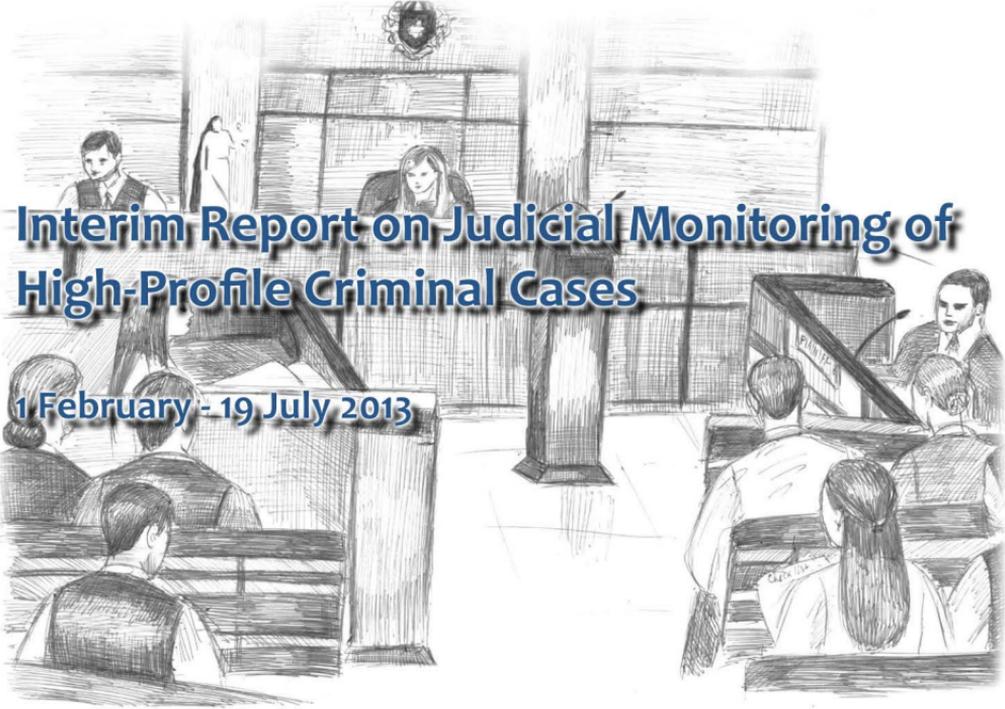




**TRANSPARENCY
INTERNATIONAL**
GEORGIA

Interim Report on Judicial Monitoring of High-Profile Criminal Cases

1 February - 19 July 2013



SWEDEN



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The report was drafted as part of the grant of the Swedish International Development Cooperation Agency (Sida). Statements expressed in the report belong to Transparency International Georgia and may not reflect the opinions of Sida.



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Executive Summary

Since February 2013 Transparency International Georgia has monitored court hearings on high-profile criminal cases. This report covers the period from February 2013 until 19 July 2013. The organization's observers attended court hearings, at which the cases of former and current high officials are tried. Provided below is the information obtained from monitoring and the description of the cases. Notably, a part of the trials is already completed and the final judgments have been rendered, while the report still includes cases with pending proceedings.

Several noteworthy trends have been identified throughout observing the trials:

- The principles of equality and adversariality of the parties were observed at court trials. Defense, as well as the prosecution enjoyed equal opportunities for presenting their positions and they could freely exercise the rights safeguarded by procedural legislation.
- The prosecution has mainly (apart from several exceptions) built its cases on the witness testimonies only. Other pieces of evidence have not been presented until the drafting of the report.
- In several cases, the prosecution's witnesses have later changed their testimonies.
- Several representatives of the defense often made political statements during the proceedings.
- At the trials, the court has applied disciplinary measures three times.¹
- In all cases, when the defendants were offered jury trials, they had rejected such offers, stating that the general public was already prejudiced against them, which would have deterred rendering just decisions.
- Courts did not release information in advance on hearings, at which the application of preventive measures was to be decided. Such practice undermines the publicity of the high-profile cases.
- Notwithstanding the high public interest, in the Bachana Akhalaia case the prosecution has objected to video recording of the trial and thus publicizing the proceedings.
- In the course of the trials, public representatives and organized groups have rallied against the defendants.

Remarkably, in several cases final judgments have not yet been rendered, while in other cases the judgments of the first instance court may be still challenged, thus leading to potentially different results. Therefore, Transparency International Georgia refrains from reviewing court decisions on the cases. The organization will continue monitoring these high-profile cases and will provide its analysis in the future as well.

¹ Edited based on Prosecutor's office comments received on 07/09/2013

Bachana (Bacho) Akhalaia

The Prosecutor's Office has brought charges against Bachana Akhalaia in November of the last year for committing three criminal offenses. Later these offenses were combined in one case consisting of three episodes. Further, in March of this year charges were brought against Bachana Akhalaia in two other cases. The two cases of Bachana Akhalaia were tried in court separately.

Case №1

1. The episode of Senaki

(Physical and verbal insult of 19 servicemen in February 2010 *at the Senaki Military Base* and illegal deprivation of liberty)

1.1. Defendants and the charges brought:

Bachana Akhalaia – the Minister of Defense of Georgia; the Minister of Interior.

Charges brought:

1. Exceeding of official power by a state-political official, which has inflicted substantial damage on the right of a natural person and the legal interests of the state, committed through insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 2 and Sub-Section 'c' of Section 3.
2. Illegal deprivation of liberty, committed through conspiracy by a group, – Criminal Code of Georgia, Article 143, Section 3, Sub-Section 'a'.
3. Orchestration of torture, committed through the abuse of official power, against two or more persons, – Criminal Code of Georgia, Article 144¹, Section 2, Sub-Sections 'b' and 'd'.

Aleksandre Gorgadze – Sergeant of the General Staff of Armed Forces; Sergeant of the 4th Infantry Brigade;

Giorgi Kalandadze – the Head of the United Staff;

Merab Kikabidze – the Combat Training Officer; the Head of the 2nd Infantry Brigade

Charges brought:

1. Exceeding of official power by a civil servant, which has inflicted substantial damage on the right of a natural person and the legal interests of the state, committed through insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 3, Sub-Section 'c'.
2. Illegal deprivation of liberty, committed through conspiracy by a group, – Criminal Code of Georgia, Article 143, Section 3, Sub-Section 'a'.

1.2. Description of offense by the prosecution:

Pursuant to the indictment, in February 2010, at the instruction of Bachana Akhalaia, 19 servicemen were illegally deprived of liberty, in particular by locking them up in a bathhouse. The incident occurred on the territory of the 2nd Brigade of Senaki. They were physically and verbally insulted as well.

1.3. Evidence/witness testimonies in the case:

The prosecution:

The prosecution has called 93 witnesses. According to them, at the military base 19 servicemen had refused to exercise due to deteriorating health. Afterwards, they were taken to Senaki Base where they were met by Bachana Akhalaia. Merab Kikabidze, Giorgi Kalandadze and Aleksandre Gorgadze were also present in the room. Bachana Akhalaia has asked each of the 19 servicemen about the reason for refusing to exercise. According to the witnesses, Akhalaia's questions were insulting. Akhalaia threw a half-liter bottle at one of the soldiers, but could not get him. According to the testimony of another soldier, he was verbally and physically insulted by Giorgi Kalandadze. Afterwards, the defendants ordered the soldiers to take off the clothes above the waist, took their photos, and later made them run for 1 hour and shout the phrase "It's bad not to eat the food".

Aleksandre Gorgadze was managing the soldiers' run. According to one of the soldiers, he experienced pains and therefore had difficulties in running. As a result, Aleksandre Gorgadze insulted him verbally.

In accordance with the indictment, Bachana Akhalaia later went out in the yard and ordered that the soldiers exercising on the drill ground be brought over. Afterwards the soldiers were locked up in the bathhouse territory of the military base, where they spent three days. According to one of the victims, they were in quite grave conditions. After they were locked in the bathhouse, the heating was turned off. As one of the witnesses has testified, his condition deteriorated so much that when he was permitted to leave the bathhouse, he could not walk and therefore had to be carried to the car.

The defense:

The defense has called 30 ²witnesses, including three guards of Bachana Akhalaia. They deny that verbal or physical insult of soldiers by Bachana Akhalaia and other defendants took place. They allege that the crime has not taken place.

The defendants also deny committing the offences. They do not plea guilty and their witness' statements coincide with each other.

At the trial, some of the witnesses stated that the respective official document on the transfer of 19 servicemen to the Senaki Base had not been drawn up. According to the witness' testimonies, it is mandatory to draw up such a document if the location of the soldiers' deployment is changed.

2. The episode of Vaziani

(Verbal and physical insult of 5 servicemen in October 2011
at the Vaziani Military Base)

2.1. Defendants and the charges brought:

Bachana Akhalaia – the Minister of Defense of Georgia; the Minister of Interior.

Charges brought:

Exceeding of official power by a state-political official, which has inflicted substantial damage on the right of a natural person and the legal interests of the state, committed through insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 2 and Sub-Section 'c' of Section 3.

Zurab Shamatava – the Head of the 4th Infantry Brigade at the Vaziani Military Base;

Aleksandre Gorgadze – Sergeant of the General Staff of Armed Forces; Sergeant of the 4th Infantry Brigade;

Giorgi Kalandadze – the Head of the United Staff.

Charges brought:

Exceeding of official power by a civil servant, which has inflicted substantial damage on the right of a natural person and the legal interests of the state, committed through insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 3, Sub-Section 'c'.

² Edited based on Prosecutor's comments

2.2. Description of offense by the prosecution:

The prosecution alleges that in October 2011, 5 servicemen were verbally and physically insulted. The same persons were forced to write under threat applications for leaving the military forces.

2.3. Evidence/witness testimonies in the case:

The prosecution:

According to the witness testimonies, the soldiers of the Vaziani military unit failed to undergo a test due to poor training, following which they were dislocated from special operations detachment in the military brigades. Due to this fact, several soldiers have expressed dissatisfaction. According to the witnesses, Bachana Akhalaia has visited Vaziani on 25³ October 2011 to talk to the soldiers. He summoned the servicemen into one of the offices. As the witnesses testified, Zurab Shamatava was also present in the office, as the soldiers who had expressed dissatisfaction due to dislocation in brigades, were his subordinates.

The prosecution's witnesses (victims) have stated that they were physically assaulted and verbally insulted. According to one of the victims, he was brought to the Minister's office, where Akhalaia, who was dissatisfied with his training level, hit him on the head with the blunt side of a knife.

