economy Department of the Special State Protection Service. These reports were classified as secret in violation of the List of Documents Considered State Secret, since none of the reports or their attachments contained information on state secrets.

According to the prosecution, based on an agreement between Mikheil Saakashvili and Teimuraz Janashia, from September 2009 to February 2013, expenses incurred in secret for services ordered by President Mikheil Saakashvili for himself and various individuals both in Georgia and abroad amounted to GEL 8,837,461 of embezzled budget funds.

3. Key facts identified and assessments made during previous monitoring periods:

On September 3, 2014 the Court of Appeal altered the decision of the Court of First Instance dated August 29, without holding an oral hearing. By order of the court, the property of the accused Mikheil Saakashvili and of persons related to him was frozen. The accused's personal bank account was frozen as well.

The prosecution requested to freeze the property of the accused as well as of those related to him, and to freeze his bank account. The Court of First Instance did not grant the motion with respect to freezing the bank account and noted that the prosecution failed to present any kind of documentation which would show whether the accused had any sums of money or valuables on those accounts. Consequently, the court could not freeze the bank accounts. Despite this, the Court of Appeals did not share this argument and ordered the freezing of the accused's bank accounts.

The Court of First Instance found that the prosecution's argumentation with respect to freezing the property of persons related to the accused was unfounded, and rejected it. The court noted that "just the existence of persons related to the accused and of their property is not a sufficient basis for freezing said property". Specific evidence had to be presented. The judge of First Instance also noted that the prosecution's assertion that the property in possession of the accused's family did not

match, and significantly exceeded, their lawful income, was not substantiated, since no evidence with respect to the origin of the property had been presented. Likewise, no information related to the amount of lawful income of those persons and on their status had been presented, which might have allowed the court to conclude that the property was possibly obtained by illegal means. In the end, Tbilisi City Court froze only the property of the accused and refused to freeze his bank account or the property of people related to him. Tbilisi Court of Appeal, on the other hand, ordered the bank account of the accused to be frozen as well as the property of his spouse, children, mother, father and grandmother (though the Court of Appeals did not grant the prosecution's motion in full).

Neither of the courts granted a motion on freezing the property received in succession or property obtained prior to 2009, since the prosecution in this case was disputing the accused's actions committed in the period between September 2009 and 25 February 2013.

The Prosecutor's Office did not appeal to court to use a preventive measure against Mikheil Saakashvili, while Teimuraz Janashia was released on bail of GEL 20,000.

In this case, Transparency International Georgia shared the position of the Court of First Instance with respect to some issues, and noted that there was no sufficient factual basis (evidence) for freezing the property of persons related to the accused. To an outside observer, there was a lack of arguments to support the contention that the accused or persons related to him would conceal/spend the money or that the property had been obtained by unlawful means. Just the fact that persons related to the accused owned the property was not sufficient evidence to justify freezing that property.

4. Overview of court proceedings in the reporting period:

4.1 Witnesses questioned

A number of current and former employees of the Special State Protection Service were questioned at the trial. The witnesses described how and on whose orders the money was spent from the fund. According to the witnesses, they knew that the information about these expenses was classified and therefore observed this rule and followed orders.

Some of the witnesses stated that information such as the identity of the President's hair stylist could be related to his safety and was therefore kept secret, but other types of information, such as the purchase of various gifts for specific individuals, was kept secret unjustifiably.

4.2 Important motions

When considering the admissibility of evidence, the prosecution requested that certain documents and letters obtained by the defense should be declared inadmissible, because they were not obtained on the territory of Georgia.

The prosecution also requested the inspection report be declared inadmissible, since it was drafted in violation of the law. The prosecution also requested the removal of witnesses from the list, since defense had not provided the prosecution with questioning reports.

The court denied the motion on the inadmissibility of letters. The court explained that the defense may obtain evidence at its own expense. Even though there were inaccuracies related to the translation of the letter, the court stated that this did not create the necessary grounds for declaring them inadmissible at this stage. In addition, the documents were relevant to the case and helped the defense side in implementing its strategy.

The court also declared admissible an examination report and the report of the State Audit Office on the extent to which the expenses were justified.

The defense raised a motion to cancel all preventive measures. According to the defense, there were no grounds for a GEL 20,000 bail to be imposed on Teimuraz Janashia, as well as other measures – having to clock in at a relevant body every 10 days until the end of the investigation, give up his passports and not having the right to leave the country. According to the defense, the investigation was over and the defendant had complied with all measures imposed on him.

