

# Zone deprived of rights



**(Collection of materials describing the cases  
of violation of fundamental human rights  
and freedoms in Georgia)**



**The book is based on the materials from the Ombudsman's annual report, as well as on the facts uncovered by various human rights organizations and independent journalistic investigations.**

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# Foreword

Facade democracy – is the major problem in Georgia. Beyond this facade multitude of citizens deprived of their values and rights, disrespected and intimidated live, are imprisoned, or merely buried...

This is visibly proved by the words of the journalist Stephan Scholl from Frankfurter Rundschau: “Europe has an idealized picture of what is happening here. I have been in Georgia for a few days and I have such an impression that there is a two-storey Georgia. The first floor Georgia is displayed to foreigners, the representatives of the western governments. Everything is superb here...

However, I happened to go up to the second floor Georgia too and the reality here is completely different. I met the people whose children despite the lack of evidence were charged for murder and sentenced to many - more than thirty - years of imprisonment... I met those people and they are rather scared, scared to give even their names. Plea bargaining is rampant here and, if you have money, this issues could be solved... it is odd... Hence, the situation is not as perfect as it seems from the first floor.”

The book we are offering tells about “the second-floor” Georgia. You will find multitude examples of egregious and obvious violation of human rights: the facts provided by the Ombudsman’s Office, materials of journalistic investigations and various publications that appeared in the press at various times.

Violence, murder, tortures, humiliation of citizens, lawlessness, prosperity of tyranny – this is the horrifying truth about Georgia proclaimed as a Lighthouse of Democracy.

No lighthouse or candlelight is required to see and perceive what tragedy is being unfolded here.

The tragedy calls for removal of the democratic facade and change of mis-en-scenes. And that has to be done jointly.

# Persecution of political opponents

In the last 3-4 years several political parties were united as opposition of the present-day Georgian authorities. One of the declared reasons for moving to opposition was gross human rights violations, which became a rule for officials at different levels and the whole government agencies. In June, 2008 the united opposition planned to hold a rally in front of the Parliament Building in order to express its attitude towards the Parliament elected on May 21, 2008. With the beginning of rallies, physical abuse of the activists of was started. After several celebrated cases of serious bodily assaults, formal investigations had been initiated concerning the facts of assault on the activists of political opposition, although no one has been in regard to every assault on the active members of the political opposition; however, no one was brought to responsibility so far.

Such practice of punishment of the opponents of the authorities was tested before. In October, 2007 the then opposition parliament members - Bezhana Gunava and Bidzina Gudjbidze were assaulted and beaten brutally in the city of Zugdidi. The names of the assaulters are well known to everyone, including the representatives of law enforcement bodies. They are activists of the ruling “National Movement” - **Giorgi Samushia, Goga Ghurtskaia, Manuchar Putkaradze, Giorgi Mania, Irakli Mikaia, Biktoria Mikaia and Akaki Rogava**. Beating and serious bodily assaults of the opposition parliament members was considered by the Zugdidi Regional Court as actions of administrative and legal qualification. Due to rather leniency of the patrol-inspectors, who drew the report and Zugdidi District Court, it is impossible to charge the above-mentioned persons with criminal responsibility for the action they had been recognized as perpetrators (Principle of *Ne bis in idem* recognized by paragraph 4 of Amendment VII of the European Convention of Human Rights). **No one intended to punish the participants of the assault on Bezhana Gunava and Bidzina Gudjbidze, moreover, they were encouraged. This becomes even more obvious, when we look through the proportional election list of the “National Movement”. The list is uploaded on the website of the central Election Commission. Goga Ghurtskaia’s name could be found in the election list of the election subject – “United National Movement – For Victorious Georgia”. The date of birth - December 21 1982, activity – Chief Specialist at Zugdidi Municipality Council. This is exactly the**



**Shalva Ogbaidze**

same **Goga Ghurtskaia**, who was recognized as an administrative law breaker by the decision of Judge Davit Kekenadze at Zugdidi District Court on October 29 2007 and sentenced to 20 days of imprisonment and imposed the fine worth of four hundred laris. The violence applied by Goga Ghurtskaia against Bezhan Gunava had been depicted by TV channel “Rustavi-2” and “Imedi”.

**Under the number 91 in the same proportional list one can find Isako Tskipurishvili. In November, 2007 he was threatening to smash up an independent radio station in Lagodekhi for critical reportages. The audio-recording of this evidence is available.**

**Annual Report of the State Department of the USA concerning the status of the human rights worldwide in 2007 says: “Certain members of the political opposition in Georgia were subject to political violence. There were reports that politically active people not belonging to the ruling party experienced problems connected with the persecution and charges in corruption”.**

Irakli Okruashvili, once a powerful person, particularly close to the President Saakashvili, former Prosecutor General, Minister of Internal Affairs and Minister of Defense of the country was provided with political asylum in France. Despite the fact that Okruashvili is an odious man and his activities at different political offices are quite diverse, his persecution started only after he showed up on television charging authorities and Saakashvili personally. Soon he was given a custodial sentence and after emerging from

jail immigrated to Paris. Based on these circumstances, we could straightforwardly state that in September–October 2007, the Defense Minister was under political imprisonment. Criminal persecution against ex-Defense Minister was motivated by the announcements made on air of the TV channel “Imedi”. Later the problems with the authorities arose not only in regard to Irakli Okruashvili, but his relatives and friends too. After it was openly announced that Irakli Okruashvili established a political party, the Financial Police started to examine enterprises that belonged to Irakli Okruashvili’s closest friend – Kibar Khalvashi. The agreements on governmental procurement signed by him had been re-examined. Along with Irakli Okruashvili, Mikheil Kareli – former Governor/Trustee of Shida Kartli, Marlen Nadiradze - ex-chairman of Gori Municipality Council –and others were detained on charges of corruption. Irakli Okruashvili’s mother Zhana Giguashvili was unexpectedly dismissed from her job. The Ombudsman’s report of the second half of 2007 also denoted dismissal of the sister of Okruashvili’s party member and parliamentary deputy – Teo Tlashadze and the relative of the former Minister of Defense – Nana Mgebrishvili.

Political persecution against the persons having oppositional opinions was expressed in the following: the pedagogues at educational institutions were dismissed under cover-up or threatened to be dismissed due to their political opinions; active members of political opposition were assaulted and physically intimidated, as well as shadowed. Unusual measure of psychological pressure on the political choice of a person is to enforce him/her to make an oath on the icon, and if an employee refused to do that, she/he was dismissed from the job. All the actions committed against the active members of the opposition parties were connected with the Parliamentary elections of May 21, 2008. **We can talk about the political motive of the authorities in regard to the criminal case of Merab Ratishvili and Ioseb Jandieri. In return for Merab Ratishvili’ release, they required providing information on the leaders of the political opposition from him. An active participant of the actions on November 7, 2007\* Ioseb Jandieri was quite close with the persons on key positions in the authorities. In spite of that, he made a speech at the meeting on November 7, 2007 that was assessed as a treachery and he was got square with. The following type of political imprisonment is also very common: a person is incriminated in a bureaucratic crime. As evidence in such a case is**

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\* in what follows - On November 07, 2007 a massive protest rally was held in Tbilisi. In accordance with some estimations, about 200.000 thousand people participated in the rally, which was broke up by authorities with special cruelty, among other things, by use of rubber truncheons, teargas and so called “acoustic cannon” used by US forces in Iraq.



**used either the documents that allegedly were signed by the incriminated person but his signature does not exist on the documents or the method of basing the resolution on such a circumstance that has not arisen by the fault of the person who is under the prosecution (see the case of Dimitri Godabrelidze).** The majority of the people who consider themselves as political prisoners, have been imposed the criminal responsibility due to illegal turnover of drugs. It is a rarity in the world practice, when the law prohibits the political activities due to which a person was imprisoned. The Soviet Union was an exception. In the USSR such actions as anti-soviet propaganda, for example, was recognized as a crime. The person who was incriminated in this crime was automatically considered as a political prisoner. Today it is not as easy to identify a political prisoner, as it used to be in the Soviet period. Today pseudo-democratic political regimes declare pluralism on the legislation level declare pluralism. Despite this, in such countries the practice of law application dramatically differs from the declared principles. Authoritarian regimes are not able to criminalize peaceful political activities on the legislative level. They just disguise political motive of imprisonment with incrimination of various general offensive actions.

**Criminal responsibility is imposed on out of favor political activists based on the legislative dispositions having general and neutral attitude towards the politics. It should be also noted that it is sometimes difficult to assign the status of a political prisoner to some of the persons named by the opposition. It is not enough for a person against whom criminal proceedings were instituted to be a member of a political party and be politically active to be given the status of a political prisoner. By means of reliable evidences and convincing arguments it is important to establish the circumstances that criminal prosecution was due to political motive. Before the Rose Revolution, Article 236 of the Criminal Law (Illegal procurement and storage of weapons) and Article 260 (Procurement and storage of drugs) allowed the law enforcement bodies to behave arbitrarily. Based on the above mentioned Articles, while implementing operation-investigative measures and investigatory actions, it is rather easy to fabricate the evidences. This is due to the fact that in order to bring a charge for committing the mentioned actions no high standard for evidences are established, for example, the link between the drug or weapon and the accused is not sought after.**

To prove the crime, it is not necessary to determine the circumstances

of where, when or from whom the accused purchased the drug or the weapon, whether there are any fingerprints on the item, etc. The cases of three former law enforcement officers Revaz Kldiashvili (Deputy Head of the Military Police Department of the Ministry of Defense), Davit Tatishvili (Head of the Department of Interior Affairs of Tbilisi Isan-Samgori District) and Mikheil Giorgadze (Head of the Department of Interior Affairs of Tbilisi Mtatsminda-Krtsanisi District) are good examples of such fabrications, when former law enforcement officers become the members of the political parties of the opposition, take part in large scale protest actions, address former colleagues publicly not to use force against peaceful rally participants (as it was done by Mikheil Giorgadze in November 2007\*). Such actions are followed by discovery of weapons, ammunition and drugs after the search. It might sound strange but in the past the above-mentioned law enforcement officers used to be accused of committing similar illegal actions that now are incriminated to them. They would use drugs and weapons to fabricate the evidences against the opponents of the government (arrest of Revaz Okruashvili – editor of “Khalkhis Gazeti” by Revaz Kldiashvili in 2004) and carry out political persecution (Mikheil Giorgadze detained the active members of the movement “Kmara” in 2003 using administrative regulations and physically assaulted Lasha Chkhartishvili – one of the participants of the protest actions). **Former law enforcement officers arrested due to political motive know the best the mechanisms of evidence fabrications and political persecution the best. Taking into consideration the context, the actions specified in Article 353 of the Criminal Code are the most typical political crime. Based on the set norm, “resistance to the police officer or other representatives of the authorities to impede observance of public order, aimed at suspending or changing their actions; also enforcement of obvious illegal actions committed under duress or threat of violence” shall be subject to punishment.** On February 13 2008, in the list of political prisoners published by United National Council we encounter only five persons (**Zaal Kochladze, Levan Barabadze, Levan Minashvili, Ilia Tsurtsunia, Rostom Oniani**), who were detained due to the alleged crime envisaged by Article 353 of the Criminal Code. All of them had participated in the protest action. In the month of November, the above mentioned persons happened to be in the center of attention of the police. As a result the police implemented various procedural actions against them, and as the law enforcement officers stated, all of them demonstrated “resistance” to the law enforcement. In order to be charged by this motive, physical or verbal abuse against the police officer shall be a legal basis. **Note, only law enforcement bodies con-**

**firmed that the accused had exercised such violent actions against the law enforcement officers.** In compliance with the decision on imposition of criminal responsibility over the accused, in spite of the fact that alleged physical and verbal abuse against the **police officers had occurred in the places of public gatherings, in the presence of a lot of people, the prosecution was unable to prove the resistance towards the police by other persons other than the injured persons. Moreover, the persons who were present during the detention or attended the procedures conducted by the police, categorically denied in the explanations given to the Ombudsman the fact of physical or verbal abuse against the police officers (see case of Zaal Kochladze and Rostom Oniani).**

To incriminate a person an abuse against another person or a police officer is a widely spread practice of political persecution. For example, on August 29 2005, Moskovski District Court of the City of Minsk imposed a fifteen-day disciplinary action for disorderly conduct on two active members of the movement “Kmara” – Lika Tsuladze and current member of the parliament, Giorgi Kandelaki. In compliance with the court decision the offenders Giorgi Kandelaki and Luka Tsuladze insulted their cellmate.

International Non-Governmental Organization Amnesty International was certain from the very beginning that the detention of Giorgi Kandelaki and Luka Tsuladze was due to political motive. An authoritative international organization, while commenting this detention referred to the announcement made by the Head of the State Security Committee (KGB) on TV, where he stated that the Georgians had connections with radical political unregistered organizations, such as “Zubri”, “Young Front” and “Lemon”. According to the Amnesty International, the proof due to which Giorgi Kandelaki and Luka Tsuladze were imprisoned was fake. While prosecuting political opponents, the Georgian authorities, like Belorussian based on the falsified proof state that political prisoner abused a police officer or other person. Prosecution of political opponents based on such allegations is not new and all authoritarian regimes widely used it.

In the reports of the second half of 2004 and first half of 2006, the Ombudsman mentions about criminal persecution against those who blocked the roads to express their opinion. These measures were applied in Tskaltubo and in one village of Kvemo Kartli. Criminal persecution against those who blocked the roads was also a widely spread practice among the law enforcement bodies.

**Assaults on the political opponents, physical assault and reprisal during the election campaign of May 21, 2008 parliamentary elections, also after the elections during the preparation of protest actions on the**

**Rustaveli avenue were a common event. The representatives of the political opposition were usually the victims of group assaults.** We have also encountered one case, when a member of the Republican Party assaulted Gvantsa Khositashvili - an active member of United National Movement. In all other cases the victims of the reprisal were oppositionists. It was not difficult to identify the assaulters during the election campaign was possible. They were either the representatives of the authorities or the supporters of the competing party (see attached the case of Gvantsa Khositashvili). To identify those who assaulted and violently assaulted the active members of the opposition parties after the elections is rather difficult. **In compliance with the information available for the Ombudsman, after the parliamentary elections at least thirteen people became the objects of physical reprisal (Ramin Abuladze, Davit Sazanishvili, Amiran Iobashvili, Nugzar Khutsurauli, Giorgi Tavdgiridze, Giorgi Shervashidze, Boris Zanashvili, Levan Jgharkava, Levan Gvarjaladze, Davit Metreveli, Ioseb Bortsvadze, Zurab Giguashvili and Nona Saghareishvili). In the majority of cases the assaulters were wearing masks. If we look through all the incidents, we will see that all of them are well organized. Prior to physical reprisal, the objects of the physical abuses experience psychological duress. She/he is a permanent object of the surveillance and threat ( see Nona Saghareishvili and Ramin Abuladze cases). The people are assaulted at a selected time (night hours in case of Ioseb Bortsvadze) and place (usually this is the entrance to the block of flats of the victim). Prior to the act of violence sometimes the victims are abducted, a plastic bag is put on the head or are tied with the scotch tape and forcefully put in the car (Davit Sazanishvili, Zurab Giguashvili, Mamuka Kvaratskhelia cases). Assaulters sometimes tried to disguise the political motive of the assault with crime against the property. For example, when Mamuka Kvaratskhelia and Zurab Giguashvili had been assaulted, the assaulters took the personal items of the injured. Most of the mentioned assaults were distinguished with particular atrocity. Along with physical force the assaulters would use blackjacks (for example, Ramin Abuladze, Amiran Iobashvili, Levan Jgharkava, Giorgi Shervashidze, Nugzar Khutsurauli cases), baseball bat (Ioseb Bortsvadze case), iron rod (Giorgi Tavdgiridze case). Of the thirteen injured one is a lady – Nona Saghareishvili, the member of Political Union National Forum. The assaulters were especially tough with her. An attempt was made to strangle her with a rope in front of the entrance to her block of flats. In some of the thirteen assaults, the political motive is obvious from the words of the assaulters themselves.**

The violators of Nona Saghareishvili directly stated to her before the assault and during the physical reprisal too to give up the political activities. Nona Saghareishvili had stored in her cellular telephone the short messages that the assaulters used as psychological handling as well as the indecent words she was addressed by them and demanded to quit the political opposition. While communicating with the injured, the violators sometimes even did not hide that they were the representatives of the law enforcement. For example, on May 22 2008, a stranger called Nino Saghareishvili from a cellular telephone (number 877 77 47 76) and introduced himself as Lasha Kherkherauli – an employee of Operation Department at the Ministry of Interiors of Georgia. He told Nona Saghareishvili to leave the political party, otherwise her relatives would be returned to the penitentiary organization. When Nona Saghareishvili was being questioned at Appeal Court in regard to May 21, 2008 elections as a witness, she received a message from the number 860 47 00 00. She was threatened with physical reprisal. **Note, the correspondent Soso Khoperia of radio station “Mtsvane Talgha” also received a threatening message from the same telephone number on May 26, 2008. He along with Nana Pazhava (correspondent of “Imedi”) and active members of the party “Freedom” were driving from Zugdidi to Tbilisi to take part in the protest action of the opposition.** It is significant that the investigation has not been able to find the identity of the owner of the cellular telephone so far. Like Nona Saghareishvili, the political motive is apparent in the physical duress over Ramin Abuladze and Zurab Giguashvili. Ramin Abuladze due to whose complaint the voting results at polling station No.48 of village Karaleti of Gori No.32 election district were invalidated, was permanently watched and threatened; particularly, he was asked how long the payment he received from The Republican Party for the program “Kardakar” (from home to home) would last. When Zurab Giguashvili was being beaten, the question the assaulters asked was - why he had betrayed Vano.

**It is apparent that the goal of all above mentioned assaults was to threaten not only the injured but the entire society. In other cases of physical reprisal the assaulters did not try to set up verbal contact with their victims. At one glance, this circumstance makes it impossible to establish the motive for the violence, if we do not consider the fact that all above-mentioned actions are interconnected in terms of time period; the method of the assault is also similar and the victims are always the active members of the opposition political party.** It is also interesting to look at the criteria for selection of the objects for the assault. The victim shall not be a distinguished leader of the opposition party to

avoid international scandal and damage to the image of Georgia as a democratic country. On the other hand, there is a danger of arranging a grand opposition protest action and not allow the parliament elected on May 21, 2008 to have the session. This danger should be immediately eliminated. To achieve that, ordinary active members of the opposition party shall be neutralized since it will be followed by less noise and more effect. The attention is concentrated on those activists who were mobilizing people for the protest actions in the past. The majority of the injured do belong to this category of activists. The exception was Giorgi Tavdgiridze and Giorgi Shervashidze, the representatives of the Armed Forces of Georgia. There is likelihood that because they enrolled in the opposition party, they became the reason for the revenge. The same is true in regard to Zurab Giguashvili, who happened to fall under the interest of the assaulters since he is former Defense Minister's uncle and used to occupy high positions in the organs of interiors.

Preliminary investigations were launched in regard to all the facts of the political persecution that were named by the Ombudsman. Potential criminal actions, in most cases, were defined based on Article of 118 of the Criminal Code (less severe damage to health), except for the assault against Mamuka Kvaratskhelia that initially was qualified as a robbery. Later the qualification was changed and at present the preliminary investigation is additionally underway in compliance with sub-point "c" part one of Article 143 of the Criminal Code. The latter envisages responsibility for illegal detention to hide other crime or to ease its committing. **The investigation has been avoiding to qualify the assaults against United Opposition activists using point 2 Article 156 of the Criminal Code. The stated norm envisages criminal responsibility in regard to persecution of a person for freedom of expression, opinion, political and public activities.** Point 2 of Article 142 of the Criminal Code envisages responsibility for the violation of equality of people due to their point of view and belonging to civil associations, provided that such a violation leads to aggrieved consequences. In spite of the fact that Article 118 of the Criminal Code separately from the penalty point of view is much stricter than Articles 156 and 142 from the same Code, surveillance and threats implemented against the political activists and demand to stop political activities, the activity that is permitted by the Constitution of the country, should be qualified separately based on Articles 142 of the Criminal Code (Violation of human equality) and 156 (persecution). Final outcome is available only in regard to two cases. In both cases, the investigation bodies found those activists of the opposition party to be at blame who were stating that they were the

victims of politically motivated to be at fault. **From the letter No.G 22.08.2008/7 of the Head of the Division of Human Rights at Prosecutor's Office, it becomes clear that it was not Alexandre Skhirtladze who assaulted the active member of United Opposition Levan Gvarjaladze, but vice versa, it was Levan Gvarjeladze who assaulted Alexandre Skhirtladze and deliberately inflicted less severe injury to his health. In this regard on May 28 2008 preliminary investigation on the criminal case No.007082112 was launched. On June 2008, the qualification of the case was changed into part one Article 239 of the Criminal Code (hooliganism). Alexandre Skhirtladze was interrogated as an injured, as well as the witnesses. Forensic medical examinations were conducted. On June 7, 2008 Levan Gvarjaladze was pleaded guilty. The case of Seymour Tanaverdiev ended up in the same way. The latter was stating that because he was supporting "United Opposition" he was wounded with a knife by his neighbor Alah Iarov Shkuri and also assaulted by Kurban Kazimov who was the chairman of the polling station commission in Kvemo Kharabulakhi.**

# Dismissal from job due to political motive

A widely spread form of the political persecution against the persons is dismissal from a job of a person or his relative having a different political opinion. A person having political opinion and his relatives are facing the danger of being dismissed from the job whether they work in the public sector and PLE organization or private sector (Zhana Giguashvili case). Often labor relations are terminated by the initiative of an employee, though this decision is made under the duress (see Archil Jorjadze and Nely Tskitishvili case). The employees – pedagogues of the educational institutions are experiencing the most of pressure. It is not a rarity in Georgia, when election commissions are usually staffed with human resources of secondary schools.

Due to this circumstance the pedagogues became the subjects of the most pressure. The key guaranty for a political party to win in the elections is to subordinate the school staff and to use them in compliance with the party interests. Under the fear of losing a job, the pedagogue has to participate in the election campaign of the ruling party, to use one's status and call the students' parents to vote for the ruling party. The school building, administrative resources are applied in favor of one party and its majority candidate. Opposition parties and their majority candidates do not have an opportunity to use the school building to meet one's electorate. If the representatives of the opposition parties happen to use such buildings, the initiator of such meetings will have to leave the educational institution.

**For example, on May 15 2008, in polling station No.67 in Zugdidi, by the explanation of Nona Toloraia, the majority candidate from “Republican Party”, the member of her head-quarters Gogita Morgoshia agreed with the director of Ganmukhuri Public School – Mzia Gergedava, to allow him to meet the electorate in the hall of the school. When the majority candidate and the members of the headquarters came to the school, the door was locked.**

The Head of Public Relations and Rector's Office - Nely Tskitishvili and Law School coordinator of Telavi Iakob Gogebashvili State University - Archil Jorjadze had been asked to quit jobs because they organized a meeting with Pikria Chikhradze – the majority candidate from “United Opposition – National Council, Rightists” in the hall of Telavi State University on May 7 2008. As Nely Tskitishvili explained, a few days earlier



Giorgi Arsenishvili – a majority candidate from “National Movement – for Victorious Georgia” used the same hall. As Archil Jorjadze explained, he was told that if he refused to quit the job, Telavi State University would become the object for financial examination and Archil Jorjadze’s friend, the Rector of the University – Gia Gotsiridze would be imposed a criminal responsibility. Nelly Tskitishvili and Archil Jorjadze submitted resignation, and the political pressure was stated as a reason. The Head of the Administration of Telavi State University satisfied the resignations only on May 22 2008.

**The pedagogues are not only vigorously used at service of the ruling party, but they are also impeded to support or present the interests of the opposition party, to work in the election commissions from their quota. The State Representative of Shida Kartli, Governor – Lado Vardzelashvili sent a unanimous message to the pedagogies favoring the opposition. In the conversation with (the conversation was conducted over the telephone and the audio-recording of this talk is available) Saba Tsitsikashvili , the editor of the newspaper published in Gori “Kartlis Khma”, the Governor stated that he did not need such pedagogues at schools who were not able to see the positive processes undergoing in the country, adding that their social conditions under the ruling of the current authorities had tangibly improved.**

Former Head of Executive Branch of Mestia Municipality Nino Japaridze shared the same excitement. She invited **Zaza Lakhutashvili** – Deputy Director at Sports School in the village of Mulakhi (Mestia Municipality) and admonished for supporting **Victor Japaridze** who was majority candidate from “United Opposition – National Council, Right Wing”. Nino Japaridze could not understand why Zaza Lakhutashvili was unhappy with the “National Movement”, since Zaza Lakhutashvili was working in the Sports School and his mother was the director of the Public School. **The Head of the Municipality – Nino Japaridze threatened to fire also Irma Chkhvimiani as well - Head of the Kindergarten in village Kharsgurishi, Mestia Municipality. Nino Japaridze was irritated by Irma Chkhvimiani attending the meeting with the majority candidate from the “United Opposition” - Victor Japaridze.**

**In terms of the legal rationale, it is incomprehensible how the director of one school could enforce the director of another school to quit the job (see examples below). In this situation it is not the status of a director that matters but the fact that the person that has right to fire the director of another school is authorized to mobilize the votes in favor of the ruling party. He is the father-in-law of the parliament speak-**

**er – father of the deputy minister of Interior Affairs. When this is the case, no formal authorization is required to fire the director of the neighboring school.**

The Ombudsman reviewed the application submitted by the teachers of a Public School of village Gezruli, Chiatura Municipality. They noted that Gocha Shekhladze – Director of Gezruli Public School – was demanded to dismiss from school those teachers who were appointed in the polling station of Gezruli by the opposition parties. Gocha Shekhladze refused to do so and resigned himself. Upon the request of Chiatura Municipality Local Government Representative in village Gezrula – Zviad Gelashvili and member of Chiatura City Council (from village Gezrula) – Koba Shekhladze, the resource center of the Ministry of Education and Science of Georgia appointed Nodar Shekhladze – the inhabitant of village Gezrula as the school director.

This fact was met with protest from the school teachers' part who flunked the educational process. The school teachers demanded that Gocha Shekhladze be returned to the post of the director. Nugzar Mirotadze – the Head of the Resource Center was not against this demand. He thought that before the competition for the position was announced, Gocha Shekhladze could carry out the duties of the director. Revaz Bitsadze – Public School Director of village Sveri, Chiatura Municipality was unconditionally against this idea. **The latter was planning to merge Gezruli Public School with the school under his management. It is Revaz Bitsadze who is the father-in-law of the parliament speaker of that period Nino Burjanadze and respectively, father of the Border Department Head of the Ministry of Internal Affairs – Badri Bitsadze. Revaz Bitsadze was unhappy because in the presidential elections on January 5 2008 ,village Gezrula gave only 65% of votes, while Revaz Bitsadze was demanding 90% of votes in favor of Mikheil Saakashvili. Bitsadze who was unsatisfied with the percentage indicators in favor of Mikheil Saakashvili in village Gezrula, demanded that Roland Khojevanishvilli who was polling station commission member appointed by party “Freedom” be dismissed from his job.**

The case with the professor Shota Kvirtia, the dean of the Faculty of Sociology and Philosophy of the Sukhumi State University is particularly noteworthy. As a founder and chairman of the Georgia Association of Graduates of Moscow State University named after Lomonosov, as well as a member of social council of our organization (Historical Heritage) , in March of 2009 he together with other people signed an appeal to the President of Russia D.A. Medvediev. As soon as our appeal was published followed by

answering letter of Mr. Medvediev, Georgian authorities tried every possible means, including finding ways to influence everyone, who signed this letter. This produced an effect with two of the signees. Sh. Kvirtia was coping with claims with regard to his signature on such an antistate (!) document and demanded in an ultimatum-like form to declare that he was forced to do this under false pretence. He was warned that otherwise his stand would have been incompatible with his position in civil service and his further participation in training of young generation would have been impossible (!). At present Mr. Kvirtia is unemployed (by the way, he is an IDP from Abkhazia) and despite a number of attempts, he is refused to get employed by educational institutions.

The Ombudsman sent a recommendation to the Minister of Education and Science of Georgia – Gia Nodia to eliminate political persecution. The Ombudsman personally went to village Gezrula and familiarized himself with the current situation. Thanks to the interference from the Minister of Education and Science of Georgia, it became possible to assign Gocha Shekhladze as an interim director. Another problem also connected with the dismissal is politicization of the law enforcement bodies. The police are an important unit of the chain on which any ruling party relies during the elections. By threatening the law enforcement officer with a dismissal, certain forces in the authorities ensure not only support from the law enforcement but it also uses the law enforcement to attract additional votes. To ensure involvement of the law enforcement structures in the election process, all kinds of means are applied. In the police bodies and military services the subordinating relations are very important. The ruling political party seeks support on the level of police heads. The police head is an enforcement mechanism on the subordinates that eventually provides the victory of the ruling political party in the elections.

In Mestia municipality the Police Head Besik Gabuldani was forcing policemen to observe a religious ritual - make an oath on the icon. In the mountainous regions of Georgia religious views and traditions have a huge influence on a daily life of a person and determine the person's behavior. The oath becomes a means of control in the future. Before the parliamentary elections of May 21, 2008, the Head of Internal affairs Department in Mestia – Beso Gabuldani – forced his subordinates to make an oath on the icon that they would vote for the ruling party and its majority candidate and would not uncover the fact that during the presidential elections on January 5, 2008 they marked Mikheil Saakashvili's number. An employee of a division in Mestia Department of Internal Affairs in village Becho, Meliton Pakeliani, agreed on everything except voting in favor of the majority can-

didate of the “National Movement”. The majority candidate from “United Opposition” – Victor Japaridze was Meliton Pakeliani’s nephew and, in accordance with local customs, the latter could not use his vote against his close relative. Because he refused to take an oath on the icon, Meliton Pakeliani became the victim of political repression. In compliance with the Head of the Major Department of the Internal Affairs of Samegrelo- Zemo Svaneti region – Tengviz Gunava, he was dismissed from the personnel of the Interiors on May 22 2008.

# Pressure on the entrepreneurs

In Georgia infringement of freedom of entrepreneurship from the part of tax bodies is not a rarity. The pressure from the government is expressed by groundless imposing of substantial fines on the enterprise, terminating of its functioning and restricting access of the personnel to the territory of the enterprise. For this purpose the building and property are placed under a seal on a pretext of ensuring withdrawal of arrears in the state's favor. The Ombudsman reviewed two applications in which the entrepreneurs named the relation with the representatives of the political opposition or the political position of the entrepreneur and his closeness with the opposition leader as a reason for imposing tax sanctions on them.

In October 2007, the supermarket "Bumerangi" that belonged to the member of "People's Party", Jumber Tavartkiladze's family was imposed fine worth of 216 000 laris. In December 2007, the above-mentioned supermarket was sealed for one month that led to the loss of 50 000 laris. The exotic fish and poultry, which were present at the supermarket as a decorative elements died. We have the pictures demonstrating the egregious process of their rotting. These evidences refer to illegal actions of the employees of the tax inspection. The representatives of the authorities deliberately placed the buildign under a seal in spite of the presence of exotic fish and poultry in the building, thus dooming them to unavoidable extermination.

**Due to friendly and cordial relationship of the entrepreneurs with the opposition leaders, they face problems in the big business too. If an entrepreneur has a friend in the authorities, his business is inviolable and secured. If the political lobby happens to move to the opposition, the tax inspection and investigation group of revenue service unexpectedly discover the indebtedness of the entrepreneur in front of the budget. On this pretext any agreements concluded with the entrepreneur get cancelled (if any; as a rule, in any big or average business there are contracts with the state agencies) without any compensation and the government gets hold of the entrepreneur's property, while a businessman himself may be subject to criminal prosecution and arrest.**

The case of Kibar Khalvashi is a typical occurrence of interference in business on the ground of political motive. Before the above-mentioned Irakli Okruashvili, the closest friend of Kibar Khalvashi, moved to the political opposition, Khalvashi was considered as one of the most successful businessmen. He was easily winning almost all the tenders announced by

the government for procurement of goods and services. For example, a company with his share participation was constructing No. 8 prison building in Tbilisi, military bases in Gori and Senaki. Before his friend moved to the opposition, the President of the country, as well as the Minister of Justice publicly expressed satisfaction in regard to the construction of the 8<sup>th</sup> prison. As the President stated, a new penitentiary organization of European standards was being constructed and recurrently expressed gratitude towards JSC International Building Company. However, when in September 2007 certain actions indicating the process of establishing a new political party whose leader was supposed to be Irakli Okruashvili and potential sponsor – Kibar Khalvashi, the enterprises of the latter happened to fall under the high interest of the Revenue Services, the company constructing the Gori military base among others, in which Khalvashi also had a share. The company, in which once the most successful businessman had a share, was forced to terminate construction of the Gori Military base on September 22, 2007 and leave behind the property worth of 4 000 000 ( four million) laris (a little bit more than 2 million US Dollars).



According to the explanations and recordings of the telephone talks, it becomes clear that the authorities were directly involved in distribution of the shares of JSC International Building Company for their own reasons. Since charges against Okruashvili were based on illegal granting of the state orders to the companies of Khalvashi through different clandestine dealings, for more credibility the authorities wanted to demonstrate publicly friendship and business partnership (which was not a secret anyways) between Kibar Khalvashi and Irakli Okruashvili in order to discredit both of them. Therefore, the authorities considered it necessary to have the enterprise owned by Kibar Khalvashi pay unprecedented amount (as per Georgian standards) as a bail – ten million laris. Such development of events were so important for the authorities, that they took unprecedented step – decided to provide big part of the bail on their own, of course, surreptitiously. Under the conditions, when Kibar Khalvashi owned only 25% of International Building Company, such a PR would not look convincing. **It was required that all shares of the statutory fund were re-legalized on**

**the name of Kibar Khalvashi. Bacho Akhalaia, the Chairman of Penitentiary Department was personally involved in implementation of this scheme. He personally required to re-legalize the remaining part of the statutory fund on the name of Kibar Khalvashi. Otherwise, Kibar Khalvashi would have been deprived of all his property. The threat was coming from Bacho Akhalaia, as well as from Revaz Charbadze and Kakha Butskhrikedze, Bacho Akhalaia's subordinates.** This circumstance is confirmed by the telephone conversations of high rank officials of the penitentiary department with Zaza Gotsiridze, the Head of Service of Arti-Group (also the company of Kibar Khalvashi) and Malkhaz Osadze, the Director of JSC International Building Company. Eventually it was decided that the share be registered not in the name of Kibar Khalvashi, but in the name of two persons from the close surrounding of Kibar Khalvashi, Zaza Gotsiridze and Malkhaz Osadze. This was directly handled by the assistant of the chairman of the penitentiary department – Rezo Charbadze. After the shares of the authorized capital had been formalized in the name of Kakha Gotsiridze and Mikheil Osadze, at 5 o'clock, October 24, 2007, 6 440 000 (six million four hundred and forty thousand) laris and two days later – 650 000 (six hundred fifty thousand) laris was transferred from the Penitentiary Department and the Defense Ministry to the bank account of JSC International Building Company - the account of the company with Bank Republic. October 24, 2007, the Director of JSC International Building Company – Malkhaz Osadze transferred the above-mentioned amount to the assigned account of Irakli Okruashvili. Eventually the PR action organized by the authorities was performed. Deputy Prosecutor General, Nika Gvaramia arranged the press conference where he posed the following question to the population: “I wonder, who pays 10 million laris instead of other either in Georgia or elsewhere?! – and explained, - the part of this bail, six million and five thousand laris was paid by JSC International Building Company, that is owned by Okruashvili's friend Kibar Khalvashi, and the rest – by Nizharadze (also a businessman)”.

The authorities did their best so that the shares of JSC International Building Company to be moved to the ownership of Kibar Khalvashi. During the press conference Khalvashi did not own even one percent of the authorized capital of the company.

# Impaired Right to Freedom of Assembly and Manifestation

Due to enforcement of the right of assembly and manifestation, administrative actions are still brought against the citizens in Georgia. In the first part of the year 2008, the administrative collegium of Tbilisi Civil Court considered cases of 10 persons.

All of them were recognized as lawbreakers under Article 173 of the Code of Administrative Offences (administrative proceedings under Article 166 of this Code in relation to two persons, Luka Tsuladze and Dachi Tsaguria were terminated). In comparison with the previous period, court exercised greater tolerance with regard to sanctioning the Administrative responsibility. The administrative collegiums of Tbilisi civil court took a decision of imposing financial penalties, in the volume of 400 GEL, on all 10 lawbreakers. Unlike the previous period, the repeated commission of administrative detentions did not take place at this time.

In all provisions concerning the Article 173 of the Code of Administrative Procedure the administrative collegiums of Tbilisi civil court refers to the “approved regulation of the police patrol department of the Ministry of Internal Affairs”. According to the “D” item, of the Article 16 of the order No. 634, issued by the Minister of Internal Affairs on 16 May, 2006, the personnel of the Patrol police department is authorized to demand, from citizens, to maintain public order. In case of nonfulfillment of this demand the patrol is authorized to take measures prescribed by law. What does the “public order mean”? The order No.634, of the Minister of Internal Affairs, does not give answer to that question. The Definition of violation of public order in a specific cases is not provided in the court’s resolution either. The established specific standards of protecting public order, during assembly and manifestation, is prescribed by above mentioned decision of the constitutional court. In general, courts are obliged to bring into line all circumstances of each particular case with the set criteria. Unfortunately, the standards of the law on “right to freedom of assembly and manifestation” prescribed by constitution of Georgia is not exercised by courts in practice. Judge often determines the violation of the 7 Article of the law of Assembly and Manifestation even at that place, where there is no traffic at all and the pedestrians are not obstructed to walk.

Beglar Logua, a deejay of radio broadcast “Don’t Worry” put up a small tent on the footway of the avenue, in front of the parliament between the



memorial of 9 April and small fantail on May 16, 2008. Beglar Logua hold a protest against prosecuting his mother on the charge of criminal by the district attorney of Samegrelo and upper Svaneti. He was together with several person. Mamia Pkhakadze, the chairman of the administrative collegiums of Tbilisi civil court imposed an administrative penalty with following resolution: “Beglar Logua ... was warned by police patrol to dismantle, the arbitrarily set up, tent from the territory, which caused the change of city sight, also it attracted attention of citizens and drivers and, evidently endangered the traffic and movement of pedestrians”.

There are two possibilities of endangering traffic in front of the parliament on the Rustaveli avenue: 1) a vehicle had to be driven on the sidewalk and, in that case the tent should have been an obstruct to traffic; 2) the dissipation of drivers should have been caused by the tent in front of the parliament. As per opinion of the judge Mamia Pkhakadze, drivers once noted the tent, in front of the parliament, instead of thinking of the traffic rules, they should have been worried of the detention of Gulnara Jinjolava. Dissipation increases the risk of traffic accidents. Drivers should concentrate only on the traffic rules and, their attention should not be overloaded with the clarification of the reason of ongoing protest action. The judge Mamia Pkhakadze took a decision of the termination the protest action and, imposing on the organizer the administrative fine. The court’s mentioned decision speaks of the decision maker’s notion of values. The judge Mamia Pkhakadze took a decision to prohibit the right to the peaceful protest in favor of the fabricated hypothetical charge. So, has not perceived and recognized the notion of the right to freedom of expression, assembly and manifestation in a democratic society. Without convincing proof and, rational grounds the judge strived to legitimate the impediment to freedom of assembly. A notion of sense of the freedom of assembly and manifestation is the message to society, in order, to attract public attention. It is a pity, that the attempt of attracting public attention was considered, by the judge, as a threatening action to public order. As it was declared by the European Court of Human Rights: “the right to participating in peaceful assemblage is so high important, that it is unacceptable to impose any administrative responsibilities, upon person, including such minor punitive sanction that are administrative fine, until after, the organizer conducts an offensive action”.

The administrative liability, that was exercised in the case of Beglar Logua, is more strict than the disciplinary one, since it contained both the administrative fine and administrative prison punishment .

According to the Article 7 of the Law on Assembly and Manifestation of Georgia “ It is admissible for regular citizens to express opinion in pub-



lic by means of posters, slogans, banners, and other visible tools. The hindrance in traffic is admissible if, it is caused by manifestation, but not demonstrators. While considering Law on Assembly and Manifestation” the Law of Georgia focuses only on those cases when demonstrators impede the traffic and movement of pedestrians. Therefore, responsibility, prescribed by law, takes place through demonstrators’ fault. Responsibility is excluded only in case, when the impeded traffic is caused through no fault of demonstrators.

“Youth Front” NGO organized a protest action at the Ateni street, in front of “Bank Republica Societe Generale” on 2 July 2008. The protest took place as an action of spray drawing. The demonstrators expressed their protest by spray drawing and writing on road and sidewalk, which required just 10 second. This time slot, required for the spray drawing, could not cause a traffic jam on the avenue. While protest action the residents of Ateni street noted nothing special unless, the usual heavy traffic during a rush hour. As Irakli Machaidze, a parking caretaker of Ateni street noted, a heavy traffic is an usual thing on the Ateni narrow street, especially in the afternoon.

On 2 July 2008, the judge in the resolution with regard to the administrative offence by two members of “Youth Front” Dachi Tzaguria and Luka Tsuladze noted the following : “There is a heavy traffic on the avenue of I. Chavchavadze and at Ateni street in the afternoon by 15:00. Vehicles are

stopped at the both side of Ateni street and, drawings and writings on the road would have been impeded the traffic of vehicle and movement of pedestrians. Patrol personnel were obliged to ensure public order.”

**It is notable from the text of resolution that the judge basis on the probabilistic judgment. The judge could not present a clear proof that impede of traffic, at the Ateni street, was caused by action of Dachi Tsaguria and Luka Tsuladze. As per Article 264 of the Code of Administrative Offences of Georgia court was obliged to establish a fact, whether the person was delinquent in administrative offence. The judge could not establish the mentioned circumstance within the frames of examination of credible evidences as a proof beyond a reasonable doubt. Therefore, the resolution develops a probabilistic judgment. The public defender, as an alternative argument, points out that, even in the case of, traffic impediment, through the fault of Dachi Tsaguria and, Luka Tsuladze the court should have been guided by case law in compliance with the European Court of Human Rights.**

European Court of Human Rights in the case ”Oya Ataman vs. Turkey” noted that it is acceptable to have a slight deviation in the public order: “Kind of demonstrations may cause painless deviation including traffic impediment. When no violation takes place during the manifestation, it is important for the state to exercise tolerance towards peaceful demonstrators since, the mentioned right is provided by Article 11 of the European Court of Human Rights. It is not acceptable to lose the value of this right “. Hereby, we have to take into consideration the circumstance that, the duration of the protest action, at the Ateni street, on 2 July, 2008 was fifteen minutes. The part of the protest action that took place on the road, for sprayer drawing, that was lasted just for 10 second. Only purpose of the protect action, at Ateni street, was to make writings on the road. The protest actions, with such constrained time period, is treated with high defensive right. The European Court of Human Right pays a great attention to duration of the protest action. In the case of Oya Ataman, the European Court amazed at the displaced impatience by government, that strived for to end up the protest action that lasted for just half an hour. In addition to that there was no evidences proving that the participants threatened the public order. With regard to the protest actions impeding the traffic and pedestrian, the European Court of Human Rights hold a same position in the cases of “Balchik and others vs. Turkey” and, “Nuretin Aldemir and, others vs. Turkey”.

# Degree of strictness of punishment (sanction)

The main aspect of fair trial is that the criminal proceedings shall be carried out through observance of adversarial principals. While submission of evidences and proofs sides, plaintiff and respondent, should enjoy the equal rights.

During legal proceedings with regard to Articles 166 and 173 of the Code of Administrative Offences, the principle of equality is incompatible with the explanations of patrolman without their critical review and substantiation of the court decision only based on such evidences. As alleged by European Court of Human Rights, the review and assessment of proofs are priority of national courts. In spite of the mentioned, the task of the European Court is to go into in-depth analysis of the cases, in order, to assess the sate of equality of the court's decision. When defendant is not provide with the equal right, in particular, due attention is not paid to the proofs and witnesses provided by defendant, the case of infringement of the first paragraph of the Article 6 is taking place.

During legal proceedings with regard to Articles 166 and 173, the court shall rely on the whole set of credible evidences in relation to circumstances of the case. It is inadmissible to base the court decision on explanations of only one party, and since lawbreakers are threatened with administrative arrest for a term of 15-30 days, the court shall ensure properly adequate equality and competitiveness of the parties, their rights of defense, and shall be guided by the whole set of incontrovertible evidences.

The template text, the Tbilisi City Court is guided by, was first used in the legal resolution of Maia Kopaleishvili, the Chairman of the Board of Administrative cases of the Tbilisi Civil Court on October 16, 2007. As opposed to other cases of administrative offences, this was the only case, when the name of the case was indicated in the legal resolution, considered by Strasbourg Court. No other legal resolutions, adopted at that time include the name of the case. The standard text of the legal resolution prepared beforehand and adopted by the Tbilisi City Court in relation to freedom of assemblies and manifestations is as follows: "The European Convention for the Protection of Human Rights and Fundamental Freedoms denotes the freedom of expression and peaceful assemblies along with possibility to establish legal limitations for exercising of these rights on the part of policemen and members of public administration. Participants of

the assembly shall observe the norms of regulating this process in compliance with the applicable legislation of the country. **The Government uses wide range of criteria and is authorized to legitimately limit the gathering, if there is a likelihood that it might turn into civil unrest. Such interference is absolute proportional since the gathering is limited not in general, but in terms of specific incident. The representatives of law enforcement agencies enjoy higher degree of protection than politicians; for strengthening public trust it is necessary to protect law enforcers from verbal abuse and their protection while performing their professional duties.**

It has not been mentioned, however, the passages from the first and third paragraphs are excerpts from the decisions of the European Court on the case of Yanovsky vs Poland. The decision refers to the Article 10 of the European Convention of Human Rights (the right to freedom of expression) and not Article 11 (the right to freedom of assembly and association). Freedom of assembly in the above-mentioned cases is linked to the case of Yankovsky, which is used so widely and with little awareness by the Georgian judiciary, through the case has no actual connection with the freedom of assembly.

Protest action organized by the Equality Institute and Malkhaz Jangirashvili was political in nature and the protest action organized by Youth Front and Beglar Gulua was echoing the problem of significant importance for the public. The European Court has repeatedly stated that there is a thin line between political issues and other issues of public importance drawn by the Government. According to Maia Kopaleishvili's decision of 16 October 2007 on imposing administrative penalty over Irakli Japaridze and others was more relevant. Irakli Japaridze, Irakli Gaprindashvili, Irakli Chekhua and Giorgi Mestumrishvili were charged with the violations according to the Article 166 (disorderly conduct) of the Code of Administrative Offences. The decision of Tbilisi City Court to use the above-mentioned cases of the European Court in the cases of Equality Institute and Malkhaz Jangirashvili, Beglar Gulua, Dach'i Tsaguria and Luka Tsuladze is not quite clear. Members of the Equality Institute Malkhaz Jangirashvili and Beglar Logua had never been charged with administrative punishment for disorderly conduct, though Judge Mamia Pkhakadze in the court decision indicated that Beglar Logua verbally abused a policeman. It is fair to say that although Dach'i Tsaguria and Luka Tsuladze were charged with administrative punishment for the offences stipulated in the Articles 166 and 173 of the Code of Administrative Offences, Judge Lela Kalichenko dismissed the case to the extent of the offences stipulated by the Article 166.

**Verbal abuse constitutes objective part of the offences stipulated by the Article 166 of the Code on Administrative Offences. It is not**

clear as to why the Georgian Court relies on the decision of the European Court which protects a policeman from the verbal abuse, while the person had never been charged with the administrative punishment for the verbal abuse (according to the Article 166) and the judge dismisses the case to the extent of the charges. It should be obvious for the courts that Code of Administrative Offences does not provide for verbal abuse. If the instance of verbally abusing a policeman is confirmed, then the actions should be qualified according to the Article 166 of the Code on Administrative Offences, even if it is combined with the Article 173. This fact indicates that the Georgian Judges have failed to capture the spirit of the European Convention on Human Rights.

**Safety of the participants of meetings and manifestations and election campaign;** Article 74 of the Georgian Elections Code stipulates special provisions regarding the protection of pre-elections rally participants. The purpose of the election campaign is to provide maximum information to voters within strictly limited timeframe. The local self-governance bodies shall facilitate the organization and holding of meetings of electoral persons with voters, public debates and discussions, assemblies and manifestations, ensure security for these arrangements. Although local self-governance bodies do not have sufficient resources to ensure safety of assemblies. In accordance with normative act of the Ministry of Internal Affairs of Georgi, the responsibility for observing order lies with the Patrol Police. The requirements of the Election Code of Georgia should be interpreted in the following way: a person responsible for organizing an assembly and manifestation notifies local self-governance body regarding the event two days in advance. On its part, local self-governance body submits information on the time and date of the manifestation to the Police Department, which should ensure physical safety of the participants on the day of holding demonstration. Practically this was not always the case.

Pre-election rallies preceding Parliamentary Elections of 21 May 2008 were characterized by tensions and protest of the oppositional political parties. Patrol Police often failed to ensure peaceful procession of the rallies and safety of the participants. Activists of the oppositional political parties who organized rallies were not protected from the attacks of the physical persons.

On 9 May 2008, members of the election headquarters of Eka Beselia, candidate to MP from the United Opposition – National Council, New Rightists, staged a protest action in front of Merab Samadashvili, majoritarian candidate from the National Movement - for Victorious Georgia. According to the rally participants, Merab Samadashvili was distributing narcotic drugs to voters. Eka Beselia's supporters expressed their protest by throw-

ing disposable syringes at the entrance of the election headquarters of the opponent, which irritated members of Merab Samadashvili's election headquarters, which resulted in physical standoff between the activists of National Movement and National Council. The Police got involved later and eventually managed to calm down the opposing sides, though physical stand-off could not be averted.

During election campaigns when the emotional charge is high, the Police should be more mobilized to ensure peaceful and safe proceedings of the protest rallies. Elections subjects should be given opportunity to express their opinion at the rallies, though they must submit preliminary notification in compliance with the Law on Local Self-governance, which should create reasonable expectations for ensuring their safety by the Patrol Police.

### **FREEDOM OF MOVEMENT**

The United Opposition dissatisfied with the results of the Parliamentary Elections of 21 May 2008, following the release of official results, decided to carry out a protest rally on the Rustaveli Avenue in front of the Parliament premises in Tbilisi. The oppositional political parties held two protest rallies – on 26 May and 7 June of 2008. These rallies proceeded peacefully, though many people present at the demonstration were confronted with difficulties. For example, obstacles were raised during transportation, as a rule, by police forces, which was expressed in driving ban, damaging of vehicles, including use of fire arms; forcing to leave the vehicles, etc; such obstacles were created in Samegrelo- Zemo Svaneti region. According to the damaged party, the representatives of law enforcement bodies were obstructing their movement. Patrol Police did not react to the instances of violence. Investigation is ongoing on all the incidents mentioned above. Rally participants were receiving telephone calls prior their departure to the capital, and were either intimidated or threatened to refrain from traveling to Tbilisi. Calls of threats were made from special telephone numbers. One of such numbers is 860 47 00 00. This telephone number has also been recorded in other cases of intimidation and blackmail, like in case of Nona Saghareishvili – an activist of the United Opposition.

There was only one case, when activists driving to Tbilisi were detained based on a formal legal basis: Patrol Police staff stopped a vehicle and carried out alcohol test for the person in the driver's seat. Afterwards, the vehicle was towed away to the penalty parking lot, while the passengers were left at the highway, at a non-residential area (see Irakli Kakulia's case). In other cases, the obstruction of movement was performed in a forcible manner – the attackers were trying to intimidate. A vehicle driving towards



Tbilisi were attacked by persons wearing face masks, who damaged the windscreen (the case of Nana Pazhava and Liberty party activists), automatic guns were fired in the centre of the city, near the residence of the oppositional party leader (Irakli Kakulia's case). The actions of the perpetrators carry the elements of the offence defined by the Article 187 of the Criminal Code of Georgia for purposeful destruction of others property. The perpetrators violated the right to assembly, which, requires from the law enforcers to assign additional qualification to the crime according to the Article 166, which stipulates liability for obstructing rally participants to join assemblies and manifestations, and which is expressed in a violent action. The composition of this crime is formal. The offence ends at the moment the obstructive actions are performed. It does not matter whether the damaged party was able to participate in the rallies of manifestations due to criminal actions, for the purpose of qualifying the crime. Demonstrative sluggishness of the patrolman also hits the eye (professional negligence as defined in the Article 242 of the Criminal Code of Georgia). Policeman did not follow up timely the incident and did not detain the perpetrators named by the damaged party. It is especially concerning that the incident took place in the presence of law enforcement representatives (see the case of Nana Pazhava and Liberty Party).

### **PRELIMINARY INVESTIGATION PROCEEDINGS**

As it was mentioned above, on November 07, 2007, the protest rally held in Tbilisi on November 07, 2007 was fiercely broken up. With regard to this event, on January 08, 2008, an independent forensic investigation centre Vector sent the copies of forensic examination evidences to the Public Defender. According to the mentioned evidences, grievous bodily harm was caused to three participants of the rally. For example, Vakhtang Inasaridze had hematomas on front lower third of the left ankle, soft tissues were damaged and both ankle bones smashed. The injuries suffered by Vakhtang Inasaridze are injuries posing threat to his life, i.e. grave. With regard to Nika Didishvili the examination report states: "considering that there were external objects in the wounds, the injury should have been caused by some explosive device of significant kinetic energy." On 7 April 2008, the Public Defender of Georgia addressed the Head of Legal Department of the Office of the Prosecutor General and requested provision of information on the following issues:

1. Based on which article is the preliminary investigation conducted on the facts of physical injuries incurred by Giorgi Tevdorashvili, Nika Didishvili and Vakhtang Inasaridze.



2. What investigation activities were carried out to define objective truth on this matter;

3. Were Giorgi Tevdorashvili, Nika Didishvili and Vakhtang Inasaridze recognized as victims?

4. Have the faults of specific persons with regard to the above-mentioned case been evinced?

A copy of the conclusions and findings of an alternative examination was also attached to the letter.

On May 16, 2008 the General Prosecutor's Office responded to the Ombudsmen in a form of template formal reply: "A preliminary investigation on the criminal case No. 06078035 was initiated on November 10, 2007. The preliminary investigation has been initiated based on part 3 of Article 118 of the Criminal Code of Georgia on the fact of physical injuries received by some citizens as a result of the developments that took place on Rustaveli Avenue and Rike territory on November 7, 2007, in the city of Tbilisi". The eye-witnesses were interrogated, including Mr. Giorgi Tevdorashvili, Nikoloz Didishvili, and Vakhtang Inasaridze (as eye-witnesses!). Medical-forensic examinations were carried out. Nobody has been recognized as a victim so far. Presently, the investigation is still going on.

The preliminary investigation agrees with the fact that crime was committed against certain individuals on November 07, 2007. Three out of these persons presented evidences that they suffered, at least, physical damage as a result of the committed crime. Both, the investigator and prosecutor, based on the same paragraph 4 of Article 68, were obliged to issue a ruling recognizing the above persons as victims, which did not occur in this case.

In order to understand the situation correctly, it shall be clarified that the victim has a number of rights, including the right to present a petition, get acquainted with the case papers, lay a complaint, etc. The witness is deprived of these rights. Apparently, the investigation does not need "uncomfortable", "uncompliant" victims, who need to know content of the case. It can be assumed with every reason, that there are no substantial measures taken for "determination of guilt" of certain persons with regard to the case.

It is also noteworthy that a conclusion of an alternative examination represents ordinary evidence. Based on part one of Article 364 of the Criminal Code, such a conclusion should necessarily be attached to the criminal case to be estimated along with other evidences.