The defense:

Bachana Akhalaia claims he had not resorted to force or insult during the meeting. Two former advisers of the Minister and the current MP Kakha Butskhrikidze, who were questioned as witnesses, have testified the same.

According to one of the witnesses, in October 2011 Bachana Akhalaia had indeed visited the territory of the Vaziani Military Base, but this witness said Akhalaia had visited to congratulate the servicemen for the completion of their training.

3. The episode of illegal deprivation of Abesadze's liberty

*(Illegal deprivation of Zurab Abesadze's liberty
on 13 September 2011)*

3.1. Defendants and the charges brought:

³ Edited based on Prosecutor's comments

Bachana Akhalaia – the Minister of Defense of Georgia; the Minister of Interior.

Charges brought:

1. Exceeding of official power by a state-political official, which has inflicted substantial damage on the right of a natural person and the legal interests of the state, committed through insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 2 and Sub-Section 'c' of Section 3.
2. Illegal deprivation of liberty, committed through conspiracy by a group, – Criminal Code of Georgia, Article 143, Section 3, Sub-Section 'a'.

Manuchar Daraselia – employee of the Penitentiary Department;

Giorgi Kintsurashvili – employee of the Penitentiary Department;

Gaga Mkurnalidze – the First Deputy Head of the Penitentiary Department.

Charges brought:

1. Exceeding of official power by a civil servant, which has inflicted substantial damage on the right of a natural person and the legal interests of the state, committed through insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 3, Sub-Section 'c'.
2. Illegal deprivation of liberty, committed through conspiracy by a group, – Criminal Code of Georgia, Article 143, Section 3, Sub-Section 'a'.

Comment: *Gaga Mkurnalidze, Manuchar Daraselia and Giorgi Kintsurashvili were involved originally in the proceedings as witnesses, but after changing the testimony they were presented before the court as defendants (see additional information in the sub-chapter on the course of proceedings).*

3.2. Description of offense by the prosecution:

According to the indictment, on 13 September 2011, at first light Bachana Akhalaia verbally and physically insulted Zurab Abesadze in one of the Tbilisi-located restaurants and demanded from him, using threats, to present his own car to the Penitentiary Department. Abesadze eventually consented. After the transfer of the car, Abesadze was taken at Bachara Akhalaia's instruction, to the Mukhiani Settlement in Tbilisi, where he was illegally deprived of liberty until 9 pm on 13 September 2011.

3.3. Evidence/witness testimonies in the case:

The prosecution:

As the witness **G.B.** has testified, Bachana Akhalaia contacted him in the morning hours and told him to bring Zurab Abesadze to the restaurant. According to the witness, he and Bachana Akhalaia were friends with Abesadze and were the godfathers of his child. G.B. has fulfilled the instruction and brought Zurab Abesadze to the designated place, while he himself left the restaurant soon after. According to him, he did not witness any violence in the restaurant, and accordingly, is unable to confirm whether Akhalaia had personally participated in beating of Abesadze. After 4-5 days, when he met Zurab Abesadze again and noticed on him the signs of physical injuries, Abesadze claimed that he had had a car accident. The defense has asked the witness several times whether pressure had been put on him at the stage of investigation. The witness denied any pressure.

According to the testimony of **Zurab Abesadze** (recognized as the victim in the proceedings), a stranger had contacted him at 4 am, who has insulted him verbally. He replied with the same. The victim was contacted the same night and he was made to meet Bachana Akhalaia in one of the restaurants. After the meeting it turned out that Gaga Mkurnalidze had talked to him on the phone. Afterwards the victim was beaten and deprived of liberty illegally. According to Abesadze's testimony, Bachana Akhalaia also beat him, but was not there personally during the moment of deprivation of liberty. As Abesadze has stated, he was later released under the conditions of remaining silent about his punishment and abandoning the title to his car. The witness testimony provides grounds to assume that unlawful actions against him aimed to punish him for verbally insulting a person on close terms with Bachana Akhalaia.

The victim noted that he then did not address relevant authorities with the request of investigation because of fear. Only after the change of authorities did he manage to write this application. After questioning the victim it was revealed that he had financially assisted the opposition parties due to his negative attitude towards the authorities.

It has also been established at the trial that the victim was tried twice for fraud and robbery (without specifying the years and details at the trial). In this respect, **Zurab Abesadze** has stated that he was tried unlawfully, aimed at confiscating his business. However, he did not specify the type of such business.

The defense:

Examination of one of the Prosecution's key witnesses **Gaga Mkurnalidze** by the defense has revealed that he changed his testimony. At the stage of investigation he was claiming that he had deprived **Abesadze** of liberty at **Akhalaia's** instruction. **Mkurnalidze** has noted that during the investigation he testified that way because of the pressure exercised on him by the investigation, and that no criminal offense had taken place against the victim. **Mkurnalidze** has not indicated who specifically was applying pressure. At this stage, **Gaga Mkurnalidze** is the defendant in the case.

Comment: *After changing the testimony, the Prosecutor's Office has involved Gaga Mkurnalidze as defendant in the case of beating Z. Abesadze and depriving him of liberty illegally.*

According to one of the defense witnesses, Tea Tutberidze, 2 people (**Manuchar Daraselia and Giorgi Kintsurashvili**) have contacted her on 10-11 November 2012. They were the employees of the Penitentiary Department (these persons are witnesses in the Akhalaia case), who have informed her about the pressure exercised on them by the employees of the Prosecutor's Office. According to them, the employees of the Prosecutor's Office had told them they would maintain their status of witnesses if they would testify against **Akhalaia**, and that otherwise they would be tried in court as defendants. One of the witnesses has released the

[video](#) address as well. **Giorgi Kintsurashvili** was referring to the fact that he was depicted in the video images of torture.

The Chief Prosecutor's Office of Georgia confirms that **Manuchar Daraselia** and **Giorgi Kintsurashvili** were the witnesses in the **Abesadze** episode, and although their actions contained criminal elements, they were not indicted initially (see the [statement](#) of the Chief Prosecutor). **Manuchar Daraselia** and **Giorgi Kintsurashvili** were indicted after the release of mentioned [videos](#).

According to the statement defendant **Merab Kikabidze** made at the trial, the employees of the Prosecutor's Office demanded from him that he testify against Akhalaia. Whereas, in regards to the Abesadze episode, the summoned witness **T.T.** stated that pressure was put on him by the Criminal Police of the Ministry of Interior to testify against Akhalaia.

4. The course of proceedings:

Motion of the defense: After Gaga Mkurnalidze changed the testimony he gave during the investigation later at the trial, the defense motioned to find Mkurnalidze's first testimony inadmissible and to replace the preventive measure applied towards Bachana Akhalaia – detention – with bail (50 thousand GEL).

In filing this motion the defense was referring to the norms of international law, according to which detention of the defendant is applied only in cases of extreme necessity. Further, the defense was appealing to the fact that now the case was already tried on merits, and accordingly there was no danger that Bachana Akhalaia would obstruct the collection of evidence or exert influence on witnesses.

Comment: *The danger of obstruction in collection of evidence and/or exertion of influence on witnesses by Bachana Akhalaia was the prosecution's argument behind justifying the necessity of applying detention as a preventive measure.*

The defense has examined the grounds of detention stipulated in the respective articles of the Criminal Procedure Code of Georgia one by one, and concluded that none of the grounds existed. The defense has also noted that initially 2 charges were brought against Bachana Akhalaia, and that separate investigations were underway. Detention as a preventive measure was applied for Akhalaia in both cases, and afterwards by its resolution the Prosecutor's Office has combined these cases into 1 case. Yet, 2 detentions applied towards Akhalaia have remained as a preventive measure. Additionally, the defense noted that the legislation did not prescribe such a rule, and that therefore the detention applied as a preventive measure should have been replaced.

Position of the prosecution: The prosecution has responded to the motion of the defense by arguing that detention was applied towards Akhalaia twice by court rulings, in full observance of the law, and that there were no grounds for replacing the detention. In response to the argument of the defense that the collection of evidence in the case was completed and that there was no danger of influencing the witnesses because all of them had been examined, the prosecution has noted that the testimony is final when the witness provides final information to court at the trial on merits; hence, the danger of Akhalaia's influence on the witnesses was not expunged. The prosecutor thought that the defense failed to present a new circumstance for replacing the detention applied as a preventive measure with bail, and that therefore this motion should have been rejected.

Ruling: Following an hour of deliberations on this motion, the judge announced a ruling in the courtroom, according to which the motion on replacing detention with bail for Akhalaia was rejected. As the court explained, the possibility of influencing the witnesses to be questioned during the trial on merits by the defendant still prevailed; further, the court noted that the defense has failed to refer to a circumstance which, according to the Criminal Procedure Code of Georgia, would have been considered a new circumstance, thus serving as a basis for replacing detention with other types of preventive measures.

The judge has noted that many witnesses who had already given statements against Akhalaia, still had to be questioned at the trial on merits, and therefore the danger of influencing these witnesses still existed.

Motion of the defense: At a pre-trial hearing, Bachana Akhalaia's defense attorney motioned to allow the audio and video recording of the court session.

Position of the prosecution: The prosecution objected to this motion, stating: "The motion does not have any legal grounds". Representatives of the Prosecutor's Office have not presented any other arguments.

Ruling: By deliberating in the courtroom, the judge has partly satisfied the motion. In particular, he has authorized the defense to make audio recording only, while stating in respect of video recording that at the time the law was not amended concerning video recording of the proceedings.

Comment: *At the time the Organic Law of Georgia on the "Common Courts" did not contain the amendment authorizing the direct and unlimited video recording of the proceedings, however, even according to the law in effect at the time, the judge could have allowed video recording of the trial by his own decision.*

Application by court of disciplinary measures against the parties: The testimony of one of the witnesses about the episode of Senaki was followed by Bachana Akhalaia's inadequate reaction, for which the judge has made him leave the courtroom. Akhalaia's defense attorney has also left the courtroom as a sign of protest and the judge fined him 500 GEL for arbitrarily leaving the trial.

At one of the hearings the mobile phone of the defense attorney rang, for which he was fined 100 GEL. At another trial the judge has expelled the intern-lawyer⁴ from courtroom due to inappropriate comments.

5. Preventive measures applied:

Motion of the prosecution: The prosecution requested the application of detention as a preventive measure against the defendants.

Position of the defense: The defense has objected to this motion, claiming that there were no grounds to assume that the defendants would have exerted influence on the witnesses, destroyed evidence, or otherwise obstructed the course of the proceedings.