The defense also raised a motion to unfreeze the property owned by Mikheil Saakashvili and his relatives. According to the defense, Mikheil Saakashvili is accused of misspending and not embezzlement, which are very different charges. According to the defense, the defendant could not have purchased the frozen property with the misspent funds.

According to the defense, the defendant's rights were being violated with this decision, which enabled the defense to raise this motion.

The prosecution stated that there was no legal basis for unfreezing the property of either defendant and persons related to them. The prosecution stated that they had appealed the initial decision of the court of first instance to the Court of Appeal, where the judge made a substantiated decision to leave the property frozen. No new circumstances had arisen since then.

Regarding preventive measures used against Teimuraz Janashia, the prosecution stated that this matter is regulated by the Criminal Procedure Code, according to which a preventive measure can only be changed or cancelled on the basis of new circumstances, and that the defense's argument that all the evidence has already been attached to the case file and that there is no danger of changing it, does not qualify. Furthermore, the preventive measure must not be cancelled because the risk of influencing witnesses was still present.

The court denied the motion to unfreeze property by stating that it was unable to consider this issue at this stage.

The court also denied the motion to cancel bail, since no new circumstance had been presented that would serve as the grounds for cancelling the preventive measure.

During the preliminary court hearing, the defense opposed the motion raised by the prosecution to launch the consideration on the merits of the case. According to the defense, the combination of evidence that was presented was not convincing enough to prove that the accused had committed the crime with a high degree of probability.

According to the defense, the presidential fund contained certain funds that the President could use as he saw fit in accordance with the law. The current highest ranking state officials also spend various funds during work visits, but no criminal proceedings have been initiated against any of them. The defense side believes that the former President is being politically persecuted.

The defense attorney representing defendant Sajaia stated that the act of which his client is being accused of does not constitute an offense at all, since he acted under orders of the President and had no right to disobey it.

The court did not share this position and found that there was sufficient evidence to launch the consideration on the merits of the case.

On April 18, 2016, the Constitutional Court made a decision not to satisfy Teimuraz Janashia's and Giuli Alasania's constitutional claim.

The plaintiffs claimed that the rule for freezing property defined by the disputed norm was vague and did not accurately determine whose property, under which circumstances and for what purpose could be frozen.

The court clarified that the disputed norm provides for the possibility of freezing only that property which can be subject to confiscation under the Criminal Code. According to the Court, in order to freeze property, in addition to the possibility of disposal or concealment, a party must cumulatively examine the possibility of it being obtained through unlawful means; however, the reverse is not true.

Voting on the final decision regarding the constitutional complaint resulted in a split vote, which meant that the claim was denied.

On the basis of this decision, the defense raised a motion to unfreeze the property owned by Janashia and his sons. According to the defense, the April 18 decision of the Constitutional Court emphasized the importance of reviewing decisions on property freezes. The Constitutional Court considered that the legal norms that limit periodic review of decisions on property freezes are unconstitutional. Furthermore, two of the judges also indicated in their separate opinions that the disputed norm was also unconstitutional.

The prosecution opposed the motion by questioning the grounds on which the defense was asking for the unfreezing of property when the plaintiff had lost their constitutional claim.

The judge denied the motion, but stated that even though it was substantiated, it was raised at a wrong time during the process. Such a motion may be raised during the final word.

The defense raised a motion to attach a document to the case file that confirmed that persons that held the same position as Teimuraz Janashia before and after his term continue to work in the same way. According to the defense, this was a confirmation of selective justice and political persecution of Teimuraz Janashia.

The prosecution opposed the motion and stated that this evidence was unrelated to the case.

The court satisfied the motion and explained that even though the court was considering a case related to specific actions of a specific individual, this information would help the court find truth.

The defense raised a motion to recuse the judge. The party explains that certain circumstances raised questions about the judge's impartiality. According to the defense, the decision to not include certain documents presented by the defense (the decision of Interpol in favor of Saakashvili and Kezerashvili, and the Council of Europe's Parliamentary Assembly Resolution on political persecution) as evidence in the case pointed to the judge's bias. According to the defense, the judge made this decision without even considering the legality and authenticity of this evidence.

The prosecution opposed the motion and stated that requesting a judge's recusal because a party did not like their decision is unacceptable.