**Apparently, the investigation completely ignored the results of the conclusion of the alternative examination. Even more, the requirements of criminal procedural legislation were grossly violated. It is also obvious that criminal acts committed against Mr. Giorgi Tevdorashvili,**

**Nikoloz Didishvili, and Vakhtang Inasaridze are qualified in the manner that requires Article 118 of the Criminal Code to be applied. The article envisages legal liability for inflicting less severe injury to health. Conclusion of the alternative examinations of the above three individuals qualify their body injuries as severe, threatening the human health. Hence, the action resulted in not less severe for health injury, but severe injury. The legal liability for this kind of criminal act is defined not in Article 118 of the Criminal Code, but in Article 117 that specifies more strict sanction. Part 3 of Article 118, based on which the preliminary investigation is under the process, envisages imprisonment from three to five years, as a punishment. The same sanction is specified in part one of Article 117. If we take into consideration the fact that not one but three individuals suffered severe body injury on the territory of Rike, the act should have been qualified based on sub-paragraph “a” of part 7 of article 117, which provides for legal liability for forethought severe injury to human health committed against two or more individuals. Sub-paragraph “a” of part 7 of article 117 specifies more drastic punishment, which is imprisonment from nine to twelve years.**

### **FREEDOM TO FORM UNIONS**

Paragraph one of Article 26 of the Constitution of Georgia ensures the right of forming unions and becoming their members. Paragraph two of the same article is related with the right of forming political unions and participating in their activities. The following limitations are set in paragraph three of the same article in terms of exercising the above right:

“Creation of civil and political unions and their activities aiming at overthrowing constitutional system of Georgia or replacing it by use of force, infringing independence of the country, overriding territorial integrity, or promoting war and violence, fueling national, ethnic, religious or social strife shall not be allowed”.

In addition to the Constitution of Georgia, the freedom to union is also guaranteed by article 11 of European Convention on Human Rights.

Implementation of the right to form unions is facing serious problems in Georgia. The state obligation to ensure the freedom to form unions acquired the status of being questionable due to termination of funding of key opposition political parties. The European Court of Human Rights states the following in terms of freedom of activities of political unions: “Offering a dialogue, as a tool to the solution of problems facing the country represents a characteristic feature of democracy. Notwithstanding how boring a process of dialogue might be, violence should be excluded. There might be no justification for hindering the activities of political group if the group is

demanding public debates on easing the conditions of a part of population and its inclusion in political life, aiming at achieving the ways of problem solution, acceptable for everyone, through observing the rules of democracy...” Union, including a political party, cannot be excluded from the spheres guaranteed by the convention just because of the National Government assuming that such union might inflict damage on the constitutional structure of the nation, and respectively, setting limitations to the union”.

**The changes made to the Georgian Law on the Political Unions of Citizens were serious attack on the freedom to form unions. On July 15, 2008 the Parliament of Georgia adopted the changes to sub-paragraph “a” of paragraph 5 of article 31 of the Georgian Law on Political Unions of Citizens, representing a legislative initiative of Georgian parliament members Pavle Kublashvili, Kakhaber Jandieri, Murtaz Zodelava, and Chiora Taktakishvili. Based on the above change, sub-paragraph “a” of paragraph 5 of article 31 of the Georgian Law on Political Unions of Citizens was worded as follows: “5. A party that, based on article 30 of the present Law, is eligible to receive funds from the State Budget of Georgia due to the results of the latest Parliamentary elections shall not receive the funding or funding shall be terminated in case if: a). The MP authority of all the Party members, elected based on proportional system, was terminated”.**

The above change in the legislation represents the response of the Government to a specific, non-recurrent and well-known event. There might be no doubt that the adoption of the above change was conditioned by the act committed in June 2008 by ten Parliament members from the election coalition “United Opposition – National Council and Rightists” elected based on proportional system who abdicated from their MP authority as a sign of their protest. The names of the MPs are as follows: Levan Gachechiladze, Konstantine Gamsakhurdia, Gubaz Sanikidze, Giorgi Khaindrava, Eka Beselia, Koba Davitashvili, Zviad Dzidziguri, Mamuka Katsidazde, Pikria Chikhradze, and Irakli Iashvili. The MPs of the same coalition, elected based on majority system (David Gamkrelidze and David Saganelidze) believe that the May 21, 2008 elections were rigged. The above former MPs considered that an MP elected through rigged elections could not be legitimate, and, respectively, demanded their MP authority to be terminated. The Ombudsman of Georgia considers that the above change to Georgian legislation, exercised as a measure against the political parties whose members, elected based on proportional system abdicated from the authority, contradicts the principle of freedom of action of political parties recognized by paragraph 2 of article 26 of Georgian Constitution, and by article 11 of the European Convention on Human Rights.

# Restrictions on Freedom of Expression

The crises in Georgia's electronic media that started in November 2007 stayed unaltered during the first half of 2008. The results of the crackdown on Imedi TV carried out in November 2007, as well as suspension of Imedi broadcasting on December 26, 2007 based on the decision made by the TV Company journalists turned out to be very aggravating. Georgian media became less pluralistic.

The Board of Trustees of Public TV, which was formed based on political consensus, played some positive role during the election campaign by providing multi-lateral information to the population of Georgia. Matias Iorsh, the Chair of Special Elections Monitoring Committee of Parliament Assembly of the Council of Europe stated in his report that despite some flaws during the election period the Public Broadcaster, compared to other electronic media, was one of the bests through which the citizens of Georgia had an opportunity to make an informed decision among the candidates running on May 21, 2008 Parliamentary elections. However, after the elections Public Broadcaster terminated airing political debates, and news once again appeared to be imbalanced.

During the war between Russia and Georgia, Public Broadcaster, like Rustavi 2, was operating as the means of propaganda. After the hostilities ended the Parliament obliged the Public Broadcaster, through changes made to the Law on Public Broadcasting, to air political debates during non-election period. Despite the measures carried out, a lot should be done to form the Public Broadcaster as an objective and unbiased electronic media airing diversified programs. During the period there were the cases of physical encroachment on journalists on duty. The above occurred when covering such emotionally overloaded events as election process or protesting rallies. **When evaluating the above events, a well-known international organization "Reporters without Borders" stated the following: "Polarization of Georgian society during the elections should not inflict damage upon journalists. It should be clear that journalists shall not act either in favor of the Government or opposition. Journalists shall be observers serving the public interests".**

The steps backward in the sphere of freedom of expression did not stay unnoticeable to any solid international organization or government. On July 2, 2008, Freedom House, an authoritative international organization, pub-

lished a global report “Freedom in the World”. The above report applies a seven-score evaluation scheme. One score means completely free, while seven scores mean completely non-free. Despite the fact that Georgia still stays to be a “partially free” country, the media conditions in the country, compared to the previous year, has been deteriorated. Namely, if in 2007 the degree of media freedom was evaluated to be 4, in 2008 it totaled to 4.25. In the opinion of Gia Nodia, the author of the Freedom House report on Georgia, “a temporary off-air state of Imedi TV and radio broadcaster, being the main opposition one, put the state liabilities to free media under a question mark, and revealed the fragility of media pluralism”. In accordance with the explanation given by an American organization - “Committee for the Protection of Journalists”: “Mr. Saakashvili came to power with the promises to implement democratic reforms. After a brief honey-moon period with the media, the representatives of the government revealed their implacability and intolerance towards criticism. The government of Saakashvili made a detailed analysis of the created situation and made a decision to influence TV spots and broadcasts – the most influential and popular information source. The Government of Georgia has achieved its ultimate success in this”. After this paragraph, the solid organization details the situation around TV stations “Rustavi-2” and “202”.

**In accordance with the 2007 US State Department annual report on Human Rights Protection published on March 11, 2008: “Despite the fact that during the last year the human rights protection has improved in some directions... The situation in terms of freedom of speech, press, meetings and political involvement has deteriorated... The Constitution and legislation shall ensure the freedom of speech and press. Accusations can be heard from non-government organizations, journalists, and independent experts about the representatives of the Government and opposition interfering in editorial and program decision –making processes through their connections with the heads of news departments and the managements of the TV channels. We come across the facts when the representatives of local government and opposition parties directly or due to instigations inflict physical offense on journalists. Some of the journalists say that being afraid of repressions they try not to criticize the government publicly or even to talk about it on the telephone”.**

From our point of view, one of the first governmental actions taken in the field of media since November, 2003 (when Saakashvili took over) – political talk-shows with the rating of 70-80% were completely withdrawn from the air, as a rule via threats and blackmail - serves as a

**demonstrative example characterizing the attitude of the present authorities towards the freedom of information and informed choice of population.**

## **Licensing of Cable Broadcasters**

The National Regulatory Commission of Communications expressed its concern over airing TV programs of public-political character by the broadcasting company Studia Maestro, having a special license. On March 18-20 the National Regulatory Commission of Communications issued its resolution No.143 aimed at imposing a sanction on Maestro TV company. The resolution stated that Maestro TV company had altered and was not following the requirements of the type of license specified in paragraph 1 of resolution No.104/1 issued on February 23, 2007. Namely, the document stated that instead of special educational, music and entertaining programs the TV Company was exercising general broadcasting airing the programs of public-political character, which based on paragraph “J” of article 2 of the Georgian Law on Broadcasting is defined as general broadcasting. TV company Maestro was sanctioned in the form of being reprimanded for airing talk-show -“Profession -Journalist” – a public-political program, “Without Comments” – a news program covering political developments, and “Polling” - interactive program”. The management of Maestro TV Company terminated the broadcasting of the above programs upon the receipt of the notification on the commencement of administrative proceedings with regard to the alleged offences. Simultaneously, the management of Maestro TV Company appealed to National Regulatory Commission of Communications, and requested the license of general broadcasting for the TV Company using cable network as the means for broadcasting. The National Regulatory Commission of Communications, guided by paragraph “G” of article 43 of the Law of Georgia on Broadcasting, made the decision that request on issuing a new license should not be considered by the Commission if the request had been submitted by the owner of the license within one year from the day when the Commission made its decision about sanctioning the owner of the license due to violation of the above law. Respectively, the National Regulatory Commission of Communications refused to review the request of Maestro TV Company about conferring a new type of license to it when using cable network. In this specific case, the problem is incorrect administrative practice of the National Regulatory Commission of Communications, as well as Georgian legislation, which states that cable and satellite broadcasters are subject to licensing. In accordance with paragraph 5 of article 38 of the Law of Georgia on Broadcasting “Licenses to

TV and radio broadcasters using satellite systems or cable networks shall be issued and modified applying simple administrative proceedings”.

How does the above approach harmonize with the European Convention on Human Rights? To answer the question, we have to look into the precedential law of the European Court of Human Rights.

As the European Court of Human Rights states “In some member countries of the European Union transmission of non-coded programs through telecommunication satellite does not need the consent of the country where the transmitting satellite station is located or where the signal comes from”. Any prohibition in this respect shall violate article 10 of the European Convention on Human Rights. In one of the case, the Strasbourg Court excluded the regulation of satellite broadcasting through state permit, and noted that the states are allowed to use licenses to only define the rule of broadcasting on their territory.

The above regulatory authority is especially attributable to the technical aspect of broadcasting, which is rather important. Issuance or rejection to the issuance of license may depend on specific conditions and considerations, such as the nature and goals of the broadcasting station, composition of potential audience at local and regional levels, goals and rights of a specific audience, etc., The European Court stated in terms of cable broadcasting that “Presently, due to technical progress, unlimited number of channels and frequencies are available for broadcasters. Hence, earlier set limitations against the cable broadcasting cannot be justified any more”. It is absolutely acceptable when the state licenses the broadcaster using frequencies, since frequencies cannot be unlimited. It is impossible for two or more broadcasters to use one and the same frequency and have quality fidelity. Frequency spectrum is a special public goods and, respectively, the state has active regulatory function in its distribution provided that it takes into consideration the public interests and demands. The state should distribute the frequencies in the manner that, to the extent possible, would equally meet various public demands. Along with this, the owner of the frequency may be assigned additional obligations due to strong social necessity. The approach differs in terms of cable and satellite broadcasters. The latter is not limited in the nature. State-free entry for any entity into the above market shall in no case inflict damage on the interests of other social groups or strata. It is impossible to infringe the interests of any group since any group can do the same due to unlimited resources. The above does not necessarily mean that the above broadcasters can carry out their activities in state-free control mode. The state still maintains the function of controlling the compliance of the broadcasters’ activities with the existing legislation. The above





authority is especially important when and if a broadcaster violates the rights of vulnerable and unprotected members of the society.

On March 11, 2008, the Ombudsman of Georgia requested the National Regulatory Commission of Communications the information, specified in article 61 of the Law of Georgia on Broadcasting, about the three following licensed, private TV stations: Rustavi-2, Imedi, and Mze. In spite of the imperative provision of the legislation, the National Regulatory Commission of Communications informed the Ombudsman that the information specified in article 61 of the Law of Georgia on Broadcasting was partially submitted only by Imedi TV for the time period of 2005-2007. As for Rustavi -2 and Mze, they had been trying to evade the obligation of submission of the information about the owners for the time period of those two years. Due to the fact of the above evasion, the National Regulatory Commission of Communications initiated administrative proceedings aimed at imposing penalty on the above companies. After the proceedings had started, the three companies submitted the qualified information. The above served as the basis for the National Regulatory Commission of Communications to terminate the administrative proceedings based on its resolution No.761/18”.

By that time the National Regulatory Commission of Communications the information was rather interesting in exploring the scheme that connected Mr. Badri Patarkatsishvili with Imedi TV than the owners of Mze and Rustavi 2. The interest of the National Regulatory Commission of Com-



munications becomes obvious taking into consideration the fact that after the three companies submitted the information to the National Regulatory Commission of Communications, the Commission started administrative proceedings aimed at suspending the license owned by Imedi TV, justifying the action stating that Mr. Badri Patarkatsishvili, a political party leader, owned 15% of the shares of the Imedi TV through his charity fund. It is obvious that initiation of administrative proceedings aimed at imposing sanctions against the TV company, as well as termination of its activities after obtaining the comprehensive information was aimed at punishing Imedi rather than ensuring transparency of the information on the owners of the above broadcasting companies. The likelihood that National Regulatory Commission of Communications will use the threat of imposing sanctions against any state-controlled media outlets in the future is rather immaterial. Respectively, the information about the owners of such broadcasters shall remain unknown as it has been for previous two years. The point is that as the practice applied by the National Regulatory Commission of Communications demonstrates, the above regulatory body imposes sanctions on state-free broadcasters, such as Imedi and Maestro for disputable activities, and at the same time does not react to the obvious two-year-long violations of article 61 of the Law of Georgia on Broadcasting committed by the state -controlled ones, such as Mze and Rustavi 2.

It is true that during the process of imposing sanctions, Mze and Rustavi 2 TV companies submitted the requested information, however, the precise answer to the question- who the owners of the companies are – still remains to be unknown. The former owners state that the series of changes in the ownership title started in 2004 by redistribution of shares through the interference of the government representatives. They also noted that the representatives of the authority applied different methods, among them frightening, to replace the owners of TV stations with the new ones, holding their vested interests. TV Company - Obiectivi 2 – appeared to be the number one target. In accordance with the explanation provided by Mr. Mikheil Agladze, the representative of Ms. Ketevan Asatiani – the owner of 49% of the authorized capital of the TV Company, in 2004 his representative yielded to the demand of Dimitri Kitoshvili – then-time Chair of the National Regulatory Commission of Communications, and let a Mr. David Kakauridze have 50% of the authorized capital first (see the case of TV company – Obiectivi 2), and one more percent later. Mr. Kibar Khalvashi, in his deposition provided to the Ombudsman, states that the President of Georgia made Mr. Khalvashi transfer 78% of the authorized capital of TV Company Rustavi 2 to an unknown person. Mr. Khalvashi also noted that

he had acquired the above company, as well as the shares of the TV companies Mze and Pirveli Stereo at the request of the President. (Rustavi-2 belonged to co-author of the Rose Revolution Erosi Kintsmarishvili, who fell into disfavour of Saakashvili after some period of time and had to sell his TV company to Khalvashi). Mr. Kibar Khalvashi also spoke about interference in editorial decisions of the TV Companies by Mr. Gigi Ugulava – present city Mayor, Giorgi Arveladze – the then-time Head of the President’s Administration, and Giga Bokeria – the then-time Deputy Chair of the Parliament Legal Committee. Mr. Kibar Khalvashi declared that he dismissed Mr. Nika Tabatadze, the then-time Director General of Rustavi 2, and Ms. Tamar Rukhadze, the then-time Head of the News Department at the demand of the President and the then-time Head of the President’s Administration.

**If we follow the dynamics of the transfer of shares of Georgian TV Companies from and to the hands of the persons in attendance to the authority, we can conclude that the owners of the big parts of shares are not the actual owners of the Companies. The above judgment is backed by the fact that each new owner of Rustavi 2 legalized the documents stating either gratuitous transfer or donation of property to an unknown to the owner person. For example, the owner of 100% of the shares of Obiectivi 2 gratuitously transferred 51% of the authorized capital to David Kakauridze, who on his part, yielded the property through gift certificate to Nodal Charkhalashvili. Finally, the above shares were gratuitously transferred to Guram Kvirikashvili. The latter, through his representative, supported the application on revoking the license owned by Obiectivi 2, submitted to the National Regulatory Commission of Communications by David Kakauridze.**

Similar frequent changes of the owners represent characterizing features of Rustavi 2 TV Company, as well. The impression has been created that the persons, registered with the Entrepreneurial Registry or independent registrar as the owners of such companies are not the actual owners. The authorities need such persons to implement its interests, since they will never allow that the TV frequencies assigned to these companies get in free circulation. A clear example of the above statement is the Met-skhre Arkhi (the Ninth Channel). The Company ceased broadcasting in 2004. However, the company still owns the license needed for broadcasting. On January 25, 2005 the National Regulatory Commission of Communications, based on its resolution No.33/1, issued the license No.1444 to the above non-functioning TV Company allowing it to broadcast all over the territory of Georgia.

As a result of requesting the documentation from the National Regulatory Commission of Communications on the owners of Rustavi 2, we learned that Mr. Irakli Chikovani, the Director General of Rustavi 2 also represents the 100% owner of the shares of Metskhre Arkhi. Before terminating the broadcasting, the owner of Metskhre Arkhi was Kartu Foundation, which was founded by Bidzina Ivanishvili, a Georgian businessman and Maecenas.

Proceeding from the above, the Government, through the violations of the requirements of Georgian Law on Broadcasting, evades that the frequencies that have the capacity of broadcasting all over the territory of Georgia get in free circulation, i.e. in structures beyond their control. If the National Regulatory Commission of Communications does not hesitate to impose sanctions against independent media outlets due to absolutely insignificant and disputable violations, the same Commission does not expose any reaction to the termination of broadcasting by Metskhre Arkhi for four-five years and does not revoke a licence, i.e. withdraw TV frequency as a form of sanction. However, if the National Regulatory Commission of Communications learned about Maestro broadcasting public-political programs, it should also have known about five-year termination of broadcasting by Metskhre Arkhi.

Termination of broadcasting by TV Company Kutaisi also became a public knowledge. The impression is that the National Regulatory Commission of Communications deliberately tries to evade the emergence of a TV Company with the capacity to cover the whole territory of Georgia, and having this in mind, will not release the frequencies under the ownership of the abolished TV Companies that actually are not being used. That is why the National Regulatory Commission of Communications does not revoke the license No.1444 and allow the vacant frequencies to enter the market, as it could lead to the submission of applications requesting those frequencies.

The case of Maestro TV Company is a good demonstration of unwilling attitude of the National Regulatory Commission of Communications towards the commencement of general broadcasting by any TV Company. Under such conditions, it is no surprise that the Director General of Rustavi 2 – the most loyal to the Government TV Company, might be the person who may own the Company with the license allowing to broadcast on the whole territory of Georgia, and at the same time not carry out the activities allowed by the license. It is obvious that under the given circumstances the media ownership is spurious.

The government tries its best to retain the changes exercised in the own-

ership titles. In case of I-Media media holding, Ms. Diana Berakashvili, a City Court judge, in her ruling of May 14, 2008 without pointing to any specific evidence, resolved that there is a threat that Ms. Ina Gudavadze and her daughters can embezzle the legacy of Mr. Badri Patarkatsishvili. Based on paragraph one of article 191 of Civil Procedural Code, the statement securing the claim should be well-grounded.

Based on the above ruling, Ms. Ina Gudavadze, the spouse of Mr. Badri Patarkatsishvili, and their daughters – Ia Patarkatsishvili and Liana Emotova are banned from taking any factual or legal actions to acquire the right to own the legacy or its part, or the right to transfer it to any other person. On the other hand, the same ruling gives the right to Mr. Joseph Kay to take any action he deems necessary to collect and manage the legacy, or to sell it or its part if he deems it necessary. The above ruling strengthened the positions of Mr. Kay in I-Media Holding even more. In case if the purchasing agreement signed on February 19, 2008 between Giorgi Jaoshvili and Joseph Kay about Mr. Jaoshvili selling 70% of the authorized capital of JMG Consulting Group is revoked, Joseph Kay, based on his right and authority to collect and manage the legacy, shall still have relationship with I-Media Holding. By doing so, the Government created additional guarantees of legal security for Joseph Kay to retain the right of ownership over Imedi TV. It is noteworthy that Joseph Kay has never presented the Court the original document certifying the transfer of right to collect and manage the property of Badri Patarkatsishvili. In accordance with the confidential instruction of Mr. Badri Patarkatsishvili (as per official version), a copy of the act on the Designation of Executive Manager was presented to the Court on November 14, 2008 assigning Joseph Kay the above power. The copies of the documents were submitted to the expert by Ms. Ina Gudavadze. The conclusion of the examination of the documents states that the signature of Mr. Badri Patarkatsishvili on the documents is not authentic. In accordance with Ina Gudavadze's deposition, the witnesses who were together with Mr. Badri Patarkatsishvili on November 14, 2008, confirm that Mr. Patarkatsishvili had not signed the document in their presence. Ina Gudavadze does not consider the version of Joseph Kay of Mr. Patarkatsishvili having allegedly signed the document in English, the language that Mr. Patarkatsishvili did not know well, at midnight, under the street-lamp light after he had left the restaurant in New-York, as trustworthy.

In case of TV Company Obiectivi 2, at the time when a partner of the Company, owning 49% of its shares, decided to restore his controlling position through the court, a person owning the controlling package of the authorized capital and enjoying the protection of the Government, applied



Thus, the National Regulatory Commission of Communications, as well as the court, has always been up to the mark when a possibility of acquiring a broadcasting license by any uncontrollable entity or individual emerged. Owning a TV Company voicing the interest of the Government represents a guarantee of inviolability of the business of a certain entrepreneur. Due to pleasing and obliging editorial policy the owner not just only deserves the benevolence from the Government members, but he also becomes a part of the authority himself (for example, David Bezhuashvili, the owner of 45% of authorized capital of Rustavi 2, Mze and Pirveli Stereo, founder of Georgian Industrial Group, and a member of the Parliament of Georgia).

For an entrepreneur the ownership title of TV media along with the obtained benevolence of the Government represents a kind of a problem. The ownership of a TV Company is a certain kind of value paid by the entrepreneur for the sake of his political party or for the aim of retaining the desirable balance of power. The concept of a TV Company, as a burden, is reflected in being subsidized. Having very scarce income generated from commercials, the TV business is not and cannot be profitable. Operation of news office requires high expenses. The functioning of not highly rated news office, which due to Government pressure does not represent a propagandist tool of the scale that the rival company does, becomes a boring burden for a businessman. Along with this, coming back to the market of the brand, well-known for the audience, which has all the capacity to better voice the interests of the authority is planned.

Under such conditions, a businessman makes the decision on the abolishment of the news service. These are the reasons that should be used as explanation for closing down the news office of TV Company Mze.

to the National Regulatory Commission of Communications and requested the revocation of the key asset of his property – broadcasting license.

The National Regulatory Commission of Communications, on its part, in complete conformity with the law, satisfied the above request (see the case of Obiectivi 2), before the court decision was made.

# Illegal obstruction of journalists' professional activities

**On numerous occasions journalists have been attacked by the groups supporting the opposition or the Government. Citizens, who considered themselves belonging to the part of the society supporting the Government or the opposition, openly expressed their discontent, or indignation and aggression towards media outlets, which, in their opinion, gave non-objective and biased coverage of the specific facts of public interest or the activities of their political group or leaders.**

It was mainly journalists of Rustavi 2 and Mze TV companies who were targeted by the opposition and their supporters, for the reason of not covering protest rallies carried out by the United Opposition and the statements made by the opposition leaders, as well as inadequate coverage of these developments. For example, on 24 March 2008, rally participants blamed Nodar Meladze, Mze TV Company reporter that his video footage captured locations where only small number of rally participants could be seen. According to the protesters, the mentioned video footage was used by the reporter to demonstrate scarce number of rally participants. For this reason, rally participants verbally and physically abused the reporter and forcefully directed the camera towards the side where large group of protesters had gathered.

The following day, United National Council – the coalition of the oppositional parties – boycotted TV Companies Mze and Rustavi 2. The same day, rally participants attacked Tamar Baghashvili, Rustavi-2 reporter, when she was making a live news report from Rustaveli Avenue; the public used forceful and offending measures to demand from her to leave the scene. One of the opposition members covered the lenses of the cameramen's camera who was capturing the incident with his hands.

According to the statement of the European Court of the Human Rights, rally participants, as participants of democratic processes, should respect democratic norms. As noted by the same Court, journalists perform the role of the public guard.

Obtaining and disseminating information is not only journalist's objective, but the public also has the right to have access to it. The freedom of speech is ensured even in cases when the information is not only neutral, but even shocking, concerning and disruptive to the entire public, or part of the public.

It is the right of the Opposition representative or any person not to cooperate with this or that media outlet, not to give any kind of commentary or state-

ment, more so when the given media outlet is characterized by non-objective and biased attitude towards the events. Despite this fact, nobody has the right to obstruct the journalist to perform his/her professional duties, which is obtaining last minute information at the site of public gatherings, making video footages and live news reports. Suspected lack of objectiveness on the part of the journalist should not become the reason for forcing him/her to refrain from collecting and disseminating information which is of public interest.

**It is also noteworthy that actions against journalists of Mze and Rustavi 2 TV companies contained elements of offences defined by the Criminal Code of Georgia, Article 154. This article envisages liabilities for illegal disruption of journalist's professional activities, i.e. forcing him/her to disseminate information or refrain from it.**

**It should be noted that in the majority of cases aggression to their address is provoked by the journalists themselves due to unilateral and biased reporting on the events. As a rule, these are the journalists of pro-governmental TV companies (that's why the authorities are trying their best to keep control of the national-level channels and avoid emerging of uncontrolled ones, which would provide comprehensive and more or less objective information).**

Government representatives and their supporters were distinguished by such aggressiveness towards journalists. Their targets became journalists covering early Parliamentary Elections of 5 January 2008, as well as of the Parliamentary Elections of 21 May 2008. These were: Khatuna Gogashvili, Hereti Radio Journalist, Aleko Gabunia, Mze TV Company journalist, and his cameramen – Nikoloz Pataria, Nana Pazhava, Imedi Radio journalist, Eliso Chapidze, Rezonansi newspaper reporter, as well as ordinary observers – Malkhaz Varshanidze and Irakli Goguadze, who were present at the polling station with a camera.

**Peculiarity of the Presidential and Parliamentary Elections of January 05 and May 21, 2008 accordingly was the fact that Precinct Election Commission members were prohibiting video, photo and audio coverage of the polling procedures. Such was the reaction when media representatives were trying to capture the persons who did not have the right to remain at the polling station, or the incidents of violence against the people who were authorized to be present at the polling station as observers, or attempts of forceful disruption of the polling station, or illegal ballot stuffing.** It is also noteworthy that in addition to Precinct Election Commission members, there were other persons, without any authority to be present at the polling station, since they did not carry any badges indicating that, who also obstructed accredited journalists from performing their profes-



sional duties. For example, at the Early Presidential Elections of the 5 January 2008, Iasko Tskipurishvili, a member of the National Movement (who was not authorized to be present at the polling station) physically and verbally abused Khatuna Gogashvili, a journalist of Hereti Radio, at Lagodekhi Election District No 15, Kabali Polling Station No 19.

**According to Article 50, para 6 of the Election Code of Georgia, making photo and video footages is prohibited at the ballot booths for ensuring secrecy of polling. According to the Article 67, para 4 of the same Code, those having right to attend the polling stations, except ballot booths, can make photo and video footages, without disrupting the election process. None of the mentioned persons tried to capture ballot booths. They were capturing the cases, which were not at all related to casting of vote at ballot booths. Prohibiting photo-video footages in such circumstances do not comply with the Election Code requirements. As to audio recordings, the Election Code does not limit such activities at all. Making video footages of the election violations, as well as collection of information through any technical means, is in full compliance with the function of the journalist, as a public guard. Obstruction means were forceful. Physical abuse was expressed in twisting of arms, pushing, punching, throwing sticks and stones. In Zugdidi, perpetrators even used knife to wound Nikoloz Pataraiia, Mze TV Company operator.**

In all these cases, the first target of the attackers was a video camera. In one case perpetrators were covering the camera lenses with their hand to obstruct capturing of illegal actions. In other cases, the perpetrators simply damaged the camera. Incidents of confiscating of cameras have also been registered.

It is noteworthy that at the time of all the incidents involving attacks on journalists, police staff was present at the polling station, on a nearby territory, or at the site of the attack. They did not take any measures to stop the criminal actions. Physical abuse of Mze TV company journalists was taking place a few meters from the place where police vehicles were parked.

Mamuka Dekanoidze, a policeman, was present at Kvemo Magharo Village Polling Station of Sighnaghi municipality when a journalist – Eliso Chapidze was physically abused in his presence, however he too did not take measures to stop the violence. On the contrary – he covered up for the perpetrators – he put them in his car and temporarily took them away from the polling station. Policemen were in the vicinity of the polling station when Irakli Mamaladze was physically abused at the polling station. Irakli Gogvadze informed the Police on the incident of camera confiscation. The perpetrators were still near the polling station; however the Policemen did neither detain them or returned the camera.



# Using economic leverages to influence independent media

Media owners and independent experts were mentioning continued pressure exercised from the part of the Government. Tbilisi based Kavkasia TV Company, radio stations and print media were mainly subject to the pressure. However, the recent methods of the alleged pressure have not been as cruel and forceful compared to those employed against Imedi TV Company on 7<sup>th</sup> of November 2007. According to media owners, the Government this time targeted advertisement orders of the media outlets expressing criticism, and through this tried to create financial problems to media. According to media outlets, financial pressure has been exercised by the Investigative Department under the Revenue Service of the Ministry of Finance of Georgia. According to Kavkasia TV Company management, five representatives of Kavkasia TV Company contractors were invited to Tbilisi Main Department of the Revenue Service Investigative Department, and demanded from them to cease ties with the TV Company. The staff of the Revenue Services considered that Kavkasia TV Company was contributing to destabilization in the country; hence advertisement orders to the company should be stopped. In case of non-compliance to this request, entrepreneurs were threatened with tax inspection and sanctions. Based on the information provided to Kavkasia TV Company by the entrepreneurs, the meeting was attended by Irakli Kirkitadze - brother of David Kirkitadze, Governor and President's Representative to Kvemo Kartli Region. Following the meeting at the Revenue Service Investigative Department, the five entrepreneurs indeed cancelled their advertisement orders with Kavkasia TV Company.

Some contractors cancelled their agreements signed with Kavkasia TV Company, while others refused to extend the contract expiring in early July 2008. Nino Jangirashvili revealed to the Public Defender of Georgia the names of the companies, who were invited to the Revenue Service. Upon Nino Jangirashvili's request, this information has been kept confidential so far.

Advertisement orders were cancelled in other media outlets along with Kavkasia. According to Media.ge, advertisement orders have been cancelled to Hereti Radio Station by *Star Com Media Group*, an advertising company of cellular communication company – *Beeline* -, from 3 July 2008, although the contract was expiring in the end of 2008. According to Beeline, the reasons for

ceasing advertising are commercial in nature. Zviad Ruadze, editor of Gurjaani based Progressi newspaper, explained the cancellation of orders by the pressure of the Regional Administration. Based on Hereti Radio, a critical article about Governor and President's Representative to Kakheti Region - Leval Bezhashvili was published in 2008 June edition of the newspaper. Since then, as stated by Zviad Ruadze, businessmen ceased cooperation with the newspaper upon the demand of the Deputy Governor, Giorgi Botkveli. When advertisement orders are simultaneously cancelled with opposition media outlets, it is difficult to believe that this fact could be caused due to commercial factors. That is why the Public Defender does not consider the statements as groundless that cancellation of agreements on the provision of advertisement services with opposition media outlets is a result of direct interference of the Government. As we can see, the Government has developed a new tactic of fighting against media. Pressure applied on entrepreneurs is expressed in the demand to cancel advertisement orders. Officials are trying to create financial problems to unfavorable media outlets and in this way achieve their closure or lessen their competitiveness in the media market. In the absence of advertisement orders, which is a necessary pre-condition for normal operation of media outlets, the owner of the media outlet is left with three choices: **to stop functioning, impose editorial policy tolerant to the Government, or fight for existence with scarce resources. In the latter case, media is deprived of the perspective for normal development, which results in drastic deterioration of broadcasting quality. Media is becoming unable to respond to the increased demands of the customers. Consequently the public loses interest and trust in free media. Illegal aim of the Government is to reduce public influence over uncontrolled media. This aim is being achieved by inappropriately influencing financial conditions.**

In terms of economic (and also psychological) pressure on independent mass media outlets, the case with weekly socio-political newspaper "Georgia and World" stands apart. On the date of issue of no.2 flimsy, on the night of 25<sup>th</sup>/26<sup>th</sup> of February, 2009, the newspaper editorial office was cleaned out. A photo of the President at the city dump, which was not adding positive traits to his official image was published on the first page the flimsy. The thieves were acting impudently and apparently, with the feeling of impunity – they entered the newspaper editorial office, breaking through the brick wall with hack and scrap (the newspaper editorial office was located on the first floor of dwelling house in the center of Tbilisi), took only computers, other professional equipment, for example, digital camera was left intact. In addition, they cut cables of the office network.

## **Freedom of media and free elections**

Election campaign creates conditions which in any democratic society assign additional responsibilities to media. At this time two legitimate interests are colliding with each other. On one hand there is the interest of freedom of media – to serve as a political platform for a certain political party or a candidate, i.e. based on free editorial decision actively support one party or a candidate and put the other competitors in a relatively disadvantaged position; while on the other hand, there are – interests of electorate- to equally receive exhaustive information regarding the main political parties or candidates.

In case of the conflict of interests, both European Council and the current Georgian legislation give preference to equal opportunities of political parties and rights of citizens to informed decision. Necessary element of free and fair elections is the responsibility of the press - to disseminate information regarding the position of political parties/candidates and the right of the public - to receive this information. Guidelines of the European Commission for Democracy through Law (The Venice Commission) uphold the principle of the equality of opportunities, which implies neutrality of the authorities, including, media, and specifically coverage of election processes by State run media outlets. In terms of shaping voters' opinion, guidelines again refer to the responsibility of the Government to maintain neutrality. At the same time, neutrality of the authorities extends over media as well.

**Article 18 of the Code of Good Practice in Electoral Matters of the Venice Commission stresses the importance of the key political parties/candidates having opportunities to express their position through the main information channel of the country. “But the fact is that the media’s failure to provide impartial information about election campaign and candidates is one of the most frequent shortcomings arising during elections. The most important thing is to draw up a list of media organizations in each country and to make sure that the candidates or parties are accorded sufficiently balanced amount of airtime or advertising space, including on State run radio and television stations. According to article 18 of the Code of Good Practice in Electoral Matters of the Venice Commission, there are two possible interpretations of equality: either “strict” equality or “proportional equality”, depending on their current position in the Parliament or among the electorate. “Proportional” equality implies that the treatment of political parties is in proportion to the number votes received during previous elections.**

Equality of opportunity (strict and/or proportional) applies in particular to radio and television airtime, public funds and other forms of backing. Georgian legislation has made its choice in favour of proportional opportunities. Georgian Election Laws introduced the notion of a qualified “election subject” – which, according to the Organic Law of Georgia on Political Unions of Citizens, is funded from the State budget (Article 3, para h1 of the Organic Law of Georgia – Unified Election Code). Broadcaster shall recognize as a qualified election subject any political party or a block, which is represented in the Georgian Parliament in Factions, or which in the recent elections obtained not less than 4% of the country’s votes according to proportional system. According to Article 73-1 of the Election Code, all broadcasters are required to equally distribute airtime to all qualified subjects, giving them free airtime for pre-election campaigning, as well as create equal conditions for participating in debates.

**The legislation has taken into consideration the circumstances that the majority of TV and Radio stations broadcast by using multitude of frequencies. The latter is a limited resource which is considered to be a public good. To obtain it one should go through a competition process as per the Law on Broadcasting, so that public interests are fully satisfied. Hence, the activities of the frequency owner is inherently defined by public interests, since its activities are carried out by employing what is thought to be a public good. Media obligations to public become especially specific during coverage of election campaigns. During this period the interests of voters and public – receive exhaustive information on the pre-election program and activities of election subject, exceeding the interest of media freedom. In this sense, Article 73-1 para 1 assumes paramount importance, which defines, that “The requirement of this law concerning the equal allocation of airtime hours, creating equal conditions for participating in the debates and election advertising refers to only qualified election subjects and to broadcaster defined by this article’s paragraphs 2 and 3.”**

In terms of public broadcaster, the mentioned norm implies all TV and Radio stations which have the right to include news and socio-political programmes in their broadcasting schedule. Hence, public broadcaster means both public, commercial and community broadcasters. For the obligations deriving from the Article 73-1 the decisive importance is assigned not only to the form of ownership of the broadcaster, but what kind of license the specific broadcaster has obtained according to the Article 38, para 2 of the Law on Georgia on Broadcasting – common or specialised. Hence, the key requirement of the legislation regarding TV and Radio stations is to have

equal amount of time allocated for all qualified subjects in their news programmes. This obligation remains in force for private TV and Radio stations as well, despite the fact their owners might be members of various political parties or likeminded people. Editor of the news programme or a journalist should not be expressing his/her political opinion during their activities. At this point it is not the desire of the listed subjects which matters, but the right of the citizen to informed decision.

**During Parliamentary Elections of 21 May 2008, some media organizations purposefully violated the principle of equal possibilities of elections subjects. On 25 March 2008, following the attack of opposition supporters on Rustavi 2 journalist Tamar Baghashvili, TV companies Rustavi 2 and Mze aired joint protest statement. According to the broadcasters, media has to work in an environment of boycott called by the part of the opposition. TV companies called for all political forces to stop attacks on media and allow journalists to work normally. Following this statement, Rustavi 2 and Mze TV companies stopped airing election campaign of one of the election subjects – United Opposition – National Council, New Rightists”.**

In this sense the exception on Rustavi 2 TV broadcasting company was Prime Time programme of the journalist Inga Grigolia, where the above mentioned election block was given the opportunity to carry out its election campaign. As to the news releases of the mentioned TV companies, any information regarding the United Opposition-National Council, New Rightists was removed from the air. According to the Article 73-1 para 11 of the Election Code, “In case of allocation of free air time for election agitation, election advertising and election debates and for the purpose of carrying out control over fulfillment of other obligations of mass media envisaged by this Law, the CEC itself or through buying the service shall carry out monitoring.”

During Parliamentary Elections of 21 May 2008, by the order of CEC, Prime Time analytical group was carrying out electronic media monitoring in terms of election campaign coverage. As a result of the mentioned monitoring, it was revealed that Rustavi 2 TV Company allocated 2 minutes and 4 seconds of its airtime to the United Opposition-National Council, New Rightists during 10-17 April 2008, while in the same period, National Movement was given 35 minutes and 38 seconds. The same research showed that even more alarming was the situation in TV Company broadcasting.

**During 10-17 April 2008, none of the news programs of Mze TV Company allocated any airtime to the election campaign of the united opposition. On 7 April 2008, representatives of the United Opposition-**

**National Council, New Rightists and the Equality Institute held a joint briefing. It referred to the issue of Malkhaz Jangirashvi's (a defendant lawyer) hunger strike. Prior to the briefing, Rustavi 2 TV Company journalist demonstratively removed the microphone of his/her company and left the briefing. In connection with this incident, Giorgi Laperashvili, the producer of Currier told Alia newspaper that until there was an initiative of cooperation from the part of the opposition, the TV Company would continue information blockade.**

On 17 April 2008, David Gamkrelidze, one of the leaders of the the United Opposition-National Council, New Rightists convened a press conference at the election block headquarters. David Gamkrelidze stated that the doors of the election block headquarters were open for Rustavi 2 and Mze journalists. However, despite his statement, the above-mentioned TV companies did not stop boycotting the United Opposition. On 25 April 2008, a special committee of the European Council Assembly for observing Georgia's Parliamentary Elections of 21 May 2008 met with the representatives of the United Opposition and Rustavi 2. Irakli Melashvili, the member of the United Opposition said that the election block in advance provided information on the activities planned within the frameworks of the election campaign to the TV companies of Rustavie 2 and Mze. The journalists of these TV companies are not attending meetings held by the United Opposition. Giorgi Laperashvili, attending the meeting with the Head of the Committee M6ty6s EI4RSI again blamed the opposition for starting the boycott, despite the fact that after the attack on Tamar Baghashvili, the opposition on numerous occasions expressed the desire to cooperate with the TV companies. Following the meeting with the EC Parliamentary Assembly Monitoring Group, on 25 April 2008 Rustavi2 and Mze TV companies released a statement that they were ceasing boycott against the United Opposition and from 28 April 2008, and they were going to start coverage of election campaign. Boycott was negatively assessed by the European Council Parliamentary Assembly as well. In the report of the Ad hoc Committee of the Bureau of the Assembly (Chairman M6ty6s EI4RSI) regarding the Georgian Parliamentary Elections of n 21 May 2008, it was noted that: "On the other hand, the Ad hoc committee noted cases of disrespect by political parties and individual candidates on the dignity of the journalists covering the campaign and of their non participation in debates organized by the media. The case of the mutual boycott by both the Rustavi 2 channel and the United Opposition, for example, undermined the fundamental right of citizens to be informed." The issue of equal distribution of airtime to qualified election subjects existed in the regional TV companies as well. As

clarified by Ioseb Botsvadze, Head of the United Opposition – United National Council, New Rightists, Trialeti TV Company in Gori did not allow airtime in its news releases for covering majoritarian MP contestant Giorgi Mosidze’s meeting with the electorate at Giorgi Precinct No.32, while the candidate for the National Movement was receiving even live coverage. According to Ioseb Botsvadze, at the time of broadcasting National Movement election advertisements, there was no indication of “Commercial election advertisement” or “Free political advertisement” in the corner of the screen.

**A similar situation was created in Samegrelo region. According to Alexander Getia, member of the election headquarters for the United Opposition – National Council, Rightists candidate to majoritarian MP, Koba Davitashvili, Zugdidi based Odishi TV Company, which is a public (common) broadcaster, in violation of the law, refused two qualified subjects – the United Opposition – National Council, Rightists and Republican Party for allocating free airtime. The reason TV Company management cited was selling of the company airtime for USD 30,000. This package was purchased by the United National Movement for its pre-election advertisements. Neither National Commission for Communications, nor CEC have taken any measures for the serious violations.**

It is also noteworthy, that Odishi TV Company is in the ownership of Giorgol Kobalia, member of the United National Movement, and a former MP, while Trialeti TV Company is owned by Badri Nanetashvili, Deputy Governor and President’s Representative to Shida Kartli Region. According to the procedures defined by the election law, the responsibility for organizational matters lies with the Central Election Commission in the first place. It was the results of CEC monitoring which revealed that Mze TV company did not allocate any airtime to the United Opposition unlike other election subjects, and with this was violating Organic Law of Georgia – Article 73-1 (para 1) of the Election Code of Georgia.

It is the responsibility of the CEC to carry out media monitoring for controlling compliance of the obligations in terms of allocating equal airtime to all election subjects, as well as other obligations envisaged by the Law on Media. In case of violations, conclusions should have been forwarded to the authorized body to decide on the sanctions against the broadcasting company violating the Georgian law. CEC was not even interested to know why Rustavi 2 and Mze TV companies were still inaccessible to one of the qualified subjects despite the statements made by the Head of the Elections Block David Gamkrelidze.



**To find explanations we should again turn to the findings of the Ad hoc Committee of the Bureau of the Assembly of the Council of Europe, which states that : “ the CEC did not always function in a collegial and independent manner as provided by law. The Ad Hoc Committee’ members were informed by opposition parties and NGOs about their lack of trust in the impartiality of the CEC. Professional composition of CEC is often subject to criticism due to its propensity for indulgence towards power. Considerable part of the electorate does not trust the CEC and the election administration in general”. The report also stated that: “The election administration in general failed to exercise its broad authority to investigate and address campaign violations on its own initiative. In addition, election commissions and the courts generally did not give due consideration to complaints and appeals, with an apparent bias in favor of the ruling party and public officials. In some cases they refused to hear relevant witnesses or take note of evidence, applied questionable interpretation of the law or failed to provide legal reasoning for their decisions. The CEC did not discuss and analyze complaints in a systematic and legalistic manner, and in general did not adopt legal reasoning for its decisions.”**

Following the assessment made by the Ad-hoc committee of the Council of Europe, it is not surprising why the CEC does not initiate actions on the instances of violation of the Article 73-1 of the Election Code of Georgia, when the qualified election subject is not given access to free airtime and is put in unequal conditions with the other elections subjects. The Public Defender is aware of the case when CEC initiated actions on the violation of Law by the broadcaster. In this specific case the violation was not due to the ruling party, or its candidate. Furthermore, this violation was negatively affecting the interests of the ruling party candidate.

**During early Presidential Election campaign of 5 January 2008, several TV channels announced the results of the public opinion poll conducted by the information centre Common European Cause named “Exit poll – Georgia 2008”. CEC lawyer commented on the fact of airing the outcomes of the mentioned research. The commentary was forwarded to the National Commission for Communications, it stated that at 20.38 hrs of 24 December 2007, information was released in Moambe news edition of the Public Broadcaster LELP that the results of the public opinion poll conducted by the information centre Common European Cause named “Exit poll – Georgia 2008” were aired by Imedi ltd. When announcing the results of the exit poll Imedi violated Article 73-1 para 8 , namely, at the time of announcing exit poll outcomes,**



**there was no information provided regarding the methodology employed, which is a mandatory requirement spelled out in the Law. Based on this assumption, the National Commission for Communications concluded that there were grounds for applying sanctions against the broadcaster due to the violation of the Article 71 para 1 of the Law on Broadcasting.**

Imedi and Mze TV companies which aired the results of the mentioned exit poll were penalized with 2500 Lari, while Rustavi 2 TV Company for the same actions were given a warning. According to the data of the exit poll conducted by the Common European Cause, Levan Gachechiladze, the Presidential candidate from Tavisupleba (“Freedom”) Party held leading positions in the early Presidential Elections of 5 January 2008. Certainly, the announcement of these data was not acceptable to the ruling Party. In this specific case it is absolutely clear as to why the CEC lawyer presented the report on violations to the National Commission for Communications, which resulted in imposing sanctions against broadcasters. This example once more confirms the opinion of the Ad-hoc committee of the Council of Europe Assembly that CEC is not an impartial body and it is not its objective to study and respond to incidents of unequal treatment of qualified elections subjects. Instead, CEC responds to such actions only when the interests of the ruling Party are at stake.

# Violation of socio-economic rights

**Instead of the allowances introduced by the Law of Georgia on Social Aid, the concept of household allowance was introduced. According to the Article 8 para 1 of the mentioned law, “Household subsidy is a monetary social aid which is allocated for reimbursing utility and other costs of the persons from social categories defined by the Georgian Law”. While the amount of household allowances, circle of recipients, rules of its appointment, suspension, renewal and abolishment conditions, as well as other related activities are regulated by the Government Decree No.4 on Monetization of Social Benefits dated: January 11, 2007.**

According to Article 4 of the decree, household benefits have to be paid to the categories of people listed below and in the following amounts:

- disabled in World War II, disabled in battles on the territory of foreign countries, disabled in battles for territorial integrity, freedom and independence of Georgia – 44 Lari per month; participants of II World War- 44 Lari per month; underage children (under the age of 18) of deceased in war for territorial integrity, freedom and independence of Georgia, children with inborn disabilities and spouse who never married and dependent parents (one benefit for each family) – 44 Lari per month; person holding equal status to the participants of World War II – 22 Lari per month; participants of war for the territorial integrity of foreign country and participants of war for territorial integrity, freedom and independence of Georgia– 22 Lari per month; underage children of: deceased participants of war for territorial integrity of foreign country , deceased (unaccounted for; diseased) participants of World War II, deceased participant of war for territorial integrity, freedom and independence of Georgia, children with inborn disabilities irrespective of their age and spouses who never married , (one benefit for each family) - 22 Lari per month; disabled in the emergency clean-up after Chernobyl nuclear accident - 7 Lari per month; the participants of the emergency clean-up after Chernobyl nuclear accident – 7 Lari per month.

It is noteworthy that the recipient of the allowance should distribute this allowance on power supply, gas supply, utility services and transportation, i.e. all the allowances that in the previous law were defined and financed separately. It was evident that monthly 44 GEL could not have substituted the abolished allowances in full, since the State paid GEL 60 on average on

each veteran under the previous Law. To obtain expert assessment of this issue, the Office of the Public Defender of Georgia addressed David Narmania, an independent expert (Candidate of Economic Sciences, Professor of Tbilisi State University) who concluded that: Law of Georgia on Social Aid and Decree of the Georgian Government regarding Monetization of Social Benefits of 11 January 2007 have visibly worsened social conditions of veterans compared to the situation existing earlier. The invited expert explained this by two factors:

1. Benefits envisaged by the previous legislation included other utility bills apart from the power supply, while according to the new amendments veterans receive only monetized amount of the subsidized power supply costs;

**2. According to the previous law, veterans under each category received more financial benefits than after the adoption of the amendments. It is also important that according to the Article 2, para 4 of the Georgian Law on the Veterans of War and Armed Forces of 17 October 1995, “By the force of this law, the veterans of the Republic of Georgia are relieved from the paying the following services: water supply, utility and other clean up services, gas supply, electricity supply, telephone lines, as well as city public transportation in the cities (except taxi) and regional public transport in the countryside. Rights and benefits defined by the legislation currently in force in the Republic of Georgia and other normative acts.** “It is not permitted to abolish or deteriorate allowances, benefits, rights and assistance currently in force, unless there are other acts of equal force adopted”. Later, by the Law of Georgia No 2458 regarding Amendments and Additions to the Law of Georgia on the Veterans of War and Armed Forces of Georgia, of 23 December 2005, the law was abolished. This fact gives grounds to conclude that the implemented legislative changes served the purpose of abolishing articles and paragraphs establishing benefits for the war veterans’ household and utility benefits. Thus, even in this case, war veterans’ existing benefits were abolished, and consequently, their social conditions deteriorated, which is against the content and goals of the obligations assumed under international acts. Further to the above stated, one should mention Decree of the Georgian Government No 61 of 13 March 2008 (regarding the amendments to the Decree of the Government of Georgia No 4 of 11 January 2007 on Monetization of Social Benefits), according to which, additional Article -4.1 was introduced in to the Decree of the Government of Georgia No 4 of 11 January 2007 on Monetization of Social Benefits, which reads: “if a person falling under the rules and principles defined in the Article 4, holds more

than one status and according to the current legislation has several grounds for obtaining household subsidies, the person shall have the right to receive the subsidies only on single ground of his/her choice.”

Thus, it has been defined that if a person has several statuses entitling him for household subsidies, he/she will receive only a single allowance according to his/her choice. Later, on 26 November



2007, Tbilisi City Council (Sakrebulo – representative body of local self-governance with limited legislative functions) enacted amendments to the decision of Tbilisi City Council of 8 May 2007 for implementing the initiative of the President regarding the Tariffs in Regulated Spheres of Economy, according to which, benefits were introduced for traveling in public busses and metro for the veterans of the World War II and the blind, i.e. the persons under this category had free access to metro and bus travel within Tbilisi only. One more important issue regulated by the Law of Georgia on Social Aid refers to the Article 22, regarding the rules for contesting the decisions regarding monetary social benefits. According to the Para 1 of the article, the person has the right to apply to the court to defend his/her rights and freedoms, however Para 2 of the article prohibits contesting the methodology applied during the assessment of socio-economic conditions, as well as the amount of the social benefits defined by the Government of Georgia.

**According to the Article 42, para 1 of the Constitution of Georgia, “Everyone has the right to apply to a court for the protection of his/her rights and freedoms.” This provision of the Georgian Constitution implies, that any person, who considers that his/her rights or freedoms have been infringed, can appeal to the court without any obstacles.** Consequently, according to this Article, all are guaranteed with the possibility of seeking remedy through court. Since the inability of contesting the act regulating rights is in conflict with the Article 42 of the Georgian Constitution, the Public Defender of Georgia appealed to the Constitutional Court for recognizing Article 22, Para 2 of the Law of Georgia on Social Aid as unconstitutional. Currently the appeal is under consideration. Thus, if we look through the chronology of legislative changes, we will see that there have been no effective measures taken from the part of the Govern-

ment to ensure gradual and full realization of the veterans' rights to social benefits. Furthermore, social condition of veterans worsened as a result of the amendments to the normative acts. This is in the circumstances when Georgia has assumed positive responsibilities under the international treaties to take specific steps for protecting economic and social rights of the people under its jurisdiction and ensuring effective realization of social security rights. More so that people who have extensively served the country are in need of the Government's special attention. These are the very people who were fighting on the expense of their health and lives and suffered as a result of wars or armed conflicts, in which legal guarantees for human rights are coupled with the guarantees of the humanitarian law. It is also important to provide assistance to those families, whose breadwinning family member died in armed conflicts. It is noteworthy that the legislative amendments effected the Law of Georgia on the Social Protection of Families of the Diseased, Deceased from the Injuries Suffered and Missing for the Territorial Integrity, Liberty and Independence of Georgia. The Law envisaged various guarantees for social protection to the members of the veteran's family.

**Prior to the adoption of the amendments if the benefits covered parents, irrespective of their age, spouses who did not re-marry, under-aged and student children and other beneficiary family members, as a result of the changes, allowances cover only dependent spouse, parents and children and under-aged children below the age of 18.** It is noteworthy that in any State, considerable attention is paid to the creation of solid guarantees for the social protection of veterans. The countries are taking necessary steps, including legal ones, to ensure realisation of social security rights to this category of persons. However, it should be taken into consideration that the means chosen for reaching the goal (protection of social security rights) should be relevant and necessary. Means are relevant if it ensures or facilitates reaching the goal set. It is necessary, when the legislation was limited in choosing another, equally effective measure, which would not or which would less limit basic rights. Limiting rights and the damage incurred by the beneficiary should be commensurate to the public interests. In Georgia, abolishment of veterans' benefits guaranteed by the normative acts as a result of legislative changes, while the funding from the State budget of some sectors (e.g. field of defence) is increasing, is clearly disproportionate. That is why it is necessary for "death costs" to be replaced by "livelihood costs" in Georgia, which, due to scarcity of resources, would resolve many, seemingly irresolvable issues, both at the international and national levels.

# Violation of property right

Right to property is a universally recognized right. Constitution of Georgia serves as a legal guarantee for property rights, as well as other basic rights. The basic principles of the Constitution of Georgia define main directions of the country's development and content of possible relationships between a person and the State. These principles are: democratic arrangements, economic freedom, social and legal State. Property right is a natural right without which it is impossible to imagine the existence of a democratic society. Property right is not only a basic foundation of the existence of the person, but also ensures his/her freedom, realization of his/her abilities and opportunities, and taking responsibility for his/her life. Considering on its content, the right to property holds important place in the civil law. Personal property, as an institution, is the nucleolus of the market economy, and consequently, it is a necessary pre-condition for not only economic competition between the right holders, but also for the democratic State and arrangement. This condition, on its part, defines private initiatives of the person in the economic sector and facilitations economic relationships, free entrepreneurship and development of the country's economic, as well as ensures normal and stable civil turnover. Specific constitutional guarantee of the property rights is reflected in the Article 21 Para 1 of the Constitution of Georgia: "The property and the right to inherit shall be recognized and guaranteed." The guarantees for the property rights implies the obligations of the State, on one hand, to create relevant legal and institutional mechanisms for the protection of these rights in compliance with the 21 Article of the Constitution, and the right of every property owner to protect itself from any unjustified interference, including from the part of the Government (limiting of this right is possible only in the cases defined by the Law and according to the established rules), and for the restoration of the infringed rights seeking legal remedy.

In the recent four years infringing property rights in Georgia has become an usual occurrence. In the majority of cases, violation of property rights was committed from the part of the Government through law enforcement and other agencies. There were cases when the incidents the violation of property rights remained under cover, since the owners (or rather, former owners) were afraid to declare the infringement of their rights, as they expected that having done so, they would face criminal proceedings

and prosecution. None of the Public Defender's recommendations on the cases of obvious and grave violation of the law were followed by relevant response – neither perpetrators have been punished, nor the rights of the owners been restored. Such grave cases of property rights violation, like: the case of Husein Ali, Shinhoffer and Badagon, have still not been investigated. The past years have seen intimidation of entrepreneurs and their coercion to voluntarily handover the property they owned to the State. (In all cases, the property “transferred” to the state was resold usually to persons or business structures close the authorities).