⁴ Edited based on Prosecutor's comments

Ruling: The court examined this issue and in view of the existing situation has applied detention as a preventive measure for Bachana Akhalaia, Gaga Mkurnalidze, Manuchar Daraselia and Giorgi Kintsurashvili. Bail of 20 thousand GEL has been granted to Zurab Shamatava and Giorgi Kandelaki, and bail was also granted Aleksandre Gorgadze. No preventive measure was applied for the defendant Merab Kikabidze.

Comment: *Manuchar Daraselia and Giorgi Kintsurashvili are in hiding; they are wanted.*

6. The verdict:

On 1 August 2013 the judge has announced the verdict, by which **Bachana Akhalaia was acquitted in all three episodes**. Neither Giorgi Kalandadze, Merab Kikabidze, Gaga Mkurnalidze, Giorgi Kintsurashvili or Manuchar Daraselia were found guilty.

Zurab Shamatava and Aleksandre Gorgadze, who were accused of exceeding official powers, were held liable for beating and were sentenced to **150 hours of community service**. Furthermore, according to the 12 January 2013 Law of Georgia on "Amnesty", both of them were released from serving the sentence and the liability.

7. Our observation:

7.1. On the episode of Senaki:

According to the witness testimonies, Bachana Akhalaia did not personally participate in locking up the soldiers in the bathhouse. According to them, the Minister issued the order by saying "make them rest", which the prosecution's witnesses assumed meant locking them up in the bathhouse. Further, witness testimonies do not confirm either that during the period of restriction of liberty the conditions in the bathhouse deteriorated (turning off the heating) at Bachana Akhalaia's direct instructions.

7.2. On the episode of Vaziani:

Mutually excluding versions of developments were presented in the case by the defense and prosecution. Furthermore, it is unclear which side was giving false statements.

7.3. On the episode of illegal deprivation of Abesadze's liberty:

Throughout the proceedings, 3 key witnesses of the prosecution have changed testimony. Their new testimonies excluded Bachana Akhalaia's involvement in the crime. All three witnesses were referring to pressure exercised by the Prosecutor's Office and coercion to give false testimony against Bachana Akhalaia.

Case №2: The so-called Ranger Course case
(Torture and the degrading, inhuman treatment of
7 servicemen at the Iaghluji Military Base)

1. Defendants and the charges brought:

Bachana Akhalaia – the Minister of Defense of Georgia; the Minister of Interior.

Charges brought:

1. Abuse of official power by a state-political official, committed through violence and insulting the victim's personal dignity, – Criminal Code of Georgia, Article 332, Section 2 and Sub-Sections 'b' and 'c' of Section 3.
2. Torture, committed by a civil servant through the abuse of official power against two or more persons, in a group and due to political views, – Criminal Code of Georgia, Article 144¹, Section 2, Sub-Sections 'a', 'b', 'd', 'e' and 'f'.
3. Degrading and inhumane treatment committed by a civil servant through the abuse of official power, against two or more persons, in a group and due to political views, – Criminal Code of Georgia, Article 144³, Section 2, Sub-Sections 'a', 'b', 'd', 'e' and 'f'.

Davit Vekua – the Head of the First Unit of the Ministry of Interior of Georgia;

Davit Chubinidze – contractual employee of the protection of strategic pipelines of the Ministry of Interior of Georgia;

Aleksi Davitashvili, Davit Giorgashvili, Robert Sutidze, Vladimer Dzagniev – the Military Officers of the Mountain-Intelligence Battalion of the Ministry of Defense of Georgia;

Mamuka Abashidze – Head of the Special Operations Center of the Ministry of Interior of Georgia, Vice-Colonel.

Charges brought:

1. Abuse of official power, committed through violence and insulting the victim's personal dignity, – Criminal Code of Georgia, Article 332, Section 3, Sub-Sections 'b' and 'c'.
2. Torture committed by a civil servant through the abuse of official power, against two or more persons, in a group and due to political views, – Criminal Code of Georgia, Article 144¹, Section 2, Sub-Sections 'a', 'b', 'd', 'e' and 'f'.
3. Degrading and inhumane treatment, committed by a civil servant through the abuse of official power, against two or more persons in a group and due to political views, – Criminal Code of Georgia, Article 144³, Section 2, Sub-Sections 'a', 'b', 'd', 'e' and 'f'.

2. Description of offense by the prosecution:

All eight⁵ people are accused of torturing 7 employees of the First Unit of the Special Operations Department of the Ministry of Interior on the Iaghluji training base, of illegally depriving them of liberty, and of exceeding official powers. Pursuant to the indictment, Bachana Akhalaia has learned that these persons were the supporters of the "Georgian Dream" Coalition, and decided to torture them and subject them to degrading and inhuman treatment, organizing all of this through the abuse of official position. On 18 August 2012 Bachana Akhalaia was in the territory of the First Unit when he verbally insulted Z.F., while Davit Vekua humiliated and infringed upon the honor and dignity of six others. Later these people were forced to write letters of resignation, however, instead of be dismissed they were transferred to Ialghuja training base. The physical and verbal insult of servicemen then continued at the Ialghuja base.⁶

3. Evidence/witness testimonies in the case:

The prosecution:

Persons found as victims in this case have alleged that initially they were physically and verbally insulted in the territory of the First Unit by Bachana Akhalaia and Davit Vekua. After being transferred to the Norio base, various types of violence were exercised towards them. Further, the prosecution alleged that these actions were carried out at the instruction of Bachana Akhalaia, as the victims were supporting the opposition party.

According to the victims, after being brought to the base, **Davit Chubinidze** ordered that their personal items be taken away. According to **M.ZH.**, a mobile phone was found in his bag, for which **Mamuka Abashidze** and **Aleksi Davitashvili** beat him up with cruelty. Afterwards, 7 people were taken away to exercise and were forced to run. When running, they were humiliated, physically insulted, and their dignity was infringed upon. After the exercise, the victims were locked up in the abandoned building in the territory of the base for 30 minutes. After their release, Aleksi Davitashvili spilled water on them. According to **Z.F.**, Davit Chubinidze fired a weapon towards his feet, while physically assaulting 2 other victims with the butt of a weapon. Later on the same people were thrown in the dug-out hole and piled with earth. According to the witnesses, they have managed to get out from the hole. Their torture has still continued though. The witnesses allege that unlawful actions against them were accompanied with verbal insults in connection with their political views. Inhuman treatment towards the victims has continued until 21 September 2012.

The defense:

At one of the trials, witness **D.K.** has explained that mental duress on the soldiers was part of the so-called Ranger Course, and it may have been expressed in either verbal or physical insult. In this respect the Prosecutor's Office focused on the fact that there is no document confirming official existence of the Ranger Training Course at Ministry of Internal Affairs. According to the defendant Bachana Akhalaia, this document was available in the Ministry of Interior and the Prosecutor's Office could have requested it, but was not doing this intentionally.⁷

⁵ Edited based on Prosecutor's comments

⁶ Edited based on Prosecutor's comments

⁷ Edited based on Prosecutor's comments

Witnesses **G.K.**, **G.Q.** and **Z.TS.** have confirmed that the victims were undergoing the Ranger Course on the Iaghluji Training Base and that the insulting actions were a part of this Course.

The defendants deny charges brought against them. The defense has submitted at trial as evidence the photographs of servicemen, taken at the time when, according to the indictment, they should have been tortured. The defense alleges that in the submitted photographs taken in Antalya, the victims did not have any signs of physical violence, regardless of their statements that several of them were in grave physical condition and could not move. The defense alleged also that all seven victims were given monetary compensations and instead of rehabilitation were sent on holiday to one of the Turkish resorts.

4. The course of proceedings:

During one of the trials of this case, while examining one of the witness (**S.Q.**) (based on the motion of the defense the court security officers have inspected the witness during the process of testimony) the names and surnames of victims were discovered written on the palm of his hand.⁸

According to one of the defendants **Alexi Davitashvili**, at this stage of the investigation he was requested to testify against Bachana Akhalaia and it was **explained to him that he would not be indicted in exchange for such a testimony.**

At one of the hearings the defense motioned about replacing the detention applied towards defendant Davit Chubinidze with a less severe preventive measure. The court has examined this issue and concluded in view of case circumstances that the danger of destruction of evidence and exertion of influence on witnesses by the defendant no longer existed, and therefore satisfied the motion. Preventive measure towards Davit Chubinidze was replaced and bail (15 thousand GEL) was applied instead of detention.

During the closing arguments of the parties the defense attorneys have expressed insulting attitude towards the prosecution. In particular, one of the defense attorneys called the prosecutor a relict of the Soviet Union and “comrade” by title. In addition, the defense attorney accused the prosecution of low professionalism and fabricating the evidence.

Comment: *During one of the hearings, a protest rally against Bachana Akhalaia was organized outside of the building of the Tbilisi City Court. When the trial ended and the audience in the courtroom including Bachana Akhalaia's friends and relatives and the defense attorneys left the court building, they were verbally insulted. The defense attorneys have responded to the rally participants with the same, after which the verbal confrontation grew into physical insult. To avoid the worsening of the situation, officers of the Patrol Police detained several people for hooliganism.*

5. Preventive measures applied:

⁸ Edited based on Prosecutor's comments

Motion of the prosecution: The prosecution has requested the court to apply detention as a preventive measure in light of the gravity of charges, identities of defendants and the danger that they would exert negative impact (influence over witnesses, destruction of evidence) on the course of the case.

Position of the defense: The defense objected to this motion and did not share the prosecution's argument about possible obstruction of proceedings by the defendants.

Ruling: Detention was applied for Bachana Akhalaia as a preventive measure (detention was already applied towards him in another case). A Bail as a preventive measure was imposed on five defendants: on David Vekua, Mamuka Abashidze, Vladimir Zangieva, David Giorgashvili and Robert Sutidze. David Chubinidze and Alex Davitashvili initially were sentenced to imprisonment, but later for two of them: David Chubinidze and Alex Davitashvili, after the examination of the prosecution's evidence on a court hearing, by the motion of defense, custody was changed with bail.⁹

6. The verdict:

The verdict has not yet been rendered on the case. At this stage the closing arguments of the parties are heard.

7. Our observation:

The victims allege that physical and mental violence was exercised against them, including by Bachana Akhalaia personally. Yet, it is noteworthy that one of the victims had written the identities of other victims on his palm, which raises questions about his testimony in the eyes of an impartial observer. Furthermore, one of the witnesses of the prosecution changed his testimony, stating that he was forced to testify against Bachana Akhalaia. Nevertheless, the fact of coercion is not established/proved.

