



STATE RESPONSE TO 10 ALLEGED CASES OF HIGH-LEVEL CORRUPTION



MINISTRY OF FOREIGN AFFAIRS OF DENMARK

DANIDA | INTERNATIONAL
DEVELOPMENT COOPERATION

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Summary

The report gathers together and analyzes the response of the Parliament and the Prosecutor's Office of Georgia to 10 cases of alleged high-level corruption revealed through the journalistic investigation and brought to competent authorities by the CSO Democracy Index - Georgia (DIG).

Within the framework of the project "Promoting Accountability of Public Officials Through Investigative Journalism and Advocacy" implemented with the support of the Europe Foundation during 2022 and 2023, the investigative team of TV Pirveli, with the involvement of two experienced American investigative journalism experts, revealed and aired 10 TV pieces describing the signs of corruption in the activities of Members of the Parliament of Georgia (MPs) and persons close to the Government of Georgia (GoG). Based on the specifics of the alleged violations revealed by the journalistic investigation, the DIG applied to the competent authorities to respond to the violations.

In 6 cases the appeal was submitted to the General Prosecutor's Office of Georgia, one case was submitted to the City Hall of Tbilisi Municipality, and 3 cases - to the Committee on Procedural Issues and Rules of the Parliament of Georgia. Out of these 10 cases, 8 cases are still pending; in 2 cases the decision not to investigate was made.

Out of the 4 pending cases of crimes of corruption allegedly committed by the MPs, in 3 cases the General Prosecutor's Office of Georgia still studies the issues - the procedure not even envisaged by the legislation of Georgia; in these 3 cases, after almost two years, the decisions regarding the initiation of criminal investigations have not been made. In one case, a criminal investigation was launched, which has been pending for 1 year and 6 months, however, the accusation has not been made so far.

In 2 more cases of crimes of corruption allegedly committed by the MPs and submitted to the General Prosecutor's Office of Georgia, the investigation was not commenced citing the absence of signs of crime. Despite the submitted facts and documents, the investigative authority did not reason on the lack of signs of crime. According to Criminal Procedure Code of Georgia the investigative authority shall commence the investigation immediately. Only through official investigation can the investigative authority conclude that no crime has been committed and terminate the investigation.

Since 2020 the City Hall of Tbilisi Municipality has several times imposed a fine, has issued

an instruction to demolish and submitted it to the National Bureau of Enforcement, the illegal construction of a house on the plot of municipal land captured by the MP, courts have been hearing the appeals of the offender. Despite the number of state agencies involved in preventing the offence of the MP it still continues.

In none of the 3 cases of allegedly incompatible business activities of the MPs, the Committee on Procedural Issues and Rules of Parliament of Georgia found incompatibility with the status of a member of the Parliament. The chairman of the committee (not the Committee itself) checked only the formal incompatibility, and did not examine the facts of the cases. The investigation of incompatible, informal business activities of the MPs by the Committee is incomplete and does not follow the procedures established by the Rules of Procedure of the Parliament.

It should be noted that the last time the Parliament of Georgia voted for the termination of the status of a member of parliament for his/her incompatible business activities was in 2006 when two MPs' term of office was terminated. Since then the Parliament of Georgia has never deliberated over the issues of incompatible business activities of its members. Since 2006 the Parliament of Georgia only has deliberated over and terminated power of 44 members of Parliament due to them being appointed to an incompatible public office in the executive branch of the government, the procedure that automatically results in the termination of incompatible office.

All 10 cases discussed in this report revealed that high-level, so-called elite corruption cases are investigated improperly or not at all. Of the reasoned and fact-based appeals, the DIG has made regarding the cases of alleged corruption, none of the allegations have had final outcome so far.

Main Findings

Findings related to investigation of the crimes of high-level corruption:

- None of the 4 cases pending in the Prosecutor's Office in 2022 and 2023 have been resolved: the investigation has not been completed; the accuseds have not been identified.
- Investigation was commenced in one case and has been pending for one year and six months.
- Out of 4 alleged cases of corruption in 3 cases the investigative authorities have been sturying the circumstances of the cases without commencement of the investigations for months or even for more than a year – the procedure not even envisaged by the Criminal Procedure Code of Georgia.
- In two cases, the prosecutor's office, contrary to the procedural legislation, refused not start an investigation, despite the facts and evidence submitted. Refusal to investigate was not reasoned.

Findings related to incompatible, informal business activities of the MPs:

- In none out of the 3 cases of alleged incompatible business activities of the MPs the parliamentary committee on procedural affairs established an incompatibility.
- The Committee on Procedural Issues and Rules of the Parliament of Georgia, contrary to the established legislation, does not investigate the allegations of incompatibility at the Committee hearing or issues the Committee conclusion as required by the rules of procedure.
- The head of the Committee on Procedural Issues and Rules of the Parliament of Georgia studies only the formal compatibility of the MPs and does not examine the facts of alleged incompatibility.
- The Committee on Procedural Issues and Rules of the Parliament does not ap-

ply special procedural mechanisms (Requesting appropriate written material¹; Analyzing the property declaration²; Inquiring of officials about the allegations related to the MP³; Obligation to submit information⁴; Creation of a temporary investigative commission⁵) about application of which it has informed the GRECO⁶ in response to the implementation of recommendations for Georgia.

- There is no uniform approach regarding the form of explanation of an MP. It is impossible to determine what the actual content of the oral explanation was and where it was finally reflected.
- The written explanation of the MP does not answer the allegations against him/her, the explanation is not relevant to the case, however, accepted by the Head of the Committee as irrefutable evidence.

Findings related to the response of the Tbilisi City Hall:

- Since 2020 the capture of municipal plot of land and illegal construction of a house on this land by the MP has been continuing due to ineffective response of Tbilisi City Hall and other authorities.

¹ Clause 5 of Article 6 of the Parliament's Rules of Procedure

² Clause 3 of Article 8 of the Parliament's Rules of Procedure

³ 40 of the Rules of Parliament.

⁴ Article 41 of the Parliament's Regulations.

⁵ Article 61 of the Parliament's Regulations.

⁶ FOURTH EVALUATION ROUND Corruption prevention in respect of members of parliament, judges and prosecutors SECOND COMPLIANCE REPORT GEORGIA, Recommendation iii, 21, <https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680a21666>, [16.08.2023.]

Chapter I: Corruption in Georgia According to International Evaluations

In terms of corruption, the current situation in Georgia has been negatively characterized by a number of international authoritative organizations. The overall picture of the assessments below clearly shows that the current situation in the country in terms of corruption has worsened and is stagnating in recent years.

After 2012, Georgia's score in the "Corruption Perception Index" did not improve significantly.⁷ According to the latest data of 2022, Georgia was evaluated with 56 points. Georgia had the same rating in 2017, 2019 and 2020. From 2012 to the present day, Georgia's rating ranges from 52 to 58 points, and the country reached its maximum score in this period only once – in 2018.⁸

In addition, Georgia was included among the 9 noteworthy countries that, according to the assessment of "International Transparency", require more active monitoring and additional attention. Countries are included in the mentioned list because of the problematic course of development they have chosen.⁹

The second progress report of the Organization for Economic Co-operation and Development, the Anti-Corruption Network (OECD-ACN) 2019 account¹⁰, in its fourth round evaluation of anti-corruption reforms in Georgia,¹¹ notes that out of 22 recommendations: significant progress was not observed in any of them; the implementation of 17 recommendations was assessed as progress; the absence of progress was observed in the implementation of 4 recommendations; and one recommendation was not evaluated.