The Public Defender of Georgia nearly in all his reports indicated the violation of Jemal Tsiklauri's rights who was forced to transfer the ownership of Gori agrarian market territory to the State.

The case of David Tsibirashvili also refers to handing over property rights under duress. According to the documentation attached to the case, the appellant was the founder and director of the Gogirdis Abano Ltd (Spa Baths). Until 14 December 2006, Ltd owned the real estate at 2 Abano Street, namely, 233 square meters of plot of land and premises (bathhouse). The appellant clarified that he, as the founder and the Director of the enterprise, was demanded to hand over his property for free to the State. Since he did not wish to give away his property to the State for free, Valeri Latsuzbaia and Giorgi Khvedelidze, employees of Tbilisi City Prosecutor's Office, were repeatedly intimidating Tsibirashvili and his family, that they would be charged with various criminal offences and imprisoned. The negotiations were also conducted at the Ministry of Sport, Culture and Protection of the Cultural Heritage, as a result of which, the appellant and his family members accompanied by the Prosecutor's office representative visited notary, and on 20 November, 2006 against their will signed under the gift agreement. Apart from cases of signing gift agreements under duress, there have been cases studied in the Public Defender's Office, which referred to compulsive selling of the property (against their will). For example, in Sighnaghi, Nana Macharashvili and Tamar Tamarashvili were intimidated and threatened to sell their property. In this case the buyer of the both plots of land was the same person.

In many appeals to the Public Defender, it has been noted that on the territory of the private owners, State construction was taking place without any consent from or reimbursement to the owners, such as: children's stadium, water reservoirs and so on. On the instances of illegal construction works carried out on the plots of land owned by physical and private legal persons, Giorgi Ugalava, Tbilisi Mayor and Mamuka Akhvediani, Vice Mayor (Head of Administration) should be held responsible. The existence

of such fact, their non-investigation and non-punishment of the perpetrators, violates principles and norms upheld by the Constitution of Georgia and International Laws, which hampers establishment of democratic values in the society and negatively affects the international authority of the country.

In the first half of 2008, the Public Defender's Office considered the applications of the citizens- Levan Terashvili and David Kekelishvili. They, together with Amiran Giguashvili, Gela Naskidashvili, Vasil Makharashvili, Teimuraz Gogitidze, Ioseb Giguashvili, Marlen Nadiradze, Mikheil Kareli, Nika Ramishvili and former Minister of Defence – Irakli Okruashvili, are the owners of the real estate at 27 Atoneli Street in Tbilisi (a building and 371m<sup>2</sup> plot of land in prestigious district of Tbilisi).

On 6 October 2007, Mileri Kharebava, a judge of Tbilisi City Court Chamber of Criminal Cases considered the solicitation of G.Goglidze, Investigator of Tbilisi Main Department of the Investigative Department of the Revenue Service under the Ministry of Finance, and issued the order on seizing the property owned by the defendant – Irakli Okruashvili. Following the property seizure, the premises were occupied by the Security Police forces, which were tasked not to allow anybody into the premises, including the remaining owners of the property (neither Public Defender's representative was allowed into the building). As a result of the study of the case materials, it was concluded that the Court did not consider or provide justification regarding the grounds for limiting property rights of the other owners. Apart from the disputed decision of the Court on seizing the entire property, the Security Police grossly violated property rights by occupying the mentioned building. This is a fact of exceeding the authority on the part of policemen. The Public Defender of Georgia twice addressed the Georgian Prosecutor's Office with the request to carry out preliminary investigation on this fact, however, they were both left without response, violating Article 261 of the Civil Procedure Code of Georgia, which stipulates that "upon the receipt of information on an offence committed, the Investigator, Prosecutor are obliged to launch preliminary investigation within the scope of their authority".

**JSC International Building Company was founded in early 2005 and the founders were the citizens of Turkey: Osman Ersain, Ismael Kazmazi and the citizen of Georgia Kibar Khalvashili. On 23 October 2007, Chairman of the Penitentiary Department (who was directly conducting negotiations) and his Deputy – Rezo Charbadze at 3 am in the morning ensured signing the documents according to which the shares of Kibar Kalvashi, Ismael Kazmazi and Osman Ersain in the capital of**





**JSC International Building Company were transferred to Malkaz Osadze and Zaza Gotsiridze. Zaza Gotsiridze became the owner of 75% of the company share, while Malkhaz Osadze – of 25%. Documentation submitted to the Public Defender’s Office prove that the transfer of ownership of JSC International Building Company was carried out through unlawful methods, as well as under serious duress and compulsion of the company owners (see the attachments – the Case of JSC International Building Company). The handover of the company shares was directly linked to the payment of bail for the former Minister of Defence Irakli Okruashvili. The State officials involved in the process of negotiations were interested to have Kibar Khalvashi pay the entire amount. After the handover of the shares, the amount transferred for the defendant Irakli Okruashvili’s bailout equaled the amount which the company should have received from the State for the works performed. The bail amount was transferred by the new Director of the company Malkhaz Osadze, and not Kibar Khalvashi, as it was declared by the Deputy Prosecutor General Nika Gvaramia to media. The Government wanted the payment of this amount to be linked to Kibar Khalvashi, since he was Irakli Okruashvili’s friend and business partner (see above). Considering the above, the dissatisfaction expressed in the statements made by Kibar Kalvashi, Ismael Kazmazi and Osman Ersain is clearly grounded, and the grave violation of the property rights of the partners (owners) is also evident, for which Bachi Akhalaia, Head of the Penitentiary Department and his Deputy Rezo Charbade, as**

well as executives of Prosecutor General's Office of Georgia should be held responsible.

## **The case of Zurab Jangveladze**

In 1991 Zura Jangveladze was allocated the plot of land of 300m<sup>2</sup> for individual residential construction works near the building located at 193 Uridia (former Chodrishvili) Street in Tbilisi. The same is confirmed by the land plan of the territory issued by Tbilisi Municipality Service of Urban Planning. Since 29 November 2006, Zurab Jangveladze is a registered lawful owner of this plot of land, which is confirmed by the excerpt from National Agency for Public Registry records. The appeal included information from Tbilisi Municipality web-portal, regarding the construction of a new stadium for children in Nadzaladevi District of Tbilisi. Namely, Tbilisi Mayor – Gigi Ugulava in his interview states that: “one more stadium will be constructed in Tbilisi. It is true that this is a densely populated area, but the place was allocated and the stadium was constructed. There will be a children’s playground constructed as well.” Lawyer Roin Migrauli claims that the mentioned stadium covered the part of the plot owned by Zurab Jangveladze (approx. 50m<sup>2</sup>). This is confirmed by the land planning notes, the conclusion of which clearly states that near the 1<sup>st</sup> pole 38.1m<sup>2</sup> of the plot are covered by the stadium, while between the 1<sup>st</sup> and 4<sup>th</sup> poles there is a light construction. The lawyer clarifies, that instead of the playground, this space was used for arranging a barbecue stall. It should be noted that Zurab Jangveladze on numerous occasions informed local self-governing bodies that the construction of the stadium was carried on the plot of land owned by him, though without any response. The stadium was constructed and opened pompously on 13 June 2008. Having studied the appeal and the attached documentation, the Public Defender of Georgia considered that constitutionally ensured property rights of the citizen Zurab Jangveladze have been gravely violated due to the following circumstances: title three of the Civil Code of Georgia defines the conditions for the exercise of civil rights. Article 115 of the Civil Code of Georgia stipulates that “A civil right shall be exercised lawfully. Exercise of a right exclusively with the intention to inflict damage on another shall not be allowed.” Hence, the Public Defender considered that the creation of one good should not damage the other legal goods, which is the case in this instance. Property rights are one of the most well protected and guaranteed rights. According to the Article 21 of the Constitution of Georgia “The property and the right to inherit shall be recognized and guaranteed. The abrogation of the universal right to property, of the right to acquire, alienate and inherit property shall be

impermissible 2. The restriction of the rights referred to in the first paragraph shall be permissible for the purpose of the pressing social need in the cases determined by law and in accordance with a procedure established by law. 3. Deprivation of property for the purpose of the pressing social need shall be permissible in the circumstances as expressly determined by law, under a court decision or in the case of the urgent necessity determined by the Organic Law and only with appropriate compensation. The Civil Code defines that an owner has the right to freely possess, utilize and manage the property owned, without allowing other from damaging it. The freedom of possession means that the owner decides himself/herself whether to use the property and utilize it according to his/her preference. Any third party is obliged to restrain from violating property rights. Today, protection of private property is a significant priority, since it is the main pre-condition and guarantee for the country's economic development. Considering all the above-mentioned, the Public Defender of Georgia considered that the action of Tbilisi Municipality – construction of a stadium on the other's property – is a grave violation of the law, which, in its turn infringes property rights of the citizen. Consequently, in accordance with the Article 21 para B of the Organic Law of Georgia on the Public Defender, on 23 September 2008, the Public Defender of Georgia addressed the Tbilisi Municipality with a recommendation to study this issue and ensure that the plot of land (300m<sup>2</sup>) be returned to its original condition, and to maintain the property rights of the citizen. At the same time, according to the para D of the same Law, to consider disciplinary action against the employees who failed to ensure construction of the stadium within the boundaries of the law, which resulted in the infringement of the property rights of Z. Jangveladze. On 16 October 2008, Tbilisi Municipality responded that administrative proceedings have been launched on this issue, the results of which have been unknown so far.

### **The case of Composers' House**

Kakha Tsabadze, Chairman of Composers' Union of Georgia appealed to the Public Defender of Georgia, and based on the submitted documentation it is revealed that on 21 March 1967, by the Decree No.172 of the Council of Minister's of the Soviet Socialist Republic of Georgia, the Composers' Union of Georgia was granted the permission to build a recreation and retreat centre in Borjomi resort for creative work. By the Decree No.195 of the Council of Minister's of the Soviet Republic of Georgia of 27 March 1967, State Forestry Committee of the Soviet Socialist Republic of Georgia was tasked to allocate 4 hectares of land (2.6 covered by forests, and

1.3 of open land for the construction) in the 17<sup>th</sup> sector of Borjomi Forestry Charkhistkali area, on the plateau of 26 Commissars, territory of walnut alleys. The Decree No.244 of the State Forestry Committee of the Council of Ministers of the Georgian Soviet Socialist Republic, states that in compliance with the Decree No.195 of the Council of Minister's of the Soviet Republic of Georgia, Director of the Forestry Department was tasked to register the handover of the ownership of 4 hectares of land in the 17<sup>th</sup> sector of Borjomi Forestry Charkhistkali area, on the plateau of 26 Commissars, territory of walnut alleys, by compiling an act according to standard form No.3, as well as make necessary changes in the registry of forestry plot allocations, and submit the standard act along with the drawings to the State Committee of the Forestry Department.

The decree of the Council of Ministers' of Georgia 1350-G of 30 August 1965, also confirms that the Composers' Union of Georgia was allocated 4 hectares of land in the 17<sup>th</sup> sector of Borjomi Forestry Charkhistkali area, on the plateau of 26 Commissars, territory of walnut alleys, of which 1.3 hectares were allocated for a construction site. I. Chodrishvili, Head of the State Forestry Committee of the Council of Minister's of the Soviet Socialist Republic of Georgia, in this letter of 24 March 1967 to Gotsiridze, Head of Borjomi Forestry Department, tasked him to issue a construction permit to the Composers' Union of the Soviet Socialist Republic of Georgia on 4 hectares of land in the 17<sup>th</sup> sector of Borjomi Forestry Charkhistkali area, on the plateau of 26 Commissars, territory of walnut alleys, in accordance with the of the Council of Ministers' of Georgia 1350-G of 30 August 1965. In the letter of G. Karnadze, Deputy Head of the Main Division of the Forestry Department of Georgia (to Gotsiridze, Head of Borjomi Forestry Department) it is noted that by the decree of the Council of Ministers' of Georgia 1350-G of 30 August 1965, the Composers' Union of Georgia was allocated 4 hectares of land in the 17<sup>th</sup> sector of Borjomi Forestry Charkhistkali area, on the plateau of 26 Commissars, territory of walnut alleys; the letter also instructs Gotsiridze to inspect the mentioned territory together with the representative of the Composers' Union of the Soviet Socialist Republic of Georgia, compile the document of technical inspection and drawings with conditional markings.

In the inspection deed of 8 October 1965, it is mentioned that the Composers' Union of Georgia was granted permanent ownership of 4 hectares of land in the 17<sup>th</sup> sector of Borjomi Forestry Charkhistkali area, on the plateau of 26 Commissars, territory of walnut alleys; Civil Code of the Soviet Socialist Republic of Georgia of 1964 indeed stipulated the transfer of ownership on land, entrails, water and forests.

The allocation of this plot of land to the Composers' Union of Georgia is also confirmed by the blueprint plan of the territory allocated to the Republican Council for the Management of the Resorts of Professional Unions in Georgia from Borjomi Forestry Department, which outlines 4 hectares of land to be allocated on the "Plateau Resort" with the plot clearly marked as: "for the Composers' Union".

By the records No.1 of the 28 January 1970 of the Composers' Union of Georgia, it is confirmed that the financial resources for constructing Composer's House were allocated by the Composers' Union of Georgia. The Composer's Union founded Musical Foundation Ltd on 5 June 1996, by the records No.3 of the meeting of the Union's Board. It was registered based on Tbilisi Saburtalo District Court decision 5a/4-479 of 5 August 1996.

In the technical passport of 14 June 2005, the owner of the Composer's House located on the territory of Borjomi Plateau is indicated as Musical Foundation Ltd. In the acceptance-delivery document it is clarified that Musical Foundation Ltd accepts the Composers' House in exploitation. Forestry Department of the Georgian Ministry of Environment and National Resources in his letter of 17 May 2006, confirms that the Composers' Union of Georgia received 4 hectares of land from Borjomi Forestry Department Charkhistkali sector. All the mentioned documents and many others were submitted to Borjomi Registration Service of the National Agency for Public Registry of the Ministry of Justice of Georgia by the Composers' Union of Georgia and Musical Foundation Ltd in September 2005 for the purpose of registering the property right.

Despite all the above-mentioned, on 15 December 2006, the National Agency for Public Registry registered the registration zone of Borjomi District, code 64, Sector –town of Borjomi, code 03, area 10, plot 124, measuring – 95600m<sup>2</sup> registered as public property. As a result of this registration, Composer's House – Resort, eight story building and several separate cottages and ancillary buildings. The document backing this action was an application 546 of 15 December 2006 of Borjomi State Property Registration and Privatisation, blueprint of the plot of the land prepared on 14 December 2006, and a technical passport of the buildings and premises compiled by Leko Ltd on 12 December 2006. It is noteworthy that the technical passport issued on 14 June 2005, in which the owner of the Composers' House is recorded as Musical Foundation Ltd, is also prepared by Leko Ltd. The Public Defender's Office addressed L. Kikadze, Director of Leko Ltd with the aim of requesting information as to why there were two individual technical passports issues on the same premises (Borjomi Composers'

House). His reply states that upon the order of the Composers' Union Administration he indeed compiled a technical passport in 2005, however as to the compiling of the technical passport for the premises in the later years, he was verbally tasked by Borjomi Department of State Property Registration and Privatization, however, no technical passport was actually prepared. In the Article 11 of the Decree of the Minister of Justice 800 of 13 December 2006 regarding the Adoption of the Instruction for Registration of Real Estate Ownership Rights, it is stated that a registration body issues the decision, which represents an individual administrative-legal act, since it is issued by the administrative body based on the administrative law, and defines, changes, suspends or confirms the rights and obligations of the people or limited circle of people. During this specific case of registration, formal side of compiling an administrative-legal act has been violated. Legality of the administrative-legal act is related to the process of its issuance and requires to be issued by an authorized body, by observing the adopted rules of procedure, and in the relevant form. In accordance with the Article 54 Para 3 of the Common Administrative Code of Georgia, administrative-legal act should be issued based on the law or by-law. While according to Para 5 of the same Article, "an administrative body is not authorized to base its decision on the circumstances, facts, evidence or arguments, which had not been investigated and studied during administrative proceedings".

Proceeding from the fact that Musical Foundation Ltd. had submitted an application for the registration of the property rights over the land and that administrative proceedings were launched on this issue, it represented an interested party. Consequently, in compliance with the Article 95 of the Common Administrative Code of Georgia, administrative body was obliged to inform the interested party regarding the launch of administrative proceedings, if the individual administrative-legislative act deteriorated its legal status, and ensure his/her participation in administrative proceedings. Despite the requirements defined by the law, National Agency of Public Registry did not include the Composers' Union in the administrative proceeding and having two different applications on the same plot of land, registered the property right of the state without any critical examination of the issue.

Without offering specifics of legal nuances, we shall say that the state simply took away prestigious and extensive plot of land located at the world-wide known resort from association of honorable (and competent, i.e. potentially dangerous for the authorities) people in the country – Georgian composers.

## The case of Ina Gudavadze

On October 31, 2008 the representatives of the citizen Ina Gudavadze – Lasha Birkaia and Koba Kvantaliani submitted an application to the Public Defender of Georgia. In accordance with the application, on May 15, August 01 and October 22 of 2008 year they submitted written applications to the State and Tax Registration



Department of the Ministry of Finance Revenue Service Tbilisi Regional Center (tax inspection) with the request to provide public information, in particular, data from the company register on the below listed entities: JSC I-Media, TeleImedi Ltd., TechnoMedia Ltd., Art-Imedi Ltd., Inter-Press Ltd., Imedi Contact Ltd., Mtavari Gazeti Ltd., Radio Imedi Ltd., JSC JMG Consulting Group, JSC Tsirki, Community and Group Ltd., Fiski Ltd., Gama+ Ltd., Pacardi Ltd., TL Company Ltd., Universal Ltd., Lynx Ltd., Mtatsminda Linx Ltd., Trust Compnay Ltd., Center of Sociological Surveys Ltd., JSC Production Association Maudi, Football Club Maudi Ltd., JSC Telenet, CI Service Ltd., CentreInvest Ltd., Beta Ltd., Commercial Center of Georgia Ltd., ATV Ltd., Legal Company Lobby, Olympic Fund of Georgia, A. Patarkatsihvili Charity Foundation (Victory), Foundation “Towards the City of Imedi”, Football Club Dinamo Tbilisi Ltd., Union “Fan Club of Football Club Dinamo Tbilisi”, TCB Ltd., Zurgovani Ltd., International Guard Service Ltd., Oknosystem Technologies Ltd., Foundation “Caucasus Development Center”, GeoHorti Ltd. As mentioned by the applicants, the above-mentioned administrative body did not issue the requested information.

In accordance with Article 41 of the Constitution, supreme law of Georgia “Every citizen of Georgia shall have the right to become acquainted, in accordance with a procedure prescribed by law, with the information about him/her stored in state institutions as well as official documents existing there unless they contain state, professional or commercial secret.” While Article 45 states that “the basic rights and freedoms enshrined in the Constitution with due regard to their contents shall apply to legal entities as well.”

In accordance with paragraph 3 of Article 4 of law of Georgia “On En-



trepreneurs”, “the data entered into the company register are public. Any person can get familiar with the data of the company register and receive extract from the register at the company registration office. The extract from the company register shall be issued immediately upon the person’s request”. At the same time, in accordance with the first part of Article 37 of General Administrative Code, “everyone has right to request public information regardless of its physical shape and condition of storing and choose the form of receiving the public information, if it exists in different forms, also to get familiar with the information in original. If there is a danger of damaging the original, the public institution is obliged to provide possibility of getting familiar with the original under supervision or present a properly certified copy of such document.” Besides, in accordance with the first part of Article 40 of the same code, “the public institution is obliged to issue a public information immediately or no later that within 10 days”. Even in the case, when it is necessary to apply a 10-day term, the applicant shall be immediately informed about this in written form. In accordance with provision of the Article 41 of General Administrative Code of Georgia, the applicant shall be immediately informed about withholding of the public information by the public institution. Proceeding from the above-mentioned, the Public Defender of Georgia considers that the requirements and terms established by law regarding issue of public information have been violated, which, for its part, violated the rights of the citizen Ina Gudavadze. Accordingly, on the basis of subparagraphs “b” and “d” of Article 21 of organic law of Georgia “On the Public Defender”, the Public Defender filed a recommendation with the head of Tbilisi Regional Center of the Ministry of Finance Revenue Service (tax inspection) to issue the requested public information to the above-mentioned persons and, in accordance with Articles 78 and 79 of law of Georgia “On Public Service”, to discuss the issue of disciplinary liability of those persons, who did not ensure timely submission of the public information to the applicant.

There is no need for a very keen insight to understand that this issue is related to the attempt of hiding assumed facts of appropriation of property of the now-deceased entrepreneur.



# Illegal demolition of real estate

**Supervision Municipal Department of the City Hall was illegally demolishing the buildings (in the nighttime), owned by private persons and that victims should have received an adequate compensation in return of their property. The sent recommendations used to end up in the City Hall Supervision Municipal Department, the answers of which were inadequate. Due to such attitude, the violated rights of the citizens could not be restored, and, accordingly, quite significant issues still remain unsolved till today. Study of the cases of this category revealed that demolition of buildings was supported by conscious (purposeful) policy of the government of the city of Tbilisi and, accordingly, the issue of the criminal liability of Lasha Makatsaria, as well as the Mayor of the city and members of the city government shall be raised.**

A number of cases of illegal termination of agreements with different legal persons (entities) from the side of administrative bodies and eviction from legal seats by means of the police were recorded in 2007 year. Proceeding from the above-mentioned, in accordance with organic law of Georgia “On the Public Defender”, the Public Defender of Georgia is obliged to react on illegal actions of administrative body, in case if the other party of legal relationship considers these actions disputable and its rights violated. SonyCenter Tbilisi Ltd. and Lazeri-2 Tbilisi Ltd. are registered in Georgia and represent strategic partners of “S” Corporation in Georgia. The purpose of the activities of the above-mentioned entities is advertisement and sale of the products of “S” Corporation. Legal address of SonyCenter Tbilisi Ltd. and Lazeri-2 Tbilisi Ltd. was: 30 Rustaveli Ave., Tbilisi. The entities were occupying this space on the basis of lease agreement made on January 01, 2006 with Mzia Kakabadze, the owner of the real estate. The agreement came into force upon its signing by the parties and a 9-year term of its validity was specified until 1 January, 2015.

On November 23, 2006 Mzia Kakabadze passed title of the leased space to the Ministry of Economic Development of Georgia based on the gift agreement. The Ministry of Economic Development decided to withdraw immediately from the agreement. In accordance with the second part of Article 581 of the Civil Code of Georgia, rules of the rental agreement apply to “the lease agreement”, unless otherwise specified under Articles 581-606. Although Article 572 states, that “if the lessor alienates the leased subject to the third party after its transfer to the lessee, the buyer takes a place of the lessor and rights and obligations arising from lease relations



are transferred to the buyer”. Proceeding from the above-mentioned imperative provisions, the Ministry of Economic Development of Georgia was obliged to continue contractual relationship regardless of its will. But the Ministry of Economic Development did not restrict itself only to unproven contractual delinquency. In order to restrain prevention on the real thing being in its ownership, the Ministry of Economic Development submitted an application to local police department and required eviction of lessees from the occupied space. In spite of submission of complete set of documents confirming lawful ownership of the space, on August 07, 2007 up to 200 employees of the Ministry of Internal Affairs cordoned off the territory adjacent to SonyCenter Tbilisi Ltd. and Lazeri-2 Tbilisi Ltd., forced a door, took out lessees’ inventory and forcibly extruded representatives of the entity from the building. Mass media gave detailed coverage to the above-mentioned fact. As of today, the recommendations sent to the Ministry of Economic Development and General Prosecutor’s Office are not shared. Consequently, the violated rights of the lessees are not restored and the court trial is under way.

For informational purposes: the building located at 30 Rustaveli Ave. is a classy commercial space right in the center of Tbilisi.

**On November 13, 2007 George Jaoshvili, the Director of Lynx Ltd. submitted an application to the Public Defender. Lynx Ltd. was founded in Georgia by the citizen Arkadi (Badri) Patarkatsishvili. Through-**

**out the existence of the company, rehabilitation of Mtatsminda Park by means of making lease agreement was the object of its activity. Accordingly, the agreement on “rehabilitation, investment and lease of Mtatsminda Park” was made between the Tbilisi government and Lynx Ltd. in 2005 year.** A deal was made in written form and notarized. Against the background of events developed in November, 2007, the state terminated the agreement with Lynx Ltd. not only forcibly and through gross violation of the requirements of legislation, but also by means of different unacceptable methods, including gross interference from the side of law enforcement agencies in activities of the entity. In particular, in accordance with the statements of Mamuka Akhvlediani, the Vice-Mayor of the city of Tbilisi and Zaza Begashvili, the Chairman of the City Council of Tbilisi made in the media on November 07, 2007, Lynx Ltd., the owner of which is the citizen Arkadi (Badri) Patarkatsishvili, was grossly violating the contractual obligation by not making lease payments. Proceeding from the above-mentioned, the government of the city of Tbilisi unilaterally pulled out of the deal and terminated legal relation with Lynx Ltd. The legal grounds for such an announcement have not been specified, but there is a high possibility that it was the Tbilisi Local Government Resolution No. 21.05.679 of 11 October 2007, according to which the lease agreement with Lynx Ltd. was terminated.

**After studying the case records by the Public Defender’s office, it was established that there were no violations of any obligations on the part of Lynx Ltd. At the time of terminating the agreement leasing fees was fully paid by the entity through September, while leasing fees for the next month as due at the end of October. Proceeding from the above-mentioned, it turns out that Tbilisi City Hall terminated the lease agreement without any legal basis and unilaterally pulled out of the deal. On November 07, 2007, prior to the above-mentioned statement, about 50-60 armed persons invaded the leasehold. They occupied the entrance of the Park and forced the personnel to leave the territory. Later on the same day, at 20:20, the special purpose squadron invaded the building of TV company Imedi, damaged TV equipment and almost completely destroyed the gallery. They physically abused journalists, made persons present in the building lie on the floor, they were deprived of mobile phones. Afterwards, the representatives of the TV company were turned out of the building and the adjacent territory by means of rubber bullets and tear gas.**

The special commission of the Ministry of Justice of Georgia established that damage to the property of TV company Imedi made up 3 500 000

(three million five hundred thousand) GEL (as mentioned, Government of Georgia recouped for damage). As explained by George Jaoshvili, the Director of Lynx Ltd., despite his requests, none of the armed persons presented any administrative act or any other document, so it was completely unclear for the management of the entity to which state agency belonged those armed persons who entered the territory of the park. This fact proves the illegal nature of such actions. The authorized representatives of the Public Defender visited the territory of the Park for the purpose of inspecting the leased property on-site. As a result of their inspection, it was established that employees of security police had been guarding the site since November 07. They did not allow any representative of Lynx Ltd. into the territory of the park. The public Defender of Georgia filed a recommendation with Tbilisi City Hall in accordance with General Administrative Code of Georgia to invalidate the resolution adopted with regard to terminating the agreement with Lynx Ltd. Besides, in accordance with Articles 394, 408 and 409 of the Civil Code of Georgia, to restore the initial condition (conditions which would have existed if the circumstance obligating reimbursement did not arise), through the agreement with the contractor, ensure the payment of proper (monetary) compensation to Lynx Ltd. and reimburse factual damage and income not generated as result of the illegal termination of the agreement, intrusion of special purpose squadron into the premises and illegal presence of security police. The Tbilisi City Hall did not share the recommendation of the Public Defender for the motive that a court trail was under way at the Tbilisi City Court on the basis of the claim of Lynx Ltd. As it turned out later, in accordance with the verdict of the Tbilisi City Court Board of Civil Cases, dated May 14, 2008, Josef Kay was awarded authority to implement any actions with regard to taking care and collecting of Arkadi (Badri) Patarkatsishvili's heredity. As explained by Ina Gudavadze, Arkadi (Badri) Patarkatsishvili's wife, a new director, appointed by Josef Kay in Lynx Ltd. refused to have damage recouped by Tbilisi City Hall and also waived other claims of Lynx Ltd. Thus, the hearing of the case at the Tbilisi City Court was suspended. The events made it obvious that the political decision with regard to recouping damage to Lynx Ltd. was made through direct and gross interference on the part of the state. Patarkatsishvili's family continues to fight for restoring violated rights and recouping the damage.

**On June 02, 2006 agreement No.01/02 was made between the Ministry of Justice of Georgia and JSC International Building Company. According to this agreement, as mentioned above, the Ministry of Justice ordered the company construction of a new, so called Gldani Pris-**

**on No. 8 in Gldani-Nadzaladevi district of Tbilisi. On June 29, 2006 another agreement No. 708 was made with JSC International Building Company on the basis of law of Georgia “On State Procurement”. This time, the Client was the Ministry of Defense of Georgia (construction of the military base in city of Gori).**

On September 22, 2007 the employees of the Ministry of Justice dressed in the military uniforms visited the construction site of the prison in Gldani and stated that the construction company had to stop construction works and, accordingly, the representatives of the company had to leave the territory. Despite the fact, that the contract term was not expired and there was no any conclusions made with regard to poor quality of the executed works, leadership of the Ministry of Defense and the Ministry of Justice terminated the contract with the construction company, grossly violating requirements of law and using strongarm methods. In most of the cases, in parallel with reviewing the case by the Public Defender’s office, the trial is under way at the court, although this does not preclude from reacting on the Public Defender’s part. In case, if it is obvious that the obligation was violated on the part of the administrative body and it is impossible to refuse the fact of violation, the Public Defender does not wait for judicial decision (such restriction is not stipulated by organic law of Georgia “On Public Defender”) and at some extent serves as a mediator between the parties through providing evaluation and recommendations. More properly, organic law of Georgia “On Public Defender” provides for such possibility, although there has not been even a single fact of sharing such recommendation on the part of administrative bodies recorded, while it is possible through use of procedural mechanism of *cognovit actionem*.

**In 1991 year legal relation arose between the family of the citizen Merab Shelia and the Tbilisi City Hall on the basis of will, which implied the commitment of City Hall to satisfy Merab Shalia’s family with the relevant dwelling place in return for transfer of the house owned by Estela Shelia to Tsotsoria’s family. The court established that neither of the parties refused existence of the above-mentioned legal relation. On the other hand, commitment of the City Hall is confirmed by Resolution No. 285 dated October 16, 1997. By Resolution No.1513410 of 2007 year, the City Hall of Tbilisi confirmed its commitment with regard to providing Shelia’s family with housing.**

Between 1997 and 2007 years the administrative body did not meet its commitment. Accordingly, the applicant’s right to property and the right to be provided with the relevant housing were violated. Therefore, the other party of the agreement, Merab Shelia addressed a court with claim and

requested meeting of the commitment, i.e. payment of the cost of apartment and recouping for damage. The Public Defender filed a recommendation with the City Hall of Tbilisi, requesting restoration of the rights of Merab Shalia's family, but the recommendation was not shared due to the court trial.

Publicity and legitimacy are basic principles of activities of administrative bodies. Steadfast observance of the principle of conscientiousness is the primary obligation of participants (including, of state agencies) of private law relations; stability of civil circulation depends on the principle of conscientiousness and proper fulfillment of obligations obtains particular significance when administrative body is the participant of contractual relation.

Out of the reviewed cases, the case of abating the agreement without administrative proceeding, like in case of Alexander Bagrationi, the director of Mtsignobari Ltd. is a specific revelation of willfulness of administrative bodies. A lease agreement with contractual term of 10 years for 120 sq. m. plot and the attached 389 sq.m. space, located at 12-7 Purtseladze-Ketshoveli Street in Tbilisi was made between the Ministry of Economic Development of Georgia and Mtsignobari Ltd. on September 11 of 2006 year. Mtsignobari Ltd. leased the object for the purpose of setting up an exhibition-presentation hall and cafe theatre. Therefore, significant reconstruction and repair works were executed. As a result, completely unusable basement was converted into a high level cafe theatre, which hosted a number of cultural events. In the form of the attached documentation, the applicant presented receipts verifying payment of the lease fees and penalty charged for some overdue payment. Accordingly, it is undoubted that the lessee was conscientiously fulfilling its obligation. Despite this fact, the Ministry of Economic Development of Georgia issued administrative-legal act without any basis stipulated by the Civil Code of Georgia and unreasonably terminated the leased agreement.



# Violation of human rights during psychiatric (mental) treatment

In the first half of 2008 year the monitoring group recorded again the facts of inhuman and severe treatment. The monitoring group visited Tbilisi A. Zurabashvili Psychiatric Hospital in the first half of 2008 year and found a patient whose leg was tied to a heavy desk. According to other patients and their near relations, he spent days in such condition. During monitoring conducted in the same hospital, one of the patients was found tied to the bed with all four extremities. He used to be tied to the bed an hour before the expected afternoon exacerbation for the purpose of repelling his aggression. There were a number of claims on the part of the patients received during monitoring conducted at the Kutiri Center of Mental Health in the first half of 2008 year regarding the facts of abusing the patients by the employees of custodial service, guarding the parameter of the building.

Tbilisi M. Asatiani Scientific Research Institute of Psychiatry, Bediani Psychoneurological Hospital and Tbilisi A. Zurabashvili Psychiatric Hospital keep using patients' labor for cleaning toilets, bathrooms, nursing prostrate patients. According to the patients, nurses and paramedics are using them for the above-mentioned works. During monitoring conducted at Tbilisi M. Asatiani Scientific Research Institute of Psychiatry, the monitoring group noticed them lying in corridors and wards in beds with foul linen or wet mattresses without linen. As explained by personnel of psychiatric establishment, repair works and inventory can not be purchased due to financial difficulties. There were cases of overdosing psychotropic medication at Batumi Republican Psycho Neurological Hospital (in order to compensate for lack of nurses). As explained by the medical personnel, lack of nurses creates lots of difficulties for the establishment, since excited patients are not taken a proper care of. **These facts are enough to prove that safeguards for protecting human rights at big psychiatric establishments are instable.**

**Living conditions.** Repair works have already been executed in four facilities - Tbilisi A. Zurabashvili Psychiatric Hospital, Kutiri Center of Mental Health (partially), Batumi Republican Psycho Neurological Hospital and Surami Psychoneurological Hospital. Departments, wards, sanitary-hygienic units, dining-halls, work spaces of the medical staff and corridors in these facilities meet minimum regulatory requirements. Although, severe



conditions still remain at Tbilisi M. Asatiani Scientific Research Institute of Psychiatry and Bediani Psycho Neurological Hospital. The infrastructure is outdated; therefore, the patients have to live in extremely severe conditions. Sanitary-hygienic units, wards, work spaces of the medical staff and furniture are being amortized. The patients are not provided with the necessary linen. In often cases cleanness is not maintained. All six psychiatric institutions are overcrowded. There are patients living in corridors at Kutiri Center of Mental Health and Tbilisi M. Asatiani Scientific Research Institute of Psychiatry. The number of beds is not sufficient; therefore, patients have to sleep on the floor. Besides, dining-halls, bathrooms do not meet the minimum regulatory requirements. Heavy odor is noticeable in units and corridors. Despite the fact that nutritional conditions have been improved as compared with the past years, the patients state that food is insufficient and unvaried Also, they complain about the airing conditions.

**The fact that specialized clinics avoid providing medical service to mentally sick patients is one of the most acute problems. The Monitoring Council has studies a number of cases, when accident-assistant squads refuse to transfer mentally sick patients in need of emergency assistance only for the motive, that specialized and multifield clinics refuse to hospitalize such patients. Such practice is a gross violation of Articles 5, 6 and 12 of law of Georgia “On Rights of the Patient”. One of the facts, the case of the citizen Kh. B., studied by the Monitoring Council may serve as an evidence of the mentioned practice: Kh. B. was undergoing a course of treatment at Tbilisi M. Asatiani Scientific Research Institute of Psychiatry, diagnosis - psychosis-like symptomatology developed on the basis of syphilis (lues nervosa). Due to deterioration of somatic condition, doctors decided to transfer the patient to the emergency department.**

The administration of psychiatric hospital contacted several times the Emergency Call Service which used to ask: “Do you have agreement with any of the hospitals with regard to the patient’s transfer?” Afterwards, the doctors of psychiatric institutions were contacting hospitals, which were constantly refusing to hospitalize such patients by saying - “there are no beds available in intensive care unit.” Later on doctors advised the parents of the patient to transfer Kh. B. to their house and call up Emergency Call Service from there, since all clinics avoided to hospitalize the patient directly from the psychiatric hospital. The same evening the family called up Emergency Call Service and the patient was placed in emergency department at one of the Tbilisi hospitals. This and some other cases show that hospitals with other profiles avoid to hospitalize patients from psychiatric



hospitals, which is indicative of discrimination and stigma in relation to mentally sick patients. It is noteworthy, that discrimination in this case emanates from representatives of the medical society, which is indirectly indicative of the attitude of the rest of the society towards mentally sick persons. Patients in psychiatric establishments do not undergo regular preventive or control examinations, while doctor-psychiatrists mention that some medications have serious side effects and cause a number of changes in human body.

# **Persecution of persons who criticize authorities or support opposition**

## **The case of Joseph Jandieri**

On March 10, 2008 Badri Kochlamazashvili, the judge of the Tbilisi City Court Board of Criminal Cases accused the citizen Joseph Jandieri of the crime stipulated by subparagraph “a” of the second part of Article 260 of the Criminal Code (illicit purchase, storage of large quantity of narcotics). The convicted was given to up to 8-year imprisonment sentence. Joseph Jandieri gave testimony to the court as follows: On November 07, 2007 Joseph Jandieri was attending the rally, where he met Gia Tortladze, the member of National Council. Joseph Jandieri told him that he did not want to be a member of National Movement any more. Joseph Jandieri announced publicly about his decision and burnt his party membership card. This fact received a great ovation from 15 000 participants of the rally. Joseph Jandieri spent about 2 hours at the rally. After leaving the rally, he was contacted by one of the high-rankers, who asked him to abstain from attending the protect actions. Joseph Jandieri did not name that person during the trail. It becomes clear from the same testimony that Joseph Jandieri was in his own apartment on November 13, 2007. Suddenly, four persons broke into his bedroom. They took him out and moved to another room. As a result of search, they found, as it was learned later, 0.8492 grams of narcotic heroin. Afterwards, Joseph Jandieri was transferred to Special Operations Department of the Ministry of Internal Affairs, where he was physically abused and addressed with the following words: “Joska, you know why you are here?!” Joseph Jandieri connected these words to his participation in the protect action of November 07, 2007. In his words, the Minister of Internal Affairs Ivane Merabishvili, Chairman of the Parliamentary Majority Petre Tsiskarishvili and former Secretary of the Security Council.

## **The case of Dimitri Godabrelidze**

Dimitri Godabrelidze was a member of political movement “For a Unified Georgia”. He participated in protect actions of November, 2007. On November 26, 2007 Dimitri Godabrelidze was detained and charged with misuse of official position (subparagraph “a” of the third part of Article 332 of the Criminal Code) and creation of false official document, which

caused significant harm (subparagraph “b” of the second part of Article 362). Dimitri Godabrelidze held a position of the Head of Department of Agriculture and Food of Marneuli Region from October 20, 1998 until April 04, 2007. By Resolution No.12/2 of December 12, 1999 of Marneuli Region Administrative Body, Badirkhan Budagov, the resident of the village Tazavendi of Algeti Community was deprived of the part (14 hectares) of the leased 72 hectares of plot due to unpayment of leasing fees. Dimitri Godabrelidze was tasked to control execution of the above-mentioned resolution. The resolution concerning his arraignment states that the accused illegally raised an issue at the meeting of Marneuli Administrative Body regarding transfer of the part of 72 hectares of the plot owned by Badirkhan Budagov to his son on a leasehold basis. Thus, Dimitri Godabrelidze misled the administrative body. Afterwards, Godzbreldidze filed a recommendation with the administrative body to deprive Badirkhan Budagov of illegally owned 58 hectares of plot. The administrative body reviewed and approved the above-mentioned decision, while Badirkhan Budagov illegally owned 72 hectares of the plot. By depriving 58 hectares, a father and a son were given possibility to keep in illegal ownership 14 out of 72 hectares of plot.

On May 14, 2006 Permanent Commission on Management and Disposal of the Marneuli Region Land on the basis of application of Ali Kajaevi, the manager of Geo Nitro Ltd. discussed and recorded in Protocol No. 5 the issue concerning transfer of 17 hectares of arable land on lease for a 49-year term for construction of the factory for production of civil purpose explosives. The court indictment regarding charges brought against Dimitri Godabrelidze states that via misuse of the official position Dimitri Godabrelidze changed the intended purpose of the above-mentioned plot and transferred a farm land for use as a nonfarm land. Legitimacy of raising the issue of Dimitri Godabrelidze’s guiltiness is doubtful itself, since collegial body (the Marneuli Region Administrative Body) shall be called to account for legitimacy of the decision made. Dimitri Godabrelidze’s participation covers only preparation of the draft resolutions by him and involvement in the decision-making process as of the member of collegial body. In accordance with documentary evidence available to the Public Defender (the letter no. 14/1-70 of the Deputy Minister of Economy, Industry and Trade of Georgia, dated June 18, 2003; the letter no.1/4-672 of the Chairman of the Land Management Department of Georgia, dated July 15, 2003 and Resolution No. 582 of the Government of Georgia, dated May 18, 1992) the intended purpose of the plot transferred to Geo Nitro Ltd. was changed not by Godabrelidze, but under Resolution No. 14 of the Council of Ministers of Georgian Soviet So-

cialistic Republic, dated January 16, 1986. Dimitri Godabrelidze was in imprisonment until June 13, 2008. He entered into a plea bargain agreement, which was approved without consideration on merits under the sentence passed by Marneuli Regional Court. The defendant was sentenced for crimes stipulated by subparagraph “a” of the third part of Article 332 and subparagraph “b” of the second part of Article 362 of the Criminal Code. Dimitri Godabrelidze was imposed a penalty in the amount of 10 000 laris. The convicted was released from the court-room. The case of Godabrelidze shows that for acts committed in 1999 and 2003 years, the criminal proceedings started after his participation in rallies of November, 2007\*.

### **The case of the citizen Joni Jikia**

Joni Jikia is one of those who was put on the list of political prisoners published by the United National Council. He was the member of the Zugdidi City Council from the Conservative party. As explained by his family members, Joni Jikia was approached by persons dressed in civilian clothing in the city of Zugdidi on October 02, 2007. They flung him down on the ground, twisted his arms behind his back and handcuffed him. During Joni Jikia’s search they found 0.152 narcotic heroin. Besides, after search of his place of residence the persons dressed in civilian clothing also found a hand grenade. On December 28, 2007 Zugdidi Regional Court convicted Joni Jikia of the crimes under the first part of Article 236 of Criminal Code (illicit purchase and storage of explosives) and subparagraphs “a” and “b” of the second part of Article 260 of Criminal Code (purchase and storage of large quantity of narcotics by the group based on preliminary agreement). Jikia was given 10 years and 6 months of imprisonment sentence. In addition, a penalty in the amount of 1000 laris was imposed upon him. The above-mentioned sentence was appealed in the Board of Criminal Cases of the Kutaisi Court of Appeal. On March 31, 2008 the Kutaisi Civil Court acquitted Joni Jikia of the crime defined by the first part of Article 236 of Criminal Code. According to the same sentence, Jikia was discharged of a penalty in the amount of 1000 laris. The sentence of the Kutaisi court remained unchanged for the crime defined by subparagraphs “a” and “b” of the second part of Article 260 of the Criminal Code. As a final sentence, the Kutaisi City Court gave the citizen Joni Jikia a 7-year imprisonment sentence.

### **The case of Rostom Oniani**

On 9 November 2007, at 7:00 p.m., Rostom Oniani was arrested by law enforcement representatives. He was accused of physical violence against policemen and resistance under Article 353 (resistance, threat or violence

against protector of public order or other official) and Article 239 (hooliganism). In particular, Oniani allegedly saw police representatives near the porch of his house and so physically abused them. Before his arrest, Oniani actively participated in the protest actions that took place in Tbilisi on 2-7 November 2007\*. Together with other representatives of the joint opposition, he also visited the city of Zugdidi and Adjara region. His family members think Onianis arrest is related to these facts. As witnesses Nikoloz Klimiashvili, Nino Kikadze, Nino Dzidziguri, Ketevan Khelidze, Khatuna Svanidze and Ketevan Pantskhava of the arrest testify, no criminal action on Oniani's part took place. Klimiashvili, a colleague of Onianis, states that on 9 November 2007, he gave a lift to Oniani who was tipsy. At about 7:00 p.m., he stopped the car in front of Oniani's house. The neighbors, who at that moment were in front of the house, confirm this. The eyewitnesses state that as soon as Oniani left the car, another car stopped at the front of the house and two people in civilian dress came out and tried to forcefully push Oniani into their car. Oniani showed no resistance at this moment, yet they twisted his arms and brutally dragged him to their car. Onianis wife and the neighbors tried to find out who these men were, and where were they going. Soon a Zhiguli car approached the house and three men in police uniforms came out. By then many people had already gathered in front of the building. One of the policemen, immediately after leaving the car, started shooting his gun in the air without warning. This confused and frightened the gathered people. He fired off 7 shots and then collected the shells. All witnesses point out that Oniani did not show any resistance or engage in a criminal action. Oniani's friend Klimiashvili, states that prior to his arrest, Oniani, in a private conversation, mentioned noticing suspicious cars near his house.

### **The case of Revaz Kldiashvili**

**From 11 August 2005 to 3 April 2007, Revaz Kldiashvili was deputy chief of the Military Police Department at the Ministry of Defense General Staff; he also holds a colonel's rank. Revaz Kldiashvili is a friend of former Defense Minister Irakli Okruashvili and a member of the political party "For a Unified Georgia". Before starting his activities in the defense system, Revaz Kldiashvili held a position of the head of Criminal Police of the Shida Kartli Main Department at the Ministry of Internal Affairs**

According to Kldiashvili, on 13 November 2007, at 11:00 a.m., he and his neighbor, Valiko Gagnidze, were traveling in his car in the Tbilisi Nadzaladevi District. As they approached No. 3, Zhizhiashvili St., 16 military police officers in four vehicles assaulted them; among them were Karlo

Dolidze, chief of division of the Military Police Department and Paata Paksashvili, chief of the operation department. A man by the surname Chelidze hit Kldiashvili in the head with a pistol, and Kldiashvili states that the man put an AK-74 machine gun in his car boot, as well as a Walther type gun in the rear pocket of his pants. They then moved him to temporary containment cell No.2 of the Main Department of the Ministry of Internal Affairs. It is noteworthy, that Valiko Gagnidze did not confirm the fact of physical assault against Revaz Kldiashvili at the court session. According to the court, medical evidence did not confirm this fact either.

Besides, the ID card for the position of the head of the Military Police Department of the Ministry of Defense of Georgia was also taken away from Revaz Kldiashvili, although the latter stated that he submitted it to the Military Police Human Resources Department after his dismissal from office. On 15 November, legal proceedings took place and Kldiashvili was sentenced to two months of confinement before trial. During the court hearings, Kldiashvili learned that a search was held at his home where an F-1 hand grenade was illegally placed. He states that prior to his detention, he noticed that he was being shadowed, and attributes his arrest and the placement of weapons in his car, house and on his person to his membership in the political party "For a Unified Georgia" and his participation in rallies of November 2-7\* held in Tbilisi. It is highly unlikely that a man with all his experience would travel in a vehicle with illegal arms in the boot; especially when his party leader, Irakli Okruashvili, and his associates were being criminally prosecuted and a state of emergency was in place. It should also be noted that Kldiashvili is a police colonel who knows very well the consequences of owning weapons, and human rights observers note they have yet to find him guilty of conducting similar illegal crimes.

On December 25, 2007, the Tbilisi City Court Board of Criminal Cases (Judge - Dali Metreveli) found Revaz Kldiashvili guilty of committing crimes defined by the first (illegal purchase of storage of firearm and explosives) and the second paragraphs (illegal carrying of firearm) of Article 236 and the first paragraph of Article 262 (storage or use of false identity card or other official document for the purpose of selling) of the Criminal Code.

The court of primary jurisdiction gave him up to 4-year imprisonment sentence. Prosecutor's office considered that the sentence of the court of primary jurisdiction was not severe enough and appealed to the Tbilisi Appeal Court. On May 23, 2008 year the Tbilisi Appeal Court partially satisfied the demand of Gia Kevkhashvili, the prosecutor and increased the term of Revaz Kldiashvili's imprisonment by one year and six months. Finally, the Appeal court gave Revaz Kldiashvili a 5-year and 6-month imprisonment sentence.

## **The case of Zaal Kochladze**

Officers of the Didube-Chugureti police station no.1 arrested Zaal Kochladze, the activist of “The United Opposition” on November 8, 2007, and accused him of crimes under Article 273 (the illegal manufacture, purchase, storage or illegal use, without a doctors prescription, of narcotics and analogous substances or precursors) and the first part of Article 353 (resistance, threat or violence against protector of public order or other official) of the Georgian Criminal Code. According to lawyer Leila Koberidze, people dressed in civilian clothing detained Kochladze in front of his house No. 6/3, in the Digomi region of Tbilisi. It later became evident that they were the following officers of the Didube-Chugureti police station: M. Macharashvili, D. Besiashvili and D. Tsotskhalashvili. Kochladze had already been arrested once for illegal use of narcotics and was issued a fine that he had yet to pay. He refused to undergo a drug test and was accused of violating Articles 273, as well as Article 353 (resistance, threat or violence against protector of public order or other official) of the Georgian criminal code, though witnesses testify that neither during nor after the detention did Kochladze put up any resistance. After Kochladze obeyed the policemen's demands, they started talking to him about the rallies in which he participated. According to his wife, Kochladze's participation in a rally in Zugdidi is the reason for his arrest.

Kochladze was given a 3-month imprisonment sentence before his trial, and is serving his sentence in the Rustavi No. 6 prison. On February 26, 2008 the Board of Criminal Cases of the Tbilisi City Court changed Zaal Kochladze's measure of restraint to a bail. The case was sent to the court of primary jurisdiction for the purpose of its examination on the merits. Leila Koberidze, the lawyer representing Zaal Kochladze's interests requested to change a measure of restraint, in particular, requested to apply personal suretyship. Zviad Dzidziguri and Giga Bukia, the then members of the Parliament vouched for Zaal Kochladze. Outcomes of judicial inquiry of the above-mentioned solicitation are unknown to Leila Koberidze. The court session was postponed without day.

## **The case of Teimiraz Khubuluri**

On 10 November 2007, police officers from the Old Tbilisi district arrested Teimuraz Khubuluri under suspicion of committing a crime defined by Article 260 of the Georgia criminal code. According to Khubuluri, officers detained him as he was leaving the Europe Hotel. The officers twisted his hands behind his back, threw him down to the ground and without performing a search, took him to the police station. The transcript of the

search reads that narcotics were withdrawn from Khubuluri. The court sentenced him to jail, after which he was taken to prison No. 5. According to Khubuluri, Bacho Akhalaia, chairman of the penitentiary department of the Georgian Ministry of Justice and several other officials, whom he could recognize but does not know their specific names, visited him in his cell. Khubuluri states that he was arrested on political grounds as his father, Temur Khubuluri is Irakli Okruashvili's friend. Bacho Akhalaia and his retinue demanded cooperation from the Khubuluri to discredit Irakli Okruashvili and physically threatened him if he did not cooperate. They also mentioned his participation in the November rallies. He was transferred to prison No. 6 and was visited several times by Bacho Akhalaia after that. The Prosecutor's Office drew up a plea bargain with Khubuluri.

On July 12, 2008 the Tbilisi City Court Criminal Cases Board passed a criminalizing sentence against Khubuluri without considering the case on merits. A plea bargain drawn up with the Prosecutor's office was approved under the same sentence. The court found Temur Khubuluri guilty of the crime defined by subparagraph "a" of the second part of Article 260 of the Criminal Code (purchase and storage of large quantity of narcotics). The court acted in accordance with its authority entitled by Article 55 of the Criminal Code and gave Temur Khubuluri a five-year prison sentence. Based on the same Article 55 of the Criminal Code, the court found Khubuluri guilty also of the crime defined by Article 273 of the Criminal Code (use of narcotics by a person within one year after being awarded an administrative sentence or convicted for such practice) and gave him a 1-month imprisonment sentence. At the moment of bringing the indictment, Temur Khubuluri was already convicted for the crime as defined by the first and the second parts of Article 236. It is noteworthy, that Temur Khubuluri's previous conviction for the above-mentioned act was not expunged.

On February 14, 2007 the Tbilisi City Court brought in a verdict of a suspended sentence and passed on a 4-year, 8-month and 9-day imprisonment sentence against Temur Khubuluri. On July 12, 2008 the Tbilisi City Court Board of Criminal Cases collected the punishment based on the cumulative sentences and gave Khubuluri a final 5-year, 2-month and 9-day imprisonment sentence.

## **The case of Nona Saghareishvili**

Nona Saghareishvili was representing "The United Opposition – the National Council, Rights" at electoral precinct No.2 of the Mtskheta electoral district No.27. During a day she was actively reacting on violations taking place during the voting. The next day threatening, blackmail and spying started against this woman with inclination towards opposition.



On May 22, 2008 a stranger called her on the phone and required to abstain from community work and threatened to murder her. The same day another phone call was made from number: 877 774776. The person introduced himself as Lasha Kherkhelauri. She told the woman: “Leave the opposition. We know each other; this type of work is not for you”. “The acquaintance” told her that he lives in Tianeti and works for the Special Operating Department. When Nona Saghareishvili refused to accept Lasha Kherkhelauri’s warning, he threatened her: “Listen, keep quiet, your cousin has just came out of the prison. He has already spent two years there, so he can have two more years back in jail, if you do not behave well!”

On May 29, 2008 the Tbilisi Appeal Court reviewed the claim of observing organization “Young Lawyers’ Association” regarding invalidation of the results of electoral precinct No.2 of the Mtskheta electoral district No.27. Nona Saghareishvili was interrogated as a witness at the case session. The same day at 17:05 a stranger called the witness from number 860470000 and asked her: “Are you still at the court?”. Nona Saghareishvili’s response was positive. Then he threatened: “You can not shut up, so you’ll be destroyed and sent to heaven. Thank people in the uniforms standing next to you, otherwise I’d kill you right here!”

On May 31, 2008 Nona Saghareishvili was already an object of shadowing with video camera. On the way to the bank for payment of utility bills, she was followed by a silver color vehicle. On the way back this vehicle caught up with her, somebody pulled down the wind screen and a stranger addressed her: “You are still with opposition, fuck ... I am telling you, your body will be put in the ground soon”. After threatening, the vehicle drove away. When she got back home, she noticed a black color BMW without identification number, with three men sitting in it. One of them was dressed in sportswear, had a beard and long hair. This person was capturing her on video. The same vehicle showed up again nearby Nona Saghareishvili’s house on May 31, 2008, at 18:30. The person sitting in the vehicle was still capturing her on the video. At the request of Irakli Odzelashvili, Nona Saghareishvili’s friend, a black color BMW left the territory adjacent to the house. At 18:52 threatening phone calls were made again from number 898434674.

On June 01, 2008, at 11:30 somebody called Nona Saghareishvili and asked her to meet. The next day Nona Saghareishvili was visiting the family of Khatia Tsertsvadze, the member of the same political party. At 18:07 she received SMS for the hidden number: “Fuck... I’ll beat you so that no one will recognize you ... shut up, you are going too far”. The second SMS was received at 18:09 with the following text: “ fuck ... leave the opposition”. At 21:35 she was contacted by her godfather Andro Kasabyan, who live in the

same building with her and informed that some strangers were shadowing near the house. At 22:20 Nona Saghareishvili decided to go down to the first floor to visit her godfather. Nona was using her mobile phone to light up the stairs, when she heard some men talking. One of them twisted Saghareishvili's hand, the other one kicked on her right leg. Then one of the assaulters flung Saghareishvili down on the ground and put his leg on her body. The assaulter threatened her with death. Finally, they covered her mouth and pushed her against the wall. Saghareishvili knelt. He felt the cold on her neck. This was a rope or a string thrown around her neck. The other assaulter warned him not to kill her. The assaulter put a knife on her and threatened with horrible death. Nona Saghareishvili was pushed again against the wall, when they heard Andro Kasabyan's noise and disappeared. Andro Kasabyan saw his god-daughter flung on the ground and called up Emergency Medical Service and Patrol Police. Nona Saghareishvili was moved to clinical hospital No. 4, where she was diagnosed with soft tissue bruise, left shoulder slip, fracture of the left hand pinkie, two stripes of skin bruises on the neck.