According to the witnesses called by the defense, psychological abuse was part of the so-called Ranger Course. Unfortunately, however, the defense has failed to submit a concrete document describing the methodology of this training course.

Case №3: The so-called Prison Riot case

(The so-called Prison Riot of 26-27 March 2006 in the Institutions N1 and N5 of the Penitentiary Department and the medical institutions of convicts and inmates)

1. Defendants and the charges brought:

Bachana Akhalaia – the Minister of Defense of Georgia; the Minister of Interior; the Head of the Penitentiary Department of the Ministry of Justice.

⁹ Edited based on Prosecutor's comments

Megis Kardava – the Head of the Military Police Department of the Ministry of Defense of Georgia;

Revaz Charbadze – the Head of the State Procurements Department of the Ministry of Defense of Georgia;

Davit Chakua – Acting Head of the subordinate institution of the Ministry of Corrections and Legal Assistance of Georgia – the Penitentiary Department.

Charges brought:

Abuse of official power, committed through violence and insulting the victim's personal dignity, – Criminal Code of Georgia, Article 332, Section 3, Sub-Sections 'b' and 'c'.

2. Description of offense by the prosecution:

According to the indictment, Bachana Akhalaia designed a plan, according to which the general public should have had the impression that the inmates of Institutions N1 and N5 of the Penitentiary Department and the medical institutions of convicts and inmates had planned the riot. **This plan aimed at refuting the released information about the torture of inmates and the cruel treatment towards them by Bachana Akhalaia.** Later it turned out that the accomplices of the plan **P.M., Z.V., G.A. and L.TS.** have not fulfilled actions foreseen in the plan, for which the defendants assaulted them physically and verbally. Degrading treatment was carried out in front of other people present in the penitentiary institution, which, according to the indictment, resulted in the commotion in the medical, N1 and N5 Institutions, which finally developed into the riot.

3. Evidence in the case:

In light of specifics of this case, evidence submitted by the prosecution includes witness statements, who, as they allege, witnessed the developments in the penitentiary institution.

The witnesses have not been examined in court yet.

4. The course of proceedings:

A hearing was held on the case, at which the application of a preventive measure was examined. A pre-trial hearing was held in July 2013. The defense has motioned to invalidate the indictment against Bachana Akhalaia. The trial was adjourned to give the prosecution a possibility to formulate a position in respect of this motion.

5. Preventive measures applied:

Motion of the prosecution: The prosecution has requested that the court apply detention as a preventive measure for Bachana Akhalaia. The prosecution alleged that the defendant would exert influence on the witnesses.

Position of the defense: The defense has objected to this motion, claiming that detention had already been applied towards Bachana Akhalaia several times in another case; accordingly, the application of another detention would breach the law. Further, as Bachana Akhalaia was already in detention, the danger of influencing the witnesses did not exist either.

Ruling: The court has examined the issue and applied detention as a preventive measure for Bachana Akhalaia and other defendants.

Comment: *As known, defendant Megis Kardava is in hiding.*

6. The verdict:

A verdict has not been rendered on the case yet. The case has not been tried on merits.

7. Our observation:

The case has not been tried on merits and the witnesses have not testified yet; consequently, we are unable to present our observations at this time.

Giorgi (Gigi) Ugulava and Davit Kezerashvili

1. The episode of TV Company "Imedi"

(Waiving of his share in TV Company "Imedi" by Joseph Kay and its transfer in the ownership of person on close terms with the authorities)

1.1. Defendants and the charges brought:

Giorgi Ugulava – Current Mayor of Tbilisi;

Davit Kezerashvili – the Minister of Defense of Georgia.

Charges brought:

Legalization of illicit income in especially large quantities, – Criminal Code of Georgia, Article 194, Section 3, Sub-Section 'c'.

1.2. Description of offense by the prosecution:

As of 2008, Joseph Kay owned the controlling interest in “TeleImedi” LLC, who by that time had spent 10 million USD for the operation of the TV Company. According to the indictment, Davit Kezerashvili met Joseph Kay on behalf of the authorities and made him abandon “TeleImedi” with threats. Further, Kezerashvili promised that Giorgi Ugulava would reimburse him the expenses in the amount of 10 million USD.

In particular, according to the indictment, at the instruction of Giorgi Ugulava, Joseph Kay transferred his share of “TeleImedi” LLC to the Panama-registered company “Bordex Limited”, controlled by Davit Kezerashvili. Afterwards, Giorgi Ugulava agreed with the owners of “Akhali Rike” LLC that the Tbilisi City Hall would buy back for 17 million USD the riverbank territory purchased in 2006 for 7 million USD, of which 10 million USD would be transferred to Joseph Kay. On 29 December 2008, the Tbilisi City Hall issued the resolution in the name of the Tbilisi Government, based on which 17 million USD were transferred to “Akhali Rike” LLC to buy back the riverbank territory from the “Old City Rehabilitation and Development Fund” established by the Tbilisi City Hall. After that the agreement was executed between the management of “Akhali Rike” LLC and Joseph Kay’s company “Lakebrow Limited”, based on which 8,811,189 USD were transferred from the bank account of “Akhali Rike” LLC to Joseph Kay’s company. Based on the above, the investigation concluded that the TV Company “Imedi” was stolen into ownership by means of misappropriation of public funds and their further laundering.

According to the indictment, Davit Kezerashvili was involved in this case as follows: Davit Kezerashvili has met Joseph Kay on behalf of the authorities and made him abandon “TeleImedi” under direct threats, on the sole condition that Giorgi Ugulava would have reimbursed him the expenses in the amount of 10 million USD. At

the instruction of Giorgi Ugulava, Joseph Kay has transferred his share to the Panama-registered company “Bordex Limited”, controlled by Davit Kezerashvili.

1.3. Evidence in the case:

Giorgi Ugulava and Davit Kezerashvili were indicted based on 2 statements given by Joseph Kay in the Georgian Consulate in Istanbul. In his statements Joseph Kay describes the scheme designed by the defendants, aimed at misappropriating the share in TV Company “Imedi” owned by Joseph Kay. Notably, the case has not been tried on merits; accordingly, Joseph Kay has not testified in court. Case materials include only the statements that he gave to the Prosecutor’s Office.

2. The episode of funding the activities of "United National Movement" activists from the state funds

2.1. Defendants and the charges brought:

Giorgi Ugulava – Current Mayor of Tbilisi.

Charges brought:

Embezzlement of other’s property in large quantities, – Criminal Code of Georgia, Article 182, Section 3, Sub-Section 'b'.¹⁰

2.2. Description of offense by the prosecution:

Giorgi Ugulava was also indicted for funding the activities of the political party “United National Movement” through the abuse of public funds. In particular, due to his instruction to distribute money to the activists of “United National Movement”, the “Public Relations Department” was specially set up in “TbilService Group” LLC on 31 December 2009, in which 764 activists – so-called party coordinators – were fictitiously registered. Most of them have never worked in this office while pursuing party activities. Nevertheless, 4,130,728 GEL were transferred to them as salaries from the assignments allocated for the capital’s budget.

2.3. Evidence in the case:

Evidence has not been examined at this stage, but the court has examined the admissibility of evidence submitted by the defense and the prosecution (22 and 58 volumes, respectively). The defense has requested to find several pieces of evidence of the prosecution inadmissible, as allegedly they were collected through violations of the law (*see below*).

4. The course of proceedings:

The defendant rejected the court’s offer to transfer the case to jury trials, as he believed that the general public was already prejudiced towards the case, thus creating the danger of a biased verdict by the jury.

¹⁰ Edited based on Prosecutor's comments

Motion of the defense: The defense has requested finding the statement of N.B. inadmissible, arguing that there were substantial differences between the statements given by this witness during the investigation.

Position of the prosecution: The prosecution alleged that it is wrong that N.B. has substantially changed the original testimony and given mutually exclusive statements.

Ruling: The court explained that at this stage it did not examine the content of witness statements, and therefore it would have been unable to judge on the differences in the statements. The court deemed that this was a matter of substantive examination. *The motion was rejected* and this piece of evidence was admitted.

Motion of the defense: The defense claimed that the first examination of Joseph Kay on 15 February 2013 in the Turkish territory was illegal. Namely, the prosecution did not have the right to examine a US citizen who was in the Georgian Consulate in Istanbul, as the Georgian Consulate in Turkey is not in Georgian but Turkish territory (respective normative materials and arguments were submitted). As the examination took place on Turkish territory, the request by the Ministry of Justice of Georgia to relevant authorities of a foreign state was required. Accordingly, the defense alleged that the examination was illegal. The defense has challenged the second examination as well. It claimed the minutes of examination had to be invalidated as they were based on information obtained from the first examination. The defense argued that because the minutes of the first examination were obtained illegally, the court should have found the additional minutes based on it as inadmissible. *The defense noted also that 600 words from the first statement were entirely copied in the second statement, which proves the fabrication of evidence.* Further, the defense has presented an expert opinion, which proved that 600 words in the minutes of the second examination were copied from the minutes of the first examination. The court found this expert opinion as admissible evidence and attached it to the case materials.

Position of the prosecution: The prosecution has objected to the motions of the defense, stating that the first examination was carried out in the presence of Joseph Kay's 2 attorneys. As for his second witness statement, it was obtained independently from the first one; accordingly, even if the court had found the first statement illegal, the second statement should have still been found as admissible. The prosecution did not comment on the similarity between the first and second statements.

Ruling: The court has *partially satisfied* the motion of the defense on inadmissibility of evidence. In particular, the 15 February 2013 witness statement of Joseph Kay was removed. The court explained that this piece of evidence was obtained through the breach of procedural norms. **The court ruled that the consulate of Georgia is not the territory of Georgia and the prosecution was obligated to request legal assistance from Turkey and follow the procedure established by procedural legislation for examining persons being abroad.** Joseph Kay's second witness statement obtained in Tbilisi was admitted into evidence.

Motion of the defense: The defense has requested also to remove Paata Siradze and Giorgi Isakadze from the witness list. These witnesses were examined during the night hours, which is allowed by legislation only in the case of urgent necessity. The defense alleged there was no urgent necessity in this particular case.

Position of the prosecution: The prosecution stated that the evidence should have been found admissible and the witnesses should have remained on the list because they were examined during the night hours due to urgent necessity.

Ruling: The court did not find the examination of these persons during the night hours as a sufficient ground for

finding this evidence inadmissible; accordingly, this *motion of the defense was rejected* and the witness statements were attached to case materials.