Despite the above evaluation, the GoG refused to participate in the monitoring of the OECD/ACN.¹² Within the framework of the 5th round of monitoring, in 2023, the important direc-

⁷ CORRUPTION PERCEPTION INDEX, TI, see: <https://www.transparency.org/en/cpi/2022/index/geo> [28.08.2023.]

⁸ There.

⁹ 9 COUNTRIES TO WATCH ON THE 2022 CORRUPTION PERCEPTIONS INDEX, 14.02.2023., see: <https://www.transparency.org/en/blog/cpi-2022-corruption-watch-list-united-kingdom-sri-lanka-georgia-ukraine> [28.08.2023.]

¹⁰ OECD, ISTANBUL ANTI-CORRUPTION ACTION PLAN FOURTH ROUND OF MONITORING GEORGIA, see: <https://www.oecd.org/corruption/acn/OECD-ACN-Georgia-Progress-Update-2018-ENG.pdf> [28.08.2023.]

¹¹ OECD, Anti-corruption reforms in Georgia 4 th round of monitoring of the Istanbul Anti-Corruption Action Plan, see: <https://www.oecd.org/corruption/acn/OECD-ACN-Georgia-Round-4-Monitoring-Report-ENG.pdf> [28.08.2023.]

¹² Netgazeti, Georgia anti-corruption environment on assessment refusal said — NGO-Abby, 27.06.2023. see: https://netgazeti.ge/news/677059/?fbclid=IwAR2Gy_Pa46mvF1RjXa98HpQMTyTs4LPYffyxUWbChAPZD-s2O9izhWwVhm-E [16.08.2023.]

tions to be evaluated were: development and implementation of the national anti-corruption policy; enforcement of the corruption law in practice, including the operation of the system of property declarations of officials; functioning of court and prosecution systems; and the effectiveness of the investigation of high-level corruption cases.¹³

Within the framework of the fourth round of evaluation of the Group of States of the Council of Europe against Corruption (GRECO), 16 recommendations were made to Georgia in 2016, related to the prevention of corruption among members of parliament, judges and prosecutors.¹⁴ Of these, Georgia satisfactorily implemented or satisfactorily regulated only 8 out of 16 recommendations. Of the remaining recommendations, six were partially implemented, and two were not implemented.¹⁵

The World Justice Project (WJP) has released its 2022 Rule of Law Index,¹⁶ according to which Georgia takes the 31st place among 140 countries in the absence of corruption component. According to the report, the situation in the direction of corruption in Georgia worsened by 5 points from 2015 to 2020, and until today – a period of stagnation is observed. In the two subgroups of the criterion of the absence of corruption, which concern the parliament and the executive power, a negative trend and deterioration has been observed in recent years. In particular, the index of the absence of corruption in the parliament deteriorated from 0.67 to 0.51, and the index related to the executive authority – from 0.72 to 0.60.

According to the assessment prepared by the European Commission for Georgia, the country should strengthen its work on elite corruption, this is the fourth of the 12 priorities that Georgia must fulfill in order to receive the status of a candidate for EU membership.¹⁷ From 2020 to 2022, 28 verdicts were issued on elite corruption cases, of which 21 corruption cases resulted in guilty verdicts. Among them, the deputy minister, deputy district prosecutor, governors and members of local councils were found guilty of these crimes. Despite the above, the European Commission considers it necessary to deal with the high-level corruption and eliminate the large-scale influence of corruption in both the economic and political spheres.¹⁸

¹³ There.

¹⁴ Europe Council countries corruption against valid of the group (GRECO) evaluation fourth round, corruption prevention of Parliament members, to the judges and to the prosecutors between, 02.12.2016, see: FOURTH EVALUATION ROUND (coe.int) [16.08.2023.]

¹⁵ There, p 18.

¹⁶ Information see:

<https://worldjusticeproject.org/rule-of-law-index/country/2022/Georgia/Absence%20of%20Corruption/> [16.08.2023.]

¹⁷ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL, Commission Opinion on Georgia's application for membership of the European Union, 17.05.2022., p. 8, see: Georgia opinion and Annex.pdf (europa.eu), [16.08.2023.]

¹⁸ There.

Chapter II: Alleged Instances of Crimes of Corruption and the State Response: Review of Cases

Considering the nature of actions and the positions of the persons involved in the cases considered in the report, all of them belong to alleged cases of elite, i.e. high-level corruption.

Most often corruption is defined as abuse of office for personal gain.¹⁹ High-level corruption usually refers to the abuse of office or participation in any criminal activity by high-ranking government officials or influential politicians for personal gain (including for a family member or other related party).²⁰ Officials, for the purposes of this definition, include both elected and appointed officials.²¹

2.1. Case of Vasil Chigogidze – Newly established company won multi-million State Grant

Facts of the Case

Almond Flower 2022 LLC, a registered company owned by the son of Vasil Chigogidze, a member of the Parliament of Georgia from the ruling party “Georgian Dream”, received a state grant from the Rural Development Agency within the state program „Plant the Future” within a month of its establishment. The facts give rise to the assumption that the company received a grant from the state through the corrupt influence of Vasil Chigogidze, a member of the Parliament of Georgia. In particular:

- On February 8, 2022, Giorgi Chigogidze, the son of the MP Vasil Chigogidze, founded “Almond Flower 2022” LLC.²²
- On March 9, 2022, one month after the establishment of the company, Almond Flower 2022 LLC received 249,999,94 GEL of funding from the Rural Development Agency within the framework of the state program “Plant the Future”.²³

¹⁹ Corruption definition, Transparency International, see: <https://www.transparency.org/en/what-is-corruption> [03.09.2023.]

²⁰ OECD, Istanbul Anti-Corruption Action Plan 5th Round of Monitoring Guide, p. 5, [03.09.2023.]

²¹ There.

²² See. Appendix 1. extraction public from the registry.

²³ Vasil Chigogidze likely corrupt crime about Investigative story: poor of the people with money prosperous millionaires business - YouTube, 2:40 - 2:52 min.

- The company, which had been established for a month, with the state decree²⁴ received maximum possible amount of the grant that raises reasonable doubts regarding the purpose of the funding.
- On the website of the Rural Development Agency²⁵ no companies can be found that, similar to “Almond Flower 2022” LLC, received the maximum possible amount of the grant in an unreasonably short period of time.

State Response

In the above-mentioned facts, there may be signs of a crime envisaged in paragraph 2 of the Article 333 of the Criminal Code (exceeding official authority by a person holding a state-political position) or other crime. On January 23, 2023, we reported the crime to General Prosecutor’s Office and requested investigation of the alleged corruption crime committed by Vasil Chigogidze.²⁶

After several requests for information, the General Prosecutor’s Office of Georgia informed us on April 13, 2023 that the Department of Criminal Prosecution of Corruption Crimes of the General Prosecutor’s Office is currently studying the circumstances indicated in the report regarding the issue of financing the company “Almond Flower 2022“ LLC within the framework of the state program “Plant the Future”. The final decision regarding the initiation of the investigation has not yet been made.²⁷

According to the Criminal Procedure Code of Georgia, upon receiving information about a crime, the investigator, prosecutor is obliged to start an investigation.²⁸ It is at the investigation stage that the facts should be studied. And after the beginning of the investigation, if it is determined that there is no action provided for by the criminal law, the investigation should be terminated.²⁹ Contrary to the mentioned, the so-called “study of the circumstances” has been ongoing for 8 months now, and the agency still hasn’t made a final decision on the initiation of the investigation. Such a delay in starting the investigation prevents

²⁴ Decree №56 of government of Georgia, Article 17, clause 1. „nurseries component takes into account this Article I-2 by clause defined targeting(EB)he co-financing No mostly Total value 50%-with, But no more 250 000 Gel“.