On October 07, 2008 Archil Giorgadze, the Head of Human Rights Protection Department of the General Prosecutor's Office informed the Public Defender of Georgia that on June 03, 2008 the Department No. 2 of the Tbilisi Gldani-Nadzaladevi District Police had initiated preliminary investigation into the fact of Nona Saghareishvili's health injury, the crime as defined by the first part of Article 118 of the Georgian Criminal Code. During the investigation, Nona Saghareishvili was interrogated as a victim, witnesses were also interrogated, and forensic medical examination was initiated. Despite of notable signs of the political persecution, the preliminary investigation has not been started on the basis of the second part of Article 142 and Article 156. Of course, there were no any attempts made with regard to identifying the persons involved.

## **The case of George Tavidgiridze**

George Tsavidgiridze is a member of New Rights Party. At the end of May two girls visited him at home, introduced themselves as employees of Department of Statistics and requested to provide information about property, vehicles, businesses and telephones owned by his family members. It is noteworthy that such survey was not conducted with any other family living in the same building. On June 02, 2008, at 12:00 George Tsavidgiridze was traveling in his own car from



Digomi area to Ortachala. On the embankment, under Didube-Digomi bridge, he was bypassed by two vehicles and hit from behind by a silver color Mercedes. Head lights of Mercedes were damaged. After collision George Tavdgiridze stopped the vehicle on the roadside, while Mercedes stopped in front. Three persons stepped out of the car and made their way towards him. Suddenly one of those three persons hit him in face and insulted by words. They flung Tavdgiridze down on the ground, two of them were kicking him, the third one was holding a piece of iron and hitting him in and around his leg. The assault lasted for about 3-4 minutes and stopped when one of the assaulters addressed the others: "It's enough, let's go now!"

Tavdgiridze was moved in his own vehicle to Gudushauri hospital, where he was diagnosed with leg fracture and general bruise of the body. The injured connects the fact of assault with his political activities. On October 07, 2008 Archil Giorgadze, the Head of Human Rights Protection Department of the General Prosecutor's Office informed the Public Defender of Georgia that on June 02, 2008 Department No.1 of Didube-Chugureti Administration of the Ministry of Internal Affairs Tbilisi Main Division had initiated preliminary investigation into the criminal case no. 002081645 related to the fact of assault on George Tavdgiridze, the member of New Rights Party – the crime defined by the first part of Article 118 of the Criminal Code. George Tavdgiridze was declared a victim. Some investigative actions were carried out during investigation: the victim was interrogated, place of occurrence was inspected, necessary examinations were performed. At present preliminary investigation is still in progress, although the investigation did not reveal the political motive of the assault and identified the persons involved in this case either.

### **The case of Levan Jgharkava**

Levan Jgharkava is an activist of the United Opposition. He lives in the Tbilisi Vake Saburtalo District. On May 29, 2008 at about 6.:00 p. m. on the way to the drugstore from his house he noticed a silver color BMW. A man at the age of 30-32 years approached and asked to follow him. In the interim, Jgharkava saw another men who was standing nearby and putting a mask on this face. He swung his arm towards the mentioned person. The assaulters were trying to forcefully push Oniani into their car, but without any success. Then they flung him down on the ground and started to beat him with bludgeons. They were kicking him all over the body. An assault lasted for about 2 minutes. This fact took place in the city of Tbilisi, on Ioane Petritsi street. The injured was moved to Gudushauri hospital, where he was diagnosed with concussion of the brain and general bruise of the

body. The investigation is being performed by the Vake-Saburtalo District Internal Affairs Department. It is noteworthy, that two days prior to the incident Levan Jgharkava was told that strange vehicles were constantly shadowing near his house, while neighbors noticed strangers spying upon him from the building across the street.

On October 09, 2008 Archil Giorgadze, the Head of Human Rights Protection Department of the General Prosecutor's Office informed the Public Defender of Georgia that on May 30, 2008 the Vake-Saburtalo District Internal Affairs Department initiated investigation into the criminal case no. 007082129 related to the fact of Levan Jgharkava's injury – the crime defined by the first part of Article 118 of the Criminal Code. The witnesses were interrogated on the criminal case. A forensic medical examination was performed for the purpose of determining Levan Jgharkava's body injured regions. In accordance with the expert evidence, Levan Jgharkava received light injuries, which did not result in any health impact.

On September 25, 2008 Levan Jgharkava submitted an application to investigatory agencies and requested to dismiss a case by the motive that he received only light injuries and disclaimed. Preliminary investigation was terminated on this case on September 25, 2008.

## **The case of George Shervashidze**

**George Shervashidze is a member of political alliance - the Democrats. This political force participated in parliamentary election of April 21, 2008 under the name "Christian-Democratic Alliance". George Shervashidze was nominated for election in Zugdidi electoral district no. 67 by the above-mentioned electoral block. George Shervashidze was a commander of internal forces in the past, he has a rank of Lieutenant General. At present he is a member of non-parliamentary opposition political alliance "The Democrats".**



On June 19, 2008, at 8:00 p.m. George Shervashidze drove up to his garage (located across his apartment building in Tbilisi, on Tashkenti street), stepped out of the vehicle, opened the door of the garage, when he felt a strike from behind. Shervashidze fell down. He saw four people who were assaulting him. One of them was wearing a striped T-shirt, the other three were in black clothing. One of the assaulters threw his arms around Shervashidze's neck. As a result, Shervashidze fell unconscious. Meanwhile,

Shervashidze's Caucasian shepherd dog started to bark. Shervashidze's wife heard barking, came out on the balcony and saw four athletic type men beating her husband. As explained by Nino Shervashidze, the person standing with his back to her was dressed in yellow T-shirt with black stripes. The other three persons with masks were dressed in black shirts and black trousers. One of the assaulters was throwing his arms around Shervashidze's neck, the other ones were kicking him and hitting with bludgeons. After Nino Shervashidze started to scream, the assaulters escaped from the place of occurrence. George Shervashidze was insensible for about 10 minutes. After he recovered his sense, he was surrounded by his neighbors.

### **The case of Boris Dzanashvili**

Boris Dzanashvili is a member of the "United Opposition". Mr. Dzanashvili was a majoritarian deputy candidate of Khashuri district at the parliamentary elections of May 21, 2008. As he describes, on June 1, 2008, around 2:15, he was returning back home (Tbilisi, 18 S. Chikovani Street) and stopped his car near his house. At about 10 meters from his car, near the entrance, he noticed a black Volkswagen Passat with transit registration plate. As four doors of the vehicle opened, Boris Dzanashvili ran towards the entrance. As he approached the building entrance, he felt a strong stab in his back, grabbed the entrance door and by instinct looked behind. He noticed a masked man, who, assumably, fell down as he kicked Boris Dzanashvili in his back and was trying to stand up. He was followed by another man and the third person was crying to them: "Don't let him go, catch him, don't let him go!" Mr. Dzanashvili hit into the house and immediately ran out the balcony from where he saw the black Volkswagen Passat leaving a nearby territory of his house. Due to injuries, Mr. Dzanashvili's health condition has worsened and was brought to the Tbilisi Republic Hospital by ambulance at 6:00 AM. Mr. Dzanashvili relates the attack to his political activity.

On September 30, 2008, Archil Giorgadze, the Head of the Human Rights Protection Administration of the General Prosecutor's Office of Georgia, informed the Public Defender (Ombudsman) of Georgia about the fact that on June 1, 2008, the Vake-Saburtalo District Court of the Main Tbilisi Court of the Ministry of Interior Affairs of Georgia has launched a preliminary investigation on criminal case N007082153, on the fact of physical injuries of a citizen Boris Dzanashvili – the crime considered by the first part of the Article 118 of the Criminal Code of Georgia.

Boris Dzanashvili was questioned as a victim. Court medical expertise was performed according to the conclusion of which Boris Dzanashvili had

no objective signs of physical harm. On August 4, 2008, the investigation was terminated on the basis of the “g” subparagraph of Article 28 of the Criminal Procedural Court Code of Georgia (termination of preliminary investigation of private accusation due to absence of victim’s appeal). When the Article 120 of the Criminal Code (minor health injuries) is in collision with the Articles 142 and 156 of the Criminal Code of Georgia, the action should be qualified exactly with these articles. Articles 142 and 156 of the Criminal Code of Georgia include signs of a crime as considered by the Article 120. At the same time, unlike to the Article 120, human inequality and persecution do not represent a case of private accusation. Therefore, the preliminary investigation was terminated incorrectly.

### **The case of Mamuka Kvaratskhelia**

On June 2, 2008, Mamuka Kvaratskhelia, an activist of the “United Opposition” provided an explanation to the Public Defender (Ombudsman) on the fact of attack that he experienced. According to him, on June 1, 2008, he was on his way to the Tbilisi International Airport to meet his friend, a Russian journalist. As he approached the George W. Bush Street, a foreign car, jeep, was standing aside his car. Mamuka Kvaratskhelia tried to avoid the car, however, the jeep blocked his way in front and four masked men came out of it. They



They surrounded Mamuka Kvaratskhelia, bound his hands and feet with tape, forced him into jeep and took him in an undisclosed direction. Kidnappers were stabbing Mamuka Kvaratskhelia in his back while in the car. Mr. Kvaratskhelia wore a hat, which was fixed with glutinous ribbon. After driving for some time, Mr. Kvaratskhelia was pulled out of the car and has been stabbed and clubbed in head and back for about one hour. The assailants were asking for money. After an hour, the kidnappers pulled Mr. Kvaratskhelia back into the car and left the place of incident. The car was in movement for about 30 minutes. Mamuka Kvaratskhelia became an object of physical violence for the second time. As 30 minutes passed, the car stopped. The assailants removed the engagement ring from Mamuka Kvaratskhelia’s finger, ransacked him, deprived all personal documents from him and pulled him out of the car chained with the glutinous ribbon. After some time, Mr. Kvaratskhelia heard the dog barking. The dog owner removed the ribbon from him and contacted Mr. Kvaratskhelia’s brother. The sufferer discovered that he was in the Vashlijvari forest. His brother went to the

place of incident to pick up him and took him to the Tbilisi Republic Hospital. Mamuka Kvaratskhelia was diagnosed as follows: general damage of his body, fractures of left elbow and minor shinbones of his left foot.

On October 20, 2008, Archil Giorgadze, the Head of the Human Rights Protection Administration of the General Prosecutor's Office of Georgia, informed the Public Defender (Ombudsman) of Georgia about the fact that on June 1, 2008, the Isani-Samgori Administration of the Ministry of Interior Affairs of Georgia has launched a preliminary investigation of a criminal case N004082938 on the fact of plundering Mamuka Kvaratskhelia. After performing a number of investigative procedures, qualification of the case was clarified and the investigation was continued under the signs of crime as considered by "a", "d" and "e" subparagraphs of the third part of Article 178 of the Criminal Code of Georgia (plunder executed by a group, in pre-agreement, violently, which is not dangerous to either life or health, or by threat of using such violence, against the vehicle), subparagraph "c" of the second part of Article 143 (illegal suppress of freedom with the aim to cover another crime or to simplify its commitment), "a" subparagraphs of the paragraph 3 of the same article (in pre-agreement, by a group) and subparagraph "a" of the second part of Article 181 (plunder executed by a group). Mamuka Kvaratskhelia was questioned as a victim during investigation. Witnesses were also questioned. Court medical, biological and traceological expertise was assigned. Investigation is ongoing.

### **The case of Joseph Bortsvadze**

Joseph Bortsvadze served as a chief of election headquarters of Giorgi Mosidze, a majoritarian deputy candidate of the "United Opposition – National Council, [New] Rights Party" in the single-mandate election district of Gori. On June 1, 2008, at 22:30, Joseph Bortsvadze left the Gori office of the New Rights Party. The same day, he knew from his parents that their residential house was an object of permanent trace by unknown people. Therefore, he was asked not to walk. Mr. Bortsvadze took a taxi and went home. On his way, at Saakadze Street, a dark blue Opel with transit registration plate approached the taxi cab. The two men came out from the car and one of them approached the taxi cab door asking Mr. Bortsvadze about what was that he kept in his pocket. The stranger was indicating on video material copied to Compact Disk (CD), which depicted the violations during elections on May 21, 2008. As the question was asked, Joseph Bortsvadze came off the taxi cab immediately followed by hit into face from the stranger. Another man standing behind the car put on the mask and hit Mr. Bortsvadze from his back. Unexpectedly, the third masked man came off



the Opel car holding a baseball bat. He stabbed Mr. Borstvadze twice with the bat. Others violently took off his clothes to make him fall down. At this moment, residents of the nearby area ran outside. One part of the assailants went back to the Opel car and another part took the taxi, which served Joseph Bortsvadze and left the place of incident.

Joseph Bortsvadze relates the attack to his political activity. The preliminary investigation related to the fact is in process. On September 11, 2008, the Public Defender (Ombudsman) addressed the Human Rights Administration of the General Prosecutor's Office with the request of information about the process of preliminary investigation. However, there was no response until the reporting in the Parliament.

### **The case of David Sazanishvili**

On May 31, 2008, a Public Defender (Ombudsman) rep talked with the "United Opposition" activist David Sazanishvili. He participated in the hunger strike in front of the Georgian Parliament in March 2008.

On May 30, 2008, around 15:00, David Sazanishvili was travelling by bus to his friend's – Lado Basilaia's apartment. David Sazanishvili got off the bus on the Bogdan Khmel'nitski Street, nearby the "Salamura" shop. He noticed the silver BMW car from which four men came off. They were dressed as civilians and wore masks. Strangers approached David Sazanishvili, grabbed him into the car violently and put the black bag on his head. Later, the car probably took the direction towards Africa settlement. On their way, it was the only assailant who interrupted the silence and notified him to keep quiet. The second man was using his cell phone and addressed the other person over the phone with the words: "yeap", "yes", "everything is O.K., we are bringing him". As the car stopped, David Sazanishvili was pulled out of the car and has been violently stabbed, among them by rubber clubs, during about four minutes. As one of them stabbed him in kidneys, one of the assailants shouted not to damage his kidneys. David Sazanishvili noticed around ten masked men from the black bag on his head who were wearing jeans. After five minutes, the assailants went back to their car and left David Sazanishvili alone at the place of incident. According to the beat of the car, David Sazanishvili understood that assailants were driving two cars. After ten minutes, Mr. Sazanishvili crossed the road, caught a taxi and left for home. The sufferer was provided with emergency medical care and was diagnosed as follows: general damage of his body, incoming wound in the area of ankle of his left foot. David Sazanishvili relates the attack to his political activity.



## **The case of David Metreveli**

On June 3, 2008, David Metreveli informed the Public Defender (Ombudsman) about the details of attack. David Metreveli is an active member of the Khashuri regional organization of the “United Opposition – New Rights Party”.

On June 1, 2008, David Metreveli noticed probably the dark blue Opel or BMW car with foreign registration plate, from where unknown men were watching him. On the same day, a neighbor approached David Metreveli, whom he does not name, telling him that this car was suspiciously moving in the vicinity of David Metreveli’s house. This was noticeable until 22:00-23:00.

On June 2, 2008, the same neighbor approached David Metreveli again and asked to avoid leaving the house since the unknown people continued driving the car slowly nearby his house. At around 11:00 in the morning, David Metreveli looked outside from his house windows and noticed the white Niva with the state registration plate SMS 545 to stop on April Nine Street in Khashuri, near the St. Marine Church. David Metreveli got suspicious that people in this car were tracing him. At 12:00 he asked his neighbor Taniel Barbakadze to follow him in order to check if the car was still there in Khashuri, at April Nine Street. They noticed that the car changed its location, moving closer to David Metreveli’s house. Since there was a crowd in the street, David Metreveli considered his presence there as safe and continued his way with Taniel Barbakadze. The white Niva started moving towards them, stopped and three masked men came out of the car. They addressed David Metreveli with the following: “Aren’t you going to stop this?” and started beating him with clubs and boots. They made him fell down and continued stabbing him in head and waist. He has been stabbed during around 2 minutes and stopped as neighbors tried to assist him. The assailants left the place of incident. Later, David Metreveli was moved to the Regional Hospital of Khashuri, where he was diagnosed by fracture of zygomatic bone and general damage of his body. Investigation of the case is led by the Khashuri regional police.

As David Metreveli explains, the attack is related to his political activity and actions.

## **The case of Zhana Giguashvili**

Zhana Giguashvili, a German language teacher, was dismissed from her position as a teacher on the basis of the Order N 345/k as of October 8, 2007, issued by the Director of a private school “Jejili” owned by “Gircha” Ltd. Ms. Giguashvili relates her dismissal to her political activity. Zhana Giguashvili clarifies in her explanation to the Public Defender (Ombuds-

man) provided within the reporting period that her dismissal was preceded by detainment of her son, former Defense Minister Irakli Okruashvili on September 27, 2007. According to Zhana Giguashvili, her dismissal was in fact motivated by the arrest of her son.

### **Case of Archil Jorjadze and Neli Tskitishvili**

On June 25, 2008 the former coordinator of the Law Faculty at the Legal Entity under the Public Law, Telavi Iakob Gogebashvili State University, Archil Jorjadze gave explanations to the Public Defender.

Archil Jorjadze had earlier petitioned to the head of the administration on May 13, 2008 with various concerns. He explained that the “parliamentary elections campaign is being held under serious conditions of terror and repression. In addition, he claimed that fundamental human rights guaranteed by the Georgian Constitution and international law were being severely violated and how contracted employees had been terminated from their positions. “Human dignity has been disregarded and furthermore people do not have right to independently develop themselves. I, as a member and lawyer of the election HQ of the United Opposition-National Council, New Rights, am being psychologically oppressed and blackmailed. Consequently, I petition you to accept my resignation from my position in order to avoid further problems for the university, and its administration because of my continued presence there. I hope we all will enjoy our lives in free and united Georgia.” wrote Jorjadze.

On May 22, 2008 Hamlet Razmadze, the head of the Legal Entity under the Public Law, Telavi Iakob Gogebashvili State University Administration dismissed Archil Jorjadze, former coordinator of the Law Faculty, from the university by the order No. 172. The dismissal document states: “The Coordinator of the Law Faculty at Legal Entity under the Public Law, Telavi Iakob Gogebashvili State University, Archil Jorjadze to be dismissed from his position from May 22, 2008”.

Archil Jorjadze worked at the University from November 1, 2005 to May 22, 2008. During the period he was teaching the public law (human rights, constitutional law and citizenship). From November 1, 2007 he was appointed coordinator of the law Faculty. From November 2007 Archil got engaged in political action and affiliated with the political party “Tavisupleba” (freedom). He was the representative of the mentioned party at Telavi county election commission No.17 during Presidential elections held on January 5, 2008. On May 21, 2008 he took over the position of a lawyer of the election HQ of the United Opposition-National Council, New Rights and the Majority candidate Pikria Chikhradze.

On May 7, 2008 Archil Jorjadze organized meeting of Pikria Chikhradze with the electorate at the premises of Telavi State University. It is noteworthy that shortly before the same venue was used for the election campaign of the majority candidate of “National movement” Giorgi Arsenishvili. The activists of the National Movement rushed into the hall during the meeting with Pikria Chikhradze and tried to obstruct with the event. They were threatening people attending the meeting and telling how they would make problems for them in the future. They shouted and used provocative expressions (like, “what does the person of Racha origin have in common with Kakheti region?”). they tried to obstruct the event.

According to Archil Jorjadze’s explanation, after the end of the event held within the election campaign framework, he was approached by a supporter of “National Movement” (whose personality is kept confidential, but will be disclosed to the investigation bodies whenever necessary). The mentioned supporter of National Movement threatened Archil Jorjadze that because of his political activities Telavi State University would become the subject of revision by the investigative department of the office of revenues. He also mentioned that the rector of Telavi State University Gia Gotsiridze, who was in good relationships with Jorjadze would undertake prosecution due to financial offences. All the responsibilities for the consequent outcomes would lie upon Jorjadze.

Archil Jorjadze participated in open pre-election debates at the local broadcasting TV Company “Tanamgzavri”. The opposite side of debates was presented by Gia Papunashvili, the head of the Telavi Election HQ of the ruling party and the director of the regional organization of the National Movement. The latter demanded from Archil Jorjadze to leave the election organization of “Unite opposition”. Jorjadze understood the request as a threatening act against himself and the University rector. So he submitted a resignation letter to the head of the administration of the Law Faculty at the Legal Entity under the Public Law, Telavi Iakob Gogebashvili State University, however, got the guarantees from the deputy rector David Maskharashvili, that his submission would not be satisfied.

Archil Jorjadze organized a briefing regarding his resignation, where he blamed the state attorney of Kakheti municipalities, deputy governor Giorgi Botkoveli in conducting oppression against him. On May 14, 2008 Telavi University students held the protest rally protesting against the political oppression against Archil Jorjadze.

On May 22, 2008 Giorgi Botkoveli met with Archil Jorjadze at No.17 Telavi county election commission and informed him that his resignation letter had been satisfied by the counselor of Telavi University. Giorgi Botk-

oveli could not hide his excitement because of the fact. Next day Archil Jorjadze met with the rector Gia Gotsiridze. The rector confirmed that the decision upon Jorjadze's dismissal was made under the immediate influence by Giorgi Botkoveli. Gotsiridze explained that Botkoveli was dissatisfied by the meeting of electorate with Pikria Chikhradze organized by Jorjadze, also, by the briefing held about the political oppression by the political opponents and by the protest rally held by students. Gia Gotsiridze told he was unable to resist Giorgi Botkoveli, that's why the letter of resignation had been satisfied. Moreover, because of son's political activeness, Giorgi Botkoveli threatened to dismiss Archil's father as well.

On May 8, 2008 the rector of Legal Entity under the Public Law, Telavi Iakob Gogebashvili State University, Giorgi Gotsiridze received another letter of resignation, by the associated professor and head of PR and the Rector's Office Nelly Tskitishvili. She was the head of Pikria Chikhradze's election office and therefore was the organizer of the candidate's meeting with electorate on May 7, 2008.

Nelly Tskitishvili mentions in her letter that: "the preparations for parliamentary elections are in progress. As a member of election office of the opposition leading candidate Pikria Chikhradze I am actively involved in pre-election campaign. I understand that my activities could be a threat for my university and its rector, The regime ruling the country does not accept different opinion, freedom of speech and free elections. Taking over the responsibility in front of the University, I would like to resign from the position of head of PR and the Rector's Office".

On May 22 2008 Hamlet Razmadze, the head of the Telavi University Administration issued a decree on Nelly Tskitishvilis's dismissal.

## **Case of Meliton Pakeliani**

Citizen Meliton Pakeliani, living in Mestia municipality gave explanations to the Public Defender. He worked at the village Becho sub division of MIA Mestia Office as an operative officer on duty. On April 21, 2008 Meliton Pakeliani was forced by his immediate boss, Head of Mestia Law enforcement office, Beso Gabuldani to swear on the icon. Meliton Pakeliani together with other policemen had to take an oath to ensure fulfillment of the following three commitments:

1. to vote for "National Movement" at the parliamentary elections on May 21, 2008;

2. to vote for Kakha Kvitsiani the majority candidate of the above mentioned election subject;

3. not to disclose the fact, that he and his family members had voted for Mikheil Saakashvili on presidential elections held on January 5, 2008.

Meliton Pakeliani refused to fulfill the second point set forth in the swear log because his nephew Victor Japaridze was the MP and majority candidate from united opposition party. So he could not vote against his close relative. One of the Mestia police officers, R. Kvitsiani told Meliton Pakeliani that he confirmed his political choice in favor of “National Movement” by swearing at Ushkhvanari church and advised Meliton Pakeliani to do same. R. Kvitsiani calmed Meliton Pakeliani by telling that Victor Japaridze would understand loss of his uncle and aunt’s votes. The head of Mestia law enforcement office Beso Gabuldani decided to involve his subordinate Meliton Pakeliani in the election campaign of “National Movement”. So, he required Pakeliani to collect 100 signatures of supporters of majority candidate of National Movement Kakha Kvitsiani at the same time reprimanding him for participation in victor Japaridze’s lection campaign.

At the beginning of April 2008 Meliton Pakeliani traveled from the village Becho to the village Tchuberi in the car owned by Victor Japaridze. Victor Japaridze visited family of Chkhvimiani in Tchubri, as for Pakeliani, fist he stayed at the village center, and later went to Chkhvimianis. Beso Gabeldani found the relation of an uncle and nephew a part of the pre-election campaign. Meliton Pakeliani refused to fulfill unreasonable task and illegal participation in the election campaign of the national movement.

On May 22, 2008 Meliton Pakeliani became a victim of political repression. Head of Becho subdivision of Mestia Law enforcement Office, R. Kvitsiani and a policeman Khorguani told Meliton Pakeliani that he was fired from his position by the virtue of the Head of Samegrelo-Zemo Svaneti Main Law Enforcement Office, and consequently required from him to give his registered arm.

## **Case of Nana Pazhava**

As explained by Nana Pazhava and Ioseb Khoperia, the journalists for the Radio Imedi and Radio “Mtsvane Talga” members of one of the parties comprising the bloc of the United Opposition were planning to drive from the zity of Zugdidi to Tbilisi in order to participate in protest actions of opposition parties. Journalists reported that strange people called members of the political party “Tavisfuleba” which is part of the bloc of the United Opposition from telephone 860470000 and warned them to abstain from participating in protest demonstrations. Strangers have also insulted Ioseb Khoperia from the same phone number. Despite the threats, members of the

political party “Tavisufleba” departed for Tbilisi and journalists followed them. The journalists reported that in Zugdidi they were being constantly watched by the car with license bar NOD 476 and silver BMW. Near the village of Teklati four masked people in black attacked the mini-bus where the journalists and members of the party were sitting. They broke the windows of the bus with an automatic weapon. The mini-bus continued its way and approached the Senaki patrol police station 700 meters away. The attackers followed them in black jeep. Nana Pazhava named the license plate of this vehicle.

**Nana Pazhava asked the police officers to stop the car and arrest the people who were sitting in it. The police did chase the car; however, five minutes later they returned and claimed that could not catch them.**

## **Case of Irakli Kakulia and others**

Irakli Kakulia is a member of political party “New Rights” since September 21, 2001. Since 2005 he works as a Head of Poti office of “New Rights”. On June 6, 2008 President of Georgia named the date of first sitting session of the parliament elected on May 21<sup>st</sup>, 2008. Irakli Kakulia shared position of his party and did not recognize legitimacy of the mentioned parliament. He decided to participate in the protest-rally held outside the Parliament of Georgia on the day of the first parliamentary session on June 7.

Irakli Kakulia started to Tbilisi on his own car where the other members of opposition parties were also sitting: a member of “New Rights” Bureau Zviad Shubitidze, majority candidate of “Labor Party” in Poti election county Besik Gvajava and the head of Poti organization of “Conservative Party” Tamaz Soselia.

At 18<sup>th</sup> kilometer from Poti, in the village Shua Khorga of Khobi municipality, at about 00:15 the car was stopped by the patrol police inspectors Paata Katamadze and Khvicha Kvaratskhelia. Patrol inspectors tested on alcohol the driver – Irakli Kakulia. The test was positive. Irakli Kakulia and his passengers assumed that the testing device was treated with alcohol. Kakulia demanded repetition of the test but he was refused. The passengers told they also had the driving licenses so could continue their way to Tbilisi. Patrol inspectors issued a protocol of administrative violation (driving under alcohol influence) to Kakulia, they ceased the vehicle and transferred it to Senaki penalty parking place.

Irakli Kakulia, Tamaz Soselia, Besik Gvajava and Zviad Shubitidze were left at the mentioned place too. At 00:45 they started to Poti direction. In 45 minutes they arrived to the railway station of Kvemo Khorga and asked for

help the officers of criminal police patrolling there. The request was refused. Irakli Kakulia called his brother, Vakhtang Kakulia and a friend of his Arsen Ghurtskaia. At the same time the minibus appeared on the road driving to Tbilisi. The opposition activists got into the minibus and tried to get to Tbilisi on it. At about 02:15 the minibus was stopped by the patrol police and called the driver for conversation. Few minutes later the driver came back and told to opposition activists that the minibus would have to go back to Poti if they would not leave the car.

Arsen Ghurtskaia was stopped by patrol police near the village Chaladidi and asked for the driving license and test on alcohol. The test result was positive again. The law enforcers issued an act of violation, put Arsen into the car and after arriving to the village Sagvisho told him that his car would be taken to the penalty parking place. So, Arsen Ghurtskaia was left alone in the unsettled area. He walked one kilometer to the nearest village and asked the unknown family to give him accommodation overnight. Next day Arsen Ghurtskaia went back to Poti.

On June 7<sup>th</sup>, 2008, at 03:20, a taxi ordered by Kakulia's family appeared on Senaki highway. Irakli Kakulia, Tamaz Soselia, Besik Gvajava and Zviad Shubitidze got into the car and went to Poti direction. On the way to Poti the taxi was chased. At 04:10 they arrived in Poti, however chasing was continued while they entered the "New Right's" office and went to their homes later.

After the conversation with his brother, at 01:28 Vakhtang Kakulia was called from the number 891276415 and told that if would go to take his brother he would undergo physical assault and his car would be damaged. The stranger threatened to assault Vakhtang Kakulia's family members as well. At about 04 o'clock Vakhtang Kakulia decided to watch out as he heard a noise of coming car. At the same time he heard the shelling from machine-gun. The shelling continued for about 10-15 minutes in the Pirveli Maisi Street, in Poti, where Irakli Kakulia lives. The same noise was heard by his neighbors Givi Korsantia and Maia Komakhidze. Next morning father of Vakhtang and Irakli Kakulias found 18 cartridge-cases around his house.

The fact of shelling is confirmed by the member of Poti election office of "United opposition – National Council, New Rights" Giorgi Maskhulia. The latter changed his decision to travel to Tbilisi after two phone calls made from the strange number to him. The first call was incoming from 898397382. Giorgi Maskhulia did not answer to it because from the same number he was permanently threatened to be accused in drug consumption since 2007.

Giorgi Maskhulia was called from the telephone number 891276415 too. Maskhulia recognized the voice of the speaker through incoming call. The stranger was threatening to kill him. He noticed from his family members that their house was under permanent surveillance by the law enforcement organization. At four o'clock in the morning Maskhulia heard the shelling noise.

### **Case of "Egalitarian Institute" and Malkhaz Jangirashvili**

On April 23<sup>rd</sup>, 2008 the non governmental organization "Egalitarian Institute" organized a protest rally named "turn over". To symbolize the "turn over" of the government the rally participants turned over a khachapuri on a pan in front of the House of Parliament. Afterwards, the organization members moved in front of State Chancellery building. One part of rally participants, among them a lawyer Malkhaz Jangirashvili, located themselves outside the iron bars where the iron fence was assembled until 2003. The other part of participants, among them Irakli Kakabadze, David Dalakishvili, and Akaki Chakvetadze moved inside the iron bars near the Chancellery building.

The protest rally participants Irakli Kakabadze, David Dalakishvili, Irina Batiashvili and others were writing down on the pavement with color paints the words: "No to Police Regime", "Hands Off" and so on. At the same time one of the protest rally participants Jaba Jishkariani held a loud-speaker by means of which the another participants could listen to "Utsnobi's" song "Deda Ena". Tbilisi main office of patrol police was mobilized at the site and the head of the mentioned department Giorgi Gegechkori observed the situation himself. The protest rally was also watched by the Public Defender and his attorney. Policemen did not make any contact with the rally participants. The first contact they made without any verbal warning was when they held an activist Irakli Kakabadze and "dragged" him to the police car. The first attempt of detention was unsuccessful, the other participants of the rally managed to release Irakli Kakabadze. At that moment Lasha Chkhartishvili, member of the "Egalitarian Institute" felt sick, however the rally did not stop. Few minutes later policemen approached again Irakli Kakabadze, surrounded him and without any preliminary warning pushed him into the police car. David Dalakishvili and Akaki Chakvetadze tried to help Kakabadze, but the policemen standing around held them over their necks and push them forward. Dalakishvili lost the balance and fell down. At the same time two policemen came to him from right and left sides, took his arms and





“dragged” him to the police car. Police detained Malkhaz Jangirashvili, Lasha Chkhardtishvili, Zurab Rtveliashvili and Jaba Jishkariani.

They could not detain Levan Gogichaishvili despite the physical efforts. Soon police released Jaba Jishkariani but other detained protestants were introduced the administrative violation protocol for the violation considered under the article 173 of Administrative Code of Georgia (for willful disobedience to the law enforcement officers); Detained activists were taken to the Administrative Board of Tbilisi City Court. Instead of the legally determined 3 hours, the members of the “Egalitarian Institute” and Malkhaz Jangirashvili underwent detention of 7 hours. The patrol police arrested the protestants in front of the State Chancellery building at 14:00 p.m. They spent two hours in the patrol police department of Tbilisi Main Office building. At about 17:00 all of them were closed in one of the police halls. They could only go to the bathroom under the police supervision. The situation continued until 21:00, i.e. until the trial of Irakli Kakabadze finished. Afterwards, the detained activists were released from the handcuffs and let out the mentioned hall by means of immediate engagement of Mamia Pkhakadze, Chair of Administrative Board of Tbilisi City Court.



**Irakli Kakabadze**

## **Case of Beglar Logua**

**Begi Loghua is a radio DJ of the radio-station “Ar Daidardo”. The Prosecutor’s Office of Samegrelo-Upper Svaneti Region started inquiry into fraud against his mother, Gulnara Jinjolava. Gulnara Jinjolava was detained and released on bail. Currently the case is sent for examination to Zugdidi District Court. Begla Logua believes that the violation for which his mother is answerable is a subject of amnesty according to the decision of Georgian Parliament adopted on November 22, 2007. So, according to the described circumstances there is no reason for rising criminal case against Gulnara Jinjolava. However, Begla Logua supposed that there was a real threat that his mother would undergo imprisonment and consequently decided to hold a protest rally.**

On May 16, 2008 at 15:00 Begla Logua assembled a tent in front of the House of Parliament, between the 9 April memorial and a fountain, on the side-walk area, in Tbilisi. He started a hunger strike and said that he would not stop it until his mother is acquitted. After four hours from the beginning of the strike Logua was approached by patrol police and demanded dismantling of the tent. Begla Logua asked what the legal ground for such demand was. He got in a police car on his own will. Begla Logua was introduced a administrative infringement protocol for violation of the article 173 of the administrative code. The same day he was transferred to the temporary detention isolator. The next day Beglar Logua was presented to the Head of Administrative Board of Tbilisi City Court, Mamia Pkhakadze. The court recognized Beglar Logua offender of administrative law. The court decision specified that Beglar Logua assembled a tent on his own decision negatively changing outface of the city. It attracted attention of the citizens and created obvious treat to the free movement of transport and pedestrians. At 19:15 patrol inspector David Jashiashvili instructed Beglar Logua to demount the tent but, as the court found, Logua responded in uncivilized language. The instance that Logua did not abuse the patrol police was confirmed by the witnesses at the trial: Zaur Abramia, Gulnara Jinjolava, Kote Makatsaria, Giorgi Rodonaia, Zviad Pipia and Mariam Mikuchadze. However, the court did not consider the testimonies and gave the full trust to the patrol policeman David Jashiashvili. The latter’s explanation about he indecent respond from Logua was the single verification submitted to the court.

## **Case of Dachi Tsaguria and Luka Tsuladze**

**The building located in Tbilisi, in the corner of Leonidze and Tabidze Streets has been transferred to the “Bank Societe Generale”. The building was removed from the list of historical venues, and the new owner**



**Dachi Tsaguria**

**started its demolition under the agreement with Tbilisi City Hall. The fact caused concern among the NGOs “Youth Front” and “Tbilisi Hamkari”. They alleged the building had a historical value and in case it would be demolished the central part of the city would lose its traditional and unique outface.**

On July 2, 2008 about ten activists of the non governmental organization “Youth Front” started protest rally in Leonidze street. Protestants made the following signs on the construction site fence and on the road: “Ugula-va destroys” (Gigi Uguglava – Mayor of Tbilisi), “Papashvili Destroys” (Lasha Papashvili – Head of supervisory Board of the Bank “Respublika”) and “Do not wreck!” Patrol police asked the protestants to refrain from making signs of the fence and the road, however, the rally participants explained to them that such conduct was allowed by Georgian legislation. Manifestation lasted for 15 minutes. At 15:20 the protestants moved to Ateni street, in front of the HQ of the “Bank Societe Generale”. They started making the signs “Papashvili Destroys” there too, for which they needed just 8-10 seconds. the police approached and asked to reserve from making the signs, but on of the action participants, namely Dachi Tsaguria, head of the “Youth Front” explained to the policeman that Georgian legislation did not prohibit making color signs in the streets. The policeman promised he would clarify the issue with his management whether the protestants had

the right to write with paints in the street. At the same time the policeman demanded to terminate the action and seize all color-sprays until the issue is clarified. Dachi Tsaguria and another member of the “Youth Front” Luka Tsuladze gave their color sprays to the officer immediately upon request. The conversation between the patrol officer and the manifest participants was video recorded on a mobile phone by the Public Defender’s attorney, who was monitoring the activity from the very beginning in order to ensure freedom of meetings and manifestations. The patrol inspector addressed rudely the Public Defender’s attorney and demanded to stop video recording because he was not representing any of TV channels (policeman was sure that the public events should be recorded only by journalists of TV channels). Shortly, additional crew of patrol police came to the scene. They demanded Dachi Tsaguria and Luka Tsuladze to get into the police car. They obeyed. Then Dachi Tsaguria and Luka Tsuladze were taken to the Main office of Tbilisi Patrol Police Department, where they were imposed a protocol on administrative offence and therefore were made answerable in compliance with the article 166 (minor offence) and article 173 (willful disobedience to the demand of the law enforcement officer) of the Administrative Code. The persons answerable for the “offence” were presented to the Administrative Board of the Tbilisi City Court.

**Patrol inspectors declared that Dachi Tsaguria and Luka Tsuladze blocked Ateni Street and impeded transport and pedestrians movement there. Moreover, on the fair demand of the drivers to open the street they responded rudely, cursed the drivers and pedestrians. When the police officers asked Dachi Tsaguria and Luka Tsuladze to behave properly, the suspects cursed the law enforcement officers in reply.**

The policemen did not present any testimonies by dissatisfied drivers or abused pedestrians, or any kind of video materials recorded by the MIA, or testimonies by other witnesses to justify the above mentioned circumstances. The only certification of the fact was the explanation given by a police officer to the court.

The judge Lela Kalichenko did not satisfy petition submitted by the attorneys of the suspects Ekaterine Popkhadze, Tamar Revazishvili, Manana Kobakhidze and Lasha Chincharauli, who requested to attach to the case the video record made by the Public Defender’s attorney at the site as the proof. Also, they plead to solicit recordings of the video-camera of the Bank “Societe General”.

When examining the case of Luka Tsuladze, the public Defender’s attorney Koba Chopliani and the member of the “Youth Front” Irakli Kordzaia were interviewed as witnesses.

During examining Dachi Tsaguria's case the judge Lela Kalichenko refused to interview the witnesses. She explained that Irakli Kordzaia's testimony was not reliable because he was the member of the same organization, so he would be interested in preventing Dachi Tsaguria and Luka Tsuladze from the probable punishment. As for Koba Chopliani, according to the judge's explanation the Public defender's attorney had expressed his attitude toward infringement of the right of freedom of meetings and manifestations, so his testimony would not be impartial as well.

Instead, the court fully shared the law enforcers' explanations regarding the closed street and impeded movement of transport means and pedestrians, and regarding the disobedient of the protestants to the law enforcement officers.

Based on the above mentioned explanations given by patrol officers the court recognized Dachi Tsaguria and Luka Tsuladze offenders of administrative law according to the article 173 of the Administrative code.

**On July 9, 2008 the Public defender solicited explanations from the shop assistant, Marine Siradze and a parking place supervisor Irakli Machitidze working in Ateni street. Marine Siradze watched the protest rally taking place on July 2, 2008. She did not hear any shout or uncivilized language there. According to her explanation, the protest participants had the slogan: "Do not wreck!"**

As Irakli Machitidze described the event, the traffic is usual to Ateni street in the afternoons. It is mostly caused by the absence of the patrol police there. On July 2, 2008, during the protest rally Irakli Machitidze did not hear any bad language. Then the traffic jam appeared. The driving part of the street was occupied by the patrol policemen and the protest participants. The protest participants did not impede the traffic movement. The cars moved slowly. Irakli did not hear any dissatisfaction expressed by the drivers.

## **Case of Nona Kandiashvili**

**On September 11<sup>th</sup> 2008 the Public defender received information from Nona Kandiashvili the broadcasting director of Radio "IMEDI". According to Nona Kandiashvili's information Joseph Kay first met her after he became the owner of TV and Radio channels "Imedi". The meeting took place in the premises of TV channel "Imedi". Besides the other issues, Nona Kandiashvili and Joseph Kay discussed the issue of the editorial independence of the broadcasting service of Radio "Imedi". Joseph Kay promised not to intervene into the editorial affairs of the broadcasting service, however, the new owner declared as well that he would not wish to be called by the officials and be answerable in any**

**manner for the broadcasting policy by radio “Imedi”. Nona Kandiashvili told that Radio “Imedi” would be balanced, however she would not guarantee Joseph Kay not to be called by officials and made answerable for it.**

Nona Kandiashvili also told that on May 8, 2008 she was contacted by the business partner of Joseph Kay, Giorgi Isakadze. It was a day when the bullet shot by a patrol officer in Vake Polling district killed Giorgi Gamtsemlidze, member of the election office of the majority candidate of “National Movement” Zaza Gamtsemlidze. Giorgi Isakadze demanded from Nona Kandiashvili to broadcast the mentioned information through radio in shortened and neutral manner. Nona Kandiashvili told to Giorgi Isakadze she was not able to make modifications to the issue. So, after the telephone conversation, that took place in the evening, next morning the radio station broadcasted the mentioned fact of murder of Giorgi Gamtsemlidze. The mentioned “news” was also broadcasted by “Rustavi-2” a bit earlier than by “Imedi”. Giorgi Isakadze told that the high rank officials were dissatisfied by the manner the fact of the murder was presented and addressed with pretensions to Joseph Kay. Giorgi Isakadze mentioned that there was no need to emphasize the incident of Giorgi Gamtsemlidze because he was a member of “National Movement”. Nona Kandiashvili stated that the fact of murder of any person would cause the public interest despite one’s political affiliation. Giorgi Isakadze also mentioned he was engaged in financial arrangements for the holding “e-Madia” and asked Nona Kandiashvili to contact him whenever necessary.

In the evening of May 30, 2008 as the working hours were over, Nona Kandiashvili was called by the Director General of TV Company “Imedi”, Bidzina Baratashvili. He told Joseph Kay wanted to meet Nona Kandiashvili. So, Nona Kandiashvili went back to “Imedi”. Joseph Kay was waiting her in the office of Bidzina Baratashvili. Irakli Khetereli Director General of Radio “Imedi” was also called for the meeting with Joseph Kay. The new owner declared to the director general and broadcasting director of radio channel “Imedi” that the reorganization was planned. He told that he personally believed that Georgian government was perfect. He had multiple businesses in Georgia, so he would not wish to face problems because of the radio broadcasting policy. Joseph Kay mentioned, he had long experience of working with media. He reminded Nona Kandiashvili and Irakli Khetereli that media could work with objective “plus” or objective “minus”. Joseph Kay wished to have his own media “with objective plus”. So, he started reorganization and stated that Nona Kandiashvili and Irakli Khetereli were fired.

## **Case of Kakha Gabunia and Nikoloz Pataraiia**

**On June 2, 2008 The Public Defender solicited explanations from the journalist of TV Company “Mze” Aleko Gabunia and the camera-man Nikoloz Pataraiia. On May 21, 2008 the Public Defender solicited information from the representative of “United Opposition – national counsel, New Rights” at No.100 Rukhi polling station of Zugdidi No.67 polling district, Bedman Kemonjava. From the explanation by Kemonjava we assume that Bedman Kemonjava reported to the majority candidate “United Opposition – national counsel, New Rights”, Koba Davitashvili about the violations taking place during the parliamentary elections at No.100 Rukhi polling station of Zugdidi No.67 polling district.**

Koba Davitashvili came to the polling station together with the journalists and cameras of TV companies “Rustavi-2” and “Mze”. Chair of the election commission did not allow the majority candidate Koba Davitashvili to enter the polling station. Koba Davitashvili demanded meeting with the representative of “Movements of Christian-Democrats”, who supposedly had been abused at the polling station by the persons illegally being inside the polling station. At the moment casually dressed young people appeared at the station, which, according to the correspondent of TV company “Mze” Aleko Gabunia, used bad language against Koba Davitashvili. According to the story by Bedman Kemonjava the casually dressed youngster swung his left arm to Koba Davitashvili, but Kemonjava blocked him. However the assaulter hit Koba Davitashvili with his right arm and ran away. Koba Davitashvili asked the TV representatives to record the faces of the assaulters and ran after them. The “Rustavi-2” and “Mze” representatives also followed the attackers and Davitashvili. At that moment approximately fifty casually dressed people surrounded the TV representatives, among them were women as well. They demanded switching off the cameras. Koba Davitashvili told he would return with the patrol police and left the scene of incident. The assaulters first attacked “Rustavi-2” camera and beat the camera-man, the fact was recorded by the camera of “Mze”. Suddenly, someone approached “Mze” camera-man Nikoloz Pataraiia from his back and grasped his camera, dropped it on the ground and damaged it by kicking his legs. The journalist of TV Company “Mze” Aleko Gabunia and the camera-man Nikoloz Pataraiia tried to take the camera back, but in respond they received physical and verbal assaults. On of the attackers approached journalist Aleko Gabunia from his back side hit him with his fist, dropped down and started throwing the stones toward him.



The patrol police car stood approximately at 60 meters of distance from the scene of the incident. The patrol officer observed the fact; however he did not interfere to cancel the violation. Moreover, the attackers took the camera grasped from the TV Company “Mze” and brought it nearby the patrol police car. Aleko Gabunia and Nikoloz Pataraiia tried to ran away, but they were followed by thirty men cursing and throwing stones to them. Some of them blocked the path in front of Aleko Gabunia and Nikoloz Pataraiia and cursed them, threw stones and even swung with knife and sticks. Nikoloz Pataraiia was injured by the cold arm used by assaulters. The journalist and the camera-man of the TV Company “Mze” managed to hide away from the attackers, however the latters still followed them. Finally, Aleko Pataraiia was advised to call police. The Law enforcers came up in ten minutes. Policemen were introduced to the incident details; however the policeman told he could not respond to the incident as it took place outside the area of his duty station.

### **Case of Eliso Chapidze**

**On June 3, 2008 the journalist of the newspaper “Rezonansi”, Eliso Chapidze gave explanations to the Public Defender. She was accredited observer at Kvemo Magharo Precinct No. 26, Signaghi No. 13 District, where she video-recorded the voting process.**



After entering the polling station Eliso Chapidze noticed, that unauthorized people tried to drop false ballots in the ballot-box. The incident was terminated by the representative of the “United Opposition”. The latter demanded adequate respond from the Chair of the election commission but instead of responding to the incident the representatives of “National Movement” called two athlete youngsters and expelled the representative of “United opposition” from the polling station. Eliso Chapidze approached those two athlete men which expelled the representative of “United opposition” from the polling station and showed them her certificate of accreditation and in return asked them to present the document certifying their right to be present at the polling station. At that moment another man with uncertain status came in. According to Eliso Chapidze’s statement, the strangers told they were “guys from Plekhanovi Street”. Eliso Chapidze switched on her camera and started video recording them. One of them closed the camera lens with his hand, while another twisted hands behind her back and tried to strip off her badge.



At that moment the camera fell down. The fact was patiently observed by the police officer Mamuka Dekanoidze presented inside the polling station. The regular citizens tried to help the journalist. The policeman Mamuka Dekanoidze put the assaulters in his car and took them away for a while. After a half an hour later three strangers came back to the polling station again.

### **Case of Irakli Gogvadze**

**On May 31, 2008 the journalist Irakli Gogvadze gave explanations to the Public Defender. On May 21, 2008 he was observed the voting process at Iormughanlo Precinct No. 34, No.36, No.45 and No.46 Sagarejo District No.11. At 10:00 a.m. the observer was contacted by the phone and informed that large amount of passports had been delivered to the Precinct No.36.**

Irakli Gogvadze came to the mentioned polling station and filmed the passports packed in a large bag. 10-15 people started toward Irakli Gogvadze and tried to take away his camera. They assaulted Irakli Gogvadze. After 40 minutes Gogvadze visited the Polling station No.46. While he was video recording the voting process someone hit him from the back-side. Irakli fell down unconsciously. When he regained consciousness he felt he was still lying down and 10-15 people were kicking him. At that moment the law enforcement officers stood in the yard of the building. Policemen did not cease the incident. Irakli Gogvadze's camera was taken away and he was dragged out of the building. Irakli Gogvadze asked the policemen to return his camera, but the policemen told they did not have the right to enter the polling station. The assaulters came out of the polling station, got into the Zhiguli VAZ 21-06 car with license plate TQT 986 and took away Irakli's camera. Gogvadze blocked the way to the car and tried to impede its movement. He asked the policemen for help again, but those ignored him.

### **Case of Khatuna Gogashvili**

**Khatuna Gogashvili is an anchor of news program of Kakheti broadcasting company "Hereti". During the presidential elections on January 5, 2008 she performed her professional duties at precinct No.19 of Lagodekhi No. 15 district in the village of Kabali of Lagodekhi municipality. According to Khatuna Gogashvili's story a citizen Isako Tskipurishvili came to the polling station. The mentioned person was not registered as a voter of the same polling station and he did not hold any document certifying his right to be present there. Tskipurishvili advised Khatuna Gogashvili to reserve from making audio record of the**

**conversation, otherwise she would be killed. Isako Tskipurishvili grasped Khatuna's Dictaphone and physically assaulted her. Khatuna Gogashvili mentions in her statement that the incident had the eye witnesses: an observer from the local observation organization "international institute of just elections and democracy" and the representatives of election subjects. It is noteworthy that this was not the first time when Isako Tskipurishvili committed an unlawful influence against the broadcasting company "Hereti".**

On November 30, 2007 director of the broadcasting company "Hereti" made a secret audio record of Isako Tskipurishvili's conversation. The audio record shows how Isako Tskipurishvili threatened to demolish the radio station "Hereti" in the name of the representative of the central authorities, if the radio company would not change their broadcasting policy and would not cooperate with the "National Movement". The Public Defender assumed that Isako Tskipurishvili unlawfully impeded the journalist's professional performance; he threatened the journalist and committed the actions considered under the clauses No.151 and No.154 of the Criminal code. Seizure of the Dictaphone and threatening act took place under the violation of the requirements stipulated by the Election code of Georgia. According to the clause 72 of Georgian Election code representatives of the press and other mass media, accredited at the relevant election commission, have the right to attend election commission sessions and to be present in the polling place on Election Day. The broadcasting company "Hereti" was dully accredited to the election. The persons authorized to be present in the polling station are precisely described in the second part of the clause 67 of the same Code:

- a) Members of the CEC, DEC and PECs;**
- b) Representatives of the CEC and of DEC;**
- c) Representatives of election subjects;**
- d) Representatives of the press and other mass media;**
- e) Observers.**

There is no evidence to proving that Isako Tskipurishvili had the right to be present in the polling station. In any case, there was a ground not to let him in, as he did not hold any badge indicating his status. According to the sub-clause g1 of the first part of the clause 39 of the election code the PEC Chairperson shall be responsible not to let unauthorized persons without the appropriate badges into the polling station. The Public defender sent the collected document to the Prosecutor General for preliminary investigation. The letter No. 20.02.2008/55 by Tinatin Goletiani, Head of department of justice of the Prosecutor General's office sent to the Public De-

fender said that on January 5, 2008 Lagodekhi district IA Office started a preliminary investigation on the criminal case No. 03008003 based on the phone call made by Khatuna Gogashvili. The case was launched in compliance with the first part of the clause 154 of the Criminal code stipulating the unlawful hinder of the professional performance of journalist.

On August 27, 2008 the Prosecutor General required additional information regarding the criminal case No. 03008003 from the department of justice of the Prosecutor General's office.

On September 24, 2008 the Public defender was informed in writing by the head of the human rights department of the Prosecutor General's office that "investigation regarding the possible hinder in professional performance of the radio "Hereti" journalist Khatuna Gogashvili is conducted by Lagodekhi district office of MIA. The consequent investigative actions have been conducted. The members of the EC of Kabali No.19 precinct have been interviewed together with other witnesses. The investigation continues in order to establish the fair facts of the matter.

# **Criminal Case of the Supporters of Political Union “Justice” (Samartlianoba)**

## **Accusatory Resolution**

**On 27th of December of 2006 year Georgian General Procurator has passed the accusatory resolution of the criminal case number 089060110 against Maia Topuria, Teimuraz Jorjoliani, Kakhaber Kantaria, Ramaz Samnidze, Giorgi Metreveli, Guram Papukashvili, Varlam Galdava, Revaz Bulia, Giorgi Akhobadze, Maia Nikoleishvili, Iakob Kvinikadze, Zaza Davitaia, Vakhtang Talakhadze.**

## **Verdict of the court of first instance**

On 29th of December of 2006 year the preliminary investigation of the criminal case number 089060110 was finished and the case was sent to the Board of Criminal Law Department of Tbilisi Civil Court to be examined substantially. The case was registered as 1/7829-06. On the 6<sup>th</sup> of March of 2007 year the verdict of the criminal case under the number 089060166 was sent to the Board of Criminal Law Department of Tbilisi Civil court to be examined substantially. The case was registered as 1/993-07. The order of Gela Archuadze’s arrest was declared in absence of him and official retrieval was announced.

The review of the case number 1/7829-06 started on 19<sup>th</sup> of March of 2007 year and finished on 24<sup>th</sup> of August of 2007 year at Tbilisi Civil Court. On 24<sup>th</sup> of August of 2007 year Mamuka Nozadze the judge of the Board of Criminal law Department of Tbilisi Civil Court passed the verdict against Maia Topuria, Teimuraz Jorjoliani, Kakhaber Kantaria, Ramaz Samnidze, Giorgi Metreveli, Guram Papukashvili, Varlam Galdava, Revaz Bulia, Giorgi Akhobadze, Maia Nikoleishvili, Iakob Kvinikadze, Zaza Davitaia, Vakhtang Talakhadze, Gela Archuadze, due to this verdict in their accusations the crime – high treason in accordance with the article 307 of Criminal Law was cancelled and Maia Topuria, Teimuraz Jorjoliani, Kakhaber Kantaria, Ramaz Samnidze, Giorgi Metreveli, Guram Papukashvili, Varlam Galdava, Revaz Bulia, Giorgi Akhobadze, Maia Nikoleishvili, Iakob Kvinikadze, Zaza Davitaia, Vakhtang Talakhadze, Gela Archuadzet were discharged innocent.

**Maia Topuria** was found guilty in committing the criminal action and was sentenced to 8 months imprisonment, adjudicated due to the first part of 315 article of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the government (30 June of 200 year), the article 18 and second part of the article 315 – planning the criminal action/rebellion in order to change the state system by force, overthrow or seize the government and due to the article 25 and first part of the article 236 – raising the issue of accountability of executing and being the participator of keeping or purchasing illegally the firearm (except smooth barrel hunting guns), armed materials, explosive materials, or explosive equipments.

**Teimuraz Jorjoliani** was recognized guilty in committing the criminal action and was sentenced to 7 years imprisonment adjudicated due to the first part of the article 315 - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow Georgian government (30 June of 200 year), due to the article 18 and the second part of the article 315 – planning the criminal action/rebellion in order to change the state system by force, overthrow or seize the government.

**Kakhaber Kantaria** was found guilty in committing the criminal action and was sentenced to 8 years imprisonment, adjudicated due to first part of 315 article of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 200 year), according to the article 18 and second part of the article 315 – planning the criminal action/rebellion in order to change the constitutional system of the state by force, overthrow or seize the government and according to the first part of the article 236 –keeping or purchasing illegally the firearm (except smooth barrel hunting guns), armed materials, explosive materials, or explosive equipments

**Ramaz Samnidze** was found guilty in committing the criminal action and was sentenced to 7 years imprisonment, adjudicated due to the first part of the article 315 - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 200 year), according to the article 18 and the second part of the article 315 – planning the criminal action/rebellion in order to change the constitutional system of the state by force, overthrow or seize the government.

**Giorgi Metreveli** was found guilty in committing the criminal action and was sentenced to 4 years imprisonment, adjudicated due to the first part of the article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the Georgian government.