The judge denied the motion and stated that the presented evidence was rejected because it was not relevant to the case; therefore, his decision cannot serve as sufficient grounds for proving bias.

During court proceedings, Beka Basilaia, defense attorney representing Teimuraz Janashia, was running for a member of parliament and was unable to participate in court hearings. Therefore a new attorney - Shota Kakhidze took his place. The new attorney raised a motion to be given reasonable time to study case materials. According to him, he would need several months for this.

The judge decided to postpone the hearing for one month and stated that even though the case was voluminous, hearings could not be postponed for several months, since this would delay the process.

5. Our assessment:

According to our assessment, the evidence on the basis of which the property of persons associated with the defendants was frozen was insufficient. From an observer's perspective, the prosecution had failed to substantiate that the defendants or persons associated with them could conceal, dispose of this property or that it was obtained through unlawful means. Simple ownership of certain property by persons associated with a defendant does not constitute sufficient basis for freezing this property. Furthermore, the legislation did not provide for the possibility to review this decision in case of new circumstances.

Otherwise, no violations were identified that would damage the equality of parties.

The media was not hindered from covering court proceedings.

Mikheil Saakashvili (case of Girgvliani)

1. The accused and the charges brought:

Mikheil Saakashvili (former President of Georgia) – abuse of authority by a state political official

2. Description of the offense:

According to the prosecution, as a result of a criminal plan coordinated and agreed with President Mikheil Saakashvili, the crime committed against Sandro Girgvliani was concealed, and the investigation was faked to enable high-ranking officials to avoid liability. On January 27, 2006, at Shardeni Bar, Aleksandre Girgvliani happened to be in an argument with T.M., who was in the bar together with the wife of the Minister of Internal Affairs Ivane Merabishvili (Salakaia) and head of the Constitutional Security Department Davit Akhalaia. On account of this, employees of the Constitutional Security Department, acting under instructions of Davit Akhalaia, who sent for them, put Aleksandre Girgvliani and his friend in a car, unlawfully deprived them of their freedom and took them as captives out of the city to Okrokana cemetery. In the intense cold of the night, the kidnappers undressed Aleksandre Girgvliani and his friend and severely beat them. The body of the tortured Aleksandre Girgvliani was found on the territory adjacent to Okrokana cemetery.

3. Overview of court proceedings in the reporting period:

3.1 Witnesses questioned

The first witness questioned at the trial during the reporting period was Oleg Melnikov, former deputy head of the Constitutional Security Department. The witness described the situation in the Sharden Bar prior to Girgvliani's murder. According to the witness, Vano Merabishvili's wife Tako Salakaia told Data Akhalaia that her friend was being harassed and needed help. After this, Data Akhalaia pointed Melnikov's attention to 2 persons sitting at a nearby table and ordered him to follow them when they left and point them out to persons that were summoned specifically for this task. When they went outside, a silver ML appeared, from which two persons stepped out. As ordered, Melnikov pointed out the two persons that had left the bar to them. After this, he returned to the bar and a few days later learned about the death of one of these persons.

According to the witness, after the murder of Sandro Girgvliani, Vano Merabishvili got actively involved in this case, to whom Data Akhalaia gave hope that everything would be taken care of.

The witness also described a meeting between Data Akhalaia and Zurab Adeishvili. The latter told the former that one of the persons that took part in the killing of Alania was to go to prison. After this, Akhalaia told Alania that he would have good conditions in prison and that Saakashvili would pardon him soon after. According to the witness, as promised, the persons convicted for Girgvliani's murder were given good conditions in prison. They also received GEL 100,000 in exchange for silence.

During cross-questioning, Melnikov stated he had originally given a false testimony because his life would be in danger if he told the truth. He was afraid of the Akhalaia.

The next witness questioned at the trial was Avtandil Aptsiauri, former high-ranking official of the Constitutional Security Department. According to the witnesses, one day after the murder, Gia Alania came to his workplace and told him that the discovered body was that of Girgvliani, who fell into the ravine while trying to escape. After this, Data Akhalaia promised that nobody would touch them. However, after the details of the case became public, this promise changed and they were told that they would have to go to jail for a year. They were also promised by Akhalaia that they would soon be released from prison through a pardon and that they would receive GEL 100,000 as a gift.

According to the witness, after the arrest, he spent two days in a solitary confinement ward. During this time, they took them in the direction of Ortachala where a feast was laid out to meet them. However, they were returned immediately after finding out that journalists had gotten hold of this information. According to the witness, they were held on the highest floor of the 7th confinement ward, where cell doors did not even close and visits were not limited.