²⁵ Rural development agency Web-page, see. on the link: <http://www.rda.gov.ge/>

²⁶ Democracy Index - Georgia’s letter of N 03-434-2023. In 31 March, 2023 sent appeal in the Prosecutor’s office of Georgia again, previous investigation about information request purpose. Democracy Index - Georgia’s letter of N03-491-2023. The agency left letter without answering.

²⁷ See. Deputy question: <https://info.parliament.ge/#mpqs/10949>. [19.08.2023.]

²⁸ Criminal Code of Georgia I-100 Article 1-st part.

²⁹ Criminal Code of Georgia Article 105, 1-st part.

comprehensive and timely investigation of the crime (impedes obtaining evidence, access to witnesses, etc.).

2.2. Pre-election Bribery Allegedly Committed by Various High-Level Officials

Facts of the Case

With the journalistic investigation, it was revealed that during the pre-election period of the 2018 presidential elections, there was pressure exerted on prisoners, bribery, use of administrative resources, abuse of authority, and other facts involving criminal offenses by high-level officials of the ruling party and persons close to them, in order to mobilize voters in favor of the ruling party „Georgian Dream.“

The above-mentioned circumstances have been confirmed by journalists with various documents, including internal party reports signed by the relevant persons, also, with the direct communication with the named persons or their family members. In particular:

- The story contains a report signed by Krtsanisi governor, Beka Mikautadze, with which he asks the ruling party to transfer Gaioz Gelashvili, a prisoner of the third isolation cell of Batumi, to Gldani penitentiary in Tbilisi. The document also contains the personal data of the prisoner. The report card was written 2 weeks before the presidential elections of 2018. In response to the journalist’s direct question Beka Mikautadze only mentions that this document is fake. As the reason for the transfer of the prisoner indicated in the document is that Gaioz Gelashvili shall instruct the so called “street boys” living in Mukhiani (Tbilisi) to mobilize votes using their criminal authority. The ruling party forwarded the case to the penitentiary service for execution. In the story, Gaioz Gelashvili’s neighbor confirms that he was serving his sentence in a strict regime institution in Batumi and that Gaioz Gelashvili was indeed transferred from Batumi to the Ksani penal institution near Tbilisi.³⁰
- In exchange for mobilizing votes for the ruling party, the citizen of Georgia Davit Gogoladze, with the help of the “Georgian Dream” party, received a forged report of the drug test issued by the Samkharauli National Bureau of Expertise,

³⁰ Investigative story related to the facts of pre-election bribery: How Georgian Dream buys votes of prisoners - YouTube, 2:35 - 5:50 min.

which was necessary to remove the responsibility imposed on him for substance abuse. It is indicated in the mentioned party documents, which appears in the investigative TV piece. Davit Gogoladze himself confirms in a conversation with a journalist that his driver's license was confiscated due to drug abuse. Also, he confirms that he helped the "Georgian Dream" party in mobilizing votes in the elections.³¹

- The citizen of Georgia, Zaza Simonishvili, was released from pre-trial detention in exchange for mobilizing votes in favor of the ruling party. From the documents presented in the investigative TV piece, it is revealed how the ruling party appeals to the Prosecutor's Office of Georgia and indicates that the release of the above-mentioned person is very important, urgent, and he should sign a plea agreement or be given a suspended sentence.³²
- Following the appeals of "Georgian Dream" high-ranking officials, with the involvement of the Ministry of Justice, in exchange for mobilizing votes for the ruling party, the following persons were released early from prison or their conditional sentences were revoked: Grigol Mamaladze, Giorgi Khundadze, Koba Kvaratskhelia and Elguja Javakhishvili. The fact in the investigative TV piece is confirmed by relevant documents.³³
- In exchange for the pre-election support and mobilization of votes for the ruling party, the Ministry of Internal Affairs restored the driver's licenses of confiscated motor vehicles to several dozen persons. The mentioned facts are confirmed in the investigative TV piece with relevant documents.³⁴
- In exchange for expressing personal and family members' electoral support for the ruling party, Teimuraz Anjaparidze was signed a plea agreement by the Prosecutor General, and Giorgi Mamaladze was released from prison. The present facts in the investigative TV piece are confirmed by relevant documentary materials and interviews.³⁵

³¹ Ibid.: 5:51 – 7:45 min.

³² Ibid.: 7:46 – 8:31 min,

³³ Ibid.: 8:31 – 10 35 min.

³⁴ There: 10:35 – 13:05 min.

³⁵ Ibid.: 13:06 – 14:56 min. In the story, the journalist points to the internal party report cards signed by members of the ruling party "Georgian Dream". Also, in a telephone conversation with Teimuraz Anjaparidze and the journalist, he confirms the fact that his brother is free, but he does not explain on what basis he was released.

- After the appeal of the former mayor of Mtskheta, Giorgi Kapanadze, to the chairman of the ruling party, Irakli Kobakhidze, and the MP Dimitri Khundadze, with the involvement of the penitentiary service, specific persons were released. The facts in the investigative TV piece are also confirmed by interviews with the family members of the exonerated persons.³⁶

State Response

In the above-mentioned facts, there may be signs of one of the following crimes: abuse of official authority (Part 1 of Article 332 of the Criminal Code), abuse of official authority (Part 1 of Article 333 of the Criminal Code) or signs of possible voter bribery by individuals (Article 164¹ para. 2 of the Criminal Code).

On March 29, 2022, the DIG applied to the General Prosecutor's Office,³⁷ special investigative service,³⁸ Public defender of Georgia and members of the Parliament of Georgia⁴⁰.

After 11 months of multiple efforts to clarify the information, only on February 14, 2023 the General Prosecutor's Office of Georgia (in response to the letter of December 30, 2022)⁴¹ informed us that the matter is being investigated.⁴² 11 months later, on April 13, 2023, the General Prosecutor's Office informed us that on July 28, 2022 (4 months after the notification of the crime), an investigation was commenced in the General Prosecutor's Office of Georgia regarding the possible bribery of voters by civil servants during the pre-election period. on the facts of abuse, abuse of official authority and possible voter bribery.

The Public Defender, based on the information shared by the DIG, applied to the Human Rights Protection Department of the General Prosecutor's Office and requested information regarding the measures taken by the General Prosecutor's Office.⁴³ The Prosecutor's Office informed the Public Defender that an investigation is underway in connection with the criminal case and appropriate measures are being taken. After receiving the mentioned

³⁶ Ibid.: 14:57 – 18:39 min.

³⁷ Democracy Index – Georgia's letter of March 29, 2022, letter N03-288-2022.

³⁸ Democracy Index – Georgia's letter of March 29, 2022, letter N03-298-2022.

³⁹ Democracy Index – Georgia's letter of March 29, 2022, letter N03-290-2022.

⁴⁰ Democracy Index – Georgia's letter of March 29, 2022, letter N03-291-2022. In connection with the present case, we also addressed the members of the Parliament of Georgia with a letter to create an investigative commission to study the systematic crimes depicted in the story, which did not lead to an appropriate response from the side of the Parliament.