**Guram Papukashvili** was found guilty due to the first part of the article 315 of Georgian Criminal Code - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000) and was sentenced by four years and six months imprisonment.

**Varlam Galdava** was found guilty in committing the crime and was sentenced to 3 years and six months imprisonment, adjudicated due to the first part of the article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000).

**Revaz Bulia** was found guilty and was sentenced to four years and six months imprisonment, adjudicated due to the first part of the article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000).

**Giorgi Akhobadze** was found guilty and was sentenced to four years and six months imprisonment, adjudicated due to the first part of the article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000).

**Maia Nikoleishvili** was found guilty and was sentenced to two years imprisonment, that was changed then as 2 years probation period, adjudicated done under the first part of article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000).

**Iakob Kvinikadze** was found guilty and was sentenced to 4 years and 6 months imprisonment, adjudicated done under the first part of the article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000).

**Zaza Davitaia** was found guilty and was sentenced to 4 years and 6 months imprisonment, adjudicated done under the first part of the article



315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000) and.

**Vakhtang Talakhade** was found guilty and was sentenced to 4 years and 6 months imprisonment, adjudicated done under the first part of the article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change the constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 2000).

**Gela Archuadze** was found guilty in conducting the crime and was sentenced to 7 years imprisonment, the term should be calculated from the day of his imprisonment, adjudicated done under the first part of the article 315 of Georgian Criminal Law Code - conducting the conspiracy against the Georgian State to change constitutional system of the state by force, to seize or overthrow the Georgian government (30 June of 200 year), according to the article 18 and second part of the article 315 – planning the crime/ rebellion in order to change the constitutional system of the state by force, overthrow or seize the government (30 June of 2000 year).

#### 6. The verdict of Tbilisi Appellate Court

The Board of Criminal Law Case Department of Tbilisi appellate court has not satisfied the complaint with document number 1/B-2395-07 dated as 28 April of 2008 year, and left unchanged the verdicts passed by the board of Criminal Law Case Department of Tbilisi Civil Court on 24 August of 2007 year against Maia Topuria and Teimuraz Jorjoliani and others.

## **II. Resolution Part**

### **1. COURT OF FIRST INSTANCE**

#### **1.1. Testimonies of the witnesses**

The investigation of the criminal action has already started. The testimonies of the witnesses are important assertions for this case. Accusatory verdict and court verdict is based mainly on these assertions.

Eleven testimonies presented by the lawyers of the accused at the court (April 2007) were sent to the professor of linguistics Roger VS. Shui at Georgetown University of the USA for linguistic analysis. Professor Shui analyzed as primary as well as additional testimonies of Giorgi Bzishvili, Jumber Katamadze, Maia Nikoleishvili, Papuna Shonia, ‘Eka’, ‘Eteri’, ‘Nino’, ‘Zauri’, ‘Romeo’, ‘Natia’ and ‘Tamari’. According to Shui’s linguistic resolution it is unbelievable despite the fact that at least 4 different investigators did the interrogation during three months time, 11 quite different people (primary witnesses of the criminal case) told the similar stories with the same sequence, some of them declared that they were attending the meeting of 4<sup>th</sup> of May of 2006 year and some of them not.

The third list of Shui shows 32 identical words and phrases, used by seven unanimous witnesses in their testimonies. “It is absolutely unbelievable how seven different unanimous persons could use such identical phrases and words in their testimonies, while the interrogations were conducted during three months by three different investigators”.

There is no chance that these two witnesses (Bzishvili and Katamadze) could use absolutely the same chain of 16 identical, very long sentences which contains 770 virtual identical words with the same sequence. Besides 99.9 % of the words and 100% of the sentences used by the witnesses have totally similar structure and the same punctuation. The structure of the sentences used by seven witnesses could not be composed without dictation – concludes the professor Shui.

According to the resolution of Professor Shui “due to the linguistic comparison of witnesses’ testimonies it seems that they were under the pressure...”.

The judge attached the resolution of linguistic expertise dated by 23 of July of 2007 year to the criminal deed.

The court of first instance has not foreseen the resolution of expertise conducted in the USA saying that the witnesses were under pressure while giving the testimonies.

According to the assumption of the judge “The witnesses interrogated at the court refused categorically that they were under pressure of the po-



licemen, they also refused that they knew somebody before or someone dictated them the text of the testimony”.

It is true that according to the Procedural Legislation of Georgian Criminal Law the estimation of the testimonies is under the responsibility of the judge. The court gave very weak arguments to disregard the resolution of the linguist expertise so there is a doubt that the judge is partial towards the plaintiff. The lawyers of the Union “Justice” under the linguistic resolution of Shui, assume that the interrogation was done under the pressure of the policemen, as the structure of their sentences are quite similar that could not be written without dictation. It is noticeable that the witnesses of the secret meeting held on 4<sup>th</sup> of May did not remember how the participants confirmed the plan of conspiracy. Though the witnesses confirm categorically that the accused persons have committed the crime but they could not say anything about the crime evidence. In this case we see that participants of the meeting expressed their consent and not the intention of committing the criminal case.

It is noticeable that Irina Sarishvili and Elizbar Javelidze were not oppressed as they asked some time to decide whether to join the conspiracy agreement. As the agreement is regarded as a criminal action, it should be cleared out how the agreement between the conspiracy organizers was met on 4<sup>th</sup> of May. According to the first part of the article 111 paragraph “D” of Georgian Criminal Law Code the assertions done by the person who has not given the facts where, when and how the crime was committed is not acceptable. According to the legislation to consider the testimony as an assertion, the witness should describe where how and when were evidence facts revealed. If the witness could not describe the evidences, how the participants agreed to conduct the conspiracy then (with nodding or raising the hand) such testimony should not be accepted according to the article 111 of Georgian Criminal Law.

The court as well as the investigation department broke the law due the second part of the article of 18 of Georgian Criminal Law and first part of the article 6 of Human Rights National Convention that requires that the case circumstances should be examined thoroughly and objectively.

## **1.2. Finding the gun after conducting the search at Kakhaber Kantaria’s cellar**

On the 6<sup>th</sup> of September of 2006 the search was conducted at the cellar of Kakhaber Kantaria’s house and following things were found: 29 Firearms of “Kalashnikov” and 29 magazines, 6 sealed iron boxes for cartridges; 20 trench bombs with plastic valves; 15 small boxes wrapped with brown covering under the name “Trotyl Stick - 2002” and 400gr of such kind of

wraps under the same name – 14 pieces; one machinegun; six grenade launchers; six “Bazooka” and green colour Grenade Launchers. The evidences were attached to the cases which are important materials to conduct the conspiracy to overthrow the government.

We should pay attention to the location of the cellar as we have the case of the armed conspiracy against the state and the rebels should take all security measures in advance, meaning they would make consignment of these things in order that the third party could not find them. The cellar of Kakhaber Kantaria is located in Tbilisi at Ts. Dadiani Street

The neighbours of Kantaria were interrogated – Kurnelidze and Rukhadze. Both of them declare that the cellar is not a safe place to keep the precious things there as there were a lot of facts of breaking the cellars. Due to the testimony of Rukhadze the cellar of Kantaria was not locked properly (The lock was there but it was not strong enough. When it was loosened I made it stronger). Also it is noticeable that the cellar has the wooden door and it was easy to break it even by foot. Kantaria should know these facts in advance so it is not logical that he made the consignment of the armed things in the cellar that could be easily stolen. The court of first instance has not considered the opinion of the neighbours that “No one should keep the firearms in the cellar which has no door”.

The argument was that “The court could not consider the opinion of the witnesses who have been for years the neighbours of the accused and they might have good friendship, their testimonies are contradictory regarding the length of the chain locking the door”.

The Judge averted to discuss whether it was logical to make the consignment of the armed materials in the cellar, which was not secure enough and the door was not locking. Whether the chain locking the common door was longer or shorter has no connection with the door of Kantaria’s cellar. The argument of not considering the testimonies of the neighbours goes beyond the logic of justice and is an example of maintaining the erroneous justice practice.

On 9<sup>th</sup> of August of 2007 year the judge makes the assumption regarding the video material, shot during the search: “One moment was visible when special mission unit member was putting the door apart.” The opposite is confirmed by the witness, the head of city municipality (policemen), who were attending the process of the search. According to his opinion the special mission unit member broke the lock and opened the door. Two facts are important whether the door was put apart as the judge has seen it by video materials or the door lock was broken. Despite that the judge himself confirmed that the door was put apart and not opened, he has not assumed that

how they could keep the armed materials in that cellar, he averts to discuss this things in the verdict passed by him, where he only develops the logic that the firearms were taken out of the cellar – the assertions which are based on the testimonies of head of the city municipality and Jikia.

Putting the door apart by the special mission unit member (how the judge declares), indicates that the cellar of Kantaria was not a secure place for keeping the firearms even it had the door. Besides that the court has not asked if they found the Kantaria's fingerprint on those firearms, whether the dactyloscopy expertise was done to prove that these firearms belonged to the rebels.

So it was not confirmed that the firearms belonged to K. Kantaria. The fact that the firearm was taken out of the cellar of Kantaria does not certify that it belonged to him.

There are no other evidences which could certify that the firearm belongs to Kantaria. The investigation department and the court expressed the partiality towards the plaintiff, which burdened greatly his accusation and the final verdict of criminal case.

It was noticeable that law of the second part of the article of 18 of Georgian Criminal Law and first part of the article 6 of Human Rights National Convention was breached; which requires thorough and objective examination of the case.

## **2. THE PETITION OF RESPONDENT**

### **2.1. The court experiment**

On 4<sup>th</sup> of May of 2007 year the lawyer of Teimuraz Jorjoliani addressed the judge of the board of Criminal Department of Tbilisi Civil Court with petition. The ground of lawyer's petition was the health condition of VS. Sikharulidze. As he has the hearing defect (both of tympanic membranes of the ears are damaged), though he declares that he could hear quite well what T. Jorjoliani was saying. The lawyer requests that the judge should satisfy his petition by which he demands that the expertise should be conducted once more in the same conditions due to the first part of the article 487 of Criminal Law Code of Georgia and due to the articles 340-343, 347-349, and 375-384 of Criminal Law Code Georgia.

According to the resolution of 7<sup>th</sup> May of 2007 year the petition of the lawyer of T. Jorjoliani was not satisfied according to the following arguments: "The witness has the defect of hearing, but he was able to answer all questions". The fact that the witness has answered the questions has no connection with his health condition, as the hearing defect is a physical defect that could not have any relation with his intellect. The lawyer dis-

claimed that the witness was able to hear what T. Jorjoliani told him, as he has the hearing defect.

According to the first part of the article 18 of Georgian Criminal Law Code the judge was responsible to clear out the subject of evidence of the given criminal case. In this case the judge has to satisfy the petition of the lawyer and assign the experiment, as there was possibility that witness could hear what T. Jorjoliani told him. The judge broke the law due to the second part of the article 18 of Georgian Criminal Law Code, mainly “He was obliged to conduct the thorough and objective examination of the case”. The requirement of asserting the objectivity towards the case should require the examination conducted by the court in order to find out whether the witness could hear the conversation. The court breached the law requirements of the article 6 of Human Rights protection about conducting the fair court processes.

2.2. The right of the protection of respondent VS. Talakhadze

VS. Talakhadze was expelled by the judge from the court of first instance case (7<sup>th</sup> of May of 2007 year).

Despite several petitions of the respondent and even the written requirements of VS. Talakhadze, the court passed the verdict in the absence of him and VS. Talakhadze was not able to use his constitutional right to say the last words to protect himself at the court.

European court of protecting the rights of human in Strasburg concluded that the accused should have the right to attend the court case.

I think that despite how strong were the actions of VS. Talakhadze to prevent the case or insult the judge; he had the right to utter the last words or give the oral testimony at the court case.

Due to this fact the court breached the law of third paragraph of the article 42 of Georgian Constitution which enables the respondent to use the right to protect himself at the case. Also there was evidence of breaching the law of the main principal of Human Rights Freedom and due to the third paragraph of the article six of European Convention to protect oneself at the court.

### **3. RESOLUTION**

**The court as well as the investigation department breached the law under the second part of the article of 18 of Georgian Criminal Law and first part of the article 6 of Human Rights National Convention, that requires to conduct the examination of the case circumstances thoroughly and objectively.**

**The first instance court breached the law by not satisfying the petition passed by the court of the first instance requiring assigning the**

experiment, in order to justify whether the witness during the conversation with Teimuraz Jorjoliani despite the ear defect was able to hear everything, due to the second part of the article 18 of Georgian Criminal Code (Both Tympanic membranes of the ear were damaged) and breached the requirements of the European Human Rights Protection and the article 6 of Fundamental Freedom convention about unjustness of the court as it has not examined the facts thoroughly and objectively.

As investigation department as well as the first instance court were found partial towards the plaintiff side, while estimating the search of K. Kantaria's cellar, which burdened greatly the verdict and resolution of the criminal case against him.

The requirements of the second part of the article 18 of Georgian Criminal Law Code and sixth article of Human Rights and Fundamental Freedom Convention were breached that required to conduct thorough and objective investigation of the case. The Judge expelled him from the court hall with this action he has taken the right of VS. Talakhadze to say his last words and give the oral testimony (to protect himself).

The court breached the requirement of the third paragraph of the Article 42 of Georgian Constitution which required giving the right of self defence to the defendant.

The paragraph "G" of the third part of the sixth article of European convention of Protecting the Human Rights and Fundamental Freedom about defendant's right of self defence.

**Detention Settings of Georgia – Institutions Where Inmates Get Better or Pass Away**

Several commissions and department were set up at the Ministry of Penitentiary, Probation and Legal Aid to assist prisoners; however, their rights are still breached. It is fact that methods of medical treatment of sick prisoners to avoid various infections are ineffective. The working plan of the Ministry is inadequate. Non-hygiene conditions in the cells, poor nutrition and incorrect medical treatment result into various infections like tuberculosis, HIV/AIDs, C hepatitis, etc. Many prisoners and family members of the inmates applied to the Human Rights Center for help.

Convicted **Gia Saginadze** serves his term in Gldani Prison in Tbilisi. His family members claim Saginadze has health problems. His family does not live in Tbilisi and learn about his health problems from Valeri Dzagnidze who is their relative.

“Nobody tells me how he is treated, though I know his health is getting worse day by day,” said Valeri Dzagnidze. “I know he is given painkillers but it is not treatment for his diseases.”

Gia Saginadze was arrested on December 25, 2007 and was sent to prison for 9 years and 9 months. On January 30, 2008 regional expertise of Adjara Autonomous Republic concluded that Saginadze has chronic C Hepatitis, HIV/Aids, devolution syndrome. His health is extremely poor.

On February 29, 2008 lawyer Nemsitsveradze submitted motion to the Kutaisi Appeal Court and requested his release because of health conditions. The motion was not satisfied because the expertise conclusion did not state the convicted could not serve his term because of poor health.

Attorney of Saginadze- Guram Sharia stated that according to the article 13 of the resolution N 72/n issued in 2003 by the Ministry of Healthcare convicted is released from imprisonment if s/he is ill with

1. Infections or parasitic illnesses resulted from HIV/AIDs such as C3 category, terminal stage.

2. Cancer, C3 category, terminal stage resulted from the HIV/Aids.

3. Illness resulted from the HIV/Aids like Dementia, devolution syndrome, C3 Category, terminal stage.

Gia Saginadze had his health conditions worsened during the imprisonment. After he was taken to Gldani Prison from Ksani Jail Saginadze got sick with contusion. It was necessary to place him in jail hospital and he serves his term in the hospital now.

According to the attorney the health conditions of the convicted is aggravated by the fact that blood circulation in the brain is violated and the prisoner could not attend the trial at the Appeal Court because of his poor health.

Representative of the Penitentiary Department Mikheil Dzagirashvili said that Saginadze was seriously ill before imprisonment too; though it did not hinder him from committing crime and it should not prevent him from serving the term either. The above-listed illnesses are not enough ground to release the convicted and consequently the appeals will not be satisfied either.

Case of convicted Kharashvili also attracted the attention of the Human Rights Center among submitted complaints about detention settings.

**Robert Kharashvili** has cancer on his throat; after the operation a pipe was inserted in his throat. Medical examination showed that his health was burdened by the following illnesses: C Hepatitis, tuberculosis and HIV/AIDs. After the operation he was sent back to Gldani jail hospital. Kharashvili's lawyer said the prison administration decided to return the convicted

back to the jail hospital because it was difficult to find personal bailiff for him and he did not need medical treatment in the ordinary hospital any longer. Prison doctors confirm that Kharaishvili's health is really very poor. Besides that, the prisoner is discontent with medical treatment because doctors change his bandages late; pus is coming from his wounds and he suffers from pains. Although painkillers were injected into him, injection place got swollen and nobody treats him. Doctors deny the accusations of Kharaishvili and say they do their utmost to help the convicted. "The state does not allow us to postpone the sentence of the prisoners. It is necessary to provide complex expertise conclusion but it is expensive (it costs 700 GEL approx. 350 Euro); the family of the prisoner cannot afford the sum and the government is not obliged to fund the expertise either. Kharaishvili has already served 2/3 of his sentence and he can be released in accordance to the law," said the attorney.

"My mother has not seen my brother for 20 years," said the brother of the convicted, "after detention in Russia he was deported to Georgia for trial. Everybody knows that he will not survive in such conditions."

Today, tuberculosis and pneumonia are the most common diseases in the detention settings of Georgia and they become the reason for the mortality among prisoners.

According to the statistics, 39 out of 101 inmates die; the mortality is highest among prisoners with the age from 21 to 31. "Infections spread because of poor hygiene in the cells and poor nutrition," said medical expert Levan Labauri.

"My son is 20 years old; he is in Kutaisi Prison N 2 in pretrial detention; only one month has passed and today I was supposed to meet him for the first time; I wanted to give him parcel too. My son was so weak that two bailiffs brought him to the meeting room. He said the prison doctor examined him and said he has pneumonia. I did not have money to buy medicines for him at the place and besides that I did not know what to buy. The doctor was not in prison but there was a doctor among visitors and he suggested me the medicines for my son."

"The prison administration returned the medicines in ampoules because it was forbidden. I do not know how my son feels now. I can meet him only once a month though I know he received medicines," said mother of one of the prisoners who preferred to keep her name anonymous.

The Human Rights Center already wrote about **Paata Khokhashvili**, head of Gori Tank Battalion who was arrested for participation in the mutiny on the Mukhrovani Military Base on May 5, 2009. Paata Khokhashvili was wounded last year during the Georgian-Russian war as a result of shell-

explosion. He had his head and backbone seriously injured. Tsira Javakhishvili, attorney of Khokhashvili, said that health conditions of Khokhashvili worsened in prison. He has injured third and fifth bone of spine and it might cause his disability. Physic-therapy is necessary for the prisoner and similar procedures cannot be carried out in the detention setting. "We could not even send painkillers to him. Now we have learned that prison doctor prescribed two painkillers a day for Khokhashvili. His health conditions got worse day by day. He has lost 30 kilos in prison. We could not even get hold of the list of painkillers he is taking. During the last meeting he had signs of hepatitis too," said Javakhishvili

We applied to the Ministry of Penitentiary, Probation and Legal Aid to speak about the above-listed problems. Representatives of the health department of the Ministry said illnesses like tuberculosis shall be cured within the national program. The sick inmates are placed in separate cells and if their health conditions get worse they are sent to Ksani jail hospital. "One month ago the cases were sent to the health department; before that medical center of the penitentiary department and Insurance Company "Aldagi" were in charge of this problem. The recently established department is not fully designed yet and we work on the reform policy; so we cannot assist the prisoners yet. We receive complaints but since there is no corresponding legal document we cannot assist them. Within a month we will have more rapid and adequate system of reaction on these problems. We will start our work at full speed from January, 2010. Before that we will finish our work on t conception," said Nino Museridze, head of the health department of the Ministry.



# Prisoners Die in Custodies Because of Inactivity of Penitentiary Department

The Human Rights Center is concerned about the situation in the detention settings of Georgia. Recently, sick inmates have faced serious problems. The Human Rights Center has studied several cases and you can see them on the following links:

<http://humanrights.ge/index.php?a=article&id=4230&lang=en>

<http://humanrights.ge/index.php?a=article&id=4204&lang=en>

The Human Rights Center calls upon media and non-governmental organizations to be more concerned about the problem.

According to the Center, inmates die in the custodies because of inactivity of the penitentiary department. Although Georgian legislation allows sick prisoner to leave the custody early, even mortal prisoners cannot leave the detention setting.

Convicted people with acute forms of tuberculosis and heart diseases face most serious problems in the prisons because of inactivity of the penitentiary department.

Another problem is that neither penitentiary department nor ministry of penitentiary, probation and legal aid have published statistic of mortality among prisoners on their websites.

Former Public Defender of Georgia Sozar Subari confirmed that the problem is extremely urgent. He stated that medical assistance in the prison does not work at all or is not available for every prisoner. If medical assistance is available in the custody it is very poor and of low level.

Journalists and lawyers for the Human Rights Center studied several cases of similar facts at the detention settings and they could be good examples of the overall situation in the Georgian penitentiary system. More precisely, Tamar Batiashvili, resident of Dedoplistskaro district has been unsuccessfully urging to postpone imprisonment of her son who has been serving his sentence for 7 months already.

Robert Kharaishvili has cancer on the throat. After operation a pipe was installed in his throat and pus is draining from it. His health conditions are getting worse day by day. The examination showed that he has C hepatitis, tuberculosis and other diseases too.

Besides that, the prisoner is discontent about medical treatment at the

prison. Doctors change his bandages late and he suffers from pains. Although painkillers were injected, now injection places got swollen and doctors do not give iodine liquid to treat the swollen places. The doctors deny the complaints of Kharaisvili and say they do their utmost to help the sick prisoner. “The state does not allow us to postpone the imprisonment. It is necessary to provide the conclusion of complex expertise though it is expensive and the family cannot afford it (it costs 700 GEL). Kharaisvili has served 2/3 of his imprisonment and he can be released from prison according to the Georgian law,” said the attorney of Kharaisvili. The attorney has petitioned to the Ministry of Penitentiary, Probation and Legal Aid and requested to postpone the sentence of Kharaisvili but the Ministry has not replied yet.

# Court Dismissed the Only Witness from the Court Room

Kutaisi City Court discussed the case on the car-accident which resulted into the death of journalists. The trial was followed with protest demonstration. The victim party – parents of the journalists, blame the court for partiality and urge the local government for help.

**On July 26, 4 journalists of the Kutaisi based TV Company “Rioni” died during the car-accident in Kutaisi. Car in which the journalists Nino Gigashvili, Joni Kublashvili, Giorgi Mgaloblishvili and Dato Avaliani were driving was crashed by BMW. Police detained the driver of the BMW Revaz Tkeshelashvili several hours later. He had disappeared from the scene of accident. The victim side states the policemen protect the accused and try not to punish him in accordance to the law.**

“The trial was not serious. The judge tried to protect Tkeshelashvili. We request nothing special. Our children died and we want fair trial,” said father of Giorgi Mgaloblishvili Nugzar Mgaloblishvili.

The accident happened at night in the central street of the city. The only witness of the accident was journalist Roena Kakhidze. The judge dismissed her from the courtroom and it tensed the situation at the trial.

“Tkeshelashvili shall be punished. On that night he left me alone with the dead people. Two of them were still alive. They died later in the hospital. If medical assistance was provided on time, they could have survived. I urged him not to leave me but he did not listen to me. Today when I said at the trial the judge kicked me out. I am the only witness of the accident though they do not care about it,” said Roena Kakhidze.

The family members of the journalists state Tkeshelashvili bargained with them several times; he even offered them some money in exchange of keeping silence.

“It is result of wrong investigation. How could the murderer of four people dare to start bargain with us and offer money? How could we accept his offers? I lived for my son and he died. Law enforcement officers cannot punish the offender. The trial was postponed several times for uncertain reasons. The same happened today. How long can it last? This person killed 4 people. Is it so difficult to understand it?” said mother of Joni Kublashvil Nugesha Kublashvili.

Local journalist joined the protest demonstration in front of the Kutaisi City Hall. They demand an objective court. Otherwise, they do not exclude the possibility that the demonstration will get more intensive.

# **“Mr. President, Why Did Your Security Guard Kill My Son?”**

The bloody accident that happened in Moscow Avenue in Tbilisi 18 months ago is very similar to the accident that happened in Sharden-Bar three years ago which ended with the murder of 28-year-old Sandro Girgvliani. High-ranking officials of the MIA and wife of the Minister of Internal Affairs participated in the accident three years ago. But on June 11, 2008 30-year-old Vasil Amonishvili was killed by the brothers Berdzenishvili as his mother claims. This murder in Moscow Avenue has not been publicly discussed. One of the brothers was President Mikheil Saakashvili’s security guard and second brother is policeman from Isani-Samgori police department.

“We are 100% sure in it and before we are alive we will not keep silence,” said mother of Vasil Amonishvili Gulnaz Amonishvili and aunt of the killed young man Gulsunda Mikadze. We interviewed them in the office of the community based organization “Protect the Life” on October 3.

The article was prepared based on the stories told by the mother and aunt of Vasil Amonishvili and judicial documents available to them. Among those documents is the conclusion N 885/33 of the expertise of the body carried out by the National Bureau of Levan Samkharauli Forensic Expertise. The expertise was carried out based on the appeal of Vakhtang Chopliani; the expertise started on June 17, 2008 and finished on August 29, 2008.

The investigator had four questions to the expertise: 1. the reason and date of the death; 2. to estimate the quality and age of the injuries on the body; and the connection of the injuries with the death; 3. whether Amonishvili was drunk; and 4. Blood group of the killed person.

According to the expertise Vasil Amonishvili was not drunk; as for injuries, there were bruises, hemorrhages and cuts on his body that were minor injuries and could not cause death. The body was examined inside too and the conclusion stated: “subdural and sub-non-arachnoid hematomas were found on his forehead and head. Small hematomas were in his brain too. Those injuries were made when he was alive by thick, blunt thing and they were dangerous for life which later resulted into his death.”

According to Gulnaz Amonishvili, the “thick, blunt thing” mentioned in the conclusion was knuckle-duster which was hit by the member of Saakashvili’s guard in Moscow Avenue in the yard of residential building N 41.

“Backbone of my son was injured after hitting. The doctor of the intensive therapy told us “it was done by professional because he hit in the right place to kill him”.

Next day, on June 12, 2008 preliminary investigation started at Isani-Samgori police department on premeditated injury of Vasil Amonishvili (Article 117, Paragraph I of the Criminal Code of Georgia). The investigation is still underway and it is monitored by the Tbilisi Prosecutor’s Office.

**“People from the same party were also interrogated but the investigation tries to hush up the participation of the brothers Berdzenishvilis in the accident,” said Gulnaz Amonishvili who added that she is recognized to be an assignee of the the victim. She was informed about this verbally, although she does not hold any corresponding document.**

Incident started as follows. Vasil Amonishvili, together with his fiancée, was at birthday-party of his colleague Davit Dograshvili on June 11, 2008 (Moscow Avenue N 41). 20 more people were at the party. Vasil Amonishvili worked as a security guard of the Public Registration Agency; his fiancée worked at the PRA too. “You are the guy, who did not allow me into the PRA the other day, aren’t you?” asked one of the guests to Vasil Amonishvili. Gulnaz Amonishvili learned about this dialogue after her son was already killed.

The mother recalled: “In February of 2008 my son returned home very worried. I asked him what had happened and he said “a member of Saakashvili’s guard had come to the agency and wanted to enter without his turn; since old people and people with children were standing in the queue I did not allow him to go. I said it made no difference whether he had “permit” or not. And he got angry with me” After my son died, I demanded the Public Registration Agency to show the recording of the video-camera which is usually kept for 6 months but they did not show it to me.

“If I had managed to get hold of that recording, I could have proved my truth easily but nobody showed the recording to me. I was feeling very bad and hopeless. When I was going to hire an attorney, the investigator told me “why do you need the attorney? We will protect you better than any lawyer.” Initially I believed him; my husband was a veteran of the war and armed forces; he died in 2004. Before that he had worked 35 years in law enforcement bodies and I could not imagine that the offender would not be punished.”

Mother and aunt of Amonishvili clarified that Tamada (toast-maker) of the party in Dograshvilis’ family said in his testimony to the investigation that Vasili apologized to the person who rebuked him for the incident in February; then Vasil requested permission to make one toast to party mem-

bers and then left the family together with his fiancée having apologized everybody for early leaving.

“Tamada gave the only right testimony to the investigation. The rest of the guests were law enforcement officers or sons of the officers. During the interrogation all of them were coming to the police station together with attorneys and made statements in their presence. Everybody tried to make equal testimonies and at that time I was sitting at home since I was told I did not need any lawyer.”

“Megi and Vasiko left the family and got into Megi’s car; the brothers Berdzenishvilis followed them cursing and arguing. The guard of Saakashvili was holding a cigarette in his hand and was trying to put it out on Vasiko’s face but Megi managed to pull up the window of the car and started the engine. Megi said despite such degrading behavior of the man Vasiko endured the insulting and left the area. He left Megi at home and returned back together with his two friends,” said mother of the killed young man. Vasil Amonishvili calmed his fiancée down: “Don’t worry I will meet him together with my friends and we will find out what he wants from me.” He asked his two friends (world champions in different sports whose names are kept anonymous as it was requested by the mother) to follow him to Moscow Avenue. “I will ask my colleague Dato to come and explain to me what that man wanted from me. I did not want to speak with him in Megi’s presence.”

When they came, David Dograshvili was standing in the next entrance with two boys. Only Vasiko got out of the car “bring that boy here and let us find out what he wanted”, said to Dograshvili, who tried to calm down Vasiko. The brothers were looking from the window and they rushed out into the yard; other guests also followed them.

“The pregnant wife of Saakashvili’s Security guard was there too; she begged Vasiko’s friends “Please, take your friend away from here”. Her husband had pathologic intoxication (He has mental problems even when he is sober and all his neighbors knew it); so the wife of Berdzenishvili was asking them to take Vasiko away.

“One of the Berdzenishvilis hit Vasiko with something and unconscious Amonishvili fell down, the mother and sister of Dato Dograshvili bent over him and begged to stop, but they did not stop: they removed those two women from him and continued to beat my half-dead son. Residents of that building were watching the accident; the neighbors and other guests were also beating Vasiko.

“That yard in Moscow Avenue is known with terrible incidents. One more boy was killed in that yard 40 days after my son died. Vasiko lived

only 5 more days, but he was only breathing and died on June 17 in the Mikhailov Hospital without coming to conscious. Initially he was taken to the 5th Hospital in Moscow Avenue.”

2 Hours later after the accident Dograshvili rang from my son’s phone. “Vasiko drank 8 liters of wine, fell down and now he is in the hospital”. We had just arrived in hospital when two boys in military uniforms came and took the people (the guests of Dograshvilis) for interrogation, but as far as I know their first testimonies have disappeared. Later we hired an attorney, but they did not allow us to copy the case materials”, says the killed man’s mother.

**Gulsunda Mikadze, the aunt of Vasil Amonishvili says that 4 months later one of the Berdzenishvil, the member of Saakashvili’s Security guard, came to the Public Registration Agency. Megi recognized him and said “He is Vasiko’s murderer”. Berdzenishvili told her “If you do not stop blaming me, I will send you to Vasiko,” and left the agency immediately.**

“I feel degraded; that’s why I came here, to Vazagashvilis’ office; perhaps they will advise me what to do .The families like me - Gamtsemlidzes, Robakidzes, Sharadzes, Shavadzes are members of this organization and they request punishment of the murderers. If we fight together for the punishment of criminals we will defeat the criminals and we will prove our truth. Personally I am not going to stop, till I am alive. I petitioned to Saakashvili on February 2, and now I am asking with the support of media sources:

“Mr. President, why did your security guard kill my son? If the incident, which happened after the birthday party of Irina Batiashvili in Tskneti, was investigated in 3 months and Levan Gogichaishvili was sent to prison for 7 years for wounding a boy in that incident, why they are prolonging the investigation of the accident which happened in Moscow Avenue 18 months ago when my son was murdered?” asked the mother of Vasil Amonishvili who added that she does not hope criminal will be punished during current government.

Gulnaz Amonishvili complains about opposition parties and public defender’s office. She said she applied to the Ombudsman’s office few days after the murder. She also applied to the Republic Party, where Ucha Kiria listened to her story, expressed his condolence but refused to help her by apologizing.

The mother of the killed man says that he met Kakha Kukava leader of the Conservative Party, who promised to help her. “We will help you, because this case is worse than Girgvliani’s murder” and ordered lawyer Beso

Ghviniasvili to help this family, but in vain. The mother of the killed man visited the office of “National Forum” at Melikishvili Avenue hoping to meet Gubaz Sankidze, but he met 2 strange men; finally she handed her petition and left the office. She says her petition might not have reached Gubaz Sanikidze.

The only article about the bloody incident was published in the newspaper “Alia” on June 24-25, 2008 but according to the mother the truth was not cleared up. They were afraid and told the journalist that law enforcement officers participated in the murder of her son.

Presage will send the questions to the press service of the Chief Prosecutor’s office regarding the murder Vasil Amonishvili. We hope they will answer as timely as they did in regard with the case of Roin Shavadze’s murder (soldier from Adjara Autonomous Republic, who was tortured and then killed soon after the War in August, 2008). We also appealed to the information department of the public defender’s office and asked what they had estimated as a result of their investigation. Besides this, if people mentioned in the story of Vasil Amonashvili’s mother wish to share their opinion with us, we are ready to meet and listen to them.



# Almost Committed a Crime or Almost a Fair Trial

**The trial of Ivane Tamazashvili was not reported by the media and did not create public interest. His story did not astonish anybody because several hours in the cell at the police station, truncheons, beating, declaring his action to be a criminal offense, fine of 400 GEL have become the everyday routine of our life.**

## Ordinary Story

On June 15, 2009 law enforcement officers arrested Ivane Tamazashvili during the dispersal of the protest rally in front of the building of the Tbilisi Police Main Department. Tamazashvili was on his way back from a business meeting. In Korneli Chaladze Street he met some women with whom he was acquainted to. One of them, Tsismar Oniani, was a lawyer who was going to the police department to meet her detained client. Tamazashvili decided to see them to the police station. Tsismari Oniani was waiting for a permit. Tamazashvili was talking with another woman. The rally was going on in front of the department. Tamazashvili talked with the rally participants too because some of them were his friends. At that moment he saw masked policemen in black uniforms with truncheons running towards participants in the rally. The policemen laid siege to the demonstrators, journalists and passers-by and started to beat them. Tamazashvili saw how policemen beat demonstrators, women, journalists and people who fell down. He helped a girl to stand up and wanted to help journalists too but the policemen armed with a chair leg rushed to him and shouted at him: "Aren't you a friend of Melor Vachnadze?" (A young activist of the opposition parties). Tamazashvili asked the policeman why he was holding the leg of the chair and in reply the policeman hit him on the back. Three more policemen helped their colleague, beat Tamazashvili ruthlessly and dragged him into the police department. Tamazashvili fainted and when he recovered he saw 30 more demonstrators alongside him. The detainees were beaten again. Tamazashvili fainted again and recovered in a cell where he spent 8 hours. He and the other detainees were ordered to write a letter of explanation. Someone dictated what they were to write. The detainees wrote that they had not obeyed the order of the policemen. However, the letters of explanation did not say what the order was. Afterwards, Tamazashvili, who had been beaten, was taken to the court room. Nobody inquired about the

condition of his health conditions either before or after the trial. Tamazashvili was not informed of his rights or the reason for his detention either during his detention of in his cell.

## **Ordinary Trial**

The trial started late in the evening. The attorneys for Tamazashvili read the case 10 minutes before the trial started. The court gave them only ten minutes to study the case.

**The trial was short; the protocol was drawn up. The Judge of the Administrative Collegium of the Tbilisi City Court Miranda Eremidze found Ivane Tamazashvili guilty of the crime referenced in Article 173 of the Administrative Code of Georgia and fined him 400 GEL.**

According to the judgment, the court discussed the protocol and case materials about the offense and concluded that charge was established by the case materials and existing evidence.

The court really did discuss the protocol and did hear the explanations of the parties, but could not discuss case materials and evidence since there was nothing against Ivane Tamazashvili in the case materials. Consequently, evidence against the detainee could not have been provided at the trial. The author of the administrative protocol, Avtandil Poladashvili, inspector-investigator of the Division III of the Gldani-Nadzaladevi district police department, was seen by for the first time Tamazashvili at the trial. The detainee saw Poladashvili who wrote the administrative protocol neither during detention nor at the police station. The lawyer Tsismar Oniani, the only witness to the fact, confirmed that she had not seen Poladashvili in front of the police station during Tamazashvili's detention. That means, the protocol was written by a person who had not witnessed the crime and had not interrogated the detainee either.

There is list of evidence in Article 236 of the Administrative Code of Georgia which are necessary to find a person guilty. They are: witness testimony, photo or video-recording of the crime, other materials that describe the crime. None of the listed evidence is mentioned in the case materials. There is no witness who can confirm that Ivane Tamazashvili had blocked the driving lane of the street and he had not disobeyed the policemen. However, the video-camera installed at the entrance to the police station could have recorded the detention and the incident between Tamazashvili and the policemen. This recording could expose the guilt of Tamazashvili but despite the request of the defense the recording was not introduced in the court.

**The judgment relied only on one circumstance – the protocol of inspector-investigator Avtandil Poladashvili which stated that Ivane**

**Tamazashvili had almost “committed the crime.” The attorney for Ivane Tamazashvili, Kakha Kojoridze, requested the secretary of the trial to record the accusation against Ivane Tamazashvili correctly and exactly; however the judge strictly replied to him: “The trial protocol will be drawn up according to the law. The statement of Poladashvili will be recorded in it and additional indications and suggestions are not necessary.” However, after the protocol was requested the defense found out that the accusation was not recorded in it. Tamazashvili’s attorney requested to correct the protocol. Although it was corrected the exact accusation – almost committed the crime – again was not recorded. Instead they wrote a less absurd accusation: “Ivane Tamazashvili had nearly blocked the driving lane.” Generally, the protocol of the trial is an important example of how the court neglects its functions and goals.**

The author of the administrative protocol reported to the court that Ivane Tamazashvili resisted the policemen in Korneli Chaladze Street on June 15 2009 and did not free the driving lane as demanded by the law enforcement officers. The judge asked to clarify the demand of the policemen and inquired whether Tamazashvili had blocked the driving lane. The inspector-investigator replied that the policemen had demanded the detainee to free the driving lane that was nearly blocked by Tamazashvili together with other people (this phrase was written in the protocol after the attorney requested it). The judge did not ask Poladashvili what “the nearly blocked driving lane” meant, when policemen demanded Tamazashvili to obey their orders—whether he was in the driving lane and whether he had blocked the road with any technical or mechanic materials. The judge did not request Poladashvili to provide any evidence to prove that Tamazashvili had blocked the road.

At the trial Tamazashvili stated that he had not blocked the road because he was not standing in the driving lane. He was standing at the entrance to the police station that was a place where citizens have the right to move. He was arrested in that place. Tamazashvili stated that he had not resisted the policemen because they had not ordered anything.

**The only witness to the incident, lawyer Tsismar Oniani, confirmed the testimony of Tamazashvili. “Tamazashvili did not resist the police; nobody had ordered him to do anything. Tamazashvili did not commit the crime; he tried to help the women during the incident and requested the policemen not to beat journalists.” Tsismar Oniani tried to explain to the policemen that Tamazashvili was with her and asked them not to beat him. Policemen beat Tamazashvili so ruthlessly that Oniani did not expect to see him alive. Tamazashvili could not stand up and the policemen dragged him into the police station.**

Judge Miranda Eremidze did not ask any questions to Ivane Tamazashvili or to the only witness during the trial. When passing the judgment she did not consider the testimonies of Tamazashvili and his witness, and the video-recording provided by the defense. The video-recording demonstrated how the policemen beat rally participants without warning them about anything.

Ivane Tamazashvili is a veteran of the war in Abkhazia. He joined the Georgian army in Abkhazia at the age of 16 before had finished school. His parents looked for their underage son two times and made him return home both times. Anyway he went to the front. Finally, they understood that it was impossible to convince their son to stay at home and did not resist him. Ivane Tamazashvili returned to Tbilisi after Sukhumi was occupied. Then he finished school and an institute too. He is chemist by profession.

### **On duty crime**

**Under Article 173 of the Administrative Code of Georgia Ivane Tamazashvili was found guilty of resisting or neglecting an order of the law enforcement officers. According to the article, in order to charge a person with the crime, two factual circumstances must exist: existence of a legal order of law enforcement officers and disobedience to the order. The court had to find the existence of these two circumstances. The legality of the policemen's order could not have been found because the Law of Georgia on Assembly and Demonstrating entitles citizens to come together in the street even in front of the police station. Law enforcement officers have no right to prevent demonstrators from enjoying their right. Furthermore they cannot order to disperse the rally. As for "neglect of the order", the judgment passed by Miranda Eremidze did not mention that fact that Tamazashvili had neglected or ignored the order of the policemen. According to Article 173 of the Administrative Code of Georgia only "neglect of the order" is an offense and not general disobedience to the policemen. It is completely obscure how the court found Tamazashvili guilty under Article 173 of the Administrative Code and how Tamazashvili could disobey the order of the policemen while they had not ordered anything.**

We tried to get in touch with Judge Miranda Eremidze to ask some questions of her. We wanted to ask her why she neglected the violation of Article 18 of the Constitution of Georgia and Article 5 of the European Human Rights Convention by the law enforcement officers. According to those articles the detainee was to be informed of his rights, the basis of his detention and the charge against him. Why was Ivane Tamazashvili placed

in detention for 8 hours while Article 247 Paragraph I of the Administrative Code of Georgia states that a person cannot be detained more than 3 hours? Who and how can an offender be punished for violation of the law and whether the policemen should be punished for violation of the law? It is obvious that Miranda Eremidze did not want to meet us.

The law of Georgia entitles the judge to decide which and how many proofs are necessary to pass judgment on the accused. Thus, the law trusts in the honesty and competence of the judge. Tamazashvili's case is one of those which cast doubt on the reliability of such trust.

# Neither House, Nor Compensation...

Family of Zurab Maisuradze from the village of Meghvrekisi in Gori district fled from the village on August 11, 2008 during the armed conflict. Now, he cannot flee from the kindergarten because the government is not going to reconstruct his house or give compensation. The family with four children cannot live in the house because it was seriously damaged.

After the war, the Maisuradzes were sheltered in Kakheti region. After the Human Rights Centre and journalists for the Public Broadcasting Company got interested in their problem, the family was moved to Gori district in kindergarten N 8; the PBC prepared a TV-item on this fact. Officials said the family will stay in the kindergarten for a short time. They were promised to be compensated soon in order to buy a new house.

**The Maisuradzes were settled in Gori when other IDPs had already left part of kindergartens and had returned to their homes.**

The head of the nursery school said living conditions in their school were satisfactory for every IDP and the Maisuradzes will also feel well there. However, “temporary” residence for the family did not end and they still live in the kindergarten N 8.

Zurab Maisuradze refused to live in the kindergarten from the very beginning though it was not shown on TV; the family requested to send them back to Kakheti.

“I am visiting the district administration everyday for more than one year; I request them to give compensation to me or reconstruct my house. However, I cannot achieve anything. We fled from Meghvrekisi during the war; the Tbilisi City Hall took my family to Kakheti; then I joined them and lived there before December 2. When I asked for attention, I was brought to the kindergarten in Gori. I immediately told them I preferred to live in Kakheti but they said I was already on the list and would get compensation soon. They said the commission had examined my house and made conclusion too that it was impossible to reconstruct it,” said Zurab Maisuradze.

Gori district administration concluded that the house of Maisuradze could not be reconstructed and decided to give compensation to the family. However, they have not received anything yet. Moreover, the Maisuradzes are told now that their house was not destroyed during the war and it pulled down because it was old.

“Davit Khmiadashvili told me he was sorry for us and promised to build

a new cottage because we did not deserve the compensation. Those new cottages are pulling down already. If I do not deserve anything why should they build a cottage for me? Previously they told me the lists were sent to the ministry and compensation would be issued on me. Apparently, the sum was wasted. Those cottages were constructed in our village by Danish Refugee Council. I mean the cottages built on 24 sq. meters. We are 6 members in the family and I do not want their cottage. Let them give me money and I will take care of my family,” said Maisuradze.

Davit Khmiadashvili, Gori district governor, issued the notification on November 19, 2008 which proves that the house was damaged during the war. “It is to notify that the house of Zura Maisuradze, resident of the village of Meghvrekisi in Gori district, was damaged during the armed conflict and it is impossible to live in it. The notification can be provided to any institution concerned.

Sincerely, Davit Khmiadashvili.”

It is evident the notification was not written for the Gori district administration. The administration is the institution which creates the lists of victimized people and sends them to the government of Georgia in order to get compensations for those families.

Davit Khmiadashvili sent letter to Maisuradze on August 18, 2009 and informed that his petition was studied by the agency for the development of economics and infrastructure; they concluded that the house was not damaged during the war and it pulled down because old age.

“The five-storied house was destroyed next to my house as a result of bombardment. That building was 40 meters away from my house and it was ruined to the earth. It damaged my house as well; the roof fell down, the walls fell apart. In a year every wall will pull down. The house is so damaged that it is raining inside like outside. Nobody built cottage for me; the Danish Refugee Council built small cottages in the yards,” said Zurab Maisuradze.

“That house was not damaged during the war. I visited the village together with builders twice. The house has mosaic stairs and they were destroyed because of old age. We requested the Danish Refugee Council to build two cottages for them; when they asked us which family needed help we suggested the Maisuradzes because they have many children and one child is disabled. The house was destroyed because it was old and the budget cannot assist such families,” said Givi Khuroshvili, head of the Gori district agency for the development of economics and infrastructure.

The elder child of the Maisuradzes is disabled person. Two months ago he was granted with allowance. Zurab Maisuradze complains that the med-

icine that is necessary for his child for 10 days costs 45 GEL while the allowance is only 65 GEL.

“I am working as a worker in the village; I am not sitting at home. We have no income from the gardens. The elder child is disabled and gets allowance of 65 GEL. We pay 45 GEL for his medicine. How can I keep the other three children? Now they told us we will not receive any aid in the kindergartens. However, we were not much aided in the past. Last month they brought beans and macaroni only; since then nothing was brought. They are not going to bring fire-wood and I cannot imagine how we will live here in winter. Only two families remained in this building. They want to open the kindergarten and are going to evict us; though nobody tells us where we will be lodged in,” said Zurab Maisuradze.

Zurab Maisuradze has already petitioned to the president, prime minister, ministry of refugees and local authority. The Ministry of Refugees and Accommodation replied to him that 1 300 families victimized during the Russian aggression were already compensated and according to the resolution of the government of Georgia dated by July 24 2009, local administrations shall provide the ministry with the lists of people who shall be compensated in future.

Despite the 12 million GEL of budget funding many damaged houses in Gori district were not reconstructed yet; people cannot reconstruct them without help.



# The State Assists Only Those IDPs Who Live in Cottages in New Settlements

So-called new IDPs (people who were displaced during the Georgia-Russia war in August of 2008) received the IDP status several months ago though not all of them did. The status was granted only to those IDPs who live in the cottages in the new settlements.

As for those without cottages they have no status yet: these people still live in kindergartens and need the status more than others.

Manana Champuridze, head of the Shida Kartli and Samtskhe-Javakheti regional department of the Ministry of Refugees and Accommodation, the people sheltering in the kindergartens will receive the status after they move to cottages. Before that, 413 IDP families still live without the allowance for IDPs.

**“The victimized people living in kindergartens have to move from one to another place continuously and it is impossible to estimate their permanent addresses. Thus, we cannot grant the status to them yet as well as the allowance,”** said Manana Champuridze. **The IDPs living in the cottages get social allowance instead of the allowance for IDPs (that is 28 GEL approx. 14 Euro). With the initiative of the government every IDP was included in the data base of the socially impoverished people automatically and now they receive social allowances.**

According to the social program the first applicant of the IDP family will receive 30 GEL (approx. 15 Euro) and other members will get 24 GEL (approx. 12 Euro). However, those who received the allowance before the war do not get IDP allowance now. 90 percent of the IDPs living in the new settlements get social allowance and not IDP allowances.

“The IDPs were distributed agreement forms where they had to agree that they wanted to receive social allowance instead IDP allowance. Those who refused now get 28 GEL IDP allowance,” said Manana Champuridze.

“We have not received IDP allowance of 28 GEL yet; only old IDPs get it. We receive social allowances,” said Zurab Okropiridze from the settlement in Berbuki village.

The IDPs living in the settlements have right to choose the allowance.

The victimized people living in kindergartens have difficult situation.



They cannot get any allowance from the state because they do not have a status.

“I cannot say whether the people living in kindergartens get allowances but the only thing I know is that they cannot get IDP allowances because they do not hold the status before they are lodged in new cottages. Those people can apply to the social agencies and request examination of their living conditions. The agent will visit their family and after that they can get the allowance. The Poverty Reduction State Program does not assist them,” said Manana Champuridze.

# The Minister Threatened IDPs with Physical Assault in His Office

## **Color TV-Set and Black-and-White Reality**

**IDPs have problems almost everywhere and they are constantly “assisted” however this assistance is ineffective because they permanently have problems everywhere. Very often the assistance is not only ineffective but also imaginary and IDPs claim that it is part of PR campaign largely shown on TV. It is not doubtful that internally displaced people feel very insulted by similar treatment. Several IDPs visited the Human Right Center last week. They complained about their living conditions and consequently, we visited the IDPs residing in the former building of Military Headquarters of the South Caucasus. \***

Bread, macaroni, beans, 600 grams of sugar and 150 grams of salt is the monthly ration of each IDP. We asked the woman in black whether the food was enough for her and she smiled in reply: “600 gram sugar a month means that I should not use more than 50 grams sugar a day. It is not enough but they do not give us more.”

Apart food the IDPs complain about other problems. They are waiting for allowance the government has promised to them and governmental officials speak about it every day on TV. The reality outside the TV-set is black-and-white like a soviet TV-set.

IDPs sheltering at the former building of the military HQ submitted the appeal to the Ministry of Refugees and Accommodation. They requested improved living conditions. More precisely, they requested to repair sewerage-system in the building; to provide them with beds, linen and hygiene items (soup, washing powder, etc). The IDPs are waiting for the reply on their latter for more than one month.

“They tell us to come on Monday but on Monday they tell us to come at the end of the week and then on Monday again. We request what was apportioned for us; beds were to be distributed among the IDPs residing in this building; Elena Rukhaia (administrator of collective center) informed us about it. The car loaded with beds really stopped in front of the building 4 months ago and we saw that the driver opened the door to the truck but soon the door was closed and the car drove away with our beds.



Since then, we are requesting the beds but nobody replies to us,” said IDP Merab Kasradze. His children sleep on the bed he has made for them. Merab Kasradze made the bed out of broken wardrobe and old door and it is very inconvenient.

After we saw his room, Merab Kasradze led us to the “toilet area” through dark, half-destroyed corridor. Evidently, it is raining as hard in the building as outside. There are toilets in one part of the corridor and it is impossible to enter there because of broken toilet-pots and sinks. There is terrible smell there. Maybe it is better that there is no light in this part of the building. At the end of the corridor we saw bathrooms which are used by the IDPs. The bathrooms are a bit cleaner than toilets but damaged walls show that rain also leaks into this part of the building. The taps are installed in the bathrooms. The IDPs said that the taps were installed 4 months ago and the officials promised them to install water-heating systems too. “They really brought water-heating equipments and placed them in the basement for some days. Then they came and took them away. Now we are without hot water,” said Merab Kasradze.

IDPs living in the building of the former military HQ suppose that the building is sold out and the government make them live in such unbearable conditions on purpose in order to have them leave the place. “They want to make us accept their offers because of such conditions. What can be worse than this; the rain is leaking in our rooms; we do not have proper toilet; you also saw where our children sleep... So, we agreed the government to leave

this building and they offered 10 000 USD to pay to each family,” said Nodar Jokhadze. “Initially, we requested 15 000 USD because it is impossible to buy a flat and household items for 10 000 USD. We know it but we have no other choice and accepted the offered sum. Now, they say the state cannot pay the promised 10 000 USD either. The Minister of Refugees and Accommodation did not welcome the IDPs who arrived at the Ministry to find out the situation. IDP Tamaz Gujejiani said that the Minister was talking with them in a manner of criminal and threatened one of IDPs with physical assault unless he stopped complaining.

About 300 IDPs live in former building of Military HQ. More attention was paid to them before January 2009 and IDPs received more allowances, were provided with medical assistance and received medicines. “In Spring our allowances melted together with snow,” said IDPs ironically. The Human Rights Center applied to the Minister of Refugees and Accommodation to check the information. We wanted to find out what the officials at the Ministry thought about the problems of IDPs; however, the officials did not wish to speak about the beds and water-heating system.

IDPs from villages adjacent to Tskhinvali were settled in the building of Military HQ after war in August, 2008. As a reminder, right after war in Georgia 4.5 billion US Dollars were granted for humanitarian purposes, first of all for refugees. As we see, the aid did not get to them and, probably was not intended for them.

# **“If You Do Not Leave the Area We Will Drag You Out With the Support of Special Unit”**

**IDPs from Abkhazia are being evicted from the building where they have lived for 16 years. Despite their protest, Koba Subeliani, Minister of Refugees and Accommodation, stated that resettlement of the IDPs aims to create better living conditions for them; 138 million GEL is envisaged for the purpose in the budget of 2009. The Minister claims the decision will not be changed and resettlement of IDPs will finish in 2009-2010.**

According to the legislation, Chamber of Control should not have any connection with internally displaced people but IDPs from Abkhazia claim that Levan Bezhashvili, chairperson of the Chamber of Control and Giorgi Botkoveli, head of administration at the Chamber of Control, are organizing the eviction process in Kakheti.

IDPs from Abkhazia, living in Telavi, Lagodekhi and Gurjaani district, were warned to leave their accommodations in a week.

**Eliso Chedia**, an IDP from Abkhazia: “We were brought to Gurjaani in 1992 and give shelters in the building of former sanatorium in resort-house “Akhtala”. We have been living in terrible conditions for 16 years and nobody ever paid attention to us. We get only an IDP allowance that is 22 GEL a month. This sum is so little that we cannot afford anything with it. Some of us are trading in Gurjaani open market; others are doing physical job to earn living. Despite poor living conditions we have got used to living here. However, short time ago we were told to move to the building of former Vocational College in the village of Bakurtsikhe which is being reconstructed for our removal. We declined the offer. Levan Bezhashvili, chairman of the Chamber of Control and Giorgi Botkoveli, head of the administration of the chamber of control, are monitoring our resettlement. We explained to them several times that we could not move to Bakurtsikhe because there we would lose the minimal source of our income from trading or other physical work we do in Gurjaani. We will not have enough money to travel to Gurjaani from Bakurtsikhe to continue our occupations here.”

**Amiran Japaridze**, an IDP from Abkhazia: Levan Bezhashvili visited us two months ago for the first time. He suggested us to move without any

resistance. We refused to move to Bakurtsikhe before the authority started reconstruction of the building but nobody listened to us. We asked Bezhashvili to give alternative accommodation in Gurjaani if it was so necessary us to leave current accommodation. We suggested them concrete building that is completely abandoned. Then we offered them to give the money they had to spend on the reconstruction of the building in Bakurtsikhe to us and we would buy flats in Gurjaani. However, they did not agree. I am a teacher and my monthly salary is 100 GEL. How could I travel from Bakurtsikhe to Gurjaani everyday with that salary? Several days ago we met Kakheti regional governor, but in vain. He said we should leave the territory of the resort house. We do not know whom to apply to for help.

-Mr. Amiran, we were informed that most IDPs from Abkhazia residing in the territory of the resort house have their own flats in Gurjaani.

-Not most of us but only two or three families have flats in the town. But what should those do who do not have flats? The resort-house is a state property and they said we cannot stay here. They claim part of buildings are already sold to private persons but they lie. They sold these buildings while we were living in it; though nobody told us about it.”

**Tina Gasviani**, an IDP from Abkhazia: “How many times should they evict us? Are not we humans? We did not demand much compensations; just enough money to buy one-room flats in Gurjaani. Don’t they spend on the reconstruction in Bakurtsikhe more than we requested for the purchase? They are reconstructing the building so rapidly that quality of the work is not considered at all. Everything will destroy in two months.

We will not move there. We are going to organize protest demonstrations to attract attention to us. We will walk to Tbilisi and start hunger strike in front of the president’s administration.”