The next witness questioned at the trial was Giorgi Tsagareishvili, former member of the Pardon Commission. The witness stated that he had left the commission in protest of the President pardoning Girgvliani's murderers. The witness explained that President Saakashvili pardoned these persons bypassing the commission. The commission had not even discussed this issue, since it was clear that the commission members would not support this decision.

According to witness Ramaz Chokhanelidze (social worker at the 7th penitentiary institution), who was also questioned at the trial, prior to the transfer of convicts of the Girgvliani case, 4 rooms were refurbished and properly equipped. One of these rooms was a kitchen, the remaining 3 were bedrooms with air conditioners and double beds. In addition, any visitor could freely see them. They could also use phones and computers, which was generally prohibited.

A similar testimony was given by witness Shota Makharashvili, first deputy director of the 9th penitentiary institution.

3.2 Important motions

The defense raised a motion to attach a decision by Interpol to the case file, which was refusing to include Mikheil Saakashvili in its list of wanted persons.

The court denied the motion and explained that the decision by Interpol was unrelated to the case, since no preventive measure was imposed on Mikheil Saakashvili.

The defense opposed the motion raised by the prosecution to launch the consideration on the merits of the case and raised its own motion to suspend prosecution against the defendant at the preliminary hearing. According to the defense, the evidence submitted by the prosecution did not provide grounds to assert that Mikheil Saakashvili committed an offense and did not satisfy the standard of high probability; Saakashvili was being subjected to politically motivated persecution. The case at hand includes only a few pieces of evidence that do not even meet the standard of reasonable doubt. This case was aimed at destroying Mikheil Saakashvili as a political opponent of the current government.

The prosecution stated that the defense was making political statements that had nothing to do with the evidence in the case.

This was followed by the judge urging the defense attorney to speak based on case materials.

According to the attorney, the civilized world acknowledges the existence of political persecution against Mikheil Saakashvili. According to the defense, the President is not limited in his power to grant pardons, and in the case of persons convicted of Girgviani's murder, they were not released immediately, but rather their sentences were reduced by half. None of the convicts (Bibiluridze, Alania, Ghachava, Aptsiauri) state that they had personal contact with Mikheil Saakashvili. They knew about Mikheil Saakashvili's actions only through others.

Testimonies of neither Nino Burjanadze nor Irakli Okruashvili indicate that Mikheil Saakashvili had committed a criminal offense. Furthermore, since Burjanadze and Okruashvili are political opponents of Mikheil Saakashvili, the defense considers it inadmissible for guilt to be proven based on their testimonies.

The prosecution stated that the motion raised by the defense was saturated with political statements and had nothing to do with justice. A number of verdicts already exist on this case: Akhalaia, Kokiashvili and others, which indicate that this was a premeditated systemic crime. The prosecution also stated that the Strasbourg Court had also made its decision on the case.

The court decided that the prosecution had presented sufficient, clear and convincing set of evidence that provides a high degree of probability to assume that the case will end in a conviction, therefore, there is no basis for suspending criminal prosecution and the consideration on the merits of the case was launched.

A verdict has not yet been delivered, court proceedings are ongoing.

4. Our assessment:

No significant violations were identified during court proceedings that would damage the principle of adversariality of parties. Therefore, parties had equal opportunity to present their arguments and evidence, carry out procedural actions and protect their interests.

Zurab Adeishvili (case of beating of Koba Davitashvili)

1. The accused and the charges brought:

Former Chief Prosecutor of Georgia Zurab Adeishvili, Former Deputy Head of the Revenue Service of the Ministry of Finance Davit Karseladze – organizing an unlawful deprivation of freedom and abuse of public office

2. Description of the offense:

According to the prosecution, the former Chief Prosecutor of Georgia Zurab Adeishvili and former Deputy Head of the Revenue Service of the Ministry of Finance Davit Karseladze planned and organized for members of the Special Forces to unlawfully deprive a former Member of Parliament Koba Davitashvili of freedom and transfer him to the Gori Military Hospital after being beaten.

More specifically, in November 2007, protest rallies were being held by the opposition on Rustaveli Avenue in Tbilisi. According to the prosecution, Georgia's then Chief Prosecutor Zurab Adeishvili summoned the deputy head of the Revenue Service of the Ministry of Finance Davit Karseladze to his office and ordered him to have the special force and operative units under his authority control crowded areas such as the Eliava, Vagzali and Lilo markets and immediately prevent any attempts from opposition leaders to agitate and mobilize people to attend the protest rally.