⁴¹ Democracy Index – Georgia's letter of December 30, 2022, N03-428-2022.

⁴² General Prosecutor's Office of Georgia's letter of February 14, 2023, N13/9639.

⁴³ Public Defender's Office of Georgia's Letter of April 13, 2022, N15-3/3927.

response of the Prosecutor's Office, the Public Defender informed us that according to the law, the office does not have the authority to access the current criminal case materials, which is why the mandate of the Public Defender was considered exhausted and the proceedings on our application ended.⁴⁴

According to the August 2023 response of the General Prosecutor's Office to the MP question, as soon as the investigation into the case started, relevant persons from various state agencies were immediately questioned, information and materials important for the investigation were requested. Currently, processing/analysis of voluminous information received from state agencies and other procedural or investigative actions are ongoing. Criminal prosecution against a specific person/persons has not been initiated.⁴⁵

According to the law, upon receiving information about a crime, the investigator, prosecutor is obliged to start an investigation.⁴⁶ It is at the investigation stage that the facts should be studied. And only after the commencement of the investigation, if it is determined that there no criminal action have taken place, the investigation can be terminated.⁴⁷ Contrary to the law, the so-called "study of circumstances" was ongoing for 4 months. Such a delay in starting the investigation prevents comprehensive and timely investigation of the crime (impedes obtaining evidence, access to witnesses, etc.).

2.3. Gotcha Enukidze – Privatisation of state property at a preferential price

On December 31, 2014 "Iber Company" LLC (S/C 231963818), 100% of shares owned by the MP Gocha Enukidze, received state property through privatization at preferential price, in the form of direct sale, as a result of alleged corrupt deal.⁴⁸ His actions also show signs of illegal participation in business activities and corrupt deals with the members of the government. In particular:

- On December 31, 2014, 3526 square meters of non-agricultural land plot was transferred to the ownership of "Iber Company" LLC (I/N 211358181) with the decree of the GoG, in the form of direct sale, for 800,000 (eight hundred thou-

⁴⁴ Public Defender's Office of Georgia's Letter of November 18, N15-3/11601.

⁴⁵ See Parliamentary question and answer: <https://info.parliament.ge/#mpqs/10949>. [19.08.2023.]

⁴⁶ Paragraph 1 of Article 100 of the Criminal Procedure Code of Georgia.

⁴⁷ Paragraph 1 of Article 105 of the Criminal Procedure Code of Georgia.

⁴⁸ See the Decree of the Government of Georgia dated December 31, 2014 N2620 "On privatization of state-owned real estate to "Iber Company" LLC in the form of direct sale".

sand) GEL.⁴⁹

- The conditions of privatization were defined as follows: construction of not less than 12,000 sq.m. building(s), putting the building(s) into operation, improvement of the territory around the building(s), no less than 4,000,000 (four million) GEL investment within a period of not more than 3 (three) years from the signing of the privatisation agreement.
- On June 13, 2016, the decree of the Government of Georgia dated December 31, 2014 was amended. According to the amendment, Gocha Enukidze's company was granted extension of the period of 42 months to fulfil the investment obligation.⁵⁰
- In order for "Iber Company" LLC to receive an investment offer, Gocha Enukidze had direct communication with the acting Vice Prime Minister at that time, Dimitri Kumsishvili.⁵¹ The MP confirms the fact of the communication in the investigative TV piece: "I told you that I took part in the communication when the proposal came from the company, I knew Mr. Dimitri, we are members of the same team and government, so I helped [the company] in communication."⁵²
- As a result of the investment offer, "Iber Company" LLC received a plot of land located in Tbilisi centre at a much lower price than its market price, in the form of direct sale, thereby causing damage to the state budget.⁵³
- The state did not hold an auction for the privatisation of the property which would increase the competition, sell the land at a higher price, and the state budget would not be affected.
- In addition, the transfer of the plot of land to Gocha Enukidze's company at a

⁴⁹ Decree No. 2620 of the Government of Georgia of December 31, 2014 "On the privatization of the state-owned real estate to the limited liability company "Iber Company" in the form of direct sale" see the link:<https://matsne.gov.ge/ka/document/view/2678082?publication=0>

⁵⁰ Decree No. 1120 of the Government of Georgia of June 13, 2016, "On Privatization of State-Owned Real Estate Limited Liability Company in the Form of Direct Sale to "Iber Company"" on Amending Decree No. 2620 of the Government of Georgia of December 31, 2014, see on the link:<https://matsne.gov.ge/ka/document/view/3314743?publication=0>

⁵¹ Investigative story regarding Gocha Enukidze's alleged corruption crime: Properties transferred in ownership for 1 GEL to Parliament Members 29/05/2021 - YouTube: 8:35 - 11:42 min.

⁵² Ibid.: 10:30 - 10:47 min.

⁵³ There: 8:10 - 8:35 min.

discounted price coincided with the MP's important decision to leave the parliamentary opposition faction.

State Response

Gocha Enukidze's actions may constitute a crime stipulated by the Article 337 of the Criminal Code, which defines as a punishable act the illegal participation in business activities by an official or a person equal to him, in particular, personally or through someone else, despite the prohibitions established by law, participation in the management of an enterprise, if it is related to him Imposing an illegal benefit or advantage or protecting it in any other form.

On October 21, 2021 we appealed to the General Prosecutor's Office with a request to investigate the alleged corruption crimes of Gocha Enukidze and high-level government officials.⁵⁴

Following our appeal, three parliamentary questions were sent to the prosecutor's office on the same case: on November 9, 2021⁵⁵, on December 30, 2022⁵⁶ and February 14, 2023⁵⁷.

During one year and four months multiple efforts to clarify the state of investigation, only on February 14, 2023 the General Prosecutor's Office of Georgia (in response to the letter of December 30, 2022)⁵⁸ and on April 13, 2023 (in response to a parliamentary question)⁵⁹, gave information that the General Prosecutor's Office is studying the issue and the final decision has not been made regarding the initiation of the investigation.⁶⁰

According to the law, upon receiving information about a crime, the investigator, prosecutor is obliged to start an investigation.⁶¹ It is at the investigation stage that the facts should be studied. And after the commencement of the investigation, if it is determined that no criminal action took place, the investigation should be terminated.⁶² Contrary to the law, the so-called "study of the circumstances" has been ongoing for more than a year and a month, and the investigative authority hasn't made a final decision on commencement of

⁵⁴ Democracy index - Georgia's letter of October 21, 2021, N03-237-2021.

⁵⁵ Democracy Index - Georgia's letter of November 9, 2021, N03-243-2021.

⁵⁶ Democracy Index - Georgia's letter of December 30, 2022, N03-428-2022

⁵⁷ Parliamentary question and its answer, see: <https://info.parliament.ge/#mpqs/10949>. [19.08.2023.]

⁵⁸ Democracy Index - Georgia, letter N03-428-2022 of December 30, 2022.

⁵⁹ Parliamentary question and its answer, see: <https://info.parliament.ge/#mpqs/10949>. [19.08.2023.]

⁶⁰ General Prosecutor's Office of Georgia's letter of February 14, 2023, N13/9639.

⁶¹ Section 1 of Article 100 of the Code of Criminal Procedure.

⁶² Section 1 of Article 105 of the Code of Criminal Procedure.

the investigation. Such a delay in starting the investigation prevents comprehensive and timely investigation of the crime (impedes obtaining evidence, access to witnesses, etc.).