**Tamar Nergadze**, an IDP from Abkhazia: “Giorgi Botkoveli, head of administration of the Chamber of Control, threatened with forceful eviction unless we leave the place. He said special unit will drag us out of the building like it happened with IDPs from the hotel in Telavi.”

#### **What Is the Connection Between Chamber of Control and IDPs?**

Giorgi Botkoveli categorically denies the accusations of the IDPs. He claims that he has no connection with the eviction process.

“IDPs called me and I explained them as a public official what the offers from state were to them; and I suggested these people to accept the offer. I have no more connection with them and I did not threaten anybody,” claimed Botkoveli.

However, not only IDPs residing in Gurjaani blame the head of admin-

istration at the Chamber of Control for threatening.

“Government offered alternative accommodation in the country in exchange of the accommodations in the former building of Tourist Center in Telavi. We refused, so they attacked and kicked us out. They are doing the same now. The government started the reconstruction without asking the opinion of IDPs. Chamber of Control is organizing our eviction too. Giorgi Botkveli threatened we would remain in the street if we do not accept their offer. We will die but not leave this building,” said IDPs from Abkhazia who reside in Telavi.

### **Minister Subeliani: Decision was made and no amendments are planned!**

According to official data, there are 220 000 IDP families from Abkhazia residing in Georgia who are divided in three categories: IDPs residing in collective centers, IDPs who are renting flats and those who shelter at their relatives.

47 families live in the territory of resort-house “Akhtala” in Gurjaani. 37 families were settled in the former building of Telavi Tourist Center and 4 families live in the former building of vocational college in Lagodekhi.

Despite the protests of the internally displaced people Koba Subeliani, Minister of Refugees and Accommodation, states that resettlement of IDPs from Abkhazia will finish in 2009-2010. “In order to improve the living conditions of the IDPs from Abkhazia 138 GEL is envisaged in the budget for 2009. Reconstruction activities in the buildings are funded from this budget where IDPs will receive accommodations and then will have them registered as private property. IDPs who rent flats or shelter at relatives will have cottages built; the cottages will be repaired. The decision was made and no amendments will be made in it,” said Subeliani.

According to the Ministry of Refugees and Accommodation, in 2009 400 collective centers will be assigned to IDPs as private property and it will satisfy over 50 000 IDPs. 23 tender is already announced for the rehabilitation of 41 collective centers.

In December of 2008 Government of Georgia worked out the strategy to resolve the accommodation problems of IDPs and their integration in social programs. IDPs claim that this strategy works against them.



# Public Defender VS Akhalaia



“He was drunk... After beating, he stuck Stechkin pistol into the mouth of Avaliani and threatened him with death. Then he ordered the special unit to teach him a lesson; armed people attacked Avaliani and started beating him in the head with truncheons...” This is an extract from Public Defender’s Report of 2008 which describes the incident when Bacho Akhalaia beat prisoner Giorgi Avaliani. The Public Defender blames Abkhalaia for physical assault of prisoners and for the inspiration of the so-called Riot in Ortachala Prison on March 27, 2006. The report of the public defender also blames Bacho Akhalaia and his deputies in initiating the campaign against businessman Kibar Khalvashi.

Although the 2008 report of Public Defender is dedicated to the illegal actions of Bacho Akhalaia and criminal investigations were launched on those facts, the government does not care about Akhalaia’s illegal activities.

**On August 27, 2009 Bacho Akhalaia, previously deputy defense minister was promoted and now he is Defense Minister of Georgia.**

## Strict Person or Criminal

President of Georgia spoke about several reasons why he appointed Akhalaia on the new position. Strict character and, consequently, effective style of work of Bacho Akhalaia was declared as the main motive for his appointment: “Much more shall be done and much stricter hand is needed in the defense ministry.” Opponents of the government assessed president’s decision and above-mentioned words as one more cynic action. Opposition representatives called Akhalaia the most odious minister. The president appreciates the character of Akhalaia, while the population considers he is

offender. “Today, our prison is not ruled by criminal authorities and crimes are not ordered from prison. This man has done it. I was minister of justice but could not do it. But he managed it through using very strict methods,” said President though he does not say that 7 men were killed on March 27, 2006 because of strict measures taken by the penitentiary department.

Public Defender thinks that Akhalaia has destroyed the institute of the so-called criminal authorities. However, this goal was achieved through complete neglect of the law and he must be punished for it. “Late in December of 2005, when Akhalaia was offered to be the head of the Penitentiary Department, I was very happy and said in the parliament that we would see how to resolve problems in prisons. I hoped he would manage it and he really did it. He destroyed the system because it was to be destroyed but I condemn the methods he used to achieve his goal. He started physical assault of prisoners in the prisons, the rights of prisoners were breached, the regime in the custodies became stricter, drugs and guns were planted on the criminals who were supposed to leave prison soon. Whatever Bacho Akhalaia did was crime and violation of human rights. Yes, he destroyed the institute of the criminal authorities but it makes no difference who will breach the law and act like a criminal,” said the Public Defender.

## **First Argument VS Akhalaia – Inspiration of Prison Riot**

The Riot in Prison on March 27, 2006. It is his first argument against Akhalaia.

**Investigation materials show that Akhalaia was informed about the danger of serious disorder in prison at least two days before. According to the report of Davit Chkadua, head of the Security Department, dated by March 25, 2006, the government was informed about the threat of large-scale disorder in the detention setting. The administration of the penitentiary department discussed the issue and decided to move influential criminals to the Prison N 7 from the jail hospital to avoid the incident.**

The law enforcement bodies decided to move the prisoners at night. On March 27 Bacho Akhalaia visited the jail hospital together with several colleagues. He started to take the prisoners from the jail in order to avoid the riot; those prisoners were organizers of the riot: Malkhaz Zedelashvili, Platon Mamardashvili, Nikoloz Makhardze, Giorgi Avaliani, Zurab Vibliani, Levan Tsindeliani.

“This process was so boisterous that it could not prevent the upcoming tension; furthermore it worsened the situation and according to the investi-

gation Bacho Akhalaia's initiative encouraged the riot organizers to start the riot earlier," it was said in the report of the Public Defender.

According to the investigation carried out by the public defender, it is doubtful whether preliminary investigation was started by law enforcement bodies on March 25. "Our doubt was caused by secret reports of D. Chakua, A. Khukhua and M. Sinauridze to Bacho Akhalaia. None of these reports were registered and do not have seal on them to prove the validity of the documents," states the report.

Based on the conclusion of the Investigation Department of the Ministry of Justice of Georgia issued on April 13, 2006 investigation started against Malkhaz Zedelashvili, Giorgi Avaliani, Nikoloz Makharadze, Platon Mamardashvili, Zurab Vibliani and Levan Tsindeliani. They were blamed for the disobedience to the employee of the detention setting and for disorganization of the activities in the setting. They were also blamed for the attack on the prison administration and for the creation of criminal group.

None of the above-listed people plead guilty. Public Defender pays attention to the testimony of one of the accused Platon Mamardashvili which states that: "On March 26 2006 he was in his cell together with Malkhaz Zedelashvili and Nikoloz Makharadze who was put to prison on the previous day and did not know him at all. At night, Mamardashvili was taken to the office of the prison director where he met Bacho Akhalaia, Megis Kardava, director of the prison N 7 and 15 more people; five of them were in masks and all of them had automatic weapons. Vibliani and Avaliani were led into the room. At the same time Megis Kardava cut a tuft of hair from Mamardashvili and put it in his pocket. When Mamardashvili objected to him, the masked person slapped him in the face and Mamardashvili had one tooth dropped. Then he saw that Vibliani and Avaliani were also being beaten with truncheons... In the corridor he was ordered to bend forward and he was beaten with truncheons for 10 minutes. Afterwards, he was led out into the yard together with Tsindeliani where they found Vibliani and Tsindeliani lying on the ground. The masked people continued their physical assault there too. Mamardashvili heard other prisoners were asking harassers to stop their beating. Later the four prisoners were taken to prison N 7 where they were ordered to take off and the same people continued to beat them; finally they were left in one cell. Platon Mamardashvili denies his conversation about the riot or any disorder and said he did not resist anybody and did not order anybody to disobey law enforcers. He thinks their physical assault became the reason for the riot."

The other accused people have made similar testimonies. According to the public defender's report guiltiness of Bacho Akhalaia is proved by the fact that almost every testimony coincides with each other. According to the

report it is no doubt that Bacho Akhalaia is guilty – he has abused his power several times and beaten prisoners; he has also inspired the riot... however, it is not the only accusation against Bacho Akhalaia from his former colleague.

### **Akhalaia had personal interest in Kibar Khalvashi's case**

On September 25, 2007 former Defense Minister of Georgia Irakli Okruashvili made a statement on TV Imedi and it caused serious political tension in the country. He blamed the government of Georgia and Mikheil Saakashvili personally in many crimes among them in hiding the details of the assassination of the late prime-minister Zurab Jvania (and the attempt to prepart a murder of Badri Patarkatsishvili). Finally, Irakli Okruashvili had to leave Georgia.

After leaving the country Okruashvili stated several times that government of Georgia started persecution of his friends and political supporters. Okruashvili mentioned the name of his friend, businessman Kibar Khalvashi most often; since Okruashvili fled from the country Khalvashi has not been able to work (see above).

### **Narrow Bridge: From Human Rights Defender to Human Rights Violator**

Public defender applied to Prosecutor's Office about criminal activities of Bacho Akhalaia several times. Prosecutor's Office had to investigate the incident. But as usually, investigation requested by the public defender is not launched or finished in Georgia.

"I think a suspect and accused for any crime must not occupy high political position in the country. It does not matter whether it is Bacho Akhalaia or anybody else. First of all, their cases should be investigated. If he is guilty he must be punished but if he is innocent he can continue his public activities. I think appointing of Bacho Akhalaia on the position of Defense Minister before the investigation is finished is not right", said public defender.

In case of Akhalaia, Prosecutor's Office did not react on the cases which were sent from the Public Defender's Office. It deals with long list of those criminal activities whose authors are not punished so far: persecution and oppression on Kibar Khalvashi, riot in prison in 2006, beating of prisoners in Batumi prison in 2006, beating of prisoner Gocha Patsuria in Ksani prison on January 19, 2006, and many others.

Eradication of the institution of influential criminals and syndrome of impunity in prison moved to the government structures. Apparently it is soldiers' time now; they also need strict minister.

# “Legal Criminals” in the Government Slightly Adapted

I have been often thinking - who they are, what type of people they are, where they grew up, where they come from and how they were nourished in their early childhood and youth - those lads who happen to appear so strangely and surprisingly in the government. At a close glance, I discovered an unbelievable mixture of punks and members of young communist league. I am confident that many of our government representatives would secretly dream of turning into a “legal criminal” with unlimited power. However, they had to pass through “a good fellow” life, in fact related to certain risks. Moreover, mommies and daddies would only see a perspective for so much cherished power through building a real communistic career. Indeed, majority of them took this way and if not break up of the Soviet Union, today, Mikheil Saakashvili, David Bakradze, Giorgi Arveladze, Goka Gabashvili, Gigi Ugulava, Giorgi Baramidze, Kakha Lomaia, Nino Burjanadze, Lado Gurgenidze, Rati Samkurashvili, Gela Bezhuashvili, Petre Tsiskarishvili, David Kirkitadze, Zurab Chiaberashvili and their fellow brothers would by all means be secretaries of regional committees of communist unions and communist parties, deputies of supreme council of the Union of Soviet Socialist Republics (USSR), chairmen of city executive committees or KGB (*USSR national security agency*) high officials. My generation well remembers such communist activists at the edge of 70-ies and 80-ies who, from time to time, tried themselves as punks. Collapse of the Soviet Union became a reason for correction of career objectives for such people. As long as they did not have an opportunity to build up their career through participation in the construction of a “great soviet system”, their mommies and daddies quickly smelt the situation and sent their children abroad for education and inspiration of career dreams. And most importantly, they avoided their children from chaotic Georgia of 80-ies and 90-ies, first anti-communist and later civil conflicts, hunger, no electricity, no gas and many other turmoil. Meanwhile, their fellows went through all those difficulties that are usually accompanied by battle for independence and transitional period (mass protests, conflicts, jails, hunger, cold, no electricity, etc.).

Comparing to comforts in foreign countries, at their return to more or

less settled Georgia, mature and unsuccessful communists started to look at their fellow compatriots with ambition. Knowing English and several international terms were considered as an adequate fundament for their aspirations by both themselves and part of the society. They never had to demonstrate neither devotion to principles nor any special skills to come to power. Though it is true they consider devotion as characteristics for dogs not for humans (Maia Nadiradze's well-known words), these young people had detected skills to secretly lead into Shevardnadze's team by demonstrating a show of devotion. Moreover, by flattering, they exaggerated even Shevardnadze's Old Guard whom they moved aside and won major positions "at monarch's doors". In one year it would be the time for their patron to leave a political stage and climbing the peak of their career dreams. However, they could not risk this chance since only God knew what could happen in one year. Now, being so close to the monarch's throne, they had a chance to crawl up this throne. They only had to push their master and meet the public's demand. Besides, they would have an opportunity to correct every mistake or crime committed while being part of the master's team. In short, graceful to "bloodless", "peaceful", "velvet" or angel revolution, immature careerists climbed up to the top of the power. Despite such aggressive motion to the throne, it appeared that they did not know at all how to rule the country. And regardless of all efforts by the West, and especially by the U.S., to teach them, our "reformers" chose not democratic but such forms and methods [of governance] that I would call a combination of Bolshevik and criminal approach.

Bolsheviks were against private property and used to justify a dispossession of the kulaks with the idea of investing in their people, and establishing justice and equality. This is also how our "reformers" behaved. In parallel, they doomed free media and independent court. Later they took for establishing order and adopted the law (223-1 Article of Criminal Code), which would imply imprisonment for "legal criminals" up to 10 years, while the "membership of criminal world" would be punished by imprisonment of up to 8 years. Certainly, this fact was, as usual, a public outreach and soon after they detained every legal criminal in Georgia. Naive part of our society was happy with this decision provided that they thought the government aimed at destruction of this institute and all related unwritten laws. However, it appeared that the government was fighting against legal criminals as such but not the criminal laws as long as they would see competitors in them. As to the criminal traditions, unwritten laws and rules, it turned out they intended to rule the country by using them, based on them and by legitimating them.

As known, criminal rules would earlier serve to romance at some point, as well as to fight for justice and display of courage. For certain part of society, it was a form of protest against existing regime. For many people a “legal criminal” was an ascetic person with no family symbolizing a just and deserving knight. However, as the epoch changed, bacillus of injustice and violence penetrated through this world and lots of people having this title of a “legal criminal” appeared to be simply a millionaire in business sector, who would act with only self-interest when investigating criminal justice. This was well-understood by our “reformers” who then legalized it: they strictly prohibited corruption in lower segment and imposed severe penalties to everyone who would not input legal or illegal amount of money into their “pooled cash fund“ of “top criminals” who then would shell out upon their consideration. If necessary, they have their own “torpedoes” through which they would officially abduct (not in Pankisi but in an official jail) recalcitrant by using court document and would create such intolerable conditions that they would force them to bring ransom in jail (through an officially formed procedural agreement). In return, there is a warranty that this entire amount will completely reach “top criminals” and somewhere in its middle link some “good buddies” will not dare to “cheat”. Therefore, the corruption is eradicated and criminal rules are led up in the rank of a law. Simply, the “top criminals” legitimated themselves when in November 2003 a huge “gang board” took place and thousands of nanve and perfidious, right and improper, patriot and scrum of society participated. And then, a lot of sensible and clear-headed citizens could not change outcomes of this “gang board”. Notwithstanding that time after time they tried to demote them from “criminal’s” status, they are holding it tight and until now maintain it. And still, who are they - usurpers of this status?

This is in what sequence Nino Burjanadze names the members of Saakashvili’s team in 8-14 December’s edition of “*Kviris Palitra*” with whom the “top criminal” used to take all decisions during 5 years: Vano Mera-bishvili, Zurab Adeishvili, Kakha Lomaia, Giga Pokeria, Gigi Ugulava, Nika Rurua... It is true that Burjanadze does not specify whether she lists these people according to their influence but in this case it is important that one of the former members of this criminal group recognized the information spread in society about the real governor of the country.

Here are these people, their “good buddies” as listed above and superficial individuals for who Georgia won the war in August 2008. I convey my seasonal greetings to everyone who thinks in much the same way so that they have similar victories in next year both in their political and private

lives. Just leave our motherland alone! For these people Georgia is only territory, a land, and the land is so extensive throughout the whole world.

To all my other compatriots - for whom this land is a homeland, flesh and blood, seizure of which is something similarly painful as seizure of part of their own body, who mourn the August “victory” with bloody tears – I wish they never experience something like this. And most importantly, God forbid us from the government achieving such “victories”!

**GELA NIKOLAISHVILI**

**Protector of Rights**

**January, 2009**



# School Teachers Are Compelled To Join National Movement

Teachers of public (secondary) schools in Kakheti region are compelled to join the ruling party. The teachers say they received directives from school directors. The directors of public schools were instructed by the heads of district educational resource-centers. “Unless we apply to join the National Movement, the directors said our working hours will be limited or we will be fired,” said teachers.

**“Several days ago, school director invited us to the meeting and instructed to join the ruling party. He said unless we obey the order, he will have to reduce our working hours or dismiss us from school. He said it was ordered by the head of the Gurjaani district educational resource center and if he does not obey the order, he will face problems. Several teachers asked him will every teacher be fired if most of us refuse to join the ruling party. The director replied he would be compelled to write resignation letter or board of supervisors will resign me from the position,”** said teacher of public school in the village of Vazisubani in Gurjaani district. The respondent preferred to keep her name anonymous.

“I have been teaching Russian language and literature in this school for 12 years. I do not remember anybody to compel me to join any political party. I understand that elections of the local authority are approaching and they will make us work for them like we did at previous elections; though we were not members of the party then. During the previous elections we were ordered to vote out of the polling booth, particularly those whom they did not trust completely. If we had not obeyed they threatened with firing us from school. If they threat again, most teachers will accept their proposal in order not to remain unemployed. Thus, I cannot understand why they make us join the party?”

“I think a teacher shall not be member of any political party and they must be compelled to join it either. We must work with children but who lets us to implement our responsibilities? The elections are approaching and we have less time to work as teachers. Almost every day they take us to various meetings. They do not care whether we want it or not. It is obligatory for us and that is all. Part of teachers could not disappoint our director and applied for the National Movement,” said the teacher.

Lawyers of the Human Rights Center state that teachers from various

public schools in the region applied to their office for help. “Teachers are interested whether they are obliged to apply for the membership of the National Movement. Directors of several public schools confirmed in private conversations that they were constructed by the heads of resource centers. They even showed us the forms that shall be filled in,” said Nino Andriashvili, lawyer for the Human Rights Center.

Lali Gabitashvili, head of Gurjaani district educational resource-center, categorically denies information. It must be noted that Gabitashvili occupied the position several days before the parliamentary elections on May 21, 2008 with the support of Kakheti region Vice-Governor Giorgi Sibashvili. At that time Giorgi Sibashvili was head of election HQ of the ruling party in Kakheti region. Gabitashvili was accompanying the single-mandate candidate of the ruling party Giorgi Ghviniashvili to public schools throughout the region; Ghviniashvili currently occupies the position of Kakheti regional governor. Gabitashvili was requesting the teachers to vote for Ghviniashvili. Former head of the resource center Dali Mindiashvili, an IDP from Tskhinvali district, was compelled to write resignation letter under threat of imprisonment before Gabitashvili occupied the position. Since then many personnel changes were done by the resource center in public schools. The resource center and regional administration fire the directors of schools who are less reliable for local authority. Instead their friends, relative and close people are appointed to the positions of schools directors. Short time ago, Nona Gomelauri, head of Dedoplistskaro district resource center, was ordered to write resignation letter. According to our information, it was decision of the single mandate MP Avtandil Lukashvili to fire Gomelauri from the position. Gomelauri does not want to comment on the fact. Now Marine Mekhrishvili, friend and reliable person of the MP occupies the position of the head of district resource center.

# Impoverished Families left without Social Allowance

The package of social allowances will be increased to 169 million GEL for the 2009 draft budget. Georgian government submitted the draft to the Georgian Parliament for discussion. Official information indicates that the number of impoverished people in Georgia will reach 900 thousand people this year. 400 thousand of them will receive family allowance (30 GEL) and 24 GEL for each member of the family, an increase from the current 12 GEL. 200 thousand beneficiaries will receive 20+16 GEL and 300 thousand will receive 10+8 GEL. Moreover, 900 thousand people living below the poverty level will be insured. Despite this information, the Agency of Social Subsidies is discontinuing allowances from impoverished families.

**Ekaterine Berozashvili lives in the village of Kardenakhi in Gurjaani district with her 18-year-old son. They live in a one-room house registered under the name of Ekaterine Berozashvili's mother-in-law. Standing on the room's concrete floor is only one steel framed bed, so Ekaterine has to sleep in the chairs. Both a mother and a son are willing and ready to work, and this includes manual labor, but they have not been able to find even such demeaning types of employment. The Berozashvilis own no land, estate or other assets; the only thing in their possession is an old black-and-white TV set. Neighbors give them whatever food they are able to spare, as the small family also has no livestock.**

The Berozashvilis received allowance because they were considered eligible under the Poverty Reduction State Program. However, the Agency of Social Subsidies discontinued the family's social allowance after carrying out a repeated examination of their situation. The head of the family claims that the social agent incorrectly evaluated the social-economic conditions of their family. Consequently, she is now requesting for a repeat evaluation in order to receive the much needed allowance.

TV Company "Imedi" also broadcasted a story on TV about the poor living conditions of the Berozashvilis but unfortunately, neither the Agency of the Social Subsidies nor the Ministry of Healthcare, Labor and Social Welfare have taken interest in the matter. In spite of their continued plight, there hasn't been a reevaluation of the family's conditions.

After conversing with head-of-family Lia Khuroshvili, a lawyer working for the Human Rights Center assessed that information on the agency's evaluation as being impartial. "More precisely, Ekaterine Berozashvili claims

that over a course of three months before the evaluation was made, the woman and her son were not generating any income. We explained to her that an authorized representative of the family needs to sign each paper of the evaluation in order to confirm his/her agreement on the context in the document. Berozashvili did not deny the fact however, she mentioned that she signed the papers without reading the text,” said the lawyer.

The agency also dropped allowances for Leila Khvtisiashvili, another resident of Kardenakhi. After the agent examined the family for the second time, the rating points for the family increased from 45,530 up to 57,630, thus not qualifying her for social allowance.

There are four members in the Khvtisiashvilis family. 78-year-old Makvala Khvtisiashvili is bed-bound due to illness and requires constant attention. 26-year-old Gia and 15-year-old Gela Khvtisiashvilis are also in need of medical treatment. Leila Khvtisiashvili said that the family does not have enough income to buy the necessary medicine. Neighbors assist them by providing bread and other basic food products. The living conditions of the Khvtisiashvilis can be considered as extremely poor and match criteria outlined by the poverty reduction program.

Like other socially excluded families, the Berozashvilis and the Khvtisiashvilis also applied to the Agency of the Social Subsidies with the request to examine their living conditions a second time. However, officials from the agency explained to them that a repeated examination can only be conducted one year after a rating point is issued to a family.

**Why does the system of the social welfare allow the population to enjoy the state grants effectively? How does the agency of social subsidies react when a family, which seeks and needs the available social allowance, and living in poor conditions, is granted with high rating points? Why does the agency not react to extraordinary cases? We asked these questions to the public relations service department of the Agency for Social Subsidies.**

“The Agency of Social Subsidies works on the issue and they will soon submit the draft amendments to the resolution to the ministry that will assist us in the management of similar cases. Similar mistakes have been the result of in faults in the current methodology; it is very common during surveying and assessment of a certain social layer and it is called statistical variance. Social agencies are fully aware that similar episodes are not statistical. We do our best to prevent families from seeking allowance and from falling victims to this variance.

Regarding these two concrete families we can say that the two social-economic evaluations are filled in on these families.

According to the evaluation filled in April 2006, all members of Ekaterine Berozashvili's family were unemployed. As for the evaluation of 2008, it states that both members of the family are occupied in agricultural activities and are able to generate income. Consequently, the family has a certain level of income and expenses as well. All these became the basis for increasing the rating points.

Leila Khvtisiashvili's family rating points were increased because she, as a retired person, receives a considerably increased pension. When her evaluation was issued on April 7, 2006 her pension was 33 GEL and in the evaluation conducted in 2008, she receives 77 GEL (not adjusted to inflation or rising prices). Another member of the family receives 55 GEL as an allowance. This information had a big impact on the rating points; however, nobody thinks that the conditions of the Khvtisiashvili family have improved. Their recent points 57,630 demonstrate that the living conditions of the family are poor and their rating is just barely above the threshold of limited points. However, it is clear that whenever there is an estimated limit, there will always be a group of people who are very close to that limit but will still require an allowance.

The agency permanently carries out various activities in order to make the assessment procedure of a family's social-economic situation more transparent. We try to reduce and eradicate illegally fixed allowances, and declarations that are filled in tendentiously. The principle of transparency of the information on a beneficiary family has the same aim and it became possible since the summer of 2008 after amendments were introduced to the normative acts. Each beneficiary confirms in new forms of the evaluation that she/he is ready to make their family's evaluation public after the state grants the family with allowance. It will take a while to obtain confirmations from all beneficiaries and only after that we will have the right to publish corresponding lists.

**“We work on establishing better connections with local authorities and society,” said the officials from the public relations department of the Agency for Social Subsidies.**

Kakheti regional administration also has information about the extremely unbearable living conditions of the impoverished families. As Giorgi Sibashvili, deputy regional governor, stated that many impoverished people could not qualify in the state poverty reduction program because of the current methodology in the system. Consequently, these families have remained without social assistance, which aggravates their situation even further.

“Based on the current methodology, socially excluded families are granted with high rating points that create serious problems for us with respect to society. The methodology and the formula based on which the points are calculated should be immediately amended,” stated Giorgi Sibashvili.

# Before the court trial they made two unknown medicine injection to the political prisoner Vakhania



Lawyers of academician Vakhania addressed Georgian chief procurator, Georgian Ministry of Corrections and legal Assistance and head of the Georgian Justice Council with the letter, describing the facts of inhuman treatment conducted towards Vladimir Vakhania at the prison No. 4 of Zugdidi region.

“On 11<sup>th</sup> of September of 2009 year Vladimir Vakhania being under my defense showed at the court with the signs of physical violence, which was visible by his shirt, his expression was meaningless and he seemed confused. This fact made me suspicious. The judge attained him the verdict on guilty without having the chance to say his last words”, - declared the lawyer.

The lawyer visited Vladimir Vakhania at Tbilisi number one Prison. The lawyer asked him to tell what has happened on 11<sup>th</sup> of September,...

“At 17.00 on 11<sup>th</sup> of September, two unknown workers entered the wards number 17 of Zugdidi prison number four. Vakhania asked them to help him to write the notification that he felt ill and was not able to go to the court case, but they took him by force to the medical department of the prison and made injection of two medicines, after this they took him to the court hall. As Vakhania described me he felt dizzy and could hardly remember how the judge announced his verdict of four years imprisonment. After this they took him to the car and made another injection in the vein and moved him to Tbilisi prison” - declares the lawyer.

After arriving at the prison Vakhania showed the prison management team the signs of the injection on his hand, the lawyer asked the doctor to confirm the signs of injection. Lawyer says that Vakhania is requiring the assistance to protect the rights which were neglected by them.

**LADO KIRIA**

# Georgian Ministry of Internal affairs oppresses journalist Besik Pipia

After the August war Georgian politics resembles a ship which is drifting in an ocean, having no chance to survive. We could call it “Sacrificed striving” which seems sometimes very aggressive and sometimes quite tolerant, sometimes it gets very quiet and sometimes it has great reactionary psychoses and gains such a comical face like the president has while delivering his speech to the audience in the background of “Zaporozjets”, “Volga”, “Opel” and “Mercedes Benz”. Legend of his PR giant has withered away slowly. After two weeks Conclusion of “Tagliavini” will announce verdict for him and



also for those who participated in the last year’s venture. It seems that the approaching danger made leading elite team lose the control, otherwise we could not explain the history below, perhaps it is caused by degeneration of state information politics, or maybe it was one of the provocations of “huvanoid”.

In 2006 year Besik Pipia was assigned as the representative of Russian Federation information agency “Ria- Novosti”. Since then he lives in Tbilisi with his wife and three children. He has three year’s business mission in our country and as a rule the term could be only prolonged for one year more. Lately Pipia was informed that his business mission is prolonged until September 2010, but we doubt that soon he will be forced to leave Tbilisi. “Ria Novosti” belongs to the state information agency, that is headed by Russian Federation and besides the office in Tbilisi its representation agencies are spread in more than 50 countries.

After finishing the military service Besik Pipia who was born in the village Rukhi of Zugdidi region continued his study at the faculty of Journalism at the State University of Leningrad and since then had not lived in Georgia. His work record book includes records of three organizations, newspaper – “Pravda” and “Nezavisimaja Gazeta” and the Agency “Ria – Novosti”.

The attitude of Georgian state particularly the Ministry of Foreign

Affairs towards the Information Agency of neighbor country was brought to light even three years ago, when the representative sent to Tbilisi addressed this department for accreditation. During one and half year ministry was not issuing him the accreditation. We do not know how long it takes for Georgian Special Service agents to issue the accreditation to foreign journalists, or how long is it necessary to conduct the personal investigation procedures, but perhaps Georgian security service was examining whether behind the agency were standing the Special Service Agents or not.

Viacheslev Kovalenko who was an ambassador of Russian Federation that time addressed the Ministry of Foreign Affairs with official letter to find out the reasons of delay of accreditation procedures. He announced that if the situation stays unchanged they will act adequately and in response they will abolish the accreditation of Georgian Television representative staff in Moscow. This letter solved the problem immediately and legalized the activity of the head of the Agency in Georgia, who was assigned as the head of the representation office one and half year ago.

Georgian official's action seems quite strange, though Besik Pipia lived far from his country he has never break off the relation with his relatives and friends living in Georgia. Moreover in 1993 year after two years of Apkhazeti War, he together with Zurab Chikviladze Georgian representative at CIS inter-parliamentary Assembly issued the first book about Apkhazeti conflict, with the title "Распятая Грузия" (crucified Georgia), containing pro-Georgian facts, which were spread out with thousands of copies. Furthermore Zurab Jvania who was the head of the parliament that time expressed the interest towards this book and in 1996 Georgian Parliament received 1000 copies as a gift.

This long introduction will enable the reader to get acquainted with the hero of today's publication. Now we will try to explain the reason of writing this letter:

Besik Pipia is driving the office car himself. He as a foreigner according to Georgian legislation rules was obliged to change the driving license in one year. In 2009 he addressed Patrol police of Georgian Ministry of Internal Affairs with a demand to change the license and showed his two driving licenses. One of them was issued by Auto lovers' courses of Zugdidi Secondary School number 5 in 1977 after passing the appropriate exams. In 1991 year instead of lost license Zugdidi Police Auto Inspection department of Georgian Ministry of Internal Affairs made the duplication of his driving license. The second driving license was issued in 1999 by Russian Federation Police Chief Department. The policeman who was on



duty that day after examining both of his driving licenses, kept the Georgian one with him and gave an application form to the journalist to fill out. Besik Pipia paid money at the bank and gave back all documents to the operator. It seemed that everything was going well, but some time passed and the department did not give a respond. Besik Pipia tried to find out the reasons for delay; they explained that they had the problems of verifying the reality of his license and promised to solve everything soon. On 10th of June of 2009 year investigator Mindia Ivanishvili of Rustavi Internal Office investigation department called Besik Pipia by phone and asked to come for interrogation.

They explained to Besik Pipia that in the driving license two categories are indicated B and C, according to the exams passed by him he has to take the driving license with category B but the license has the indication of C category, the investigation department considered it as a commitment of crime action due to the first part of article number 362 of Georgian Code of Criminal Law (printing the false document, stamp, and blank letters, sell or use it). The before mentioned article considers the punishment with money fine or imprisonment for three years.

I could not understand their goal of doing this, but it is fact that the indications of two categories in the driving licenses, one issued in 1977 for 17 years old Besik Pipia and the second one lost in 1991 raised the issue of accountability of the journalist, it was either the provocation of HuVANOid, or the degeneration process of Georgian State Information politics. Judge yourself. The duplicated driving license issued in 1991 year is not suspicious. It was issued by Grisha Kobalia the authority person of Zugdidi Internal Affairs department (Grisha Kobalia the leader of “National Movement” in Zugdidi that time hosted Saakashvili and then Saakashvili after becoming a president awarded him with parliament membership). Neither the driving license is false nor the indications of B and C category. For journalist Pipia it seems strange how he was granted with C category, moreover 18 years have passed after that time. It is noticeable also that he has never used this license neither in Georgia nor in Russian, which is confirmed by the fine documents issued by Georgian Patrol policemen where the driving license issued in Sankt Petersburg is indicated.

Lately on the 3<sup>rd</sup> of September investigator accused journalist Besik Pipia under the first part of article number 362 of Georgian Criminal Law and even interrogated him. The suspected (if we take into consideration Georgian legislation procedures he will be soon regarded as accused) signed the cognizance not to leave the country territory.

Journalist declares that investigator and procurator act correctly, but it

is groundless and against the law to consider him as suspected. He requires abolishing this decision and canceling the case of Law of Crime. As a respond to the questions of those people who suspect in his truth – whether he was obliged to know that the indication of C category at the driving license was false and if he knew this why he has not declared? – He answers it with a question – If I knew that they were going to punish me would I dare to show them the false documents myself?

Under the article number 362 of Georgian Criminal law hiding or not declaring the crime is not raising the issue accountability of a person due to Georgian Criminal Law (Articles 375, 376).

The specialists will help us to clarify the juridical nuances. “Georgia and the World” asked Gia Meparishvili the professor of jurisprudence law to estimate these facts and we attach below his comments regarding this case.

Journalist Besik Pipia in the letter addressed to the Minister of Justice Zurab Adeishvili (the copy of this letter was also sent to Andrei Smag the protector of Russian Federation interests Section at the Embassy of Switzerland) hopes that the investigation conducted towards him is a misunderstanding and it was not a sign of strained relationship between two states Georgia and Russian Federation.

“I do not wish that the bridges connecting these two countries were burnt. “Ria Novosti” has done a lot to keep good relationship between these two countries and it will continue to do a lot in the future too”. – writes Besik Pipia at the end of the letter.

We invited Mr. Besik Pipia at the office of “Georgia and the World” for interview regarding this case, he refused to come, but gave us the letter sent to Zurab Adeishvili.

During the conversation it cleared out that experienced lawyers advised him to address the court of Strasburg, but he refused to do this. He could not admit this as he did not like the specific character of the court. If he addressed the Strasburg Court with the claim, it will be formulated like this – “Besik Pipia against Georgian state”. The argument of the journalist was that he has never stood against Georgia and declared that, moreover he would never claim the country at an International Court. I am not able to accept the formulation of the claim like “Besik Pipia against Georgia”, it stands against my principles.

As you see the journalist born in Georgia and trained in Russia, working for three years here has the special emotions towards Georgia, and acknowledges his role how he could fulfill harmful or kind actions towards the

country. We could not say the same about the representatives of Georgian government, whose main principle is to burn those bridges which are so important for Besik Pipia.

One of these bridges is representative office of ‘Ria Novosti’ in Georgia.

The information of moving the representative office to Sukhumi was already spread out, the argument is that the state of Georgia prevents the office to work freely in the country; the confirmation of this argument is the case of journalist oppression due to Criminal Law.

It is natural that Russian journalist did not pass over the pretensions stated against the representative of “Ria Novosti”. Aleksei Venedikt the announcer of the Radio “Ekho Moskvi”, who is distinguished with great liberal values and who is very tolerant towards Georgia and its government has criticized his favorite Georgian government due to this case. We attach below his speech.

What you read before or you have to hear in the future (especially at Russian press and Television) regarding this fact is considered as non adequate action of Information politics of Georgian government.

To have a look at the case more precise, we should require the answer to the following question – What is this? : - degeneration of State Information Politics or next Provocation of HUVANoid? – Of course we could get the respond but we think then it will be very late then.

**BONDO MDIZNARASHVILI**

# What kind of relations does Besik Pipia have with this case?

Dear editorial staff I try to give you the answer!

I have studied the materials sent by you, concerning the case of Besik Pipia the head of representative office of “Ria Novosti” in Georgia. I have not studied the materials of Criminal Law yet, and I could not be able to make a detailed survey of the case. I would like to comment on the Casus of the letter sent to the Minister of Justice of Georgia: whether his action is structured as crime (the formation of action), due what they try to accuse the journalist.

Special rules are necessary to declare a person as guilty, but we have the decision of the investigator by which the journalist Besik Pipia is considered as suspected due to the first part of the 362 paragraph of Criminal Law of Georgia (using the false documents).

It is not the final decision of the investigation; it should be defined broadly after receiving the assertions of Criminal Law, if they get enough facts to verify that this crime was committed by suspected person.

In case the accused person is not imprisoned yet Georgian Criminal Law applies 30 days to conduct the investigation. After the end of the given term if the accused is not sentenced, the conclusion should be abolished.

According to the notification of Besik Pipia, I declare that the evidence of using the false documents is not confirmed. To illustrate this we confer to the law: according to the first part of the article number seven of Georgian Criminal Law, the ground of issue of responsibility is a crime commitment. The Structure of Crime concept consists of three elements. These are:

- 1) The action form, or committed action that carries the elements of Criminal Law action;
- 2) The action conducted against the law;
- 3) Guiltiness.

The co-existence of these three elements of the crime is regarded as the compulsory and enough basis of raising the issue of responsibility of Criminal Law. The crime of Besik Pipia does not contain the third sign, which is described in new Criminal Law as accused is criticized due to the improper, negative estimation. He could show it by means of intended or careless action.

Please pay attention which intended or careless actions the journalist has conducted that are regarded as improper or are the subject of criticism. Besik Pipia has not falsified the driving license. He addressed the appropriate authority state organ (Internal Affair department of Zugdidi) and appropriate authority person. This authority person



has issued the duplicated driving license with appropriate indications, which technically could not be falsified. Why the authority person marked the category C in the driving license. The investigation should be conducted what was the basis of his decision. But why is Besik Pipia guilty in this? He has not conducted this action himself that became the basis of raising the issue of his responsibility? In my opinion if due to the following juridical basis journalist Besik Pipia was oppressed, then not only the main principle of Criminal Law “Nullum crimen Sinc Culpa” (The crime does not exist without accusation), but even elementary human decency is totally ignored.

I would like to add the final notes that I have not conferred to the political side of this case. The reader can judge themselves, but I will say regretfully and worried: “Be careful Georgian nation”!

**GIA MEPARISHVILI**  
**Professor**

# **Aleksei Venediktov: Mikheil Saakashvili the son of Nikoloz Saakashvili treats the journalists improperly, he acts disgusting with the Press**

I could say that the last history went beyond the boundaries of kind and evil actions. Georgian Ministry of Internal Affairs raised a criminal case against Besik Pipia, the head of the office of “Ria Novosti”. What was the reason? - (please pay attention), though the investigator asserts that 17 years old Besik Pipia is not guilty of issuing the false driving license in 1977 year, he has been forced to sign cognizance letter not to leave the



country territory and criminal case was raised against him. What does this mean? I was saying always to Mikheil Saakashvili that his way of acting towards the press was disgusting (could repeat this in the future too). We have an experience when they canceled our Television transmission during the August War.

It is not related with my opinion towards the war. They should know how to act correctly. Dear president why do you treat the person like this who resides in Georgia for a long time, who was born in 1960 year and is older than you? We would like to remind you the case of Shevchenko and Mamontov. They did not let him in the country, but Patriarch Ilia the second helped the journalist Alan Kasaevi to enter the territory of the country. Georgian Ministry of Internal Affairs considered this fact as a provocation and threatened to “bury” “Ria Novosti”. The criminal case was raised due to the issue of false document in 1977. Perhaps they will not stop at this. Of course it would not fit Georgian government and frankly speaking it will cause the suspicion in kind intentions of the president.

# How “the Nationals” pardoned the deceased

On August 25 Anania was finally moved from the prison hospital to the Infectious Diseases Hospital in custody. His natural death was recorded there. And that was the limit of their kindness. Anania had been infirm since he was detained in October.



15 minutes earlier than he passed away somebody called to the hospital and ordered to release the prisoner for the President had already pardoned him. They killed two birds with one stone and did it with cynicism unheard-of even for the National Party. On one hand the Ministry run by Mr. Shashkin threw off another deceased and on the other hand one more name was added to the list of the remitted inmates.

I tried to do my best to achieve Anania Salukvadze’s punishment.

They sentenced the sick man to 10 years of imprisonment. On his death-head Anania listened to the news that he was pardoned and uttered the words that happened to be the last ones in his life: “It’s all the same, I need no pardons to be free”.

He was a descendant of an honorable family. In Tbilisi everyone loved the gifted poet and prose writer for the qualities of his character.

My friend’s grandfather Anania Salukvadze used to be a member of the Parliament of Georgia during 1918-21. The writer who also worked in journalism did not immigrate together with the Mensheviks. He was resettled and died in Kazakhstan.

As for Shota Salukvadze, father of Anania Jr., he died in the age of 42. He was among the founders of the Georgian Television. It can be said that the writer and theatre expert, Shota Salukvadze was a victim of the Communist rule. The Bolsheviks, Communists and finally Nationalists are in charge of the family’s tragedy.

**DAVID MKHEIDZE**

# The personnel of 033 was fired for not confirming the intoxication of their colleagues

There is no protecting system for the working people in Georgia.

For the reason of the economic crisis the figures for unemployment are rising. The problem is in the private sectors as well as in the governmental structures. Though people in governmental structures rarely lose the job the danger still exist. Sometimes the employees are dismissed even in cases, when the crisis is not a cause and even insignificant fact serves as a reason for losing the job. The same was in 033 a few weeks ago when two persons were fired only for not confirming the intoxication of their colleagues. It was the rough violation of human rights and labor code, as well as of moral-ethical standards in general. It is usual when the rights of people are violated in Georgia. It is often spoken theme for the according structures and organizations but they manage to change the situation only insignificantly.

From the words of representative of the Trade Unions the rough violate of the working code is not rare in Georgia and it is necessary to react against this. It is very important especially when Georgian government tries to find the ways for dissolving the unemployment problem. It is true that Georgian government ensures that it will be everything done to resolve the unemployment problem but very often our government uses the politic of deafness.

The facts of gross violation of human rights is a daily occurrence in Georgia and one of the main reason for it is non-existence of labor code. The leader of the Trade Unions Irakli Petriashvili claims that it is necessary to make some changes in law. We gave the 30-points changes to the Prime Minister and we hope that it would be taken in mind. There are a lot of facts of violations in Georgia. It is very often firing the person without any motive and unfortunately no one says a word no one wants to rise against this until it happens with them. We try our best but alone we can do nothing. Nowadays it is often illicit firing the occupied positions for the reason of pregnancy, illegal firing and so on. We receive a lot of complaint letters. Our organization must become stronger to protect people from losing their jobs. The fact having place in 033 is very immoral.

According Irakli Petriashvili such facts are very often in private sector



but in state company 033 it is the first time. He suggests that without according reaction it will have the mass character in the future.

From the words of Subordinate of Irakli Petriashvili Gocha Alexandria such kind of violations are the reason of useless code. The motive of firing personnel of 033 is quite unclear while the job of doctors is not confirming the facts of intoxication of their colleagues. They must just save the lives of people. And now it takes too long time to take the staff back to their jobs. Nowadays it is too easy to fire someone for the reason of economic crisis. The matter is that people can not protect their rights. Someone wants to have a holiday and it can be not paid, someone wants to have his salary in time and they take refuse instant of etc.



Only two years ago medical person in Poti was fired for the wish to have the better working conditions. The process has finished nearly and it is a pity we lose the case. It is also very often when employer does not care about his obligations and salaries paid in time. The problem is deeper for those who work without contracts. Governmental representatives and their close experts said that Georgia was not integrity in the International market so the crisis would not be illuminated but it was not true. The world financial crisis illuminated here in our country and very hard. It is mainly for the private sector while in the governmental sector salaries are connected with the taxes though problems are in these sectors too.

We shall protect all the people having contracts with employers. We have some kinds of mechanisms to protect them. Unfortunately those having no contracts would have greater problems. To protect them is not easy. We were warning them for a long time. But no one wanted to listen us and the result is here.

In private sector employers try again not to make contracts with their employees and during the unemployment people just want to have a job and they do not care about the contracts.

Irma Chitaia

We could add, that during the last several years through changes in laws, regulating labor and social issues, material and social benefits and guarantees of pregnant women and nursing mothers were decreased drastically, almost abolished.

# Citizens aged from 3 till 60 stayed without affordable medical care

In spite of the reforms in the Healthcare System the doctor service is not available for the greater number of people. It became obvious after alienated all units and stopped the great part of the state financing. The citizens having the cheap insurance can make only blood test and cryoscopy and only a few list of urgent medical aid. Patients' rights are very often abrogated. Unqualified and indifferent relationships to the job are the fundamental reason and the result is terrible, patients often lost their lives. Although in such fatal events no one judges doctors. "The Medical Working State Regulation Agency" under the Healthcare Ministry whose main responsibility is to investigate patients rights and abrogate facts makes conclusions where is not spoken about unqualified and indifferent relationships. We visited juridical adviser of the nongovernmental organization and Healthcare Ministry Ombudsman Miranda Akhvlediani.

## **- What is the most acute problem in healthcare nowadays?**

- Under general plan of the healthcare development, till the end of 2008 the healthcare program might be accessible for the poor part of the city. Now approximately 1 200 000 citizens are involved in this program. The most people who are not involved in the program appear helpless in case of necessity of the medical service. It became obvious when the Healthcare Minister ordered to abolish the greater part of the state programs in 2008 31st of December. Instead of this they established "cheap insurance" the so called "Five Lari" insurance.

## **- As it is said it does not involves the complete packet of service.**

- The so called "cheap insurance" covers only blood test and cryoscopy also test for glucose and electro cardiogram. In case of urgent service only 50 per cent is covered and not always. E.g. The hip fracture is not urgent accordingly the patient must pay himself for treatment. The planned operations are very important for citizens. The great part of citizens can not pay 2000 GEL for operations while they are not regarded as poor and are not registered in accordance data base.

**- We saw people who were satisfied with this program on TV for several times. E. g. there was shown the person who made operation for hand fracture. It appears that they were deceiving citizens.**

- Hand fracture is not urgent so it is not in list. So we can suggest that this person was not able to have operation under this insurance program.

**- Treatment quality is also very serious problem. What kind of information do you own?**

- There is guidelines proved by Healthcare Ministry where is indicated how the doctor must behave. Doctor treats patients according his private practice not according the medical rules. All of them have subjective methods and it makes the low quality. It is often when the doctors have no adequate working conditions and adequate compensations. It is the second main reason why the quality of treatment is so low.

**- When in most cases are the rights of patients abrogated?**

- As I already mentioned the main problem is accessible of the healthcare. The reforms in this spare are very spontaneous. The information is not always available for patients. They do not know what kind of privileges they have. In other words there is lack of information. Also confidentiality is not always protected. I do not want to blame doctors but there is not the culture to save patients' illness histories in secrets. It must not become the subject for the public discussion. The patient must be informed how he would be treated. The doctor receives decisions himself without informing the patient. Although he is obliged to do so.

**- Can you give me the concrete sample?**

- Healthcare Ministry has not the ombudsman institute. The Ministry did not see the need of Ombudsman in the spare. But when there was the patient whose parents refused to pour out blood for religious faith there was found no one who can make the comment. "The Medical Working State Regulation Agency" is the place where enters all kind of complaints but the conclusions do not consists of a word about the doctors unqualified and indifferent relationships. We have to receive these conclusions while there are no independent experts to make conclusions.

I can not say a word how independently work the experts of the Healthcare Ministry. There was an accident of auto catastrophe and person was injured. Doctors made several operations during this process but he died.

Parents blamed the doctors. Later agency made conclusion. There was nothing said about the unqualified and indifferent relationships of doctors.

**- The serious problem is monopolization of the pharmaceutical market from "PSP" and "AVERSI", they also own clinics. Can you say a few words?**

- The situation in pharmaceutical market is also very hard. There is no recipe system in Georgia. People try to treat themselves. In such cases they receive advices from pharmaceutics and they are oriented to sell only their products. Sometimes it does not have the result and then the patient tries again and again and increases his expenses. It also increases health rescues.

**- Doctors are often tied with pharmaceutical companies. Those who sell the greater number of medicines receive special rewards. So the doctor stands his own interests and concrete pharmaceutical company interests higher.**

- I heard it in private conversations but no one complained. This is corruption and if we do not receive the real evidences we can do nothing.

At last I want to add few words about the reforms in the Healthcare System. While all reforms pass through the closed doors the people sitting inside can not make the healthy discussions. There is no contact between citizens and Executive Authority so it makes great suspects.

**NATIA KADAGISHVILI**

We could add, that during the last one and a half years medical service has become completely paid and high prices as it is have been at least doubled both for medicines and medical services. For example, simple surgery after which staying at the hospital is not needed for the patient and she/he is prescribed a home treatment, costs 500 US Dollars excluding medicines.

# War is Over or Wave of Repressions Blankets Country

Repressions were quite a logical thing following the well-known developments that took place in August and the military men happened to be the ones who were mainly aimed at. The officials attempted to show it out that the failure was caused by war treason as well as other factors. The government authorities believed that by means



of administering punishment to tens of soldiers it would come possible to keep other units from going over to the people. Their peace and quiet were shuttered not only by the officers in the field but also by those authoritative military men who had already retired for the strategic reserve.

One fine day a piece of news about the “military insurrection” of the Mukhrovani Tank Unit was spread throughout the country. Readers are aware of the so-called revolt’s peripetia. Major General Koba Kobaladze was imprisoned. As it turned out Gia Gvaladze when talking with his plotters mentioned the name of the high-ranking military serviceman just to encourage the fighting spirit among them.

Keti Kobaladze, spouse of the Major General Kobaladze: “That morning Koba took the children to the school. He was late a bit and got home at 12 o’clock. Some journalists called him and Koba asked them to come to our place. While he was getting ready for the interview one of the journalists called him and asked to meet them at the Sakartvelo Movie Theatre for they could not find our house...

Koba went out and just in ten minutes information about General Kobaladze’s detention was broadcasted. We were really shocked. It seemed as if someone was waiting for him to go out”...

Kobaladze was detained. Almost simultaneously law-enforcers conducted a search of his apartment. Several registered arms and grenades were withdrawn from the flat.

On the basis of Ghvaladze’s statement Kobladze was charged with attempting to organize an insurrection and illegal purchasing/keeping of weap-

ons and ammunition. But Kobaladze got the grenades at the Osiauri Military Base of the Defense Ministry during the so-called August war. The acceptance certificate taken by policemen together with other document proves the fact.

Shalva Datumidze, Kobaladze's lawyer: "Signature of an official representing the Ammunition Department of the Defense Ministry proves that during the developments that took place in August 2008 Kobaladze got a set of ammunition consisting of an automatic rifle, several chargers with cartridges and grenades. He added the ammunition to the weapons left right in the streets after the war and took it to the Ministry of Defense. Another acceptance order proves the fact too. Several grenades happened to be left in the trunk of Kobaladze's car occasionally. He used to store them safe at home. That was enough to institute administrative proceedings against him but never the criminal ones for the bombs are taken from an official structure, the Defense Ministry of Georgia".

Notwithstanding multiple requests made by the Kobaladze's defence, the General Staff denies handing the above-mentioned acceptance order to the lawyers. According to the advocates, Devi Chankotadze, Chief of the General Staff has been strongly objecting. It is important that Kobaladze and Mr. Chankotadze used to be friends in the past.

Keti Kobaladze: "Koba was on good terms with Devi, though it was painful to see that Devi's goodwill towards my husband faded. For some months they lived in China abreast. I spent the last month of their visit with them there. He ate the food that I used to cook for them"...

The position of Mr. Chankotadze really bewilders for the Court shall necessarily compel him to submit the document and besides, the paper shall never change the situation that Kobaladze has been in since the time of his jail placement. It is a political decision and nothing else. Just a single charge shall be put out of the case.

As for the charge that Kobaladze planned to feast in Mtsketa and realize the insurrection much talked-about at the same time, Ms. Kobaladze underlines that her spouse had never gone to Mtskheta then. Testimonies born by 29 persons attest the same. The defence party also obtained detailed telephone exchange writings proving that the statements are true, though the argument did not appear to be weighty enough for the investigation referring to the possibility that Kobaladze could have left his phone at home. Though the writing makes one to reject the supposition for Kobaladze had some telephone conversations then.

To cut a long story short, if the political will changes the case of Kobaladze shall be ruined as a house of cards. Different periodicals ran that

after the termination of the stretch Kobaladze should be discharged, though President Saakashvili's political prisoner is still in jail.

And still what was the reason that made President Saakashvili to focus his meticulous attention to Kobaladze?!

The family of the arrested General attributes the Generals' Club NGO founded by Kobaladze and other former high-ranking servicemen. Besides, in April Kobaladze together with Gia Karkarasgvili, god-father of his son was seen at the meetings organized by the opposition more than once. He was warned of all the threats that he should face if he did not leave Georgia. Someone was threatened by his authority. Kobaladze made his choice and this is the charge that he has to pay now.

The Government scared by the fact that Kobaladze could easily win the sympathy of soldiers who had already lost the war and neutralize the attempt to use the forces against their people.

According to some versions, the decision of military disobedience was an echo of the order to fight against the citizens.

The Authorities decided to get rid of the problems that General Kobaladze could cause to them and killed two birds with one stone. None of the soldiers would ever think to oppose any of Government's decisions (maybe illegal) even if a figure like Ilia II, Patriarch of Georgia calls the law-enforcers not to resort to force against their people. Government's arguments have always been much more telling in Georgia ....imprisonment, repressions.

After the Rose Revolution Kobaladze voluntarily left the armed Forces of Georgia. The thing is that he served in the Army during Shevardnadze's rule. Initially the relationships between the General and the new Government were quite close. Saakashvili's inauguration was organized by Kobaladze as well, though...Keti Kobaladze: "Koba left the Ministry 6 years ago and he has been shadowed since then. It was not easy for him to live without the Army. He used to wear the uniform even at the wedding parties that we had to go to. I wondered whether he would put the clothes off or not. He was eager to do something for his country and regarded the Generals' Club as an opportunity to be useful for Georgia".

When the war started in August, 2008 the President Saakashvili received his report. Kobaladze asked the President to use the knowledge and experience of the former serviceman to protect the country. Though he was not replied, Kobaladze together with some of his friends took part in the hostilities as a volunteer. Kobaladze was not the only expert of military affairs ignored by the Government then. They had not been "reservists", you see...

Kobaladze is one of the military men who got great experience in the

fight for Georgia's territorial integrity. Absolutely voluntarily he did his compulsory military service if the Russian Army and unlike many of his compatriots went to the Special Mission Units. He did it to acquire all the skills necessary to protect his country.

Guram Kobaladze, General Kobaladze's father: "Koba had many features of a true man even when he was a little boy. We used to talk about the history of Georgia and Samachablo. We come from the very region. Very often Koba reassured me that we'd get back to Samachablo with dignity. I was glad when they assigned Okruashvili to the post of the Defense Minister. I thought he would gather guys from the region and build up the army on the basis ... Okruashvili had never been able to stand injustice and tyranny.

Once the President asked why Kobaladze was out of prison. Why? What's up? Saakashvili and my son are almost the same age. What was he doing together with his "team" when Koba shed his blood for Georgia? He has been thinking of restoring country's territorial integrity since then and he'll do his best to achieve the aim... If they had the present financing... 13 months of fighting with their bare hands... And Koba Kobaladze is corrupt?! Just have a glance of the life that he has passed through and compare all the diplomas and experience with the declared property of your friends. Even the flat given to my son was finally allotted to someone having a "sick" wife. And, what about Koba's four children? My son used to share everything he had with his brothers-in-arms and they idolized him too. The guys gave their children his name".

An interview given by a Georgian high-ranking law enforcer to a foreign periodical runs that Kobaladze is a Soviet General. It is true that Koba Kobaladze is a graduate of Frunze General Staff Academy (Russia) but he also studied at the military schools of Germany, US, Italy and China.

Finally we want to express hope that justice shall triumph over unfairness and the man who has never been guilty shall be discharged from the prison.