Following the order received from Zurab Adeishvili, starting in the early morning of November 7, 2007, Davit Karseladze had the special force unit of the Investigation Department of the Revenue

Service stationed on the territory of Eliava market, where one of organizers of the protest Koba Davitashvili appeared soon after together with his supporters to purchase an electricity generator that they needed to organize a demonstration.

After noticing Koba Davitashvili, law enforcement representatives forced him into a nearby white Ford, and drove away from the market. Since Koba Davitashvili was injured during his forceful detention and was bleeding from the head, they took him to the Gori hospital instead of the investigative agency.

3. Overview of court proceedings in the reporting period:

3.1 Witnesses questioned

Defendant Davit Karseladze was the first to be questioned at the trial. In 2007, Karseladze headed the Investigation Department of the Revenue Service. The witness stated that in November 2007, during the anti-government protests, Zurab Adeishvili ordered him to send groups to Station Square and other similar crowded places. According to this assignment, they had to hinder opposition leaders from appearing and calling for the people to attend the protest.

According to the witness, he ordered his employee Edisher Kobakhidze to have his people change to civilian cloths and inform him if opposition leaders appeared. He called Edisher Kobakhidze and ordered the detention of Davitashvili, but he also learned that he had been injured in this process, after which he made the decision to transfer him to the Gori hospital.

People working on the Eliava market were also questioned at the trial. They described the assault on Davitashvili.

The next witness questioned at the trial was Edisher Kobakhidze, who stated that when he saw Koba Davitashvili he received the order to take him away from the rally because he was very active; however, the detention process became complicated due to resistance. The witness also stated that they had not prepared and given Davitashvili any document on his detention. The witness stated that the order to detain Davitashvili and transfer him to the Gori hospital came from Karselidze.

3.2 Important motions

Following the opening statement of the prosecution, the defense stated that they wanted to hear the prosecution's position before elaborating their own, for which they required a reasonable period of time. Consequently, the party raised a motion to postpone the hearing, which was satisfied by the court.

Consideration on the merits of the case is pending.

4. Our assessment:

No significant violations were identified during court proceedings that would damage the principle of adversariality of parties. Therefore, parties had equal opportunity to present their arguments and evidence, carry out procedural actions and protect their interests.

The media was not hindered from covering court proceedings.

Case of Buta Robakidze's Murder

1. The accused and the charges brought:

Former employees of the Ministry of Internal Affairs Irakli Pirtskhalava, Gurgen Donadze, Zurab Mikadze, Aleksandre Gvazava, Levan Gvazava, Davit Iashvili, Zaza Bakradze – abuse of public office

2. Description of the offense:

According to the prosecution, on November 24, 2004, police officer Giorgi Bashaleishvili shot and killed Buta Robakidze with a firearm, while the youths accompanying Robakidze were convicted on false charges of unlawful possession of firearms and ammunition.

According to the prosecution, the investigation revealed that the following officials showed up at the crime scene immediately following Buta Robakidze's murder: Zurab Mikadze – acting head of the Partol Police Division of the Tbilisi Main Police Department, Guram Donadze – head of the Information and Public Relations Department of the Ministry of Internal Affairs, Davit Iashvili – head of the Vake-Saburtalo Police Department, Irakli Pirtskhalava – head of the Didube-Chugureti Police Department, Aleksandre Gvazava – head of the third division of Didube-Chugureti Police Department, Levan Gvazava – head of the Tbilisi Main Police Department, and Zaza Bakradze – head of the Criminal Police Division of the Tbilisi Main Police Department.

After discovering that the detained individuals did not possess any firearms or ammunition, Zurab Mikadze, Zaza Bakradze, Guram Donadze, Irakli Pirtskhalava, Davit Iashvili and Aleksandre Gvazava decided to bring and plant firearms at the crime scene, in order to then falsely report that Buta Robakidze was killed when the police tried to apprehend a criminal group. In this way, Buta Robakidze's murder was portrayed as his neutralization. Zurab Mikadze and Zaza Bakradze brought firearms and ammunition to the crime scene and divided it among the murdered Buta Robakidze and his friends. Finally, upon Guram Donadze's instruction, the meddled crime scene was filmed by a video camera belonging to Donadze's department and the recording was given to the media.