2.4. Valeri Gelashvili – Privatisation of state property at a preferential price

According to the decision of the GoG, a plot of land in the center of Tbilisi was sold to the former member of the Parliament of Georgia Valery Gelashvili's company, LLC „Lit Geo Invest“ (I/N 204531088). In the decision made by the government, there are signs of a corrupt deal with the participation of Valeri Gelashvili and the Prime Minister Irakli Gharibashvili.

- On December 18, 2014 with the decree of the GoG,⁶³ In the form of direct sale, 4170 square meters of non-agricultural land plot was transferred to the ownership of “Lit Geo Invest” LLC (S/C 204531088) for 500,000 (five hundred thousand) GEL.⁶⁴
- According to the decree, the privatization conditions of “Lit Geo Invest” LLC were defined as follows: the payment of the privatization amount provided for by this decree within 6 (six) months after the signing of the relevant agreement; within 2 (two) years after the signing of the privatisation agreement; construction of residential house/complex within 2 years; at least 2,600,000 (two million six hundred thousand) GEL investment.
- The real market value of the privatized non-agricultural plot of land in the center of the capital was 8 times higher than the amount specified in the decree – 800,000 GEL. Accordingly, the state budget lost more than 3,500,000 GEL of income.⁶⁵
- In Georgia, and especially in the capital, the construction business is one of the growing areas of the economy. According to the data of the National Statistics Service, both before and after 2014, the volume of business turnover in construction increased several times in a short period of time.⁶⁶ Based on this, the

⁶³ Decree No. 2337 of the Government of Georgia of December 18, 2014 “On privatization of state-owned real estate for Lit Geo Invest LLC” in the form of direct sale, see: [link:https://matsne.gov.ge/ka/document/view/2649244?publication=0](https://matsne.gov.ge/ka/document/view/2649244?publication=0), [16.08.2023.]

⁶⁴ Exact address: St. Tbilisi, Saburtalo residential area, 5th quarter, Sandro Euli Street No. 5.

⁶⁵ In the story, the manager of the residential complex “Saburtalo Palace” built on the privatized territory speaks about the current market prices. Story about the corruption crimes committed by Valery Gelashvili and other members of the government: Properties transferred in ownership for 1 GEL to Parliament Members 29/05/2021 - YouTube, 2:14 – 3:14 min. [16.08.2023.]

⁶⁶ See the present statistical information. On the website of the National Statistics of Georgia: <https://www.geostat.ge/ka>. [16.08.2023.]

government's decision to allocate additional state funds (territory) to stimulate already rapidly growing construction business is unjustified.

- According to the Local Government Code⁶⁷, the Government of Georgia should not dispose of state property in municipalities, especially in self-governing cities. Implementation of urban planning measures is the responsibility of municipalities. This should not be implemented in Tbilisi by the GoG, but by the municipal government of Tbilisi⁶⁸.
- 2 months after the privatization of the land for “Iber Company” LLC, Valery Gelashvili testified in court against former President of Georgia Mikheil Saakashvili in the criminal case.⁶⁹
- Valery Gelashvili donated a total of 150,000 GEL to the ruling party in the years of 2012, 2014 and 2016.⁷⁰

State Response

The above-mentioned facts may constitute the crime provided for by the Criminal Code, in particular, the abuse of official authority by an official or a person equal to him, against the public interest, to gain certain benefit or advantage for himself or others, which significantly violates the right of a natural or legal person, the legal interest of society or the state (Article 332.1 of the Criminal Code).

On October 21, 2021 the DIG appealed to the General Prosecutor's Office of Georgia to start an investigation into the aforementioned alleged criminal offense.⁷¹

Following our appeal, three parliamentary questions were sent on the same issue: on November 9, 2021⁷², on December 30, 2022⁷³ and February 14, 2023⁷⁴.

⁶⁷ Article 16 of the Local Self-Government Code, Part Two, Sub-Clause “N”.

⁶⁸ Item “EB” of Article 75 of the same Code.

⁶⁹ Story about the corruption crimes committed by Valery Gelashvili and other members of the government: Properties transferred in ownership for 1 GEL to Parliament Members 29/05/2021 - YouTube, 6:00 - 6:14 min. [16.08.2023.]

⁷⁰ Party donations see on the link: Valery Gelashvili - Party donations (transparency.ge). [16.08.2023.]

⁷¹ Democracy Index - Georgia's letter of October 26, 2021, N03-236-2021.

⁷² Democracy Index - Georgia's letter of November 9, 2021, N03-244-2021.

⁷³ Democracy index - Georgia's letter of December 30, 2022 N03-428-2022.

⁷⁴ Parliamentary question and its answer, see: <https://info.parliament.ge/#mpqs/10949>. [19.08.2023.]

After several attempts to clarify the information, the General Prosecutor's Office of Georgia only on February 14, 2023 (in response to the letter of December 30, 2022)⁷⁵ and on April 13, 2023 (in response to a parliamentary question)⁷⁶, informed us that the matter is being studied in the General Prosecutor's Office and the final decision has not been taken regarding the initiation of the investigation.⁷⁷

According to the law, upon receiving information about a crime, the investigator, prosecutor is obliged to start an investigation.⁷⁸ It is at the investigation stage that the facts should be studied. And after the commencement of the investigation, if it is determined that no criminal action took place, the investigation should be terminated.⁷⁹ Contrary to the law, the so-called "study of the circumstances" has been ongoing for more than a year and a month, and the investigative authority hasn't made a final decision on commencement of the investigation. Such a delay in starting the investigation prevents comprehensive and timely investigation of the crime (impedes obtaining evidence, access to witnesses, etc.).

2.5. Levan Mgaloblishvili – Administrative Offense

MP from the ruling party „Georgian Dream“, Levan Mgaloblishvili illegally captured a plot of land in Tskneti (Grishashvili Street N16a), one of the prestigious areas near Tbilisi, owned by Tbilisi Municipality and illegally constructed a house on it.⁸⁰

On January 18, 2023, with a request to respond to the fact of an administrative offense, we applied to the City Hall of Tbilisi Municipality.⁸¹ Tbilisi City Hall informed us on February 20, 2023,⁸² that:

- On February 17, 2020, the inspection of the municipality adopted a resolution regarding the suspension of the illegal construction mentioned in the story. Before the violation was corrected, the municipality inspection issued an enforcement notice on March 12, 2020.

⁷⁵ Democracy Index – Georgia's letter of December 30, 2022, N03-428-2022.

⁷⁶ See Parliamentary question and answer to it: <https://info.parliament.ge/#mpqs/10949>.

⁷⁷ General Prosecutor's Office of Georgia's letter of February 14, 2023, N13/9639.

⁷⁸ Section 1 of Article 100 of the Code of Criminal Procedure.

⁷⁹ Section 1 of Article 105 of the Code of Criminal Procedure.

⁸⁰ See the investigative story related to Levan Mgaloblishvili's administrative offense: The MP of Dream grabbed land and built a house in Tskneti - YouTube., [17.08.2023.]

⁸¹ Democracy Index – Georgia's letter of January 18, 2023, N03-433-2023.

⁸² Tbilisi Municipality City Hall's letter of February 20, 2023, N17-01230511478.