**KAKHA IORAMASHVILI**



# Identify Misha's death-men!

During the last two months different demonstrations were broken up and many scuffles happened to appear hither and thither in the city. Today one can easily notice informational flyers and placards stuck outside. There are photographs of about 30 persons printed on them. We decided to pay a visit to Irakli Kordzaia, journalist who is one of the organizers of the scandalous initiative. Mr. Kordzaia explains the extraordinary title of the action (Identify Misha's deathmen!) and says that these are ones belonging to the new sort of human beings bred and trained against their own people by Mikheil Saakashvili.

 <b>1</b>	 <b>2</b>	 <b>3</b>	 <b>4</b>
 <b>5</b>	<p><b>Irakli Kordzaia: "THESE ARE NEW SPECIES OF HUMAN BEING - BRED AND TRAINED BY MIKHEIL SAAKASHVILI AGAINST OWN PEOPLE."</b></p> <p><b>In case of recognition, please contact us at the following address: <a href="mailto:jalatebi@yahoo.com">jalatebi@yahoo.com</a></b></p>		
 <b>6</b>	 <b>7</b>	 <b>8</b>	 <b>9</b>
 <b>10</b>	 <b>11</b>	 <b>12</b>	 <b>13</b>



**In case of recognition, please contact us  
at the following address: [jalatebi@yahoo.com](mailto:jalatebi@yahoo.com)**

- Due attention has to be paid to the fact that President Saakashvili's opponents are punished even if they commit minor offences. Insignificant allusions are quite enough for the law enforcement bodies to put our supporters behind bars. Cases of Dachi Tsaguria, Mikheil Meskhi, Merab Chikashvili, Davit Patsatsia and others have to be in Merabishvili's jail wards. Zonder-brigades assault civilian population not only at night but even in broad daylight.

Special video and photo materials show how brutal the deathmen are towards citizens, youngsters and elderly women.

Irakli Andronikashvili, Bakur Kornilov, Irakli Gogia and Nugzar Tsikhe-lashvili have already been recognized by the public. They took part in the incident that happened during the night of Ascension. Their ammunition consists of stones, brass knuckles, knives and iron cudgels used instead of the traditional rubber ones against the peaceful participants of the meetings.

In the record representing another incident we managed to identify Ser-go Bichashvili and Badri Bakoev, activists of the Isani-Samgori district National Movement. Savage reprisal recorded at the Parliament building was partaken by activists as well as police officers. All of them moved into the buildings of the Internal Ministry and State Security Service.

In their attacks against opponents civilians fight side by side with the so-called law enforcers.

Irakli, there are photos of the policemen who fought at the Police Department June 5 on the flyers and placards spread by you.

- I am one of organizers of the action. The permanent pursuit and terror made us decide upon carrying out such an action. The only thing that we aimed at then was to understand whether the authorities had any discrediting evidence against us or not. We were ready to come into the Department to suffer a fair punishment.

- And the answer was...

- Yes, there is no precedent for the things that Saakashvili's dictatorial regime did there. They beat unmercifully everyone on their way. The deliberate attacks against journalists reminded one of a well-planned military operation. The only aim they had was to make us enter the territory of the Department and provide them with an official alibi.

39 of 70 demonstrators were detained that night. Fines were imposed on some of the demonstrators and others were put in prison for a period of time of 8 days.

We find it necessary to disclose the truth and identify those who took part in the carnage against demonstrators. One can easily notice four po-

licemen dragging a brutally beaten man into the building of the Department. We cannot fight them with their own weapons. We can just make them feel ill at ease for everyone shall be aware of what their job is.

They are guilty and they shall know their place in the society of Georgia. These are ones belonging to the new sort of human beings bred and trained by Mikheil Saakashvili against his own people.

- Are you sure that the violators shall be identified by means of the flyers and placards and they shall bear discomfort?

- From the viewpoint of moral I have no doubts that we shall cause discomfort to them. They have to think about their future. When Saakashvili leaves the country with his tight-filled purse, each of them shall have to live here with the stained good name.

I have no idea of how they are going to comport themselves in the streets of Tbilisi.

- Are you sure that the present interview shall not change the unworried style of life that you lead and are not you afraid of the people you call “Misha’s deathmen”?

- Well, I expect positive changes neither from the butchers nor their patrons. As a journalist I have always been disclosing the truth and I am not going to stop in the future. They hope that people shall cease expressing their protest but that is the worst mistake that they have ever made.

I want to call things by their proper names. There is nothing criminal in one’s decision to say that a man beating an elderly woman with a truncheon for her opinions is a scoundrel.

It is my professional and civic duty to disclose the truth.

And a question for Vano Merabishvili: 15, Ninoshvili str., Tbilisi. Cars with unintelligible numbers and men dressed in black t-shirts regularly waiting for me – what are they doing there?

If you have any evidence against me I shall give myself up after you send me a notification and abide all the procedural requirements.

Though, if this is merely an attempt to frighten us then mark it well: we shall unmask all the violators.

*Interviewer* **GIORGI MAMATSASHVILI**

# High-rank Policeman kills a Security-guy of the Georgian Patriarchy

Sandro girgvliani, Buta Robakidze, Zura Vazagashvili, Giorgi Gamtselidze... Another victim of offender-policemen is a 30-year-old Leonid (Mamuka) Chkharchkhalia. MIA continues distracting public's attention and tries to conceal the premeditated murder. In order to maintain the reputation of the police it puts all efforts to "rescue" the murderer, Sergo Sukhishvili, Head of the third Division of Vake Saburtalo Police Office.

**According to the official version of MIA "the officer of the MIA Sergo Sukhishvili made a single shot from his registered arms, that resulted in death of the officer of the state security special office, Leonid Chkharchkhalia, born in 1979. Sergo Sukhishvili has been arrested by the ministry of interior. The case is investigated by Tbilisi Prosecutor's Office."**

The victim's family has strong feelings about the allegation by MIA, as they believe that the victim was killed intentionally. The relatives demand objective investigation and due punishment of the offender.

Mamuka's mother Dodo Chkharchkhalia told us: "I had an only son... they killed my son ... I will not bury him... I will come to Tbilisi on my feet..."

It is not difficult to understand the victim's mother's feelings. She could not say more.

Killed Chkharchkhalia was from the village of Khabume of Chkhorotsku district. He worked as a security guy at the Patriarchy, and at the construction firm "Kid Architecture" in combination.

A murder has occurred on June 15, in the first quarter of Nutsbidze Street, between the restaurant Kvevrshi and the construction site of "Kid-architecture". Chkharchkhalia was guarding the construction site. Murder occurred between 11:00 and 12:00 p.m. The murder has an eye-witness. Irakli Vekua was around when the murder took place. His story is absolutely different from the one announced by the MIA.

Irakli tells us the details of the incident that he reported to the police immediately.

**Irakli Kekua:** - At 4:00 p.m. cousin of my Mum – Taniel Antia called me. He and Mamuka were going to someone's birthday; so he asked me to

stay at the site until they would come back. At half past ten in the evening Mamuka came back to the work place. He was fairly drunk. In about five minutes, Mamuka told he ran out of cigarettes and wanted to buy some. We went down to the small shop together. The shop assistant knew him and used to give a pack of cigarettes in debt sometimes, however, that day she refused to give it without payment. She told the next day her shift would switch and she could not give in credit. Mamuka got angry with the refusal and punched the advertisement box outside the shop. I started calming him down and forced him to cross the street together with me. He was upset, so he went back to the shop, and started talking loudly with the shop assistant. I came to him and calmed him down finally. We went back to the construction site and sat down on the bench in the side-street. In few minutes, two strangers came up. One wore a black T-shirt (Sukhishvili – editor.) and another wore light color shirt. They came up but did not say they were policemen. They addressed Mamuka directly: “So, is it you a tough man?”

At the same time the man in black T-shirt took Mamuka over his neck and started to strangle him. Mamuka managed to kick and get rid of him. The man in black T-shirt started again but he and his fellow could not overpower Mamuka. then everything happened in seconds, I don’t know when the man in black took out his arm, but I saw how he recharged it and shot into Mamuka’s head. We started to help but the man in light shirt detained us. After, they started down to Vazha-Pshavela Avenue direction. We followed them. I met Taniel on the way and I told him that those guys shot Mamuka and I was following them not to allow hiding away. At that time about 15 or 20 policemen, all of them were armed, they came to the scene of murder and did not allow us to approach. I could not see were the one in black T-shirt disappeared in the mess. As soon as they noticed I was an eyewitness they put me in the police car and took to the City office for testimony. I told them all the details of the incident.

On our question – if the police know the truth why does the MIA announce the different information? Irakli’s answer was: “The policemen do not drink on duty, as I found out, those men had a feast at restaurant “Kvevrshi”. If they were on duty, they should shoot in air first instead of targeting Mamuka’s head, he could shoot his legs . . . How can a policeman shoot an unarmed man?”

We contacted the friend of victim –Taniel Antia as well

According to Antia, they went back from the birthday party by the friend’s car and left Mamuka at the construction site. “A friend of mine had to give

me 50 Lari, so we went to “Populi” supermarket. I walked back from the supermarket to the work site. On my way I met Irakli, who told me Mamuka was shot. He pointed to the man in black T-shirt running away.”

As Tariel mentioned, Mamuka’s friends, family and relatives have very strong feelings toward the version announced by MIA and they demand objective investigation of facts.

“Now we are in a condition that could not concentrate on the process. However, we heard about the fabricated version from TV. Mamuka’s parents are upset and they threaten they will not bury the dead body and will move it to Tbilisi instead. MIA is better to say truth, otherwise it will get consequent respond. This fact will become known to everyone not only in Georgia.

How can they say that the officer on duty killed Mamuka, the killer was celebrating his kid’s christening in the restaurant “Kvevrshi”. He went out from the restaurant, and this fact is fixed by the video camera of the restaurant.” – says Antia.

**NANA AREVADZE,  
MAKA QOBALIA**

# They hit us ruthlessly, as if we were going to seize the Police Station

On 15<sup>th</sup> of June was held the manifestation of student opposition movement called “Arrest us”, the state fulfilled their desire directly and arrested 39 students and beat more than half of this number.

The journalists were also under pressure especially the opposition journalists.

Irma Inashvili the head of the Union of Journalists “Objective” was shooting the demonstration by camera, as he works on the documentary film. Despite this the policemen treated her ruthlessly and even broke her camera. We invited her at the office of “Georgia and World” and asked to tell us what has happened on 15<sup>th</sup> of June.

- There are some days that I could remember all my lifetime. The first one is 16<sup>th</sup> of March of 1993 when Sukhumi was bombarded. That time I was fulfilling my duty as a journalist. On 27<sup>th</sup> of September happened the great tragedy, Sukhumi was defeated. But even that time the journalists have the indefeasible right. 15<sup>th</sup> of June reminded me that time, when against the peaceful manifestation were used the forces, that acted like enemies. Their actions were quite severe. They did not care much whether there were using forces against young men or little children who were buying the ice cream at the nearby shop, against the journalists handing the microphone or the old people handing the cane. The monster was against us who were leaded only by animal instincts.

- After that when the government promised us that they will not use the forces against the peaceful demonstrators, this kind of ruthless action was unexpected, especially towards the journalists.

- We could add more. Their action is not strange it was not really adequate. If we knew before that they were going to attack the participants of the manifestation we would save our technical equipment and shooting materials. Their attack was sudden. Neither the street was locked nor does the protest have illegal formation. They were hitting us ruthlessly, as if we came to seize the police station. They were oppressing mostly the journalists, by breaking the photo and video cameras, destroying the cassettes. When 20-25 years old special mission unit member saw me announced loudly, if I met him somewhere I will easily recognize him: It is Irma Inash-





vili, the journalist and tried to take away my camera. I did not resist, he caught me with my neck and started to hit with truncheon. He was not able to take my camera and hit me on the right hand with knuckle. The tendon of my hand was torn and I throw the camera down. He took and broke it into pieces. I fell down, the special mission unit man said that I must die and called the others to help to fulfill this, but one of them survived me.

- It seems that human beings also work with them...

- My case confirms that some of the members of that special mission unit have not their human faces totally. Saakashvili and Merabishvili think in vain that they could preserve such kind of state for a long time. There are the people among this special mission units who acknowledge well that the regime force them to commit a crime.

- I would like to add also that despite the respect towards my colleagues I do not share the protest of "Caucasus" and "Maestro". When the country is under pressure, to cancel the transmission of the television channels is unacceptable. People are waiting to hear the truth from the television and they have even stolen this right.

*Interviewed by* **BONDO MDIZNARASHVILI**

# Ministry of Interior Warns Refugees not to Join Protest Actions

One year will be passed soon after the August war ... and after 15 years since the Abkhazia tragedy happened, Georgia faces new wave of refugees. Authorities think that they provided alternative living area to internally displaced persons, but this is just their thoughts. The reality is far more severe. Those refugees, who disliked ghetto like residences, designed and constructed under the aegis of the Ministry of Interior and refused to live there, continue to live in the buildings of various public establishments suffering from terrible living conditions.

Former headquarters of Soviet Army presently has new inhabitants - refugees from Samachablo and Abkhazia, as people call them “new” and “old” refugees.

Once you enter the headquarters building, you will notice the “minimarket” opened by one of the inhabitants. You will find Male refugees mostly in the corridors or out of doors discussing daily problems; destroyed carpet and walls, broken beds, window frames used as desks, this is the horrible picture of accommodation they have to live in... but the main thing we would like to tell you about is the letter issues by Merabishvili’s office, which explicitly warns refugees not to participate in protest actions.

3 days before April 9, the day when protest actions started, refugees received lots of “friendly” messages suggesting to refrain from participating in actions. “Georgia and the World” obtained one of the letters written by Micheil Dilimashvili, the head of the 4th company of the central authority of patrol police, in which he addresses Nino (we deliberately do not specify her surname) and politely calls on her not to join the protest actions. You will easily read threat between the lines of the letter.

“Four families residing in this building received this kind of letters, warning us not to join protest actions. This letter is insulting for me, while I dislike the opposition and do not support them, It’s my own decision whether to take part in actions arranged against authorities” – says Nino, our respondent.

It’s worthy to note that few people among refugees desired to talk about their problems. “We have been talking, but there is no outcome, nothing has been changed, nobody is concerned with our problems” – this was com-

	საქართველოს შიგნითა და გარე სასაზღვრო პოლიციის დეპარტამენტი შიგნითა და გარე სასაზღვრო პოლიციის დეპარტამენტი <b>MINISTRY OF INTERNAL AFFAIRS OF GEORGIA</b> <b>THE DEPARTMENT OF PATROL POLICE</b>	
	თბილისი, დავით აღმაშენებლის ხეივანი 35-მ კმ.	☎ 53-02-16 52-77-68
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ქვემოთ მოხსენიებული წყნს ხელი არსებული ინფორმაციით, საზღვრებს გარეშე დროს, ცალკეულ ექსტრემალური დაჯგუფებები აძრებენ პროვოკაციებს მოქმედებს. მოაწოდებს პირდაპირ თქვენ, არ მართავთ მონაწილეობა კანონსწინააღმდეგე ქმედებებში.		
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ქ თბილისის სასაზღვრო პოლიციის შიგნითა და გარე სასაზღვრო IV ადგილის მეთაური		მთავარი დეპარტამენტი

mon reply, although some of them provided detailed story of their adventure starting from war break to date.

“Georgian army had left Didi Liakhvi gorge a while before indigenous population moved from that places: - tells our respondent from Didi Liakhvi gorge, who hardly survived from death - we got out of the gorge on August 11. Few women from our community decided to approach Ossetians (for men it was rather dangerous to appear) and ask them to cease fire and arrange corridor to enable us leave the gorge. At that time looters were already darting in and out. Ossetians did not accept our request and threatened to murder us, then one Georgian guy offered them his car for the expense of freedom, but it was hard to persuade them. Among Ossetians there was one Georgian from Kashuri, whose child had been killed by Georgians and he was screaming “I will kill you”. Eventually Ossetians took pity on us and set free. We walked 15 kms through the wood and met Kazaks then. They explained that Ossetians had already informed them about us. Kazaks offered water and tea to us. Then we continued our way to Gori. I had left my child with my sister in Gori and once I approached my sister’s house the neighboring building exploded with cassette bomb. We were forced to leave Gori and head for Tbilisi.

Before, when heading towards Gori, we notified Georgian Security Service representatives about location of Russians and mentioned that on our question: what will be your next steps? – Russians responded: “we will

move forward”. After arrival in Tbilisi, our respondent was hosted by his brother in law who lived in rented apartment and later on moved to the headquarters’ building, where she has been living to date.

Due to the war she lost everything including her job. She used to work at the Ministry of Economy with Sanakoev’s administration. “the body was destroyed at all, just few individuals remained, I desperately need some job. They promised to help in finding something suitable in other entities, but it was just promise. My 18 years old boy suffers from severe neuroses. At First - events of 2004 year, then this war . . . and I can’t buy even simple drugs for my son” – worries the mother.

One more serious issue is that, those refugees who refused to either live in living areas constructed by state or accept relief of 1000 GEL, will not be granted the IDP (internally displaced person) status. “One year will be passed soon since we left our houses but so far we have not got status of IDPs that would allow us to receive monthly allowance of 22 GEL” . .

Refugees living in headquarters building have terrible hygiene problems. Sanitation is out of order in all share toilets located on each floor. One private company was assigned to arrange showers but this never happened. Ariston water heaters delivered to the building disappeared like a mirage.

“We watched from our windows trucks loaded with water heaters and were so happy, but in half an hour they disappeared. The same story happened with beds. Later, some people from our community saw the same truck loaded with beds in the yard of the Ministry of Refugees” – tells the refugee from Kodori.

It seems that delivery of water heaters and beds and cutting red tape at events like that, is not as attractive PR action as needed for Saakashvili to save his reputation. Moreover, who knows, if refugees enjoy hot water and shower, maybe they will become more ambitious, accordingly ignore letters form Merabishvili’s office and even dare to join protest actions. . . . We would like to hear Deputy Minister Zguladze’s comments about the above-mentioned letters . . . . .

We will contact Zguladze on that issue and publish her comments in one of the nearest editions.

**MAKA KOBALIA, NANA AREVADZE**

# Proof of Witness by Jaba Zhvania

My dear Reader, May 28 members of the so-called Zonder-brigades broke up the rally but the Ministry of Internal Affairs run by Minister Merabishvili in a manner as if it were his private office misrepresented the facts. Ms. Zghuladze told that poor brawny policemen with masks covering their faces tried just to protect Ministry's cameraman from aggressive demonstrators and added that the law-enforcers had to defend themselves from the angry mob. They did not confine themselves to calling black white but started to act immediately...next day some "furious" protesters were detained instead of the people with batons and knives. The detainees were charged with attempted commission of murder against policemen.

A policeman did not even fail to throw a piece of brick into by shoulders that night. If it had been an ordinary state that we live in they should have examined the witnesses at least. Though, they seemed to be absolutely disinterested in what was the real state of things that day.

I do realize that any original evidence should make the word's of Ms. Zghuladze burst like a soup-bubble and that is why I'm going to do my civil duty telling the truth openly:

May 28 when the meeting was over quite a crowded festive occasion started at the building of the Parliament of Georgia. For some reason opposition leaders took the protest manifestation of May 26 for a victory over the government and decided to celebrate. Meanwhile a plan for spoiling the concert and arranging a night of batons had been worked out at the Ministry of Internal Affairs.

10 or 15 minutes after the concert's start, at about 10 PM punitive forces had already gathered in groups at the Parliament building (Purtseladze str.). They joined the demonstrators though the latter noticed nothing doubtful about them for they did not wear their uniforms.

Within half an hour they smelled out the situation and only afterward turned to active movements – they put on their masks and started to beat with bludgeons the young people standing nearby. Then they attacked other protesters gathered Purtseladze street with lightning speed.

The aggression happened to be quite rapid and well-planned. The outbreak of the masked people caused panic among the demonstrators.

The meeting turned into a chaotic one. Participants of the gathering



with flag handles and stones in their hands moved towards Purtseladze Street to put end to the sewage reprisal arranged by the Zonder-brigades there.

At the street's corner a counteroffensive was launched by about 200 participants of the protest action. The disguised men had to stop their attack and defend themselves. Though, the protesters had a definite advantage over the law-enforcers. About 70 men in masks started to draw off. Finally they took to flight.

Soon the disorder was over. We thought that the scuffle was really ended but the punitive forces renewed the attack. For this time there were more law-enforcers fighting against their people. Besides batons now they were armed with knives.

Demonstrators failed to resist the very attack and panic was spread among them again. Nobody dared to come nearer to the masked people. Participants of the meeting ran away, though not all of them managed to escape. They were beaten and abused (apparently, there were some bad language courses held specially for them at the Interior Ministry).

An amusing incident took place during the operation. Several policemen moved towards the demonstrators standing at the street corner in a manner that was somewhat of a peculiar.

One of the protesters set a pit bull terrier on the masked people with the view of self-defence. In the twinkling of an eye the dog jumped upon the back of an aggressor and made him roll on the ground until he was rescued by his brothers-in-arms.

The night distinguished itself with many other queer things. There were cases when the participants of the protest action threw stones at one another and then apologized. Though, there is nothing to laugh at...really nothing...

May 28 the night of truncheons unmasked the Nationalists who seized power by means of the "Rose Revolution" once again and made it obvious that the regime should be changed inevitably.

It is worth mentioning that more than 120 facts of aggression against demonstrations have been recorded since April 9 when the protest actions took their start. The government qualified the facts as attempts of provocation. Though, no investigation of the incident has been launched yet.

Moreover, on the same day of May 28, just two hours later after the “event” Ms. Ekaterine Zghuladze held a special briefing. She stated that demonstrators resorted to use of force against a cameraman of the Interior Ministry and the very fact was followed by the scuffle between the police and protestors. Simultaneously they showed a video with some knife-wounded policemen proving that it were the manifestants who initiated the incident.

Hence, the tape played back by the governmental channels (Rustavi2, Imdei, Public Broadcaster) again and again throughout the night showed that the members of the punitive forces called the Police had put masks on their face as brigands usually do. One could easily notice the much talked-about knives there as well. Ironically both black and white were brought together and recorded by someone less willing to do so.

By the way it was a real precedent of Merabishvili’s office being so impartial. The testimony is written, attested and signed by me.

**J. ZHVANIA**

# The Ministry of Internal Affairs threatens crippled participants of the rally

Teenager participants of the protest movement were brutally beaten and imprisoned in the Police Department building. They were threatened with raping as well. When they got information about the fact protesters moved from Rustaveli Avenue to the Police Department and held a protest action there.

That night police officers really did not fail to use rubber bullets with a view to “self-defence”. They also used batons and managed to send part of the demonstrators to the jail or hospital. Davit Chantladze and Irakli Khomasuridze lost their eyes and vision in the fight for the truth and democracy. It was obvious that the two were taken aim at. The sufferers together with their families, relatives, friends, human rights defenders, non-governmental and governmental organization, opposition and the Office of the Public Defender prefer to keep silent as if they have been conspired with one another. We started to seek for the ways leading to the blind men who got disabled thanks to Saakashvili’s “democratic” rule. The opposition leaders just washed their hand stressing that Chantladze and Khomasuridze did not belong to their political parties. The same politicians referred us to the Ombudsman’s Office having all the data about the victims of the offence. Giorgi Chkheidze, Deputy Public Defender abstained from being sincere and confined himself to giving ordinary answers and giving ordinary questions.

- It was a mistake to refer you to us for we have no information about the people.

- Maybe you can tell us their names only?

- No, they have not got in contact with contact us yet. Who referred you to our office?

- Then tell us what are the reasons that make the victims to keep in the background and there is nobody who would have any type of information about them? Haven’t you ever been interested in who they are, what was the state of their health, their names at least....

- We have been studying cases of all the victims. We possess no information about those you are interested in, but even if we had it we would never provide it without their consent.



- Maybe you've heard about the hospitals that they were taken to by chance?

- No, we have been studying the issues of those who applied the office then.

Finally physicians of the Eye Hospital in Ortachala district helped me though it took me a whole hour to make them believe that I was really a journalist and I was not going to put the left eyes out. Eventually they gave me the Chantladze's contact information.



My voice started to tremble when I realized that the man who had just lost his vision was talking with me. He was unexpectedly cheerful.

- I shall necessarily give you an interview but the injury has touched the cerebrum and doctors told me to rest for some days. Now I'm leaving for my village. I'll be back in three or four days but if it is so very urgent, call me in an hour and let's have a conversation.

Mr. Chantladze turned his phone off for two days. I found some friend's of his son. They promised to help me, though all of them disappeared.

I went to the Republic Clinic. Operating surgeon Malkhaz Chikovani operated another victim, Irakli Khomasuridze. Khomasuridze has been undergoing a course of medical treatment in Vienna. I talked with Khomasuridze's mother.

- Is Irakli leaving today?  
- For where?  
- I guess he shall undergo an operation.  
- Where?  
- In Vienna.  
- And who's taking him?  
- I can tell you nothing. He was once operated here... wait, my daughter shall talk to you.

I had a telephone conversation with Khomasuridze's sister, Ms. Tamriko:

- Physician Malkhaz Chikovani who works at the Republic Clinic ran the risk and operated my brother. As far as I know, there was another man who lost his eye. If I am not mistaken, his name is Dato. He lived in our

neighborhood, though my brother did not know him. A bullet was taken right from his eye at the Hospital in Ortachala. Irakli is leaving for Vienna now and I do not know whether he has any chance to see again.

- Was it really a bullet?

- Well, the doctor does not rule it out and Irakli agrees with the version. I saw my brother on TV. On the front line he was trying to calm both sides down blessing them and telling that they were all brothers. And suddenly the bullet shot from a very short distance struck him right in the eye.

- Somebody aimed at him in such a short distance?

- Yes, I think so.

- And what did he usually do before the misfortune happened?

- He worked at the Virgin Mary's Church in Nadzaladevi district. He used to look after a school at the church and spent most of his time with the clergymen there.

- And what made him attend the meetings?

- My brother had never accustomed himself to injustice. "I have to be there where my people are", - were the words that one could hear from him quite often. That day the story of teenagers imprisoned in the building of the Police Department disturbed him. He had always been against measures of the kind. He decided to go there and do his best to avoid fatal mistakes.

- And do not you think that the cost of the possible governmental changes was too high?

- Irakli has always been deeply concerned with the future of his people. By the way, on April 9, 1989 together with another youngster my brother saved a boy who lost his eye there. When the well-known demonstration was broken up in November he also was there.

Suddenly a man's voice was heard: God knows who is that and the receiver was hung up. I tried to call them again but all in vain.

**P.S.** Before starting to work over the material I was told that both, Chantladze and Khomasuridze were threatened so as to keep mum. According to one of the versions, it must have been Merabishvili's own office. People had been put their eyes out and instead of covering the treatment expenditures Saakashvili's democratic rule makes them keep silent. Not bad!

**MAIA SVIANADZE**

# Where they Beat us

Nothing seems to be really new about the Government of Georgia with its reputation that has already been blood-stained. Sandro Girgvliani, Buta Robakidze, Zura Vazagashvili, Valeri Pkhakadze and Giorgi Gamtsemlidze are not the only victims who were shot down right in the street. The bloodshed in August was caused by the inadequate, ill-considered decisions made by Saakashvili and his team. But who could ever imagine that they were so very successful in rummaging their hands about faeces... Unfortunately, one has to admit the present standing of things in the country.

His Holiness and Beatitude Catholicos Patriarch of all Georgia Ilia II declared April 28 the Repentance Day. A special mass dedicated to the initiative was held at every church of Georgia, though the Government did not fail in its attempt to be always original even that day. Presumably it were the activists of the National Party who threw plastic bags with feces at demonstrators. Maybe that was the way that they decided upon to apologize for the crimes committed against the country. Unfortunately Saakashvili's rule is based upon the people who have always been so immoral. It seems to be less possible to talk with a number of the opposition activists who have been attempted since the protest action held April 9. Though, it shall be mentioned once again that the right to the freedom of opinion is less protected in the country. .. Before telling you about the incidents of the recent days we'd rather recall the ways that the National Movement passed through towards coming into power.

The campaign for the Parliamentary Elections 2003 turned out to be distinguished for the quarrels that happened in the regions of the country. Bolnisi and Batumi witnessed the most impressive scuffles.

Mikheil Saakashvili and the rabble that accompanied him beat the local Governor in Bolnisi and stoned Shevardnadze's supporters. Though, Levan Mamaladze and his henchmen were blamed for faking the fact then...

has already been blood-stained. Sandro Girgvliani, Buta Robakidze, Zura Vazagashvili, Valeri Pkhakadze and Giorgi Gamtsemlidze are not the only victims who were shot down right in the street. The bloodshed in August was caused by the inadequate, ill-considered decisions made by Saakashvili and his team too. But who could ever imagine that they were so very successful in rummaging their hands about faeces. .. Unfortunately one has to admit the present standing of things in the country.

His Holiness and Beautitude Catholicos Patriarch of all Georgia Ilia II declared April 28 the Repentance Day. A special mass dedicated to the

initiative was held at every church of Georgia, though the Government did not fail in its attempts to be always original even that day. Presumably it were the activists of the National Party who threw plastic bags with feces at demonstrators. Maybe that was the way that they decided upon to apologize for the crimes committed against the country. Unfortunately Saakashvili's rule is based upon the people who have always been so immoral. It seems to be less possible to talk with the number of the opposition activists who



have been attempted since the protest action held April 9. Though, it shall be mentioned once again that the right to the freedom of opinion is less protected in the country... Before telling you about the incidents of the recent days we'd rather recall the ways that the National Movement passed through towards coming into power.

The campaign for the Parliamentary Elections 2003 turned out to be distinguished one for the quarrels that happened in the regions of the country. Bolnisi and Batumi witnessed the most impressive scuffles.

Mikheil Saakashvili and the rabble that accompanied him beat the local Governor in Bolnisi and stoned Shevardnadze's supporters. Though, Levan Mamaladze and his henchmen were blamed for faking the fact then...

Later Aslan Abashidze did not let the National Movement to organize a meeting in Batumi and it came to blows there. At that time Koba Davitashvili and Koba Khabazi were the most beaten ones. Davitashvili, who had to miss some of the actions of "Rose Revolution" due to his injuries, stated later: "When were beaten Saakashvili simply went away in secret and ate Adzharian Khachapuri (Georgian cheese pastry). If the Government run by Eduard Shevardnadze had punished the activists of the National movement for the very stones Saakashvili could have failed in his attempts to seize power and the country should have avoided November 7 as well as the well-known developments of August, 2008". Though it would be better to inform about the recent violences committed by the authorities rather than talking about things that shall never change. The so-called Zonder-brigades reminding one of criminal gangs assault citizens right in the street and administer justice and mete out punishment there. It shall be stressed that in number of cases police and patrol officers witnessed the violations, though none of them stirred a finger to prevent the misdeeds.

### **APRIL 9, 2009**

April 9 the car belonging to Gia Karkarashvili was attacked on the right bank of the Mtkvari River. Though a video camera was taken away from the beaten driver, no one even bothered himself to trace the fact.

As for the Deputy Interior Minister Eka Zghuladze, she said that Karkarashvili had not applied to the law enforcement bodies and the incident was not acknowledged.

Well, that is no excuse for too many sufferers have already applied to the Police that is always failing to open the occurrences of the type. The Day of April 9 turned out to be comparatively peaceful, though the period following it was notable for the increased crime rate.

### **APRIL 10, 2009**

April Irakli Khukhuneishvili, Lasha Kopaliani, Otar Chelidze, Natia Archvadze and Elene Baramidze representing the movement called “Why” were assaulted by masked people on their way home. Violators equipped with batons and electroshock settled a score with the activists. Irakli Khukhuneishvili was diagnosed with cerebral contusion.

April 10, at about 21:00 PM students of the Sports Academy moved from the Academy of Sciences to the Liberty Square.

Six strangers who got out of a BMW (X-5, GMZ 111) subjected Oleg Simonyan and Vova Stepanov to physical abuses, beat them with truncheons and took away flags from them.

April 10 at the Avlabari Underground Railway Station masked people broke the car belonging to Davit Akhaladze and made one of his passengers subjected to physical abuses.

April 10, at 24 Sharashidze Str. somebody broke the glasses of the car belonging to former MP Bakur Gulua. Mr. Gulua attributes the fact to his political activities.

### **APRIL 12, 2009**

April 12, at about 03:00 AM certain people appeared in the vicinity of the Parliament building. They talked about the intention to clean the area up and even started to work but about 50 newcomers lunched a scuffle. They broke equipment and destroyed the stage. Nana Kakabadze representing the Public Defender said that two hours later after the developments took place in the city center special monitoring was held throughout the streets of Tbilisi. There were four jeeps standing at the National Concert Hall and Vasil Sanodze was sitting in one of the cars.

April 12 three members of the Democratic Movement for single Georgia were beaten. Violators broke their cars and abused the supporters of the opposition when they were buying food and water for demonstrators.

### **APRIL 13, 2009**

April 13, 2009 some strangers broke the head of one of the protesters. Janiko Dvali from Sachkhere says that three men in civilian clothing asked her about her political favorites and wandered where she was going to.

They agitated for the Government and when the woman refused to change her views they just beat her.

Assailants broke the head of the 70-years-old demonstrator and the first aid was rendered by the Head of the Physicians' Committee.

Gocha Tevzadze, Lasha Kuchava and Levan Kotetishvili representing the Democratic Movement - Single Georgia together with their taxi driver Temur Bunturi were assaulted too. They were taking some food from Peking Str. to Rustaveli Avenue. They were beaten by about 10 men.

According to the taxi driver, the aggressors who also broke his car arrived by a BMW with the series LAS 433.

Shmagi Gelbakhiani, Head of the Samgori District Youth Staff for the organization Alliance for Georgia was brutally beaten. Gelbakhiani was taken to the hospital.

### **APRIL 14, 2009**

According to Vakhtang Laghidze, April 14 at about 11:00 PM his Toyota Land Cruiser was stopped by a grey Nissan and about 12 men came out of the cars that stopped just behind his own one. They subjected Vakhtang Laghidze to physical abuses and took the car away from him. As per the aggrieved person, the video camera installed at the World Bank's Mission in Georgia should have recorded the incident, though the leadership of the office denies passing the record to the Public Defender of Georgia till they get an appropriate permission from Washington.

April 14 at the Avlabari Underground Railway Station a man in civilian clothing beat Hamlet Gulordava who was going home after the action. The aggressor came out of a Mercedes jeep.

April 14 Giorgi Oniani and Mamuka Girgvliani were beaten in the vicinity of the Parliament building.

### **APRIL 15, 2009**

April 15 Ioseb Manjavidze gave an explanation to the public Defender's representative. According to Mr. Manjavidze, April 15 of the current year he attended the protest action held at the Public Broadcaster together with his brothers Otar and Zurab. At about 04:00 AM their friend brought the brothers to Shevchenko Str. where they had left the car belonging to one of the brothers. A silver Mercedes blocked their way when they got into the car. Another car, a dark-colored Volkswagen VNX 937 or 972 drove up just behind them. About 8 or 9 masked men with batons in their hands broke the

car's windscreen and tried to drag Zurab Manjavidze out of the vehicle. People living there came to help the brothers and the violators had to hurry away. Aurab Manjavidze applied to the Patrol Police, though instead of pursuing the aggressors the law-enforcers made the Manjavidzes to give explanation and thus made it possible for the violators to escape.

Zviad Lichel and Vakhtang Ivanishvili attended the protest action held at the President's Residence. At about 24:00 they left the action and went to buy some food. They noticed a strange Niva. Strangers sitting in the car called the young man decided to go back to the action. Right at the same time a Mercedes stopped in front of them and four men with batons came out of the car. There were four cars at the place where the incident took place. Lichel and Ivanishvili were beaten by the strangers. Participants of the protest action saw what was going on and came to help the young man. The aggressors took to flight.

April 15 Gocha Sakhltkhutsishvili representing the Organizational Committee of the Protest Actions gave an explanation to the Public Defender's representative. April 15 at about 23:30 on his car Range Rover (MUR 755) came home from the protest action. When he stopped the car 3 or 4 men pushed him out of the vehicle and beat him. The neighbors happened to



turn their attention towards the noise in the street and the aggressors had to leave Sakhltkhutsishvili alone, though they took his car away. They ran into the car belonging to one of the neighbors. 15 – 20 minutes later police officers came to the scene of action. The sufferer had damages in the forehead and elbow areas. At about 01:00 AM the Police called Sakhltkhutsishvili and told him that his car was found in the village of Dighomi.

April 15 Temur Radiani together with his son and a friend of his attended a protest action at the Public Broadcaster. At about 03:00 they went home. Not far from the Square of Heroes they noticed 3 jeeps. At the same time the jeeps and a white



passenger car hindered them from passing through. Temur and Shalva Radiani ran in the direction of Varaziskhevi. From 10 to 15 men from the cars started after them. According to the Radiani's they had hidden their faces with respirators and kept batons in their hands. The runaways stopped at the first building of the Tbilisi State University (in front of the Geocell office). 4 or 5 masked men with batons again came out of a white car that stopped almost simultaneously and started to beat the two.

According to the victims of the very violence, the patrol officers standing nearby did nothing to prevent the crime.

The law-enforcers happened to have neither portable radio transmitters nor mobile phones. Temur Radiani had to call police by his own cellular phone. Though, the patrol crew refused to help again. Temur Radiani and his son were taken to the Republic Hospital by their friends.

April 15 Gizo Sartania, Hamlet Gulordava and Makhaz Charkviani representing organizations such as People's Party, Liberty Party and Union "Alliance for Georgia" were beaten at the Avlabari Underground Railway Station again. Aggressors who came out of a Mercedes and Toyota cars assaulted the sufferers who were finally taken to the Republic Hospital. According to the three victims of the violence the aggressors were armed.

April 15 at about 16:00 Davit Ujmajuridze, former MP from the New Rightist Party was kidnapped. With some adhesive tape stuck on his mouth Ujmajuridze was beaten, taken to Saguramo and left there. As for his car, it was found burning in Vashlijvari.

#### **APRIL 16, 2009**

Temur Gundadze and Luiza Gabaidze gave explanations to the representatives of the Public Defender of Georgia at about 03:00 AM. According to them Gocha Gabaidze, Luiza Gabaidze, Murman Tsetskhladze, Amiran Gabaidze, Teimuraz Gundadze, Nugzar Gorgaze, Giuli Gabaidze and Temur Bolkvadze went by a fixed route taxi from the village of Khikhani to the capital to join the protest actions. Patrol officers stopped the mini bus in Marneuli. They told the driver that the car should be taken to the fleet for fined cars. Some of the passengers got into another taxi (VAZ 21 09, AAK 488). There was another taxi too. The car where Luiza Gabaidze was sitting outdistanced. As for the other taxi, no one knows when it dropped behind and where it was driven to. Luiza's brother, Gocha Gabaidze and Temur Gundadze set in the disappeared car. The woman remembers that somewhere along the Rustavi highway silver BMW with a presumably transit license plate blocked the road and the taxi driver had to stop the car. About 6 masked men came out of the car and started to break the windscreen with batons. People sitting by the driver's side and just behind him were dragged



out of the car and beaten. Teimuraz Gundadze and Nugzar Bolkvadze managed to escape. Later one their companions called them by phone and told that the aggressors had already gone. Everyone who failed to run away together with the two men was brutally beaten.

April 16 representatives of the Public Defender visited Amur Tegetashvili at the Neurosurgical Clinic of the Ministry of Internal Affairs. He is a fugitive from the village of Sveneti and actively participates in the protest actions. At about 22:30 he was walking towards the President's Residence from the Parliament building. 5 or 6 more than 30-year-old men having athletic constitutions assaulted him. Tegatashvili was beaten with brass knuckles. When he came to consciousness the aggressors had already left the place.

April 16 Shalva Sadaghashvili, member of the National Forum was on duty at the protest action. At about 03:00 AM he decided to go home. In Ortachala district in the vicinity of the Balneological Clinic a jeep caught his taxi up. Masked men took Sadaghashvili out of the car and beat him.

April 16 participants of the protest action held at the President's Residence recognized one of the violators, the Head of the Rustavi Service under the Criminal Investigation Department. Though, he did not submit his personal documentation. The dispute turned into a quarrel. The demonstrators took Razmadze who had been already beaten out of the place.

April 16 a former MP now representing the Conservative Party Nika Kvezereli was detained for hooliganism and illegal use of arms (though Kvezereli has the right to keep them). The detainee recognized Badri Gulua, one of the aggressors who ran after him in Avlabari. Presumably, Kvezereli used the gun to get rid of the aggressor. Later Nika Kvezereli was released on bail.

#### **APRIL 18, 2009**

April 18 an incident took place near Kutaisi. Malkhaz Baladze, Teimuraz Mdivani, Joni Tereishvili and Gela Datunishvili representing the Adzharian Organization of the Democratic Movement – Single Georgia were on their way back from Tbilisi to Batumi. At the village of Godogani (Terjola Region) they were surrounded by 4 cars. About 15 masked people wanted them to drive the car into the forest though they managed to call the Patrol Police and lock the car doors. When the patrol officers appeared the aggressors took to flight.

#### **APRIL 24, 2009**

April 24 President Saakashvili's visit to the Cafñ Marjanov was concluded by a protest action. The action itself was followed by another scuffle between the participants of the action and patrol officers. Law-enforcer

Zviad Loluashvili was injured that day. He was provided with the first medical aid at the St. Michael's Hospital.

**APRIL 25, 2009**

April 25, 2009 a particular incident took place at the corner of Chitadze and Ingorokva streets in Tbilisi. Vasil Sanodze heading the General Inspectorate of the Internal Ministry of Georgia was taken aback. It is Sanodze's responsibility to watch whether the requirements of the Ethical Code are met or not. He is also in charge for all the policemen's being law-abiding. Moreover, Sanodze had fun of throwing plastic bags full of water at the participants of the protest action. Sanodze was once dismissed in connection with the case of Girgvliani, though he has been working since the year 2008.

April 25 at about 22:00 in Gori Giorgi Martinenko was brutally beaten at the entrance of his house. Martinenko was an activist of the youth movement under the political union Movement for Single Georgia.

**APRIL 27, 2009**

April 27 a quarrel took place between the security service of Tbilisi City Administration and members of the organization called "Why?" The security officers denied the activists the possibility to tack stickers at the entrance of the City Hall. The disagreements turned into a scuffle.

**APRIL 28, 2009**

April 28 at Rustaveli Underground Railway Station a group of 20-30 men assaulted Irakli Kobakhidze and Zaza Elichbegov who were going home by the time. The brutally beaten demonstrators were taken to the hospital.

April 28 some masked man attacked Tornike Arevadze and Zurab Kan-chaveli. The same day Vlas Bakradze was assaulted in Kareli.

**P.S.** The facts mentioned above make just a minor part of the list of those who have already been assaulted by the Nationalists. We shall necessarily get back to the topic again and provide our readers with more or less detailed information about the crimes connected with rash against different opinions...

**MANANA CHKHEIDZE**

# Rights of Orthodox Christians

**Liberty Institute started attack against the Orthodox Church and Patriarch five years ago. The state television was tasked to discredit the Patriarch and Holy Synod**

After the Rose Revolution, i.e. after the group of liberals, declaring democratic values seized the power, the time came for attacks against the Orthodox Church. They understood well the difficulty of this fight. Return of people to faith, high authority of Catholic-Patriarch of Georgia and Church, confirmed by surveys of the International Republican Institute of the United States of America was fraught with the threat for them and perplexed ultraliberal-minded “democrats”.

Although this threat provoked their aspiration for more vehement strife against the Church. And knowing, that open fight against orthodoxy will result in Georgians’ (and not only their) indignation, they resorted to guile and set themselves as an object to brainwash the nation.

The initial step was preparation of special programs on the state TV channel No.1. Special sessions were dedicated to this issue – “sessions on religion” – the purposes of which were planning and implementation of the campaign against the Patriarch of Georgia and Georgian Church.

The first channel had to give coverage of this issue, starting from news releases and ending with documentary cycle. The journalist Irma Inashvili and the group of opinion-based journalism were assigned this task. Liberty Institute was the planner (the branch of Soros Fund in Georgia). At the meeting in summer of 2004 year the Institute presented so called PR-plan named “Main Messages”. Here are some extracts from this plan: Patriarchate of Georgia – to reflect situation in Synod. It is noteworthy, that Synod is split into several parts, that the Patriarch is not able to control processes any more, since he has grown old!.. Synod shall be presented as incapable body, as a group of corrupted churchmen, part of which are fanatics, the other part - bribetakers, while the third part is willing to introduce changes in the church.

Documentary film, reflecting monarchism shall be prepared. It shall be said in this film, that nuns dream of marriage, while monks are sodomites. All of this shall be presented in “a nice form”.

The film, showing that congregation is completely blind and ignorant shall be prepared. If you ask congregation on the day of Transfiguration - do you know what Transfiguration means? – you will see that these people are ignoramus.

One must laugh at hell and paradise – this bloc is conditionally called “Reportage from Hell”.

The theme regarding replacement of Georgian canon with Greek one. Architectonics of church service shall be reviewed and remodeled. It should be said, that our Church got stuck in “old times” and does not introduce novelties, i.e. is backward.

That Orthodoxy oppresses other confessions, that Orthodox Christians destroyed Roman Catholic Church in Samtskhe-Javakheti. Such facts shall be showed extensively and at full-scale!

Analysis and propaganda of ecumenism. Why the Patriarch withdrew from the World Council of Churches – this was wrong, i.e. the Patriarch shall be criticized!

Make fun of the theme concerning getting of unbaptized children into the hell!

The journalist Irma Inashvili told the representatives of Liberty Institute straightforwardly and openly that this campaign set a goal to discredit mother–Church and overthrow the Patriarch!

Naturally, in 2004 year, after final establishment of dominance of Liberty Institute at the state television, Irma Inashvili was dismissed. At present she is a head of Journalists’ Union “Objective” and periodically makes documentary films, reflecting our present reality in its true colors. Today, when attacks against the Patriarch have become more active, we decided to invite Irma Inashvili to the editorial office and ask her to remember peripeteia of ten years’ prescription.

**- Irma, you mentioned several times that after the Rose Revolution the authorities and its ideological staff started attack against Georgian Church...**

- In August of 2004 year, when I was still working at the state television, the management of the group of opinion-based journalism called us with other colleagues in the conference hall. When I entered the “special meeting”, the following leaders and supporters of Liberty Institute were present in the conference hall: Levan Ramishvili, Gigi Tevzadze, Sozar Subari, Lasha Bugadze, Beka Mindiashvili, Nodar Ladaria, Basil Kobakhidze, Mamuka Kherkheulidze, Tamar Kintsurashvili... These people, i.e. “ardently loving” our country, openly distributed among us a plan, which was aimed at discrediting the Orthodox Church. As per the PR-plan, camera crews of the Channel 1 had to show nuns and monks in Georgian monasteries from maximally negative perspective, in order to provoke distrust and hate towards the church in the society. We should have showed Patriarchate as a breeding-ground of envious, quarrelsome churchmen. It was intended to criticize

Georgian canon, church service, to underline that congregation is ignorant people, who do not know the history and essence of holytides.

Transfiguration was coming soon. “The leadership” of Liberty Institute gave us a recommendation to interview congregation and show, that majority of them do not know what Transfiguration means.

I would like to give exclusively to your newspaper a printed form of the material, which was then submitted to us by Liberty Institute as theses.

**- How did the TV employees who participated in the meeting react on this?**

- Employees of the television called these “meetings on religious issues”. Everyone found out what was going on in the conference hall, everyone saw the leaders of Liberty Institute, everyone was feeling danger and asked us not to make anti-church films.

**- How did the processes develop afterwards?**

- I confronted openly the group from Liberty Institute and stated that I was not going to make these films without the Patriarch’s blessing ... Indeed, I went to Patriarchate, met with Father Giorgi Gamrekeli and told him everything. When the Patriarch found out about this, he said: “In case of the hand of God, these films will not be released...” In one word, preparation for shootings started.

**- Was this only meeting enough? And you have never been “worked up” since then?**

- “Counsels of religion” continued. At one of such gatherings I said in face to Basil Kobakhidze: “You want to take Patriarch’s stand. A plot is set up against the Church and the Patriarch. My team is producing films that will reflect the truth but not your ugly fantasies”. It made a terrible fuss... They talked about me like: “She seems to be a fanatic”... By the way, Tako Pkhakadze, editor-in-chief of the news department, openly confronted to the “Liberty Institute”. Others agreed to realize a plan. Zaza Shengelia was also against this campaign, whose ancestors were religious people. However, Zaza would always balance the situation... At each such counsel I would always oppose aloud against pressure of fathers by the “Liberty Institute”. The situation became public and it overgrew into a scandal, and one fine day it all abated. The “Liberty Institute” was able to execute its strategy through only several TV programs and all ineffectively. In short, the “plan” collapsed.

**- And so the “Liberty Institute” accepted defeat so easily?**

- Accepted?! They occupied the whole television! As Zaza Shengelia retired, Tamar (Maya) Kintsurashvili was appointed as a General Director of Channel One. It has been found that the authorities handed the Channel

One to the “Liberty Institute”. Just then I hold a special briefing and caught the “Liberty Institute” in anti-church plotting. A big agiotage was caused by a term – “Reporting from Hell”, which was presented in “program thesis”. When I mentioned this word combination, every TV channel turned their focus just on it, pulled it out from context and it appeared that a crazy journalist talked about “reporting from hell”.

**- Was it only Channel One so active, or were there any other TV stations involved in anti-orthodox and anti-church conflict?**

- Eka Khoperia’s talk show broadcasted on Rustavi 2 was dedicated to the subject of “counsels of religion” those days as well as Inga Grigolia’s TV program on Imedi TV channel. I asked both anchors and producers to invite me as a guest in the studio of what I was refused.

**- But both of the programs were dedicated to your briefing and you were not asked of anything and were not invited into the studio?**

- Eka Khoperia’s producer told me that Levan Ramishvili does not want that. In short, I was a key protagonist of the story, I was labeled as an “insane” and even was not given a chance to comment on that... This is how our colleagues and ideologists from the “Liberty Institute” understand the freedom of press and democracy.

If looking closely, all new and old generations of the “Liberty Institute” need to be treated.

**- Today, Tea Tutberidze is considered as a “hero of our time” in Georgia and some people are even shunning to protect her...**

- Today Tea Tutberidze is under protection – say, help, so that she is not killed or stabbed. While in 2005, when the “Liberty Institute” was attacking me, was there anyone to think about affronting my rights and dignity?.. There was only one – the Patriarch of Georgia – protecting me; in the most painful hard times when I was slandered and called insane, it was His Holiness to receive my visit and bless me. “When you are considered as an insane for your faith it is the biggest good”, he said.

**- Irma, was it really a surprise to experience attacks on Patriarchate and media from these people? Well, we all knew extremely well who they are and what they aim at?**

- “Rose Revolutionists” tried to convince people that the democratic forces came up to take place of Shevardnadze’s regime. In summer of 2004, when I got added evidence that it was an evil to come to power, I was the first journalist to call Saakashvili’s regime a “disaster”. When I publicized an anti-church plan, in fact, I was left all alone... In 2004, majority of our people were either intimidated or delighted with Saakashvili’s team. Some people laughed at me, some others just did not believe me. Those who had

trust, did not have the courage to support me strongly and openly. Now it is 2009... The people needed all five years to sober up... Many “revolutionists” apologized: “We wanted democracy but turned up in a dictatorship”. You make excuses but what the use for my country then?..

**- Who you mean?**

- Levan Berdzenishvili and Republican Party for instance, who in due course tutored representatives of the “Liberty Institute” and used to create their ideology... As they feel remorse, the best years of my generation is passing by... Let them go and relax, and perhaps, our country will take a breath...

**- Lately, we can feel a new wave of campaign against the Patriarch...**

- At my standpoint, Saakashvili took advantage of this campaign and killed two birds with one stone. Firstly, as the father of Akhalaia brothers has been awarded an order, we witness discrepancies in public opinion, whilst the image of the Church suffered a lot. It was necessary to rehabilitate this image as far as Saakashvili needs the support from an authoritative church.

Secondly, Saakashvili is step-by-step dissociating himself from the “Liberty Institute”, which on its turn is exhausting its resources. Therefore, the authorities first encouraged Tutberidze and then condemned her statement! Eo ipso, Saakashvili presented himself as a president protecting the Patriarch and the Church.

And thirdly, a tendency of announcing Tutberidze a victim has begun to show. It is only the Ministry of Internal Affairs who is interested in possible attack on Tutberidze who will then say that “Ms. Tutberidze was attacked by “congregation-fanatics”. If Tutberidze becomes a victim of physical suppress, tandem of Lalaria-Ramishvili will then think over who is the next in their duo. Further, the flock will re-focus from aggression to remission and prayers... In a few words, Saakashvili will benefit in any case... Therefore I think that emphasis needs to be changed – stage performances, demonstrations and civil actions in support of the Patriarch are not necessary!

*Interviewed by* **BONDO MDZINARASHVILI**

# **Journalistic Investigation by the Journalists' Union "Obiektivi" regarding the severe violations of freedom of speech in Georgia**

**Performance of the so called "State media" in Georgia could be scientifically described as harmful informational influence upon the society. The issue is that the "influence" intends to bear illusion and lies in the minds of the audience. Such "order" is fulfilled in unison by all governmental media channels in Georgian media sector. However, some key "priorities" have outlined:**

1. Saakashvili's government never cares about the public opinion regarding the "desired theme", consequently they do not foresee any necessity to hold debates or use the discussion format. The controlled TV channels broadcast the government's "desired theme" as if there was no other alternative but this very welfare and truth. In fact the society is bereft the right to get objective information. The view of the audience, its assessment and attitude toward the information is totally ignored!

Conclusion: the "desired theme" of the government is firstly "dressed up" by TV channels as a truth and positive event, and then it is transformed into life. For example, let's recall the noisy reform of educational system. Saakashvili's regime made a rapid TV attack upon the public conscience to promote the reform. Nobody convened open discussions – why was the offered reform better than the preceded one? Or, whether the project would perfect and improve national educational potential instead of destroying it. Inevitability and vital importance of "Lomaia's reform" was broadcasted through more than 1000 TV programs by the governmental TV channels during 2004-2005. Finally, it turned out that Lomaia-Saakashvili's reform intentionally ruined down national educational system without offering any improvement to the society. Conclusion: Georgian TV channels intentionally lied to the audience when assured effectiveness and success of the educational reform.

2. Formation of the desired public opinion regarding the government's "desired theme" is always preceded by discrediting of reputable people. Let's go back to the story of the educational reform. In parallel to the glorification of "Lomaia's project" the state controlled TV channels intentional-



ly humiliated image of scientific and pedagogical community, naming them “old staff”, “red professors”, “corrupt ones” and even “hooligan professors”. The best example of “pasting the labels” to the people would be the case of November 2007 i.e. the rapid denouncement of opposition leaders by the TV channels as “Russian agents”.

3. Another “priority” of state information policy is multiplication of lies in order to cover the errors or failure of the president and government. We can consider under that priority the manner August events had been broadcasted:

a) The war was initiated by Georgian side, however the state controlled TV channels intentionally lied to the audience telling them that Russian tanks first advanced into Georgian territory.

b) Georgia underwent a shameful failure in the August war, however the state controlled TV channels ensured that . . . we had won (!) During those hardest days for Georgia Saakashvili’s regime was feeding the audience’s mind with the “illusion of victory”. By the way, building up the mentioned illusion took life of “Rustavi-2” camera-man who was filming “heroic moments” in favor of government’s PR policy.

4. Let’s recall the reality of Georgia in 2004-2005. The single goal of trumpeted arrests and disclosed telephone records was to terrify the society. In another words the government used TV channels to suppress public feelings and regulate them!

It should be mentioned that the government’s “desired theme” is spread out by means of 6 TV channels simultaneously (“Rustavi-2”, “Public Broadcaster”, “Imedi”, “Alania”, “Georgia” and “Adjara TV”). So the beholders are left without option to hear the different considerations (throughout the country). The architectonic of news programs is only built upon the positive passages. The “sweet lies” reject the public from the reality pleasing them at the same time. Demand on objective information goes into hypnotic sleep. The situation is added with the hardest social background, when the “shows” become food for the thousands of impoverished families. With this regard the mentioned TV channels have increased the space for “soup operas” and shows of corny jokes. Georgians virtually live in Mexico or Brasil and suffers from “Juan’s syndrome”.

In 2007 TV channel “Imedi” announced a contest. Tens of Georgian youngsters took part in the morning telecast, who tried to imitate senior Juan’s appearance or behavior (shame on Georgian men!).