Motion of the defense: In the course of proceedings the defense has motioned to terminate criminal prosecution against defendant Davit Kezerashvili, alleging that the fact of meeting between Davit Kezerashvili and Joseph Kay was not proven, and therefore the grounds for launching criminal prosecution against him did not exist.

Position of the prosecution: The prosecution did not agree with this motion of the defense. To justify its position, the representative of the Prosecutor's Office started examining the statement, while the defense has objected, indicating that at this stage evidence should not have been examined substantially and its content should not have been disclosed. The judge has sustained the objection.

Ruling: The motion of the defense *was rejected*. The judge ruled that as in case of "TbilService Group" LLC, as well as in case of TV Company "Imedi", the signs of potential criminal offenses committed by Kezerashvili were perceptible.

5. Preventive measures applied:

Motion of the prosecution: The prosecution has requested the court to apply bail towards Giorgi Ugulava in the amount of 1 million GEL. This motion was based on the gravity of charges, as well as the personality and income of Giorgi Ugulava.

Position of the defense: The defense has objected to the prosecution's motion. It argued that application of bail in the amount of 1 million GEL was impossible because over 5 years Ugulava was paid a salary of only 500 thousand GEL. The defense also argued that the fact that Ugulava has 5 minor children should have been taken into account. The defense noted also that there was no need to apply a preventive measure, because during that period defendant Giorgi Ugulava had left the country's territory several times, and despite of everything, he had returned to Georgia as he believes that he is innocent, cooperates with the investigation and intends to prove his innocence in court.

Ruling: The court has rejected the motion of the Chief Prosecutor's Office of Georgia, as the prosecution has failed to justify the formal grounds of application of a preventive measure. The court ruled there was no danger that defendant Giorgi Ugulava would hide, commit a new crime, exert influence on the participants of trial or obstruct the investigation.

Motion of the prosecution: The prosecution has requested also to prohibit the Mayor of Tbilisi from crossing the Georgian border, and to obligate him to appear in the investigative authority on a weekly basis.

Position of the defense: The defense has responded that this motion lacked legal grounds, while the Prosecutor's Office aimed at humiliating the political opponents. The defense has additionally noted that the defendant, as the Mayor of the city, had to leave on business trips often due to his official duties, and thus imposing such restriction on him would be inappropriate.

Ruling: The motions were rejected. As a result, a preventive measure of any kind was not applied against Giorgi Ugulava.

Notably, another motion was submitted in court concerning the dismissal of Giorgi Ugulava from office. This motion of the prosecution was rejected by a court ruling and Giorgi Ugulava was not dismissed from office, as the grounds for dismissal of the Tbilisi Mayor from office indicated by the prosecution in the motion were general and lacked justification.

Motion of the prosecution: The prosecution has requested that the court apply detention as a preventive measure towards Davit Kezerashvili, because he has failed to appear in court; accordingly, the prosecution suspected he was hiding from court.

Position of the defense: Davit Kezerashvili's defense attorney objected to this motion, stating that the court should not have applied detention towards Kezerashvili and could have used bail instead. He stated also that Kezerashvili has not fled the country and was not hiding from the investigation and court; he simply could not manage to come to Georgia due to a lack of time.

Notably, the defense attorney has commented on the prosecution's motion to apply detention as a preventive measure towards Davit Kezerashvili, only after the judge reminded him that he was defending the interests of Davit Kezerashvili as well, along with those of Giorgi Ugulava.

Ruling: The prosecution's motion on application of detention as a preventive measure for Davit Kezerashvili was satisfied. Interestingly, Davit Kezerashvili has left the country and is now wanted.

6. The verdict:

A final verdict has not yet been rendered. The proceedings are still pending; examination on merits has been launched.

7. Our observation:

7.1. On the episode of TV Company "Imedi":

The prosecution relies mainly on witness statements. Furthermore, it turned out in the course of proceedings that one of the key pieces of evidence of the prosecution was obtained through violation of the law and was therefore invalidated.

7.2. On the episode of funding the activities of "United National Movement" activists from the state funds:

Witnesses in the case were giving rather diverse statements. At this stage the case is tried on merits. Remarkably, during the examination of application of preventive measures towards the defendants, the defense

attorney was focusing on Giorgi Ugulava only and was speaking from his perspective only. The judge has reminded the defense attorney that he was defending Davit Kezerashvili as well. Only afterwards has the defense attorney started mentioning the interests of Davit Kezerashvili.

Ivane (Vano) Merabishvili

Case №1

1. The episode of Sandro Girgvliani

(Obstruction of investigation on the pending criminal case of Sandro Girgvliani)

1.1. Defendants and the charges brought:

Ivane Merabishvili – the Minister of Interior of Georgia; the Prime Minister.

Charges brought:

1. Torture, committed by a civil servant or a person equal thereto, through the abuse of official power, – Criminal Code of Georgia, Article 144¹, Section 2, Sub-Sections 'a' and 'b'.
2. Exceeding of official power, committed through violence and insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 3, Sub-Sections 'b' and 'c'.

1.2. Description of offense by the prosecution:

The prosecution alleges that Ivane Merabishvili was acting against the official duties and public interests through the abuse of official powers and illegal interference, and intentionally exerted influence on the criminal case of infringement upon Sandro Girgvliani's life and liberty for ensuring biased and subjective legal proceedings. Later, throughout the entire period when the convicted people were serving their sentence, he has offered illegal benefits to the convicts and has facilitated their premature release from incarceration.

1.3. Evidence in the case:

At this stage only the hearing on the application of a preventive measure was held. Evidence has not been submitted yet. Nevertheless, according to the information released by the Prosecutor's Office in connection with the episode of Sandro Girgvliani, there are witness statements of dozens of persons (including Nino Burjanadze) in the case, which served as the basis for launching the investigation and later indicting Ivane Merabishvili. Further, there is written and material evidence in the case, such as the decree of the President of Georgia (on pardoning the convicts), the letters of Minister of Interior and the Director of the Constitutional Security Department, and the judgment of the European Court of Human Rights on "*Enukidze and Girgvliani v. Georgia*".

2. The episode of May 26

(Breaking up the 26 May 2011 protest rally
by unlawful methods)

2.1. Defendants and the charges brought:

Ivane Merabishvili – the Minister of Interior of Georgia; the Prime Minister.

Charges brought:

Exceeding of official power, committed through violence and insulting the victim's personal dignity, – Criminal Code of Georgia, Article 333, Section 3, Sub-Sections 'b' and 'c'.

2.2. Description of offense by the prosecution:

The prosecution alleges that under the direct instruction and guidance of Ivane Merabishvili, plans were made to break up the 26 May 2011 protest rally through unlawful measures. In particular, according to the indictment, the rally was not broken up through the use of proportionate force; people with different political opinions were assaulted, and the clear aim was to inflict mass detention, intimidation, punishment and physical and mental duress on the rally participants.

2.3. Evidence in the case:

At this stage only the hearing on the application of a preventive measure was held. Evidence has not been submitted yet. The Prosecutor's Office claims there are witness statements and other evidence in the case, such as the individual acts on imposition of disciplinary liability on the 15 employees of the Ministry of Interior.

4. The course of proceedings:

Only hearings on application of a preventive measure were held.

5. Preventive measures applied:

No preventive measure was applied against the defendant. Notably, the Kutaisi City Court had already applied detention against him in the case of vote-buying and misappropriation-embezzlement (*see below*); accordingly, he was already in detention and the Tbilisi City Court did not find it necessary to apply an additional preventive measure.

6. The verdict:

The final verdict has not been rendered on the case.

7. Our observation (on both episodes):

As the case has not been tried on merits yet, at this stage it is possible to assess the exercise of the parties' rights only. According to our observations, the rights of the defense have not been restricted at the trial; the principles of adversariality and equality of the parties were observed.

Case №2

1. The episode of vote-buying

(Spending of 5,2 million GEL from the budget for buying the votes in favor of the political union "United National Movement", which were allocated for funding the State Program for the Registration and Employment of the Unemployed)

1.1. Defendants and the charges brought:

Ivane Merabishvili – the Minister of Interior of Georgia; the Prime Minister.

Charges brought:

1. Vote-buying, – Criminal Code of Georgia, Article 164¹.
2. Misappropriation or embezzlement in large quantities, – Criminal Code of Georgia, Article 182, Section 3, Sub-Section 'b'.

Zurab Chiaberashvili – Chairman of the Central Election Commission of Georgia; the Mayor of Tbilisi; the Minister of Labor, Health and Social Welfare; the Governor of the Kakheti Region.

Charges brought:

Vote-buying, – Criminal Code of Georgia, Article 164¹.

1.2. Description of offense by the prosecution:

The Prosecutor's Office alleges that in order to buy the votes in favor of the political union "United National Movement" in the 1 October 2012 parliamentary elections, and to covertly and secretly fund this party with the public funds, the Prime Minister of Georgia Ivane Merabishvili, together with the Minister of Labor, Health and Social Welfare of Georgia Zurab Chiaberashvili and other persons, has planned and implemented the operation, as a result of which 5,2 million GEL were illegally transferred from the budgetary funds allocated for the State Program for the Registration and Employment of the Unemployed to approximately 22 thousand persons (240 GEL each). The prosecution alleges that these persons were fictitiously registered as supernumerary employees, while in fact they have not performed any work and received money only in exchange for voting for "United National Movement" and carrying out the election campaigning. Hence, in view of the above, the prosecution concluded that Ivane Merabishvili's actions have inflicted damage to the state in the amount of 5,2 million GEL.

1.3. Evidence in the case:

At this stage only the hearing on application of a preventive measure was held. Evidence has not been submitted and examined, but, according to the prosecution, 18 thousand witnesses have to be examined stage by stage in the case.

2. The episode of misappropriation of a country house

(Occupation and use of a luxury country house of "International Investment Company" LLC against the will of the owner)

2.1. Defendants and the charges brought:

Ivane Merabishvili – the Minister of Interior of Georgia; the Prime Minister.

Charges brought:

Abuse of official power by a state-political official, – Criminal Code of Georgia, Article 332, Section 2.

2.2. Description of offense by the prosecution:

According to the indictment, in May 2009 Ivane Merabishvili occupied a luxury country house owned by "International Investment Company" LLC without any legal grounds, against the owner's will, by means of coercion and threats. He and his family used this property for free for almost 4 years. He has also abused official powers in order to design somebody else's country house in accordance with the style of his own family members and renovated it with assignments of the Ministry of Interior. To erase the trace of a crime, Ivane Merabishvili has used secret expenses, with which, according to the law, special operational measures for combating the crime should have been funded. Further, according to his orders, the Ministry's budget was covering the salaries of support staff working in the country house. As a result, the state has incurred damages in the amount of 158 thousand GEL (2nd and 3rd episodes).