- Since the party did not comply with the above-mentioned decision of the municipal inspection, on July 6, 2020, the specialist of the municipal inspection made an act of inspection of the unauthorized construction and started proceedings on the violation.
- On August 5, 2020, the municipal inspection fined Levan Mgaloblishvili with 50,000 GEL for non-compliance with the previous decisions of the City Hall. The resolution, by which the party was fined, was appealed to the municipality's mayor's office. On October 16, 2020, the City Hall made a decision to refuse to uphold the complaint.
- According to the resolution of the municipal inspection on August 21, 2020, the party was fined 25,000 GEL for building a house without the relevant permission. The party appealed this act too to the municipality's mayor's office. The administrative appeal was rejected by the City Hall. The above-mentioned facts were appealed by the party in the Tbilisi City Court, where the case is still being considered.

According to the law, if the fact of unauthorized construction is established and the plot of land is owned by the state and/or municipality, the authorized body, on the basis of issuing a reference and drawing up an inspection act, adopts a resolution on the dismantling of the unauthorized construction and imposing the responsibility provided for by the Georgian legislation on the violator. The appeal of these decisions does not suspend the operation of the said resolution regarding the dismantling of illegal construction.⁸³

According to the information available to us, the decision on dismantling of illegal construction has not been implemented to date, which indicates that the agencies are bypassing the law and do not implement the decision in relation to specific persons.

On March 31, 2023, with the motive of monitoring the case of the above-mentioned administrative offense, since there is a high public interest in it, we requested copies of the administrative acts, by which the party was fined, from the City Hall of Tbilisi Municipality. Also, we requested the materials of the ongoing case in the court, including information about the probable reasons for the delay of the case.⁸⁴ On April 12, 2023, Tbilisi City Hall informed us that the information requested by us contained the personal data of an indi-

⁸³ Part 4 of Article 128 of the Code of Spatial Planning, Architectural and Construction Activities of Georgia. Also, paragraph 4 of Article 25 of the Code of Product Safety and Free Circulation.

⁸⁴ Democracy Index - Georgia's letter of March 31, 2023, N03-492-2023.

vidual, on the basis of which they refused to disclose the information.⁸⁵

To the extent that the case concerns an alleged violation of the law by a high-ranking official, there is a high degree of public interest in the matter. According to Article 44 of the General Administrative Code of Georgia, the personal data of the official, as well as the candidate nominated for the position, are public. In addition, due to public interest, the agency was allowed to release the data of other persons in a depersonalised form.

2.6. Refusal to Commence Criminal Investigation

We applied to the prosecutor's office in connection with two additional cases:

A. In December 2016, MP Fridon Injia's son, Ilia Injia, purchased 17,000 sq.m. from the state for 5 million GEL. The plot of land is subject to the construction of a 120-room multi-functional hotel complex and arrangement of recreational space.⁸⁶ On February 22, 2018, at the time of completion of the hotel complex, Ilia Injia applied to the Transport City Service of Tbilisi Municipality for permission to build a residential building instead of the hotel complex. The City Transport Service did not satisfy Ilia Injia's request with the answer of March 19, 2019. 4 months later, the City Transport Service changed its decision and issued a permit for the construction of a residential complex instead of a hotel. During these four months, there were no transport and/or infrastructure changes in the territory that could be the basis for changing the permit condition.⁸⁷ On October 18, 2019, the City Council of Tbilisi Municipality adopted a resolution on changing the status of the recreational zone to the status of a construction zone for the area where Ilia Injia's apartment building was to be built.⁸⁸ In addition, according to the conclusion issued by the National Environmental Agency of the State of Ukraine, in the area where Ilia Injia is building a residential building, "small foci of stone-cutting processes are fixed along the entire length of the rocky slope, the accumulation zone of which is represented by the accumulation of crushed material in the form of cones several meters thick".⁸⁹

⁸⁵ Tbilisi City Hall's letter of April 12, 2023, N10-01-231022250.

⁸⁶ Investigative story about Fridon Injia's alleged corruption crime: 32 floors are being built on top of Ortachala - YouTube: 3:21 - 3:50 min. [17.08.022.]

⁸⁷ Investigative story about Fridon Injia's alleged corruption crime: 32 floors are being built on top of Ortachala - YouTube: 4:58 - 5:49 min. [17.08.022.]

⁸⁸ Resolution of the City Council of Tbilisi Municipality N47-81. on the link: 47-81-2019.pdf (tbsakrebulo.gov.ge) [17.08.022.]

⁸⁹ Investigative story about Fridon Injia's alleged corruption crime: 32 floors are being built on top of Ortachali - YouTube: 7:41 - 7:59 min. [17.08.022.]

B. While movement was only allowed with a special pass at night, bookmakers owned by members of the family of MP Isko Dasen did not stop their activities and accepted customers who, according to them, had a special pass. All this against the background that the pass should have been issued only for the performance of critically necessary official duties; Against this background, there is a reasonable assumption that the government's decision was tailored to the business interests of the Isko Dasen family and did not take into account the prevention of the spread of the virus.

The investigative agencies refused to start the investigation in the cases of Isko Dasen and Fridon Injia. According to the explanation of the State Security Service and the Prosecutor's Office, as a result of the study of the issue, no signs of crime were identified, and accordingly, the investigation was not started.⁹⁰

According to the law, upon receiving information about a crime, the investigator, prosecutor is obliged to start an investigation.⁹¹ It is at the investigation stage that the facts should be studied. And after the beginning of the investigation, if it is determined that there is no action taken into account by the criminal law, the started investigation should be stopped.⁹² In the given cases, the decision was made that the investigation was not even started, despite the nature of the described crime and the evidence presented. The law does not recognize the so-called In the "investigation stage", as indicated by the State Security Service. Accordingly, immediately after receiving the notification, the investigation should have been started, since the criminal signs of the actions described in the submitted notifications and the corresponding evidence were also attached. Thus, by not starting the investigation, the procedural legislation was violated. On the other hand, if the response to the issue was conducted in accordance with the procedural norms, the agency would have to terminate the investigation with a corresponding resolution.⁹³

⁹⁰ See Parliamentary question and answer to it: <https://info.parliament.ge/#mpqs/11519>, [17.08.022.]

⁹¹ Section 1 of Article 100 of the Code of Criminal Procedure.

⁹² Section 1 of Article 105 of the Code of Criminal Procedure.

⁹³ Part 1 of Article 106 of the Code of Criminal Procedure.

Chapter III: Incompatible, Informal Business Activities of MPs: Review of Cases

According to the Constitution of Georgia, a member of the Parliament has no right to hold any position in the public service or engage in entrepreneurial activity. An MP can engage in social/voluntary activities. Also, an MP can engage in scientific, pedagogical and artistic activities, if these activities do not include the performance of administrative functions. The cases of incompatibility are determined by the Parliament's regulations.

In addition, an MP does not have the right to: directly carry out repeated activities to gain profit in order to manage material assets and financial means; To directly exercise the powers of the permanent head of the business entity, member of the supervisory, control, audit and/or advisory body of business entity. According to the definition of the OECD: a conflict of interest exists when the private interests of a public official conflict with his public obligation to serve the public interest.⁹⁴

According to Article 7 of the Law of Georgia "On Combating Corruption", "a public servant has no right to use his official authority or the related opportunity against the interests of a public institution or to solve an issue that does not belong to his official authority." The present reservation of the law prohibits the civil servant from interfering in such decisions that do not belong to the sphere of management of the position assigned to him. In such a case, the member of the parliament does not have the right to use the mandate at his disposal to satisfy his own interests or those of his relatives and to give them specific, illegal advantages.