3. Overview of court proceedings in the reporting period:

3.1 Witnesses questioned

During questioning, witness Akaki Bartaia, a friend of Buta Robakidze, stated that on the day of the incident they were celebrating St. George's day together with friends. At about midnight, they decided to drive home together. At about half past one, they were stopped by the patrol police on Tsereteli Avenue.

According to the witness, when they stepped out of the car the police were appeared to be uncertain, pointed guns at them and called for backup. The backup crew stepped out of the car swearing. One of them ordered for Amirani (Buta) to be brought down to the ground. After, this a shot was fired and nobody was paying attention to Buta, who was injured as a result. They only noticed that he was shot when trying to handcuff him, after which they called an ambulance. The ambulance arrived in about 5-10 minutes, but Buta was already dead.

According to the witness, this was followed by the appearance of employees not wearing police uniforms, including Donadze. He himself was taken to the pavement where Zaza Bakradze placed a grenade in his pocket. The witness stated that Donadze was giving instruction to the employees, "turn on the camera, now place it in his pocket" and forth.

The witness stated that they were neither drunk nor under the influence of drugs, but were taken for a drug test nonetheless.

After this, Pirtskhalava had demanded they admit having fired at the police and resisted arrest.

Similar testimonies were given by victims: Giorgi Kurdadze, Levan Dangadze and Akaki Bartaia.

The next witness questioned at the trial was Giorgi Sarishvili, who was an inspector of the detention group at Vake-Saburtalo police station in 2004. The witness described that at about 2 am Mikadze arrived at the station, and half an hour later they opened the trunk of an employee's car and placed automatic rifles in it. The witness also saw the place where these firearms were taken.

The witness also stated that he had accidentally met Buta Robakidze's father in 2010 and told him that he had information about his son's murder. He had also given comments to the media.

The next witness, Shalva Nikabadze, who was a prosecution investigator at the Didube-Chughureti police station in 2004, stated that on November 23, 2004 he accidentally found himself at the scene of the incident. He inquired about the situation with the police officers, but Davit Iashvili told him that he was not needed there and that he could leave. The witness stated that he overheard Donadze telling the police officers to place the firearms under the front seat and make a video recording.

The witness was told by Irakli Pitskhalava that the policeman had accidentally killed a boy and they had to place firearms at the scene to justify this action. The official version was that Bashaleishvili had retaliated after he was fired at by a person who had stepped out from the back seat. However, the examination found that it was impossible for the victim to have held an automatic rifle and to have sat in the back seat of the car. The witness stated that he was ordered to change the conclusion of this examination.

The witness also stated that he gave a different testimony back in 2006, because he was called prior to the questioning and told not to mention Donadze.

3.2 Motions raised by parties

The court considered Nino Khvitia's motion to return the GEL 15,000 she had paid as bail on the basis that Irakli Pitskhalava had been imprisoned for another case and there was no more need for bail.

The prosecution opposed the motion by saying that there was no procedural basis for satisfying it; Irakli Pitskhalava had been in prison since February 2015 and it was unclear why this motion had not been raised earlier.

The judge satisfied the motion and stated that it was justified. According to the court, the grounds for using bail were no longer present.

During previous hearings, the judge had expelled three persons from the courtroom. These persons then submitted a statement admitting having disrupted order and requesting to be allowed to attend the trial.

The prosecution agreed with the statement and requested the same.

The defense stated that when no new circumstances are present a party must submit a written motion, and since the party had not done this, it should not be satisfied.

The judge satisfied the motion and allowed the persons to attend the trial.

The defense raised a similar motion requesting Irakli Pitskhalava's son, who was expelled from the courtroom earlier, to be allowed to attend the trial. The court satisfied this motion as well.

Guram Donadze raised a motion requesting that the bail amount be returned in exchange for freezing his real estate.

The prosecution opposed the motion by stating that the legislation does not provide for the possibility to substitute bail in this way.

The judge stated that the motion was lawful and must be satisfied. It is possible for the bail amount to be substituted with a freeze on real estate and this would not violate anything.

4. Our assessment:

Court proceedings were conducted in a tense and noisy environment. During the process, several defendants raised a motion to hold closed hearings, since this environment was hindering a fair trial. Several of the court hearings were closed to the public. Even though the judge expelled several persons from the courtroom, timely and effective measures to ensure order were not taken in all cases.