2.3. Evidence in the case:

At this stage only the hearing on application of a preventive measure was held. Evidence has not been submitted and examined, but the prosecution claims that several witnesses have to be examined in the case.

4. The course of proceedings:

The hearings on the application of a preventive measure were held. Notably, during the hearing on the application of a preventive measure against Ivane Merabishvili and Zurab Chiaberashvili in the Kutaisi City Court, both the supporters and opponents of the defendants have staged rallies in the territory adjacent to the court building.

5. Preventive measures applied:

Motion of the prosecution: The prosecution has requested the application of detention as a preventive measure against both defendants. The prosecution claimed that detention was essential, as otherwise the defendants may have crossed the border and hidden, exerted influence on witnesses or eluded the investigation.

Position of the defense: The defense has objected to the prosecution's arguments, stating there was no need to apply detention as a preventive measure towards the defendants.

Ruling: The court has examined this issue and in view of the essence of the charges, the identity of the defendants, and the danger of obstruction in collection of evidence or influence over the witnesses by them, has applied the preventive measures of detention against Ivane Merabishvili, and bail (20 thousand GEL) against Zurab Chiaberashvili.

6. The verdict:

The final verdict has not been rendered on the case.

7. Our observation (on both episodes):

At this stage the examination on merits has not been launched. Notably, when applying detention as a preventive measure, the Prosecutor's Office stated that all witnesses had not yet been examined, there was sufficient evidence in the case, and detention of Ivane Merabishvili was necessary for him not to exert influence on the witnesses.

Irakli Okruashvili

(Purchase of 63 million low-quality cartridges for the Ministry of Defense)

1. Defendants and the charges brought:

Irakli Okruashvili – the Minister of Interior of Georgia; the Minister of Defense; the Minister of Economic Development.

Charges brought:

Neglect of official duties, – Criminal Code of Georgia, Article 342.

Comment: *On 18 June 2011 the Prosecutor's Office has launched criminal proceedings against Irakli Okruashvili for forming and managing the illegal armed group. On 18 January 2013 charges against Irakli Okruashvili were cancelled.*

The observer of "Transparency International – Georgia" has not attended these trials, but the organization's lawyers have actively observed the developments in the case.

2. Description of defense by the prosecution:

63 million low-quality cartridges were purchased for the Ministry of Defense.

3. Evidence/witness testimonies in the case:

According to the witness testimonies, in 2006 the Ministry of Defense has purchased 63 million cartridges, which were brought to the country in 3 portions. Only the third portion was defective. The witnesses have stated also that the expert examination was conducted on cartridges when Davit Kezerashvili was already the Minister.

It turned out during the trial that the Minister was not personally responsible for checking the cartridges, but nevertheless, he was controlling this issue and the cartridges were checked at his instruction. Furthermore, it was established at the trial that the agreement on the purchase of cartridges was not signed by Irakli Okruashvili, but the Head of the Procurements Service, who was accountable before the Deputy Minister of Defense.

The expert who had carried out the ballistic tests was examined as a witness. According to his testimony, the efficacy of 1,650 cartridges was tested by a random sample selection (firing). According to the expert's conclusion, all cartridges had fired. Only a slight margin of error was identified in the speed of a bullet.

The testimony of Irakli Okruashvili himself was in line with the testimonies of other witnesses. Notably, according to the defendant, representatives of the company manufacturing the cartridges contacted him on their own concerning the purchase. Okruashvili claimed he was interested in purchasing the cartridges because at the end of 2006 it was decided to capture Tskhinvali; therefore, it was necessary to stock up on the cartridges.

4. The course of proceedings:

Motion of the prosecution: On 2 February 2013 the prosecution requested the termination of the criminal prosecution against Irakli Okruashvili. As the Prosecutor's Office has explained, the available evidence failed to prove that Irakli Okruashvili committed an offense.

Position of the defense: After being asked by the judge about its position in regards to this motion, the defense respectively agreed.

Ruling: The judge left the courtroom and following an hour of deliberations, announced the ruling on satisfying the prosecution's motion.

5. Preventive measures applied:

Motion of the prosecution: The Prosecutor's Office has requested the application of detention as a preventive measure against Irakli Okruashvili, as there was a danger that the defendant would exert influence on the witnesses.

Position of the defense: The defense has objected to this motion, claiming that the application of detention as a preventive measure was unnecessary.

Ruling: Detention as a preventive measure was applied against Irakli Okruashvili. The judge has shared the position of the prosecution that there was a danger of exerting influence on witnesses by Irakli Okruashvili.

Comment: *On 11 January 2011, after the examination of witnesses, the detention of Irakli Okruashvili was replaced with bail (15 thousand GEL).*

6. The verdict:

Criminal prosecution against Irakli Okruashvili was terminated.

7. Our observation:

Owing to the evidence in the case, including witness statements and the expert conclusion spoken in favor of the defendant, charges against Irakli Okruashvili were completely dropped based on the motion of the prosecution itself.

Nika Gvaramia

(Taking and offering of a bribe aimed at evasion of tax inspection by "Inter Rao", the parent company of "Khramhesi 1", "Khramhesi 2", "Mtkvari Energetics" and "Telasi")

1. Defendants and the charges brought:

Nika Gvaramia – the Deputy Prosecutor General of Georgia; the Minister of Justice; the Minister of Education and Science.

Charges brought:

1. Assistance in taking of a bribe through conspiracy by a group, – Criminal Code of Georgia, Article 25 and Sub-Section 'c' of Section 2 of Article 338.
2. Legalization of illicit income, committed in a group through the abuse of official power, involving the generation of income in especially large quantities, – Criminal Code of Georgia, Article 194, Sub-Section 'a' of Section 2 and Sub-Sections 'b' and 'c' of Section 3.
3. Fabrication of a false document, which has inflicted substantial damage, – Criminal Code of Georgia, Article 362, Section 2, Sub-Section 'b'.
4. Assistance in false entrepreneurship, – Criminal Code of Georgia, Articles 25 and 193.

Aleksandre Khetaguri – the Minister of Energy of Georgia; the Minister of Finance.

Charges brought:

1. Taking of a bribe in especially large quantities through the abuse of official power, – Criminal Code of Georgia, Article 338, Sub-Section 'a' of Section 2 and Sub-Section 'e' of Section 3.
2. Legalization of illicit income, committed in a group through the abuse of official power, involving the generation of income in especially large quantities, – Criminal Code of Georgia, Article 194, Sub-Section 'a' of Section 2 and Sub-Sections 'b' and 'c' of Section 3.
3. Abuse of official power by a state-political official, – Criminal Code of Georgia, Article 333, Section 2.¹¹

Kakhaber Damenia – the Deputy Minister of Economy and Sustainable Development of Georgia;

¹¹ Edited based on Prosecutor's comments

Devi Kandelaki, Giorgi Kandelaki, Ashot Manukian, Izabela Gutidze, Giorgi Nemsitsveridze – persons involved in entrepreneurial activities (namely, in the companies "Telasi", "Khramhesi 1", "Khramhesi 2", "Mtkvari Energetics" and "Gutidze, Damenia, Chantladze Solutions").

Charges brought:

1. Offering of a bribe through conspiracy by a group, – Criminal Code of Georgia, Article 339.
2. Legalization of illicit income, committed in a group involving the generation of income in especially large quantities, – Criminal Code of Georgia, Article 194, Sub-Section 'a' of Section 2 and Sub-Section 'c' of Section 3.
3. False entrepreneurship, – Criminal Code of Georgia, Article 193.

2. Description of offense by the prosecution:

The Prosecutor's Office alleges that the defendants were a part of a corruption deal. Negotiations were underway with the Minister of Energy so that "Inter Rao", the parent company of "Khramhesi 1", "Khramhesi 2", "Mtkvari Energetics" and "Telasi" would evade the tax inspection.

According to the Investigative Office of the Ministry of Finance, in order for the above-mentioned companies to evade tax inspection, Devi Kandelaki has offered to Aleksandre Khetaguri the bribe in the amount of 1 million USD, to which the former Minister of Energy had consented. Furthermore, according to the indictment, Nika Gvaramia was personally involved in the organization of these negotiations. In particular, the prosecution alleges that Nika Gvaramia has disclosed to Devi Kandelaki ¹²the criminal scheme designed for covering up the transfer of 1 million USD. At the instruction of Nika Gvaramia, Giorgi Nemsitsveridze has fictitiously set up "L&F Service" LLC, which, as alleged by the prosecution, was pursuing fake consultation activities. "L&F Service" LLC was registered on 26 July 2012. Afterwards, money was transferred from the accounts of "Khramhesi 1", "Khramhesi 2", "Telasi" and "Mtkvari Energetics" to the account of "L&F Service" to reimburse the fictitious consultation services rendered by "L&F Service" LLC to these companies. Total of 950000¹³ USD were transferred to "L&F Service".

3. Evidence/witness testimonies in the case:

The case consists of 16 volumes. Witness statements are also available. Currently the evidence is being examined.

According to the testimonies of representatives of the Revenue Service, in September¹⁴ 2012 the financial inspection was launched in "Khramhesi 1", "Khramhesi 2", "Telasi" and "Mtkvari Energetics". Two weeks after launching the inspection, the Head of the Service terminated the inspection process based on the order of Aleksandre Khetaguri.

¹² Edited based on Prosecutor's comments

¹³ Edited based on Prosecutor's comments

¹⁴ Edited based on Prosecutor's comments

As one of the witnesses stated, after the parliamentary elections Aleksandre Khetaguri contacted him and asked him to terminate the tax inspection. According to the witness, the former Minister had noted in conversation with him that because the authorities had been replaced as a result of elections, it was expedient to suspend the inspection.

One of the experts (from the Levan Samkharauli National Forensics Bureau) called as a witness has established that several documents on behalf of “L&F Service” LLC were signed by Giorgi Nemsitsveridze, while others – by another person, although the signatures of the latter were similar to those of Giorgi Nemsitsveridze, thus pointing toward the fabrication of the signature.