Based on the principle of the rule of law, a public official must clearly serve public interests and not have any conflict with personal interests during the exercise of public authority. According to the standards of the Venice Commission, the rules related to the incompatibility of interests are motivated to ensure that the member of parliament has enough time to serve the parliamentary mandate.⁹⁵

⁹⁴ For more details, see: OECD, Managing Conflict of Interest in the Public Sector, Toolkit, 2005, page 13, definition. <https://www.oecd.org/corruption/ethics/49107986.pdf>, [17.08.2023.]

⁹⁵ European Commission for Democracy Through Law, Report on the Democracy, Limitation Of Mandates And Incompatibility Of Political Functions, CDL-AD (2012)050, Venice, 2012, 13 September, page 76.

3.1. Elguja Gotsiridze – Incompatible Business Activity

Facts of the Case

MP of the ruling party “Georgian Dream”, Elguja Gotsiridze, directly carries out business activities prohibited by law. Specifically, he is involved in the entrepreneurial activity in the Ghudushauri National Medical Center (I/N 202193544), which is confirmed with the following:

- The MP invited the journalist to the space owned by the enterprise, with the aim to show to the journalist the hospital’s financial documents. According to the law, such documents are accessible only to persons involved in the management of the enterprise. And a person who has nothing to do with the management of the enterprise would not have access to such information.⁹⁶
- The MP instructed the employee of the enterprise to present the financial documentation of the medical institution, thus he actually combined the functions and duties of the manager of the enterprise.⁹⁷
- Regarding the income received by the enterprise, the deputy noted that he directly reinvests. According to public registry, the MP does not own a share in the enterprise. His son, Gigi Gotsiridze, is the owner of 20% share of the hospital and the manager of 100% share. Therefore, the only partner who would be allowed to make a decision regarding reinvestment was the latter.⁹⁸
- The MP admitted that he is involved in the activities of the enterprise and gives consultations to his son Gigi Gotsiridze, who is the manager of 100% of the shares of the enterprise. According to the regulations of the Parliament, the MP is also prohibited from being a member of the advisory body of the enterprise.⁹⁹

State Response

According to the law, if a member of the Parliament engages in entrepreneurial activity,

⁹⁶ The story about the alleged entrepreneurial activity of Elguja Gotsiridze: Wealth accumulated on people’s behalf - YouTube, 2:38 – 2:40 min., [17.08.2023.]

⁹⁷ Ibid.: 3:03 - 3:15 min.

⁹⁸ Ibid.: 7:07 - 7:10 min.

⁹⁹ There: 8:16 - 8:30, 13:20 - 13:27 min.

the Committee on Procedural Issues and Rules of the Parliament requests the appropriate written material within 10 days from the discovery of this fact, receives an explanation from the MP and prepares an appropriate conclusion. If it is confirmed that the MP is engaged in entrepreneurial activities, the report is submitted to the Bureau of the Parliament, which includes the issue of termination of the member of the parliament's authority in the agenda of the next plenary session.¹⁰⁰

On June 24, 2021 the DIG asked the committee to study the incompatible business activities of Elguja Gotsiridze.¹⁰¹ On July 7, 2021 the committee chair disclosed information about following steps taken by him: the committee sought the data of the public registry, according to which the MP was not formally a person authorized to manage and represent the company, nor did he own shares of the company. Despite the evidence shared by us, which indicated the alleged involvement of Elguja Gotsiridze in entrepreneurial activities, the committee could not reveal the fact of incompatible activities.¹⁰²

In response to the above, we addressed the committee on October 18, 2021 for additional clarification of the issue.¹⁰³ The clarifying letter requested information on the details of the investigation, namely: whether the committee meeting was held in connection with the mentioned issue, as required by the law; Whether the committee requested written information for the purpose of investigating the circumstances; Whether an explanation was requested from the member of the parliament and whether the committee received the relevant conclusion.

According to the committee, it sought and received the necessary oral information from the company managers regarding the MP's involvement in business activities. The MP was also requested an oral explanation.¹⁰⁴ The letter of the Head of the Committee states that according to Elguja Gotsiridze, his son, Gigi Gotsiridze, is the manager of the share, and he has no relationship with the company as a public partner. And the journalists' visit was pre-arranged with the company's management and leaders, which, according to Elguja Gotsiridze, has nothing to do with the implementation of entrepreneurial activities.

If the explanation was received from Levan Mgaloblishvili in writing, in the case of Elguja Gotsiridze, according to the report of the committee, it was done orally. There is no uni-

¹⁰⁰ Clause 5 of Article 6 of the Regulations of the Parliament of Georgia.

¹⁰¹ Democracy Index- Georgia's letter of June 14, 2021, N03-180-2021.

¹⁰² Procedural Issues and Rules Committee of the Parliament of Georgia's letter of July 7, 2021 (N6961/4-12/21).

¹⁰³ Democracy Index - Georgia's letter of October 18, 2021 N03-230-2021.

¹⁰⁴ Procedural Issues and Rules Committee of the Parliament of Georgia's letter of July 7, 2021 (N6961/4-12/21) and November 1, 2021 (N10805/2-7/21).

form approach towards requesting explanation of the MPs and not all cases are properly documented.

It is unclear what was the content or what regard to the oral explanation of Elguja Gotsiridze was given or where it was reflected, because there is neither the minutes of the committee meeting, since it was not held at all, nor the committee conclusion, where the information about the mentioned would be given.

The committee did not thoroughly and fully study the fact of alleged, incompatible entrepreneurial activity of Elguja Gotsiridze. All possible levers provided by the regulation were not used. In particular, the appropriate written material was not requested, the issue was not discussed at the committee meeting, and an committee conclusion was not prepared, as provided for by the law.¹⁰⁵

In addition, the Committee did not use any mechanism of the Regulation that would have helped it to investigate and detect the facts of incompatible business activities. In particular, the following mechanisms were not applied:

- Articles 40 and 41 of the Rules of Regulation of Parliament, which authorize parliamentary committees to question any state official about allegations related to MPs;
- Article 61 of the Regulation, which allows for the creation of a temporary investigative commission, in the event that there is a legal misconduct on the part of an official, including a member of the Parliament.

3.2. Levan Mgaloblishvili – Incompatible Business Activity

Facts of the Case

MP from the ruling party “Georgian Dream” Levan Mgaloblishvili directly carries out business activities prohibited by law. Specifically, in the entrepreneurial activities of LLC “Marshal Development” (I/N 422432442) and LLC “Marshal Didi Dighomi” (I/N 405381643), which is confirmed by the following factual circumstances:

- Levan Mgaloblishvili is personally involved in the implementation of entrepre-

¹⁰⁵ Clause 5 of Article 6 of the Regulations of the Parliament of Georgia.

neurial activities through a registered company owned by his wife, Nona Khidirbegishvili (“Marshall Development LLC”). The MP supervises the implementation of construction activities by the same company which is confirmed by the words of the workers. One of the workers presented in the investigative TV piece tells in a conversation with the journalist that he had a personal communication with Levan Mgaloblishvili regarding the payment of the work performed and other organizational issues.¹⁰⁶

- The deputy also carries out illegal business activities through the company “Marshal Didi Dighomi”, 100% owner and director is the father-in-law of the deputy, Mikheil Khidirbegishvili. The company plans to build a 15-story residential building on Mirian Mefe Street in Didi Dighomi. Levan Mgaloblishvili himself is looking for workers for the construction and he is also involved in the process of direct negotiations.¹⁰⁷
- In the background of all this, the MP was the initiator of the draft law¹⁰⁸ which increased the amount of the fee for the construction permit. The fee increase, without any justification, would not apply to the type of constructions in which the construction companies related to Levan Mgaloblishvili are engaged. Finally, the parliament supported the bill. All raise grounds for assuming that Levan Mgaloblishvili uses public authority to privilege private business interests.