4. The course of proceedings:

At the pre-trial hearing the judge pointed out technical gaps to both the defense and prosecution. For instance, incorrect dates in submitted documents and numeration in the list of evidence, mechanical errors in the acts of receipt and delivery; furthermore, the order number and the ID number of the defense attorney were mixed, the minutes of telephone notification included in the list of evidence was not submitted. Many gaps were listed, followed by an ironic scorn in the courtroom and several comments. The judge has warned people about actions to be applied in case of violation of the order, and the audience has not made any similar comments since then.

In view of the high public interest, the prosecution has motioned to transfer the case to jury trial. The judge has asked the defense to express its position on this issue. The defendants have refused a jury trial due to false stereotypes created towards them among general public, which may have affected the impartiality of the members of the jury.

5. Preventive measures applied:

Motion of the prosecution: The Prosecutor’s Office has requested the application of detention as a preventive measure towards the defendants. A bail in the amount of 50 000 GEL as a preventive measure was applied for I.Gutidze.¹⁵

Position of the defense: The defense has objected to the prosecution’s motion, claiming the application of detention as a preventive measure was not necessary.

Ruling: The court has examined the issue and in light of case circumstances has applied bail as a preventive measure in the amount of 30 thousand GEL for Nika Gvaramia, Aleksandre Khetaguri, Kakhaber Damenia and Devi Kandelaki¹⁶, while the bail in the amount of 15 thousand GEL was applied for Ashot Manukian, Izabela Gutidze and Giorgi Nemsitsveridze. Accordingly, the prosecution’s motion on the application of detention towards the defendants was rejected.

6. The verdict:

¹⁵ Edited based on Prosecutor's comments

¹⁶ Edited based on Prosecutor's comments

The proceedings still continue. At this stage the evidence and witnesses are being examined.

7. Our observations:

At this point in time, witness testimonies show that the process of tax inspection was terminated based on the order of Aleksandre Khetaguri. In addition, the signs of potential fabrication of signatures on behalf of “L&F Service” LLC have been deciphered.

Tengiz Gunava

1. The episode of damaging a driver's health with a firearm

(Infliction by Tengiz Gunava of intentional less serious damage to the health of his own driver, K.I., with a firearm)

1.1. Defendants and the charges brought:

Tengiz Gunava – the Head of the General Inspection of the Ministry of Interior of Georgia; the Head of the Samegrelo-Zemo Svaneti Regional Police.

Charges brought:

1. Exceeding of official power by a civil servant or a person equal thereto, committed by means of a weapon, – Criminal Code of Georgia, Article 333, Section 3, Sub-Section 'b'.
2. Infliction of intentional light damage to health, – Criminal Code of Georgia, Article 120.

1.2. Description of offense by the prosecution:

Tengiz Gunava was the Head of the Samegrelo-Zemo Svaneti Regional Police of the Ministry of Interior, when he exceeded official powers. On 31 March 2012, he wounded his own driver with a firearm in the right leg at the railway station in Zugdidi. K.I. received a light degree injury accompanied by short-term dysfunction of his health.

1.3 Evidence/witness testimonies in the case:

Testimonies of the prosecution's witnesses on the episode of exceeding of official power and infliction of damage to health – according to the testimony of one of the witnesses, in regards to a specific case, a wiretapping of the suspect was carried out and during the same case the investigation also started wiretapping Kakhaber Izoria's telephone. The wiretapping discovered that Izoria had an amorous talk with Gunava's relative (married) and sent her an intimate SMS. The victim himself alleged he had sent the intimate SMS to Gunava's relative by mistake. Following this incident, the victim was forced to write a letter of resignation the very next day. On the same day, Gunava and three other people met with him. After the end of the talk, when the witness was about to leave the territory, he was wounded by a weapon in the leg. According to the victim, Gunava and the others present, they all carried the guns, but he could not see who had fired. The expert examination confirmed the existence of infliction from injuries from a firearm. Other witnesses (the victim's relatives and family members) have confirmed the fact that the victim was wounded. However, except for B.G., witnesses noted they had not eye-witnessed the incident, and that consequently they did not know who had made the shot that wounded the victim.

2. The episodes of misappropriation of state funds (2nd and 3rd episodes)

(Misappropriation of 3,000 liters of gas worth 6,750 GEL, and 49,500 GEL)

2.1. Defendants and the charges brought:

Tengiz Gunava – the Head of the General Inspection of the Ministry of Interior of Georgia; the Head of the Samegrelo-Zemo Svaneti Regional Police.

Charges brought:

Misappropriation of other's object in large quantities, when this object was in misappropriator's lawful possession and administration, – Criminal Code of Georgia, Article 182, Section 3, Sub-Section 'b' (2 episodes).

2.2. Description of offense by the prosecution:

On 11 August 2012, Tengiz Gunava has instructed his subordinate Zaza Chokheli, the Head of the Administrative Office of the General Inspection of the Ministry of Interior, to obtain from the Ministry's Personnel and Organizational Support Department the coupons for 3,000 liters of "Premium" gas and to give them to him. On the same day, Zaza Chokheli received the coupons of 3,000 liters of "Premium" gas worth 6,750 GEL through a receipt for expenditure and gave them to Gunava. The prosecution alleged that Gunava had exceeded official powers because he had not used the gas for official purposes. In addition, the procedures established by the concrete normative act (this normative act – the Minister's order – is the state secret) have not been observed.

In August 2012, at the request of Tengiz Gunava and with the consent of the Personnel and Organizational Support Department of the Ministry of Interior, Zaza Chokheli, the Head of the Administrative Office of the General Inspection of the Ministry, was instructed to transfer 49,500 GEL issued for Gunava to Gunava. He immediately transferred the received amount in full to Tengiz Gunava. Tengiz Gunava officially registered the request for this amount later, for which on 24 August 2012 he drew up the report on the allocation of 49,500 GEL from the expenses of a secret article (the respective normative act – the Minister's order – is the state secret). The fact of receipt of this amount by Tengiz Gunava is confirmed by the 1 September 2012 cash withdrawal order. Pursuant to the indictment, Tengiz Gunava has not used this amount (49,500 GEL) for the official needs, as a result of which the Ministry of Interior, which is funded from the state, incurred significant damages.

2.3. Evidence/witness testimonies in the case:

Testimonies of the prosecution's witnesses on the episodes of 30 thousand USD and 3,000 liters of gas – according to the testimonies of employees of the General Inspection of the Ministry of Interior, the relevant

department/service of this agency (the Personnel and Organizational Support Department, the Administrative Office) would receive written requests for the money or gas, following which the requested items would be issued. The issuing person and the head of the respective structural unit would sign the issue. After the use of money/gas, the agency would receive the document on spending (in case of gas - the receipt for expenditure), which would be followed by the writing off of the money/gas. According to the witness statements, in one of the cases 30 thousand USD were issued to the operational unit headed by Gunava. Further, one of the witnesses alleged that 3,000 liters of gas were issued on Gunava's name without proper documentation, which, as the witness had noted, was the usual practice. According to this testimony, he had drawn up the respective document and wrote off the gas only after the gas had been issued.

Notably, we could not manage to obtain detailed information on these two episodes, because the Minister's order, which regulates respective procedures, is a state secret. For the same reason, trials on this matter were held behind closed doors.

4. The course of proceedings:

Tengiz Gunava was accused of (unlawful) purchase-storage of a firearm and drugs, however, because the evidence was collected through the violations of procedural legislation, charges against him were dropped after the judge has satisfied the prosecutor's relevant motion.

Tengiz Gunava's defense attorney has not attended one of the hearings (Bachana Akhalaia's trial was held in parallel, where the same person was representing the defendant). Another person (trainee) has appeared to replace him, but the latter did not have the bar certificate; accordingly, despite the request of the defense, the judge did not allow him to defend the interests of the defendant at this trial.

5. Preventive measures applied:

Motion of the prosecution: The prosecution has requested the detention as a preventive measure against the defendant, as Tengiz Gunava would have allegedly obstructed the course of proceedings.

Position of the defense: The defense has objected to the prosecution's motion and requested a lighter preventive measure, namely a bail.

Ruling: The Tbilisi City Court examined this motion, but did not take into account the prosecutor's request and granted Tengiz Gunava bail of 10 thousand GEL, with custodial guarantee, as a preventive measure.

6. The verdict:

Defendant Tengiz Gunava was found innocent and was acquitted in both episodes of exceeding official powers and the infliction of less serious damage to health.

In both episodes of misappropriation committed through the abuse of official power, namely in the misappropriation of 3,000 liters of gas and 49,500 GEL, Tengiz Gunava was found guilty and overall, through the

application of the principle of cumulative sentences and the 12 January 2013 Law of Georgia on the “Amnesty”, was sentenced to 4 (four) years of imprisonment. Furthermore, he was deprived of the right to hold office for 1 (one) year and 6 (six) months.

7. Our observations (on both episodes):

In regards to wounding his driver with a weapon, the testimony of the victim himself failed to establish that Tengiz Gunava had personally fired a weapon.

The case of misappropriation of state funds was tried on merits behind closed doors; accordingly, we are unable to assess Tengiz Gunava’s case in this regard.

Megis Kardava

1. The episode of violence aimed at admission of espionage

(Physical and mental coercion of D.L. for him to admit espionage)

1.1. Defendants and the charges brought:

Megis Kardava, Sergo Bitsadze, Rati Mgeladze, Zviad Kakabadze, Tornike Gunava, Merab Metreveli, Aleksandre Khuchuashvili, Mamuka Tsurtsunia, Giorgi Samushia, Kokhta Kodua – the employees of the penitentiary institution N8.

Charges brought:

1. Violent action of a sexual nature, committed through violence, threat of violence or the abuse of the victim's helplessness, – Criminal Code of Georgia, Article 138.
2. Hostage-taking, – Criminal Code of Georgia, Article 144.
3. Torture in aggravating circumstances, – Criminal Code of Georgia, Article 144¹.

1.2. Description of offense by the prosecution:

In the presence of Bachana Akhalaia, in 2011 Megis Kardava has threatened **D.L. and demanded from him the admission of espionage**. As a result of threat, D.L. has admitted espionage.