State Response

The committee has not thoroughly and fully studied the fact of Levan Mgaloblishvili’s alleged, incompatible entrepreneurial activity. All possible levers provided by the Rules of Regulation of Parliament were not used. In particular, the appropriate written material was not requested, the issue was not discussed at the committee meeting, and a committee conclusion was not issued, as provided for by the law.¹⁰⁹

In addition, the Committee did not apply mechanisms established by the Rules of Regulation that would have helped it to investigate and detect the facts of incompatible business activities. In particular, the committee did not apply:

¹⁰⁶ Investigative story regarding the incompatible business activities of Levan Mgaloblishvili: The MP of Dream worked the workers as slaves - YouTube, 0:35 - 1:23, 2:40 - 3:06, 4:30 - 4:40 min. [17.08.2023.]

¹⁰⁷ Ibid.: 5:17 - 5:33 min.

¹⁰⁸ “On Amendments to the Law of Georgia “On Local Fees”, 08.06.2022. N7-3/220/10.

¹⁰⁹ Clause 5 of Article 6 of the Regulations of the Parliament of Georgia.

- Articles 40 and 41 of the Rules of Regulations, which authorize parliamentary committees to question state officials about allegations related to MPs;
- Article 61 of the Rules of Regulation, which allows for the creation of a temporary investigative commission, in the event that there is a legal misconduct on the part of an official, including a member of the Parliament.

With the letters of 27 December, 2022¹¹⁰ and 30 December, 2022¹¹¹, the DIG asked the committee to study the incompatible business activities of Levan Mgaloblishvili.

The committee studied the data of the public registry, according to which Levan Mgaloblishvili does not hold a management position in the companies mentioned, and the share has been transferred with the right of management. Finally, the committee could not reveal the fact of incompatible entrepreneurial activity.¹¹²

In addition, regarding the actual involvement of Levan Mgaloblishvili in entrepreneurial activities, the chairman of the procedural issues and rules committee requested an explanation from the member of the parliament, which was sent to the DIG as an attachment.¹¹³

In the explanatory note of Levan Mgaloblishvili it is mentioned that Levan Mgaloblishvili, as a member of the parliament, is insulted by the fact that he was associated with incompatible activities. He declares that each of his actions is legally correct and in accordance with the law. The said explanation was accepted by the chairman of the committee as irrefutable evidence, without any verification.

The explanation does not respond to the journalistic investigation and the facts of the MP's communication with the workers, nor to the fact that the MP was in favor of the

¹¹⁰ Democracy Index – Georgia's letter of December 27, 2022.N03-425-2022.

¹¹¹ Democracy Index – Georgia's letter of December 30, 2022, N03-429-2022 additional letter, which was related to the circumstances that Levan Mgaloblishvili used the mandate of the legislator to grant privileges to the companies related to him and violated the requirements stipulated by the Constitution and Regulations of Georgia. The committee did not respond to the mentioned letter.

On April 27, 2023, by letter N03-493-20c23, we asked the members of the committee and the committee itself to re-examine the issue of incompatible business activities of Levan Mgaloblishvili. using all the levers provided by the regulation. And the issue was discussed at the committee meeting. Regarding the letter, there was no response until this stage.

¹¹² Procedural Issues and Rules Committee of the Parliament of Georgia's letter of 2023, N828/4-12/23.

¹¹³ In the explanation, the MP says that he has no connection with the mentioned business entities. The MP's explanation was considered valid evidence, without any verification, so that it was not evaluated at the committee meeting, thereby violating the requirements of the Committee on Procedural Issues and Rules of the Parliament of Georgia. see Explanation of Levan Mgaloblishvili: Letter of January 27, 2023, N2-1002/23.

draft law.¹¹⁴ The response of the committee chairman does not contain information about whether the committee shared the explanation of the member of parliament and what is the committee's assessment of it. However, until now the issue has not been discussed by the committee members at the committee meeting.

The meeting of the committee is convened and its agenda is determined by the chairman of the committee on his own initiative.¹¹⁵ It is the responsibility of the chairman of the committee that the mentioned matter was not discussed by the committee as required by law. The chairman is not authorized to make decisions on behalf of the committee.

3.3. Gocha Enukidze – Incompatible Business Activity

In the same case of Gocha Enukidze, there is both a signs of crime of corruption and incompatibility of interests. Accordingly, the detailed factual circumstances regarding the case of Gocha Enukidze are given in the second chapter of this report.

Since the fact of incompatibility of interests was evident in the case, on November 3, 2021, the DIG submitted a letter to the Committee on Procedural Issues and Rules of the Parliament of Georgia. We asked the committee to study the issue. Despite the fact that the deputy is not the director of the enterprise and the management of its shares has been transferred to a third party, his communication with the representatives of the Ministry for the purpose of privatization of land for JSC “Iber Company” qualifies as entrepreneurial activity.

The chairman of the committee informed us on November 24, 2021 in response to our appeal¹¹⁶, that the committee studied the data of the public registry, according to which the member of the parliament Gocha Enukidze does not represent a person authorized to lead or represent the company, thus, it could not reveal signs of conflict of interest.

Here, as well as in the above-mentioned cases, it is noted that instead of a comprehensive and thorough study of the issue, the committee studied only the formal components – data from the public registry.

¹¹⁴ “On Amendments to the Law of Georgia “On Local Fees”, 08.06.2022. N7-3/220/10.

¹¹⁵ Paragraphs 34 and 9 of Article 34 of the Rules of Procedure of the Parliament of Georgia.

¹¹⁶ Procedural Issues and Rules Committee of the Parliament of Georgia's letter of N11606/4-12/21, November 24, 2021.

Recommendations

To Parliament of Georgia:

- The power to investigate the signs of corruption in the activity of an MP should be transferred from the Committee on Procedural Issues and Rules to the competence of an independent body (e.g the National Anti-Corruption Bureau).
- The Committee of Procedural Issues and Rules should investigate the entrepreneurial activity of the MP fully, study not only the formal aspect but also the content of the possible incompatibility. During the investigation, various mechanisms provided for by the Rules of Regulation should be applied (requesting written materials, analyzing the property declaration, interviewing officials about the allegations related to the MP, the obligation to submit information, creating a temporary investigative commission, etc.).
- The committee must discuss the issue of the incompatible entrepreneurial activity of a member of the parliament for discussion at the plenary session in accordance with the Rules of Procedure at the committee session; As a result of the discussion of the issue, the committee should develop a reasoned conclusion, which cannot hinder the discussion of the issue at the plenary session.
- The explanation of an MP should be written and should not be taken as irrefutable evidence, should be assessed and also verified with a combination of other evidence.

To Prosecutor's Office of Georgia and other Investigative Agencies:

- The decision to initiate an investigation into the signs of corruption in the actions of a high-ranking official should be made immediately, without any delay.
- The absence of signs of corruption in the actions of a high official and the decision to refuse to initiate an investigation must be reasoned.
- Information on the investigation of signs of corruption in the actions of a high-ranking official should be available to the parliament and the public. The Attorney General's Parliamentary Report should provide more information about

such investigations, including the number of referrals, length of investigations, and more.