1.3. Evidence/witness testimonies in the case:

The victim D.L. was a serviceman. According to his testimony, representatives of the state authorities have attempted to gain title to his mother's land plot for a considerably lower price compared to the market value. To this end, D.L. was summoned to the Military Police, where he was met by Megis Kardava. Kardava explained that he would have problems, if he did not sell the plot of the land. According to the victim, after the meeting they started wiretapping his phone. One night he was called and told to show up at work. There he was met by the military police officer, who has brought him to the offices of Megis Kardava. Apart from Kardava, there were four other persons in the office. The victim alleges he was physically assaulted in the office and was forced to admit treason. Megis Kardava has sworn at the victim and hit him in the head. After the beating they have threatened with sexual violence should he have not admitted the crime. Following this threat the victim has agreed to admit espionage. In particular, according to D.L., at the time he was visited by his friend named Tomashuk, who was supposed to give him the photos of his family members recorded on the memory stick. D.L. claims they have attached a secret camera to him and told him to meet Tomashuk, take the memory stick with pictures on it from him, and to agree on another meeting with him. He did everything the way he was told. Afterwards they told D.L. about the plan, according to which he should have given Tomashuk the chip that Kardava had given him, and which, as he was told, would contain important information that Tomashuk could have sold. According to the testimony of D.L., this was the basis for accusing him and his acquaintance Sergo Tetradze of espionage. Further, the officers of the Military Police have selected 3 persons from the mobile phone of D.L., including Sergo Tetradze, with whom they accused him of pursuing espionage.

Comment: *The episode of Sergo Tetradze, as well as the testimonies of other witnesses related to this case will be discussed in detail in the 2nd episode of Kardava's case.*

2. The episode of Sergo Tetradze

(Torture of and sexual violence over Sergo Tetradze)

2.1. Defendants and the charges brought:

Megis Kardava – the Head of the Military Police Department of the Ministry of Defense of Georgia.

Charges brought:

1. Violent action of a sexual nature, committed through violence, threat of violence or the abuse of the victim's helplessness, – Criminal Code of Georgia, Article 138.
2. Torture, – Criminal Code of Georgia, Article 144¹, Section 1 and Sub-Sections 'a', 'b', 'c', 'g' and 'e' of Section 2.

Viktor Kacheishvili – the Head of the Security Department of the penitentiary institution N8;

Oleg Patsatsia – the Head of the Legal Regime Department of the penitentiary institution N8;

Aleksandre Mukhadze – the former Director of the penitentiary institution N8.

Charges brought:

Violent action of a sexual nature, committed through violence, threat of violence or the abuse of the victim's helplessness, – Criminal Code of Georgia, Article 138.

2.2. Description of offense by the prosecution:

In September 2011, at the instruction of Megis Kardava, Viktor Kacheishvili and Oleg Patsatsia, and in line with the plan designed by them, the inmates of nontraditional sexual orientation – Melashvili and Sisauri – have tortured Sergo Tetradze with a demand for him to admit espionage, and have sexually assaulted him (the process of torture was recorded on video). During the process of torture Tetradze died from a heart attack.

2.3. Evidence/witness testimonies in the case:

Sergo Tetradze was arrested based on the forced testimony of the very victim D.L. The witness himself claims that Sergo Tetradze was selected from his mobile phone as one of the participants of espionage, and his contact information was obtained. Afterwards Sergo Tetradze's apartment was searched. In particular, according to the testimony of his spouse Marina Tetradze, on 17 September 2011 their apartment was searched without the respective order; eye-witnesses have not attended the search either. Sergo Tetradze's spouse has noted that the law-enforcers have found nothing as a result of the search. They extracted Tetradze's passport and a mobile phone. They put these items on a table. Along with these items a red memory stick was put on the table, which did not belong to any of the family members. Afterwards they have sealed the exhibits and taken them away. According to the witness, after that Sergo Tetradze was taken away by the law-enforcement representatives for the purposes of examination. In several hours the 20-person group has carried out another search in the cellar. This process lasted for 2 hours. The witness claims that on the same day some person has approached her with a request to sign the protocol. Marina Tetradze has not signed this document. She learned from the same person that her spouse was being interrogated. According to the witness, their attorney has managed to identify the location of Sergo Tetradze only the next day. It turned out that Sergo Tetradze was in the preliminary detention cell, where he was physically assaulted. On 19 September 2011, at 7 pm the trial of Sergo Tetradze was held. He was accused of espionage. At the trial Marina Tetradze has seen her spouse, a considerable part of whose face was blackened and who had difficulties moving. After that Marina Tetradze has not seen her spouse. On September 24 the family of Sergo Tetradze was notified that Tetradze had health problems, while later on Marina Tetradze was notified that her spouse had died and they had to take away the corpse. According to the witness, when her spouse was brought home, the body was in someone else's clothes, was tortured, and had a make-up on the face.

Witness L.F. worked in the penitentiary institution as the inmate collector. His job was to register the departure and arrival of inmates to and from the trials. At the trial the witness has recalled the fact of torture and death of a "grey-hair man", which took place in September 2011.

In addition, witnesses T.A. and G.G. have also been examined at the trial. Their testimonies coincided with the statements of above-mentioned witnesses. G.G. has recalled that while being in a cell, he saw how they had taken Sergo Tetradze out of the cell, and then he heard Tetradze's shouting. The witness has noted also that on September 24 he saw how they took dead Tetradze away. G.G. has recalled also that investigator Gogichaishvili forced him to write the application on refusal of defense attorneys, and to sign the contract with a new defense attorney.

Case materials include the admissions of offense by Sisauri and Terashvili, as well as the testimonies of other witnesses.

Notably, on 18 September 2011 Sergo Tetradze was indicted for espionage along with three other persons – D.L., G.G. and S.CH. According to the 5 December 2012 resolution of the Parliament of Georgia, all these defendants were recognized as political prisoners and were released from sentence based on the 12 January 2013 Law of Georgia on the "Amnesty".

4. The course of proceedings:

At the trial, the defense attorney of victim Sergo Tetradze and the wife and mother of one of the defendants picked a quarrel. They were sitting behind each other, and according to Tetradze's attorney, were insulting him during the entire trial, which he finally could not stand any more. The judge expelled all three persons from the courtroom. Notably, at the end of the trial the prosecutor has requested the court to allow Sergo Tetradze's attorney back in the courtroom because this incident was not his fault. The judge **has satisfied** the motion, however, stating that he would not satisfy it again in case of repeated misdemeanor.

Currently the evidence is being examined.

5. Preventive measures applied:

Motion of the prosecution: The prosecution has requested the application of detention as a preventive measure, based on the gravity of the charges, possible influence over the witnesses, and the fact that one of the defendants, Megis Kardava, was in hiding.

Position of the defense: The defense has objected to the prosecution's motion, pointing out at absence of direct evidence (expert opinion).

Ruling: The judge has examined the issue and took into consideration the existing situation, including the fact that Megis Kardava was in hiding, and satisfied the motion.

6. The verdict:

The case is still tried.

7. Our observations (on both episodes):

Although the evidence in the case rests mainly on witness statements, it is noteworthy that they coincide with each other, providing a rather full picture.

Giorgi (Gegi) Kelbakiani and Archil Chogovadze

(Kickback of 2,535 thousand GEL from 6,589 thousand GEL transferred
(without the agreement executed between the parties) to
"Gvirabgamkvani" LLC for the ongoing works on Rike)

1. Defendants and the charges brought:

Giorgi Kelbakiani – 70% shareholder and Director of "NCC" LLC (media was reporting he was friends with Giorgi Ugulava, although without having any kindred relationships).

Charges brought:

1. Legalization of illicit income, committed by an organized group, involving the generation of income in large quantities, – Criminal Code of Georgia, Article 194, Sub-Section 'c' of Section 2 and Sub-Section 'a' of Section 3.
2. Fabrication of a false document certifying proprietary authority, – Criminal Code of Georgia, Article 210.

Archil Chogovadze – the Financial Manager of "NCC" LLC.

Charges brought:

Legalization of illicit income, committed by an organized group, involving the generation of income in large quantities, – Criminal Code of Georgia, Article 194, Sub-Section 'c' of Section 2 and Sub-Section 'a' of Section 3.

2. Description of offense by the prosecution:

According to the information released by the Prosecutor's Office, at the commission of the Tbilisi City Hall, "NCC" LLC has performed various types of work from 2009 until 2011. In regards to one piece of work, the signs of a criminal offense were identified. In particular, to carry out the works on Rike, "NCC" LLC has transferred 6,589 thousand GEL (without executing the relevant agreement between the parties) to Gocha Darsadze and "Gvirabgamkvani" LLC. 2,535 thousand GEL out of this amount went back to Giorgi Kelbakiani and Archil Chogovadze.

3. Evidence in the case:

Testimonies of the prosecution's witnesses – the investigation was launched after G.D. has provided information to the investigation, according to which, the 70% shareholder and Director of "NCC" LLC Giorgi Kelbakiani and its Financial Manager Archil Chogovadze had received illicit income in large quantities from the construction of Rike.

Witness G.T., who has worked in 2011-2012 on these projects, stated that according to his direct supervisor, *Giorgi Kelbakiani was commissioning works on this construction site.* Other persons employed in the project

have testified the same. In all cases it was clear that the workers did not have direct contact with Kelbakiani and they knew from Darsadze that Kelbakiani was managing the project.

Witness R.M., who has carried out the financial inspection of this company in 2011, has also testified. He alleged that the bank accounts, minutes of interrogation and documents taken from the defendants' computers had been used during the inspection, based on which the witness had established that the so-called "kickback" had taken place. Private correspondence indicated the amounts received and to be received, which were different from each other. The term "kickback" was used in the witness statements at the stage of investigation. The defense claimed that transferring the excessive amounts to a person and returning the surplus later should not have been considered illegal action, while the witness did not have the right to use the word "kickback" in his opinion, because he was not a lawyer and was not competent to legally assess the facts.

4. The course of proceedings:

Currently the evidence is being examined.

5. Preventive measures applied:

Motion of the prosecution: The prosecution has requested that the court apply detention as a preventive measure.

Position of the defense: The defense has objected to this motion.

Ruling: The court took into account the gravity of the offense, the identity of the defendant and other factors and satisfied the motion. A preventive measure of bail (150 thousand GEL) was applied towards defendant Giorgi Kelbakiani, and detention – towards Archil Chogovadze. Satisfaction of motion was justified by the potential influence over the witnesses.

In the course of proceedings on this case, the defense has moved several times before the court to replace detention with bail, however, the judge would note that circumstances prescribed by law for replacing the preventive measure with a non-custodial one did not exist, and thus would not satisfy these motions. The judge has satisfied the motion of the defense only after completing examination of the witnesses; accordingly, the preventive measure of detention was replaced with bail (100 thousand GEL).

6. The verdict:

The final verdict has not been rendered on the case.

7. Our observations:

One of the key pieces of evidence of the prosecution rests on the fact that part of the amounts transferred to legal entities performing the works was returned back to the defendants' accounts. At this stage it is not quite clear whether this action includes signs of a criminal offense.