Saakashvili’s long telemonologues are the separate topic of discussion. Of course they are live broadcasted. President’s tribune in a vineyard, on the highway, in the airport, at the Patriot camp, in the war! So the “complex

of tribune” became an inseparable attribute of the government’s TV-anesthesia. As soon as we see him on the screen, standing in the middle of a vineyard or an orchard our consciousness goes fast asleep listening to the “sweet lies”. Of course, in the unprecedented four hour long TV anomaly the “favored tribune” was absent, however we managed to see at least 24 dreams during those 240 minutes, when Georgia “was happy and broken into blossoms” and we were not beaten and threatened, but the free voters! It is essential, that Saakashvili’s multi-hour telecasts are broadcasted not only by one or two TV channels, but by all those six simultaneously.

In short, this is a mass attack on our consciousness!

After the general description of the “priorities” of Georgian e-media, I would like to analyze the TV-anesthesia symptoms of the recent weeks. Every week is “opened” by the theme of potential threat of war. (“Rustavi-2”, “Public Broadcaster”, “Imedi”, “Alania”, “Georgia” and “Adjara TV” confidently inform us that “there is a concentration of occupant’s armed and armored forces in the breakaway zones” The topic of financial crisis of “evil” Russia is also urgent. Georgian TV channels express inadequate interest toward the everyday life of our Northern neighbor and broadcast it so diligently as if one was watching Russian TV program instead of Georgian one. The youngster anchors loudly inform us that “Moscow is in a great trouble. Unemployment increases, the banks go bankrupt, and criminal situation is worsened. People of other nationalities are suppressed almost in the streets.”

I cannot understand why they put so much effort to broadcast the “occupant’s” everyday life. Do we lack domestic problems?

In the mentioned context Georgian TV channels feature the comments made exclusively by Russian experts who foresee real threat of war restart. It is just because the Georgian TV channels omit the phrases from those comments were the experts name Mikheil Saakashvili as a provoker of the “possible war”. Following the war threat and Russian financial crisis the only featured themes are connected with the positive information. Namely the information regarding emerging employment opportunities, aid to IDPs, improvement of households, preferences allocated to construction companies and others.

On February 27<sup>th</sup> 2009, we learned from “Imedi” TV channel news showing that “the government starts counter-drug program; the vice-mayor of Tbilisi delivers small package of gift to the large family with 8 children; the minister of agriculture, who has never seen the fertilizers, distributes saltpeter in the breakaway zone; and the alternative to Maia Nadiradze, a new “face” of “nationals”- Rusudan Kervalishvili continues lining roads in Varketili district.”

On February 28<sup>th</sup> 2009 the TV idyll becomes even more colorful. Ac-

According to the Public Broadcaster's news, the miracles take place in Georgia when the whole world suffers from economical crisis. A very young lady called Nino just sent her application through the job-announcement web-site and became a leading manager of the "Bank of Georgia". The "sentimental" story of Nino was followed by the cheerful news that the process of issuing the construction permission has been simplified.

The next day, i.e. March 1, 2009 is even more loaded with the positive news. According to the news provided by the national information agencies, Russian Prime Minister is complained at Arbitrary Court (Russia is the topic number one again), when Saakashvili travels around the world (to attract investments, of course).

So, ungrateful Georgians, . . . you do prepare for the protest rally while the president needs those investments (as alleged by the Public Broadcaster) to open jobs for you?! Mikheil Saakashvili visited Spain, and then Arab Emirates. What about the consequent results? How could you, a citizen of Georgia, barefooted and suffering from stings of hunger travel to Abu-Dhabi without entry visa?

At the same time the high voltage power transfer line blows up in Mukhiani district severely damaging the servant thereof. . . And here is an importance of "5 Gel health insurance" offered by the government. . . If the injured person was insured through the mentioned program he would not die from the lack of medicines, would he? . . .

In short, the managers of news program of "Public Broadcaster" seem to have very rich imagination. Firstly they show a burned up body of the injured man and then convince us how important the mentioned insurance program is.

On March 2, 2009 returned from Abu-Dhabi Saakashvili informed us he also had something similar to insurance package in the US (maybe when he worked there as a courier riding the bicycle up and down! So, if he would fall down from the bicycle, the insurance package would help him to recover). . .

## **Propaganda of War**

During the recent years the government controlled e-media consecutively suggest an idea to the population that there was a possibility of outbreak of the armed conflict within the breakaway zones. I intentionally used the word "consecutively", because the war rhetoric broadcasted through all six governmental TV channels ("Rustavi-2", "Public Broadcaster", "Imedi", "Alania", "Georgia" and "Adjara TV") has the systematic character. It depresses and demoralizes the spectators from day to day. About two weeks ago, almost all

governmental TV channels informed us that Russian forces planned to occupy Vaziani airport, Tbilisi international airport and other strategic highways aiming to conquer the Capital City. In the same section of time we learned from the governmental TV channels that the separatists shelled a bus full of children in Gali resulting in killing some of the children. On March 9, 2008 the information spread out about the blow up of the military armory of Russian forces in Akhlagori. It turned out that the incident was preceded by arrest of school teachers with Georgian orientation in Tskhinvai district. Before we start analyzing the situation, let's imagine a simple topic: there two neighboring yards next to each other and two neighbors live there. Those neighbors hate each other (because of the fence that they could not divide between themselves during last 20 years). Vanka and Gogia have got dogs. On a sunny summer day Vanka killed Gogia's dog. Why?.. He wanted to grieve his neighbor... Now let's discuss the different version of the incident: Vanka did not killed Gogia's dog, but he killed his own one. So the question is the same again: why?.. He wanted to blame Gogia in killing the dog and to create a new ground for scandals and argument with the neighbor. In short, let's symbolize our view: the state TV channels create not only the image of the enemy from Vanka (though he is an enemy) but the image of a provocative enemy! Consequently, Georgians get out of patience with Vanka Day by day. The innocent and kind-hearted Gogia, or a Georgian spectator, is ready to chop Vanka's head down. Inflammation of such pathos would be impeccable if not the main circumstance – reportage by radio station “Tavisufleba” from which we assume that: “evil-minded” Vanka not only did not shell the bus full of children in Gali, but, as the Georgian teacher of Gali school informs, the bus did not work that day at all (!). As for the March 9, 2009 when Vanka's ammunition blew up in Akhlagori, nobody blamed Gogia for doing that. The European experts confirmed that no pretensions had been imposed to Georgian side (for the mentioned incident). So, what's wrong with Gogia and Vanka? There is a very simple answer: Georgians are aware of negative inspirations Russia has toward Georgia, however, Mikheil Nikolaevich Saakashvili wants to use Gogia's (Georgians') anger to “fix the broken legs of his chair”. The PR tactic is also very primitive: one can blame disreputed Vanka for any offence as Gogia will believe anyway!

So, Levan Ramishvili and Giga Bokeria sat down and designed a plan of restoration of Saakashvili's chair. The plan addresses several issues simultaneously:

1. to artificially redirect the public attention from the great expectations regarding the opposition rally of April 9 toward the provocations planned by evil-minded Russia, or Vanka;

2. it is a known fact that when there is a danger of possible war, the society (intentionally or unintentionally) consolidates around the existing (even the worst) government. The sub-text: certainly, the threat of possible armed aggression is rather important than the opposition rally of April 9. And, the process of Mishiko's resignation will postpone smoothly!

3. There is a mercantile purpose as well – the opposition parties shall be blamed in getting financed by evil-minded Vanka.

Now, I think the reader understands why the “national news” allocate such an inadequate timing to the description of casual life of the occupant country – Russia, and why the programs “Chronica” and “Moambe” look identically as Russian “Vesti” or “Vremya”.

For example, we did not care at all, but on March 9, 2009 we noticed that Russians blood was up when they noticed that the singer presenting Russia at the Euro Vision contest was of Ukrainian origin. Firstly, Vanka's mistakes and offences should be highlighted at the maximum extent. Secondly, if Vanka does not do anything wrong, Gogia will anyway use the Akhlagori incident for maintaining Mikheil Saakashvili's office.

The TV-hysterics are added by Bokeria-Ramishvili's new major message showing that the opposition is full of Russian agents; Russia is a provocative enemy, while Saakashvili's ministers buzz busy like bees!

On March 8, 2009 in the TV program “Political Week” of the Public Broadcaster, the journalist Inga Grigolia invited the Minister of Environment Protection Goga Khachidze who seems to be selected as a buzz bee by the tandem of Bokeria-Ramishvili. So, Khachidze was granted with the honor to advocate the government. We learned from the mentioned talk-show that... Saakashvili's ministers were spread out though the country regions. They spend days and nights in diligent work in favor of people, while the opposition hampers the progress of the business. Moreover, the buzz bees are impeded by evil Vanka as well; He constantly plans provocations and intends to grasp Georgian common weal.

“Curieri” of “Rustavi-2”, “Moambe” of “Public Broadcaster”, “Chronica” of “Imedi”, and “Dge” of “Adjara TV” and news programs of other state TV channels artificially create a picture as if Saakashvili's government worked diligently while Russia and Georgian opposition hinder them.

Pay attention how drudgingly the state TV channels connect Russia and the theme of opposition rally with each other. Let me remind you that in 2004-2005 Saakashvili's government managed to consolidate the public opinion around the positive content. Despite the multiple incidents of street murders and property deprivation the protest pulse was beating only within the separate media means or political groups: “allow him some more time!”

– this was the society’s attitude toward Saakashvili and his regime. Georgian people opened their eyes upon Saakashvili government’s misconduct after two years – since 2006. It was the time when the views of people and political opposition synchronized and the first serious surge of protest waved up. It was the time when Bokeria-Ramishvili’s group set a goal to equalize political opposition with natural enemy and broadcast the mentioned illusion through TV channels as an essential truth.

In the years 2004-2009 Georgian TV channels disseminated multiple lies and presented in the form of authentic truth. Bokeria-Ramishvili’s efforts yield the result: today Georgian audience does not believe to the news broadcasted by any of the state controlled media. The Bokeria-Ramishvili’s group encountered new problem – how to persuade the Georgian society that the false information flowing out the TV channels was the truth. Moreover, Georgian spectators became negligent toward news program “Curieri” of “Rustavi-2”. So the inflammation of military adventure appeared on the agenda. This would move the attention of the disappointed society toward the territorial integrity of the country. Bokeria-Ramishvili’s hopes have failed again. After the August war the world named Russia the occupant, and Saakashvili – carpet-bagger. Project of “Nabuco” failed as well. Georgians cannot forgive Saakashvili the loss of Georgian territories. Bridge between Saakashvili’s government and the society is burned up. In turn, the TV channels activated. The top news is dedicated to Russia, the breaking news top news and latest news refers to Russia too. Then we are assured that the danger of war is realistic... and finally, from the current status of the Georgian e-media we can assume that the government is unable to maintain its sustainability and stability through media means. The governmental TV channels are losing their values and disinterest public. The processes will move to the streets soon. When the situation is at the end of its informational resource the agenda is filled by the option of power politics.

## **Story about deprived TV channels**

The Georgian National Communications Commission has gained political weight after the “Rose revolution”. This organization seems to be a modest one at a glance; however it became a tool for “paying off” those private owners who maintained distance from Saakashvili’s political interests and intrigues. Saakashvili started building “new Georgia” from confiscation of broadcasting frequencies from their owners.

From December 2004 the hidden assault upon the TV channel owners broadcasting over Tbilisi entered into force. The society was somewhat excited and from the other hand terrified by the facts of violation of the

owners' rights, yet, it did not yield much interest of the public. In cases of deprivation of the TV channels the Georgian National Communications Commission overtook the function of an "executing agent" whilst the "order" came from the ministry of internal affairs, Committee of Security and Defense of the parliament and the Office of Prosecutor General.

Since 2004 the journalists' Union "Obiektivi" started investigations of the corruptive transactions and violations taking place within the Georgian National Communications Commission. In the spring of 2006 we demanded launching the criminal case against the Chairman of the Commission - Dimitri Kitoshvili. The reader might be interested why we did so. It happened because Saakashvili's government started first attack toward the free media in 2004. TV companies "Iberia" and "Metskhre Arkhi" shut down; Right to broadcast on the TV company "Obiektivi" was seized from the journalists of the union "Obiektivi".

The other day, while having the private conversation, I and a colleague of mine Luba Eliashvili found out that after confiscation the shares of TV companies "Iberia" and "Obiektivi" had been assigned to a 28-year-old dentist, David Kakauridze. The question: "who was Kakauridze and why was he granted with shares in two different TV companies" – appeared naturally. During the investigation we found out that Kakauridze worked as a manager for the hotel "Varazi" and enjoyed close relationships with the high rank officials of Saakashvili's government who in turn spent their leisure time in the bars and restaurants of the mentioned Hotel. Besides, we came across the information that dentist Kakauridze was a close relative (cousin) of the Chairman of Communications Commission David Kitoshvili.

Director of TV Company "Obiektivi", Mikheil Agladze confirmed that transfer of the shares took place under severe pressure upon him. Kitoshvili threatened him by launching a criminal case and imprisonment. There were the attempts of physical assault as well. The "fight" between Kitoshvili and Agladze continued for several months, but eventually, 51% of shares of TV Company "Obiektivi" have been transferred to someone else. The new owner of 51% share has not paid to the partner the amount of 19,000 Gel as it is stipulated in the agreement. But we think that another fact regarding this settlement is more interesting. Agladze seems to have a strong character, so as soon as TV company "Imedi" engaged in oppositional movements he gave the interview to the journalists of the program "Droeba" where he described in details how Kitoshvili threatened him with imprisonment in his own office if Agladze would refuse to transfer TV company shares to Kakauridze. Agladze also spoke how he was forced to go to the notary bureau and transfer the shares to the named man. The interview was taken



by the journalist Giogi Molodnashvili, however, Giorgi Targamadze (Head of the program “Droeba” that time) did not let the interview on the air. It seems Giorgi Targamadze had already started cooperation with Vano Merabishvili and consequently was protecting interests of the ministry of internal affairs.

The investigative group of the Union “Obiektivi” started working on the mentioned case since 2004, i.e. when the programs of the Union were closed on 35<sup>th</sup> decimeter channel. During the investigations we found out that the confiscation of broadcasting frequencies had the mass character. The owners of different frequencies were imposed to the hidden pressure. We also found out that on the 35<sup>th</sup> decimeter frequency (broadcasting over Tbilisi) seized from us the TV company “Alania” started its broadcasting. Alania was created by the initiative of the Security Service. We would like to mention here the “Law about broadcasting” – elaborated and adopted with the assistance of EC experts. So, according to the mentioned law the same person is not allowed to hold shares in two different TV companies. However, such prohibition did not apply upon the dentist Kakauridze who enjoyed protection from Saakashvili’s high rank officials.

Two years later after the seizure of shares, Director of TV company “Obiektivi” addressed a court. It was the period when the terrified society was somehow waking up and started open talks about the crimes committed by Saakashvili’s regime. In order to cover the tracks the government changed the 51% share owner of “Obiektivi” several times. Kakauridze was replaced by Nodar Charkhalashvili, who in turn was replaced by Kvirikashvili. Soon Kvirikashvili applied to the Communication Commission with the request to give away the broadcasting license to the state for free (?!). That times the realistic price of 51% share of the broadcasting company varied from 200 000 to 500 000 USD and Kvirikashvili could earn profit by selling it .

The “Van of Democracy” – TV company “202” shut down after imprisonment of Shalva Ramishvili. According to the official version the owner of TV company, MP Vazha Kiladze sold it to the company Hans Altenburg. About six months later I had meetings with the former staff of TV company “202” that entailed plenty of questions regarding the Kiladze-Altenburg’s deal. In December 2006 the Union “Obiektivi” received an offer from the owner of “TV-33” Hans Altenburg regarding restart of the frequency. Journalists of “Obiektivi” started designing the air scheme. The scheme was presented at he Hotel “Kopala” where Hans Altenburg was introduced to the media cooperation plans provided by the journalists of “Obiektivi”. After two months of the mentioned presentation “TV-33” was sold to the



brother of the minister of Defense. Consequently, the 33<sup>rd</sup> decimeter frequency had been occupied by the TV channel of the ministry of Defense “Sakartvelo”. The details of the deal were disclosed by Altenburg to the journalists of “Obiektivi”. The owner of the 33<sup>rd</sup> decimeter frequency told me in private conversation that he was threatened to sell the frequency personally by the Prime Minister Noghaideli (at present zealous oppositionist) in his own office. Noghaideli together with Kitoshvili “advised” Altenburg to give the channel away and warned him he would face serious problems otherwise. In fact, the government seized TV channel from the Union “Obiektivi” twice, at the same time seizing the opportunity to perform their professional duties guaranteed by the State Constitution. Another detail deserving our attention is the contact details of the new owner of “TV-33” Kakha Giuashvili. The phone number and the address (7 Bambis Rigi, Tbilisi) indicated in the Notary act belonged to the legal agency “New Georgian Legal Group” ran by Nino Tsintsabadze – wife of Zurab Noghaideli.

In 2004, when the government started requisition of private TV channels, TV company “Europa” became one of the targets as well. The Communication Commission unlawfully seized the broadcasting license form the company and launched the criminal case against it.

Police units of operation department of MIA entered the “Europa” office and took away the special equipment. According to the information provided by “Obiektivi” the equipment was transferred to TV company “Alania”. There is an inventory list and it can be easily compared with “Alania” property!

Investigation by “Obiektivi” ascertained that the GNCC terminated the broadcasting license of TV company “Europa” without permission. The Commission could use other means of punishment, like: fine or written warning; however it used the extreme measure through violating the article 24 of Georgian Constitution, as well as the first sub-clause of the article 10 of “European convention regarding protection of human rights and major freedom”. The latter prohibits undocumented limitation of the guaranteed freedom.

In the years 2004-2008 the GNCC took over the functions of the punishment body thus protecting interests of the powerful branches of the government. Broadcasting frequencies were seized from more than 14 legal owners. Dimitri Kitoshvilis criminal performance was continued by Giorgi Arveladze, supported by the Minister of Economic Development (another Giorgi Arveladze and the Minister of Defense – David Kezerashvili. This is the same Giorgi Arveladze (GNCC chairman) who “assisted” Kvirikashvili to give away for free the “Obiektivi” broadcasting license to the state.

The members of GNCC made a decision upon the above mentioned topic in favor of the government in fifteen minutes. Mamuka Gobechia, member of the Union “Obiektivi” protested against the decision.

The Union “Obiektivi” continues strike to return the seized property through the protest rallies and court trials. However the latter is blocked and controlled by the government. The court rejected the request of the lawyer of “Obiektivi” to sequester the license of TV company until the case was studied in full!

The members of the journalists’ union “Obiektivi” addressed new administration of the USA in writing and asked for assistance.

### **“TV – Obiektivi” granted to “Alania”**

In the years 2002-2004 the journalists of the union “Obiektivi” broadcasted their programs through the airspace of TV Obiektivi. More precisely, the members of the union Obiektivi at the same time worked with the TV channel Obiektivi. In fact it was a joint media-structure.

After the “Rose Revolution” the pressure hanged over the director of TV company Obiektivi – Mikheil Agladze. The former chairman of GNCC Dimitri Kitoshvili used to call Agladze to his office and blackmailed him to launch a criminal case and arrest him if he would not transfer the control package of shares. It was the period when Saakashvili’s government enjoyed 100% of public trust and there was no opposition on the stage. The third sector kept silence that’s why the society would hardly believe to the stories about the pressure made upon the TV channel owners.

Director of TV company Obiektivi was forced to transfer the control package of shares (51%) to the candidate recommended by Dimitri Kitoshvili – to David Kakauridze. The transfer was documented at the notary bureau, where David Kakauridze appeared accompanied with body guard.

Who is David Kakauridze? He is 32 years old. He lives in Tbilisi, Nutsubidze Plateau micro district 4.

As we managed to clarify, Kakauridze is a close relative of Kitoshvili. At the same time, Dimitri Kitoshvili, Soso Topuridze, Gia Alania (group of Giryvliani murderers) and others live at the same address (Nutsubidze Plateau IV m/d, block 16) where Kakauridze is registered.

In the period of 2004-2006 David Kakauridze worked at the hotel “Varasi” where the high rank officials of the powerful ministries used to (and still use to) gather and enjoy their leisure. It is also noteworthy that (after the “Rose Revolution”) the government assigned to Kakauridze the control package of shares of TV company Iberia too. Just for your information: the

legislation in force prohibits possession of shares of two different TV companies by one person.

In May 2009 TV company Maestro prepared a film about Girgvliani murderers. The main character of the film (the witness) declared that David Kakauridze is the close friend of murderers and therefore often visits them in the jail. According to the witness's testimony, that group transferred "TV-Obiektivi" to Kakauridze and then the government gave the frequency to Alania.

The mentioned witness gave testimony to the journalists' investigation as well, where he stressed that Girgvliani's murderers often talked about how they captured TV channel Obiektivi and jeered at journalists. After grasping the 35<sup>th</sup> decimeter frequency, the government assigned management of TV company Alania to 35 year-old David Tatoshvili. TV company Alania unlawfully broadcasted through 35<sup>th</sup> decimeter frequency during three years. GNCC did not disclose the fact to journalists (see investigation by journalist Eka Kevanishvili at [www.presa.ge](http://www.presa.ge) and a documentary film by Nino Zuriashvili). We should mention that the government again unlawfully transferred equipment seized from TV company Europa to TV company Alania. TV company Europa was confiscated by government from the businessman Temur Shengelia – running his business in Russia.

It was TV company Europa where the special forces raided into first. The broadcasting license was terminated without any justification. The Journalists' Union "Obiektivi" and the Association of Young Lawyers study the issue.

Who is Mamuka Tatoshvili? Tatoshvili never had anything common with television. He comes from village Ude of Akhaltsikhe district. It is the home village of Vano Merabishvili (minister of internal affairs) and the deputy minister thereof Amiran Meskheli. Tatoshvili is a "fiduciary" of Meskheli. He has common business interests with the high rank officials of MIA. He is a joint founder of a Hotel in the village Ureki. Meskheli's wife, Khatuna Jikurashvili worked at TV company "Mze" to-date. So, the question arises naturally: why it happened so that only the people coming from the village Ude have the "intelligence" and "capability" to work in the broadcasting sector?

"I don't sell it. I want to grant it" (?!)... In 2008 David Kakauridze submitted a "request" to the Communication Commission where he asked the government to takeaway the TV company "Obiektivi's" license No.499 considering broadcasting via the 35<sup>th</sup> decimeter frequency for free. Please, pay attention, Kakauridze requests transfer of the license to the state free of charge, whilst its market price amounts minimum 500 000 USD. The owner

could sell the company, or just frequency. At the same time, director of TV company Alania holds the trial at Tbilisi City court already during three years (attorney – Besarion Kvirikashvili). The government controls the process at maximum extent and makes an endless loop of it. In 2008 instead of David Kakauridze Nodar Charkhalashvili became an owner of control package of shares of TV Obiektivi. He seems to be an “intermediate” owner of the company, who puts immediate efforts to falsify documents that will later indicate 60% instead of 51%. What was the aim of falsification? The answer is very simple, it would remove problems in the process of “granting the frequency to the state” and Ketevan Assatiani would lose legal means to protest against the fact. Let me underline, that even in terms of forgery the real owner, member of the Union “Obiektivi” Ketevan Assatiani still remains the legal owner of the 40% of shares. She has never ceded her shares to Nodar Charkhalashvili.

It’s time to know who is Nodar Charkhalashvili. She is a husband of Sophio Britanchuk, acting chairwoman of GNCC.

In 2004-2006 when the government grasped the frequency from TV company Obiektivi Ms. Britanchuk worked as a press secretary at the GNCC. From 2008 when the control package of shares of TV company Obiektivi was transferred to her husband, she was undertaking duties of the commission member. Currently she is an acting chairwoman of the commission. As we found out Ms. Britanchuk is a close friend of David Kezerashvili, Zurab Adeishvili and Giga Bokeria. She enjoys friendly relations with wives of Kezerashvili and Bokeria. Currently, Ms. Britanchuk’s candidacy to the position of the Chairman is actively supported by the influential governmental forces who also in turn try to press down Irakli Chikovani (owner of “Rustavi-2”).

During the years 2004-2009 the Union Obiektivi has addressed their claim to almost all of the international organizations and Embassies in Georgia and abroad. There was no respond! All opposition parties and NGOs are also informed about the capture of the 35<sup>th</sup> decimeter frequency from the TV company.

In May, 2009 the Union Obiektivi as one of the founders of the NGO coalition addressed the Public Defender’s Office (Nana Kakabadze) with petition to take a special control upon the case regarding the seizure of the 35<sup>th</sup> decimeter frequency and prepare the consequent objective conclusion. The union Obiektivi continues its “battle” through the court too.

On June 23, 2009 the Chairman of GNCC Irakli Chikovani responded in writing to the attorney of the TV company Obiektivi on the question “what frequency has been used by “Alania” for broadcasting?”. The answer

was as follows: “This is to notify you that TV company Alania did not possess broadcasting license till March, 2008. The mentioned TV company obtained the broadcasting license on May 16, 2008. Chairman Irakli Chikovani”.

Let me remind you that GNCC abolished broadcasting license of TV company Obiektivi on March 21, 2008. Four days earlier, i.e. on March 14, Alania addressed the GNCC with the request to open the bid for broadcasting license over Tbilisi. Irakli Chikovani’s letter proves our conclusion that Alania was unlawfully broadcasting on the 35<sup>th</sup> decimeter frequency grasped from “Obiektivi”.

We would like to declare one more time: unlicensed broadcasting is a gross and punishable violation of law. In accordance with our information, the then management of Georgian National Communications Commission patronized and pandered at Alania. Besides, the owner of the license taken away from us is a certain Nodar Charkhalashvili, the spouse of the Chairwoman of GNCC Sophia Britanchuk.

The Journalists’ Union “Objective” appealed against the fact of taking away TV channel and continuous to fight, both in form of legal and civil protest. At present, the court finally denied to Objective to restore and return a license, which is illegally transferred to Alania, the structure of Security Service. The judge Merab Lomidze, dismissed the journalists Irma Inashvili from the court session and fined her, since Inashvili named Lomidze “a political judge” and reminded him, that he made illegal court decision and will be surely punished.

## **Scheme of “operative” employment of the journalists of TV Company “Imedi”**

TBC-TV company run by Levan Kubaneishvili employed majority of Imedi journalists. At the end of 2007 the private studio of Kubaneishvili “got opportunity” to exclusively purchase the airspace not only at Rustavi-2, but at Public Broadcaster as well. Former “Imedi” journalists (as they declare) TBC TV offered service contracts. Today majority of those contracts are already terminated.

For the sound contribution made by Levan Kubaneishvili in “peaceful” demolition of TV company “Imedi” he was “elected” on the position of Director General of the Public Broadcaster by Vano Merabishvili.

In spring 2008 in one of the newspaper interviews Giorgi Akhvlediani stated that in return to leaving “Imedi” he was offered 100 000 Euros by the government, but he did not accept it principally. In the same period Levan Vepkhvadze “remembered” that the high rank officials covered bank cred-

its of some of the “Imedi” journalists and offered new jobs to them. However, Vepkhvadze reserved from nominating those colleagues.

Head of the program “Droeba”, Giorgi Targamadze enjoyed support from MIA first in establishment and financing of the pseudo oppositional party. Then they falsified ratings of the party. During the election period all even meaningless movements of Targamadze were diligently broadcasted through all e-media means. Vano Merabishvili dully reimbursed Targamadze’s efforts put in “Imedi” demolition. Today Targamadze is “laundering” the illegal parliament by his presence there.

As I can assume from the available information Erosi Kitsmarishvili also took active part in demolition of TV company “Imedi”. He acted in the wing and according to his words he helped Saakashvili to falsify election and revenge on Patarkatsishvili.

Unfortunately, this is the picture of the reality. Demolition of TV company “Imedi” was significantly supported by the negligence of the local staff. It was the first time during the latest history of Georgia when the journalists left their audience without objective information in the very critical moment.

Think and derive your own conclusions. The truth is always floating on the surface.

The journalist Lela Dumbadze wrote some months ago: “Public Broadcaster made up a contract with TBC TV on October 15, 2008 for preparation the program “Giant 10”. The state procurement took place on October 28. The law stipulating the state procurement states that “participation of the natural person in the procurement is not allowed, if the latter had worked with the organization participating in the procurement during last three years”. This is a conflict of interests. Because it is less then years as Kubaneishvili left TBC TV. HE was appointed on the post of Director General of the “Public Broadcaster” on April 4, 2008. “This is not an illegal conduct”, - says Kubaneishvili, “I could influence upon the commission’s decision, but the project of TBC TV won the tender only because it did not have alternative”.

The Chairman of the Board of Trustees of the Public Broadcaster, Levan Gakheladze confirms that the contract between the TBC TV and Public Broadcaster had the conflict of interests. However, considering the significance of the projects the Board of Trustees allowed Kubaneishvili to undertake procurements – says Gakheladze.

“Director asked for the special permit the Board and he got the permit” –says Gakheladze. TBC TV got state orders valued than 800 000 Gel since Kubaneishvili became a director general of the Public Broadcaster. As Ku-



**Irma Inashvili**

baneishvili says the state procurement of the contract about the program “Giant 10” was based upon the negotiation with a single person. The program “giant 10” is the BBC project. This means that according to the contract BBC would have made the decision upon the executive agent of the program, - says Kubaneishvili. The BBC offer was transferred to several companies but the orderer chose TBC TV. So we were obliged to enter into agreement.”

According to Gakhelaze’s information, the project “Giant 10” was not the subject of tender process as the permit on reproduction was already held by TBC TV. “The amount of 500 000 Gel was paid to TBC TV by the PB”.

The agreement stipulates that 129 250 Gel out of total 517 000 Gel was paid in advance to TBC TV. TBC TV also obtained the exclusive right of production of the program “Life is Amazing”.

Director of PB says the project is the property of the studio and therefore the procurement was conducted based on negotiation with one person. The project “Life is Amazing” costs 175 000 Gel. Besides the exclusive procurement, TBC TV won the tender in 2008 and received 145 382, 65 Gel state order on the program “For fans of auto”. Th PB conducted state procurement of 400 000 Gel with the “Georgian Animation Studio”, founded by the deputy of Levan Kubaneishvili, - Giorgi Chanturia. Yet, Kubaneishvili does not foresee any conflict of interests in this case too. “It’s already three years as Giorgi Chanturia left the studio” – he says. Kubaneishvili believes that the TV sector is so small that it is hard to avoid friendly contacts between the studios and management. So the topic of the conflict of interests will always remain under the question mark.

The current owner of TBC TV is the former director of the PB Zaza Shengelia. Levan Kubaneishvili transferred his own share (does not specify the percentage) of the TBC TV to Zaza Shengelia as soon as he himself was nominated as a candidate for the position of PB director general.

“TBC Group, Zaza Shengelia and I are the founders of TBC TV, as for the shares you can find the information with the entrepreneurship registry

office.” – says Kubaneishvili. The statement taken from the Entrepreneurship Registry says that the TBC TV has the sole founder Zaza Shengelia. According to the statement he holds 40% of shares, while the owner of the remainder is not specified.

“We possess only the information provided by the legal entities”, - says Soso Kapanadze, person in charge on public information delivery at the office of revenues.

Finally, the procurement agreements made with the studios, contain the clause ensuring confidentiality of the document. It states: “the parties are obliged not to disclose the terms and conditions stipulated in the contract or other information thereof”, otherwise, they will be answerable in compliance with the legislation in force. the question: what does this clause mean? Kubaneishvili answers “I don’t know, what confidentiality are you speaking about? it should not be included in the contract”.

Dear reader, feel free to derive your own conclusions!!!

**IRMA INASHVILI**  
**Head of the Journalists’ Union “Obiektiv”**



# Gela Nikoleishvili: prisoners sleep even in tents in prison yards

We spoke to lawyer Gela Nikoleishvili about the violation of human rights and international norms.

**- The measurements for the democratic in each country are defined in three main components: independent media, independent court and human rights protection. We all know there is bad situation around the theme in Georgia, but can we speak wider about the followings?**



- Let's start from independent juridical system... I can say loudly that in Georgia independent court is not exist! From 2003, 23rd of November after this government the position in juridical system is that no one takes the post of judges without executing all demands of procurators. They even do not need calling from higher officials and explanation. They all know what does this government like and act so. We all remember the riot of judges against the so called reforms when Kote Kublashvili demanded strictly to close eyes for some charges and evidences, do and act following the procurators orders. When people had not do it they were fired and they pointed people from 28-30 who before were just probationers or assistants. Though they do not deserve it for their skills or professionalism, they just know that they have the judge gown, all kinds of comforts-cars, houses, from 2500GEL till 8000GEL salaries etc. for their obedience. Meanwhile in other countries when the government gives such power to judges they claim them to serve justice and law. In our country everything is quite different we give everything for their obedience. So talking about the independent court or individuals can find justice is impossible. I can say more the judges know very well that e. g drugs were put specially and they even having evidences they can not act against the government. I can give you an example. Today Koba Kobaladze is arrested. As the participant planning the governmental overturn they ensure that he was in Mtskheta in restaurant Aragvi with Gia Gvaladze and other persons discussing the plan of overturning the govern-

ment. No one proves this except Gia Gvaladze. We even met the restaurant staff and they also refused such fact. So we have evidences that Koba Kobaladze was not even in that restaurant but also was not in Tbilisi. Having this information investigation obliged Gvaladze to tell that their meeting had place not in 25-26-27 March but it happened in April and he did not remember the exact data. It goes so that the judges hired by government would use Gia Gvaladze's words as evidence and our alibi would not be taken in mind. The judges want just not to lose their privileges. The government and judges act to make people to be always scared. It is also unbelievable to use the released people to collect the 500-600 votes for elections. We all remember the drug users or so called cool guys using their influences to help their brothers meant governmental persons during the elections.

**- It is true but there are enough persons that not even help but try to spoil the governmental position they make big questions around Micheil Saakashvili, I mean the political prisoners.**

- The definition of political prisoners early according "Emnist International" was that political prisoner was individual arrested only for political reasons or for political actions. Conscience prisoners were also defined and they were called individuals imprisoned especially for their words and they had no any other crimes. When Irakli Batiashvili was in prison I had the wide contacts with the "Emnist International" but at the last moment they could not say loudly anything and explained it that this institution is not any more interested so deep with the political prisoners their priority is greater specter and higher interests. E. g. social questions, the women rights, drugs, children etc. For this reason the political prisoners is just one theme and it is not discussed nowadays. But there is also very popular organization the center is in Paris and representatives were arrived here in Georgia in February. They learned cases about political prisoners and even took eight cases with.

**- Can you tell us which cases did they take with?**

- The cases of supporters of Igor Giorgadze: Maia Topuria, Temur Zhorzholiani, Ramaz Samnidze, Kakha Kantaria, Guram Papukashvili, Zaza Davitaia, George Metreveli, George Akhobadze, Vakhtang Talakhadze, Revaz Bulia and Koka Kvinikadze, Nora Kvitsiani, Demur Antia, Merab Ratishvili, Shalva Ramishvili and Jikia's. After six month investigation the international organization gave the status of political prisoners for all those individuals. The USA state department's speech already consists of these names. Though it does not mean that other political prisoners cases would not be investigated. Nowadays only these eight cases are investigated.

**- That is o. k. but it does not mean that after this conclusion the prisoners were released.**

- Very important is that this organization investigated 350 cases in Azerbaijan and took it in Europe Council and pointed the special reporter there. After what these political prisoners were released. Now they want to do the same in Georgia they want to investigate the political prisoners' cases.

**- Is it possible to point EC reporter in Georgia? Would Georgian side agree with it?**

- We do hope that it would be exactly so. When there is not democratic government the real definition for political prisoners is not known in legislation. The sample of this is the regime of the Soviet Union when individuals arrested purely for political reasons were excused even for the hooligan actions or for abrogate the social order and so on. Merab Kostava when he was in prison for the hooligan actions during three years was added five years only for the woman who tore her clothes herself crying that Merab was trying to violate on her. So it is old Soviet method. The same is today when they use drugs and guns for removing undesirable persons. For the last period it is often to use the police resistance paragraph . 3-4-5 policemen appear as witnesses of case. So they resolve the problems. In spite of having more than 20000 convicts in prisons the government increase their numbers every day. In many countries the norm is for every 100000 person 100-150 prisoners when in Europe only 50-60 exists. In our country it was 100-120 convicts but now the number is nearly 400. It is the catastrophe. I can say more today in leader countries Russia, the USA and China and the convicts number is 600-700 for each 100000 and for such small country as Georgia 400 is too much.

**- You as a lawyer are very often in prisons and what can you say about the conditions there I mean convicts' dignity, hygiene, treatment and also what do you know about the prisoners torture?**

- There is no evidence about mass torture of convicts, but when e. g. 10 or more prisoners start quarrel guards can beat any one they want or all indiscernible without any warning. It is of course torture. Punishment rooms where they have no food no kind of hygiene, no bed is also some kind of torture.

So the democratic system built by our government is swindle for Europe and in real there is done nothing to improve the prisoner conditions. Now about giving holiday to prisoners. As it come clear it is impossible while this paragraph is only for those who already serve half of his punishment but under the law they deserve the right to be free. Then what is the use of holiday? It is Shashkin's Sharashkina bureau and nothing more. Unimaginable is also procedure deal while it is the way of filling the budget in our country and nothing more. The penalty is in such numbers to pay it is

nearly impossible. In other words we have to buy the freedom. If you have money you can have freedom or in other case you must stay in prison. We must know that does not matter what kind of crime you made if you have money you would stay out while the person with less crime would stay in prison for the lack of money. It is true that after building new prisons every one has its own bed, but cruelty for prisoner increases. Many of them says that it was better to stay in old prisons without any conditions then stand such kind of humiliation it is like the concentration camps. Meanwhile according the International Norms the prisoner must restrict in free movement but about humiliation is not said a word.

**- What you said is known for a lot of people but then tell me please why for representatives from several countries Saakashvili is called the lighthouse of democratic?**

- If you speak about Joe Biden the USA vice-president I did not understand him so. He said in diplomatic manner that the aims of revolution would be achieved only if you have the independent juridical system, balanced government, free media and from districts the process will take place in parliament etc. So he meant that all these do not exist yet. I do not believe that Saakashvili and his people will achieve it ever. While he builds only facade democratic and how strange it can be but he convinced a lot of countries in post Soviet space that we have unique democratic system.

**- It is also very dangerous the healthcare problems in prisoners. The number of sick people is increasing and there are prisoners having such kind of disease as tuberculosis, aid and how they can integrate with the people after receiving freedom without any immediate treatment?**

- I agree with you that the situation is hard. We spoke about the newly built prisons and better conditions there but we say no words about old prisons where is terrible conditions again. E. g. Rustavi the second zone is foresaw 2700 person but now there is 3300-3600 convicts. You would not believe that prisoners sleep even in prison yard in tents. In summer time it seems to be not so bad but what happens in winter? The same situation is in Ksani, Rustavi first prison and in other places as well. The lack of the air, dirty places etc. it all reflects on prisoner health and that is why a lot of them are sick of tuberculosis or they have heart diseases. It is true that equipment in prisons hospitals are better but for the lack of places it is impossible to hospitalize all of them and they die in their cells. The last year the index of died people in prisons were 100. After the **the nineties** it is at first such great figure. In March with tuberculosis died 17-18 year old prisoner Nicko Makharadze. Meanwhile his lawyer had the appeal in Stras-

burg about the hospitalization. Which was immediately satisfied it finished in fatal way for Nicko Makharadze. Every day each convict can walk in air one hour. In Georgia it happens only once a week and only for 15-20 minutes.

**- Mr. Gela the number of political prisoners is increasing but what about persons arrested for some ones political decisions?**

-Yes, there are such cases. The former criminal police senior in Poti Marlen Smagini case who is under my defense is one of such. During his command the individual arrested for thieving after acknowledgement trying to escape jumped and fall on lattice and he died. Before death this man saw all his family and many other witnesses who affirmed that he was not thrown he did it himself and more Smagini even was not there at that moment. But he was charged for indifference treat. After three years when he was going to come out of the prison 2 or 3 days earlier he was blamed in a new charge organizing one of the prisoner's torture or something like that. In Georgian juridical history it is the most curious case. He was accused again and sentenced for 13 years.

**- People knowing this case like Elene Tevdoradze, Tinatin Khidasheli, Nazi Aronia, young lawyers and others declared that it was unimaginable the second charge for the same crime, but it happened. People informed better announced that the problem was in hierarchy.**

- You remember the case in Kutaisi when judge just listened the evidences but none our petition was cared. You remember the phone calls when the foreigners filled with indignation but they executed someone order and 65 years old man was sentenced for 13 year.

**- What is the number of prisoners charged to political marks?**

- We give you the list of such prisoners and if you can please publish it.

**- What was the number of prisoners list which Levan Gachechiladze gave to Joe Biden?**

- As far as I know it was 28 persons list although he added the names of people who were arrested after April 9. I have no such close relationships to Levan to ask him what kind of list was it exactly. In general some political parties and I have established in internet nearly 160 names of political victims.

**IRINA GOGOSASHVILI**

## **Incomplete List of Political Prisoners and Persecuted Persons on Political Grounds Throughout Georgia as of May 17, 2009**

1. Vakhania Vladimir 2. Narsia Vakhtang 3. Avaliani Zurab 4. Gograchadze David 5. Kobaladze Koba 6. Oboladze Besik 7. Abuladze Giorgi 8. Kamkamidze Tariel 9. Kapanadze Konstantine 10. Loliashvili Levan 11. Kapanadze David 12. Malidze Nikoloz 13. Goginaishvili Shalva 14. Tsiklauri Gocha 15. Ovashvili David 16. Shubitidze David 17. Tsereteli Mamuka 18. Tabatadze Kakha 19. Kedelidze Nodar 20. Tsinsadze Mamuka 21. Chkaidze David 22. Mikeladze Dazmir 23. Grdzeliashvili Balerian 24. Gudadze Zaal 25. Tlashadze Tamaz 26. Gabunia Mikhail 27. Shalikiani Zurab 28. Keburia Ioseb 29. Kashiashvili Mamuka 30. Kakashvili Roman 31. Tsomaia Merab 32. Sharashenidze Avtandil 33. Gogatashvili Nugzar 34. Tedoradze Gocha 35. Ramishvili Levan 36. Djobava Edisher 37. Kavelishvili Otari 38. Chkhvimiani Mamuka 39. Alkhazishvili Giorgi 40. Pavliashvili Ramaz 41. Chkhartishvili Tornike 42. Shengelia Mamuka 43. Koberidze Mikhail 44. Maisai Vakhtang 45. Bibileishvili Nikoloz 46. Mikadze Zurab 47. Murdjikneli Zaza 48. Khutsurauli Vagha 49. Topuridze Irakli 50. Grigalashvili Beka 51. Otanadze Koba 52. Amiridze Levan 53. Melikidze Teimuraz 54. Batkuashvili Irakli 55. Kobaidze Kakha 56. Otanadze Nugzar 57. Otanadze Jimsher 58. Otanadze Giorgi 59. Otanadze jimsher 60. Daridze Guliko 61. Kvaraia Merab 62. Ramishvili Shalva 63. Ramazashvili Luka 64. Kadagishvili Amiran 65. Kvitsiani Nora 66. Topuria Maia 67. Talakhadze Vakhtang 68. Zhorzholiani Teimuraz 69. Davitaia Zaza 70. Bulia Revaz 71. Metreveli Giorgi 72. Kantaria Kakhaber 73. Kvinikadze Iakob (Koka) 74. Samnidze Ramaz 75. Akhobadze Giorgi 76. Galdava Varlam 77. Jikia Joni 78. Amiranashvili Giorgi 79. Ratishvili Merab 80. Tsurtsunia Ilia 81. Kldiashvili Revaz 82. Antia Temur 83. Davitadze Beghan 84. Tsuriashvili Simon 85. Bakuria Tsothe 86. Kadagishvili Giorgi 87. Archvadze Genady (Gela) 88. Giorgobiani Bidzina 89. Khalvashi Kibar 90. Kareli Mikheil 91. Okruashvili Irakli 92. Chikladze Iason 93. Naskidashvili Gela 94. Khalvashi Niaz 95. Gelbakhiani Valeri 96. Shalikiani Bondo 97. Kadagishvili Nana 99. Milorava Rati 100. Benidze Archil 101. Kvezereli Nika 102. Oniani Giorgi 103. Revazishvili Revaz 104. Vachnadze Melor 105. Bregvadze Zaza 106. Khidjikadze Roin 107. Katamadze Merabi 108. Jandieri Ioseb 109. Tatishvili David 110. Nadiradze Marlen 111. Kadagishvili Archil 112. Kutsnashvili Omar 113. Gogichaishvili Levan;

# The number of facts of trampling the right to life has reached a record figure

## The case of Girgvliani is being reviewed in Strasbourg, while Saakashvili has pardoned his murderers

The convicted persons for sadistic killing of Sandro Girgvliani – Alania, Bibiluridze, Ghachava and Aptsiauri were pardoned by the President, who cut by half their term of imprisonment. Later on, “after discussions” the authorities freed these people from restraint. It is true that their hands are not only imbrued with Sandro’s blood – this incident claimed life of his mother, grandfather and two more close relatives, however, apparently enslavement towards the authorities and execution of dirty works in this country are valued higher, than supremacy of law! Otherwise, how can be explained the fact that the people, who actually eliminated the whole family of Girgvlianis were freed after three years of imprisonment?! And, although Girgvlianis could not establish the truth in Georgia (on this subject they, probably, did not have any allusions anyway), they should have gone through all instances in order to send the case to the European Court. Reportedly, in the near future the Strasbourg Court will notify the parties regarding the date of the cognizance. “Georgia and World” talked with Shalva Shavgulidze, the lawyer of family of Girgvlianis with regard to these issues.

- Actually, the European Court finished correspondence with the parties in relation with the case of Girgvliani. It should be noted that this communication was carried out exhaustively. Several times the Government’s position was forwarded to us for the purpose of commenting and, on the contrary, our position was sent to the Government. Recently a letter, notifying that we will be informed about the cognizance in the next few days, has been received from Strasbourg. Besides, the issue regarding oral cognizance will be also decided. About one and a half months ago, the Strasbourg Court referred to the parties asking if we wanted to have this case reviewed at the oral hearing of the case. Surely, we responded that we welcome live legal proceedings. Afterwards, this will be put on the web-site of the European Court and the society will have possibility to get familiar with

the course of legal proceedings. Although, we do not know yet what the decision of the European Court will be.

**- How do you think what the decision of the European Court will be?**

- Our requirement is that the European Court recognizes violation of Article 2 (right to life), Article 3 (prohibition of torture), Article 6 (right to fair trial) and Article 13 (right to effective defence) of the European Convention by the Georgian state with respect to the plaintiff. If the European Court recognizes violation of the above-mentioned Articles, this will condition on repeated investigation of the case, since actually neither preliminary nor the court investigations were carried out, therefore, assassin's paymasters were not convicted. Meanwhile, the doings of persons who were found guilty were given wrong qualification, in particular, instead of intentional homicide, committed under aggravating circumstances, it was given the following qualification: bodily harm, followed by death due to carelessness.

Besides, the group of people committed a murder with particular severity, considering the fact that Sandro Girgvliani received 11 wounds in vital area, in particular, in and around the neck. These wounds are assessed as serious injuries, which directly resulted in death. In the given case, any qualification other than intentional homicide is simply mockery, although, unfortunately, Georgian court made such unprecedented decision, notably – at all three instances. As is well known, the case had a similar continuation - the President's decision to pardon Girgvliani's murderers and their premature release.

**- So far as known, the European Court asked representatives of our authorities quite "uncomfortable" questions. Please tell us about some of those.**

- The European Court expressed quite a big interest with regard to this case. The society, probably remembers well that at all three instances we requested to provide us with the possibility to get familiar with material evidences, filed in the case by the investigation. The fact, that we requested to have us acquainted with the list of phone calls and other evidences is another issue, since we were denied to be provided even with evidences, filed in the case by the investigation. Mainly this was a video material, excepted as a result of different investigation actions. In a part of evidences, there was a video material concerning identifications, how objectively the identifications were carried out, including identification of Malnikov by Bukhaidze (it is referred to primary identification). The material filed in the case in form of the evidence is recorded by videoeye installed on the



dwelling house of the deceased Badri Patarkatsishvili. The record shows movement of the vehicles along the Okrokana road. The case contains decryption of only the part of the recording showing the watch, i.e. the time when the mentioned jeep with already kidnapped Girgvliani and Bukhaidze in it drove by. We raised an issue with regard to the fact, that the videoeey recorded movement of the vehicles during the whole night. This is the material we wanted to get acquainted with in full. I would like to point out again, the whole material is filed in the case.

There is no precedent for it in Georgian justice – three court instances were completed so, that the party was not familiar with evidences in the case. The European Court requested from Georgian party to have sent those 14 evidences, which the victim party was whistling for at all three court instances. It should be noted, that they were not sent to the European Court either, which affords ground to assert - these evidences would have revealed participation of other persons in this crime and many illegalities, committed by the investigative and court instances. The Government of Georgia preferred to receive strict appraisal of the Strasbourg Court, rather than to send evidences, which would have revealed other participants of the murder.

The preparatory period passed in such regime. Imagine, that the requested specific accompanying case materials were not submitted even to the European Court.

**- You will be representing the victim party in case, if an oral hearing of the case will be held in Strasbourg. Do you know who will be representing the authorities?**

- In case if oral hearing of the case will be held, the victim party will be represented by myself and David Jandieri. As for representative of the authorities, I do not know anything about this.

**- How do you assess premature release of Girgvliani's murderers?**

- How can it be assessed? This is a logical continuation and not the end of all doings of the authorities, committed as against these persons. There will be a continuation – in form of different indulgences and support. This whole case was built on unfairness and the authorities were not ashamed of premature release of these persons. All branches of the government took active participation in falsification of factual circumstances, concealing of accomplices of Girgvliani's case, inadequate punishment of the criminated persons. The investigative agencies carried out a shameful investigation. The known participants of the party – Tako Salakaia, Data Akhalaia, Vasil Sanodze and Oleg Melnikov - are not punished, the others, mentioned above, were given inappropriately light qualification, followed by non-objective

court decisions. The judges fully agreed with the position of the preliminary investigation agencies, i.e. the judicial power got involved in falsification of the case.

Moreover, even for the crime with qualification assigned to doings of these persons the law provides for deprivation of freedom for a term of 12 years. But the Parliament made legislative changes resulted in reduction of this sentence by half. Also, the changes were made in law “On Custody”. We raised an issue regarding the fact that Alania and his accomplices were placed in the same cell, where they were supplied with unlimited amount of alcohol and other things... Instead of satisfying our requirement, since the law “On Custody” mandatory prohibits to place persons, detained in relation with the same case in the one cell, the Parliament made quick changes in law, allowing such precedents. In other words, even a legislative power, as one of the branches, got involved in this lawlessness. Finally, this parade of illegality was completed by the President of Georgia, pardoning the mentioned criminals and reducing by half as it is reduced term and eventually, they were released prematurely. In brief, all governmental institutions discriminated themselves in the eyes of the society with regard to this case.

*Interviewed by* **MANANA CHKHEIDZE**

# In Georgia the facts connected with the encroachment on the right to life have already reached a record figure

**For the purpose of restoring justice and supremacy of law in the country, “The United Front” of non-governmental organizations and target groups was founded. It unites social movement “Save the life”, coalition of non-governmental organizations “For our rights”, the journalists’ union “Objective”, the youth initiative group, Independent Trade Union of Lawyers and other target groups, with majority of their representatives being family members of those accused in Mukhrovani riot, etc.**

The constitutive essence of association is an objective investigation of much talked-of murders and punishment of guilty persons. The murderers, whoever they are, shall be accountable to the supremacy of law – believe the representatives of “The United Front”. The lion’s share of guilt for murders of Girgvliani, Robakidze, Vazagashvili, Gamtsemlidze rests with law enforcement bodies.

**This is a partial list, which the society is more or less familiar with. Unfortunately, the number of murdered persons is not limited to this short list.**

As a result of its activities, the representatives of “Save the life” ripped the trappings off many facts of injuriousness. Unlikely as it may seem, the number of facts of trampling the right to life has reached a record figure. As per the complete list which is available to us, the number of cases, when representatives of law enforcement bodies took lives of citizens’ is over 80. All these murders were foggaged. The family members of the dead not dare to raise voice, but today they are united and trying to obtain justice. “We will not stop and keep fighting with injuriousness by rights” – say family members of murdered persons.

The newspaper “Georgia and World” contacted the families of the dead and representatives of “The United Front”. For them justice has not occurred yet. They do not give up and try to carry their point. **The purpose of their life is to do duty by their children. Therefore, they are ready to fight to a finish for revenge and recovery of the truth.** For revenge, not in terms of personal score-settling, but accomplishing justice. The orthodox morale does not allow them to put to death murderers of their children.

# **IURI VAZAGASHVILI: I shall be silent only if they shoot me down like my son.**

**Different non-governmental organizations and target groups established the so-called United Front. The aims of the organization deal with the restoration of the supremacy of law and justice in the country. The members of the Front are represented by: public movement Save Georgia, coalition of NGOs For Our Life, union of journalists Objective, youth group of initiative, lawyers' independent trade unions and various target groups.**

Impartial investigation of the divulged murders and punishment of criminals are the aims of the union. Any murderer shall account before the supremacy of law and that is the basic of the union. The lion's share in the cases of Girgvliani, Vazagashvili, Robaqidze and Gamtsemlidze falls upon law-enforcers. These criminal homicides belong to crimes that the society is more or less aware of. Though, the list of those who have already been killed is much longer.

Activities by Save the Life organization have unveiled much facts of injustice. Though it seems to be unbelievable, facts connected with encroachment on the right to life have already reached a record figure in Georgia. According to the impartial data that we have already obtained, officers of the law enforcement bodies have committed more than 80 unlawful homicides. All the cases were shrouded in mystery. Families of the victims did not dare to raise voice against injustice but today they stand side by side and fight for justice together and they are not going to stop and surrender.

The Georgia and the World got connected with the families of the perished young men and the United Front. All of them are eager just to do their duty for their children. They shall fight to the last to have revenge by means of the supremacy of law. The Orthodox moral judges the tooth-for-tooth approach towards the restoration of justice.

Iuri Vazagashvili's son was shot down at the tennis courts in Tbilisi. Mr. Vazagashvilli says that the only aim of the organization called Save the Children is to protect sons and daughters of others and thus do the duty that the families of the killed fellows have to do. Iuri Vazagashvili also turns his



**Zurab Vazagashvili**



**Buta Robakidze**



**Giorgi Gantsemlidze**

attention towards the attempts to widen the split inside the Church, the only shelter for the families overtaken by misfortune.

The Trade Unions of Lawyers have always been by our side and their assistance is absolutely disinterested. The public interest to our work keeps increasing. Families of the military men charged with organizing the Mukhrovani military insurrection as well as families of political prisoners, various NGOs, military experts, etc. are aspired to restore justice in the country again. It is more than obvious that blackmailing is not the thing that shall ever threaten us. They have not brought the car in which my son was shot down yet. Though the car was used as material evidence, the case is closed and they have to return it. I need the car for an alternative expert examination. Zura was killed by the Criminal Police officers. Otar Mirzoev, one of the killers was promoted. I can give you documents proving that Mirzoev took part in the bloody operation. They had an attempt to threaten me but I guess they have already caught that I shall be silent only if they shoot me down like my son. One after another I visited all the unhappy families and made a movie consisting of the materials that I was provided with. We prepared special placards and told the public about the young men from Adzharia and Kutaisi who were slaughtered too. This is our struggle! The society shall be informed about the indecent deeds performed by law keepers. People have to see that the brigades kept by Saakashvili and Merabishvili at the Police make an instrument for committing different frightful crimes and spread fear. The aim of shooting Buta Robakidze down right in the street was to threaten others. In Zura's case it was a premeditated murder. The guys from Navtlughi organizers were killed before the prison upheaval started. The boys who used to work in Turkey with their father and returned to Georgia to celebrate the New Year's Day had callosities all over the hands. No, I shall never stop! Believe me, all the evidence

that I have is quite enough to drive any prosecutor and any judge into a corner. That is why they stopped the enquiry. As for me, I directed an appeal to the European Court and made a note that I do not need compensation of any type.

It is important for the public to get rid of murderers for its important to live side by side with them. We have to fight against the tyranny and injustice together. There are some policemen who promise to tell the truth after Saakashvili's regime is over.

Soso Robakidze (a father of Amiral Robakidze killed by a patrol officer): Until Saakashvili holds the Presidential Post, our requirements shall never be met. But we are not going to stop! We shall have to be always on our guard and thus let any government other than the one headed by Saakashvili and Merabishvili know that the two are those who have to be punished. Otherwise the next ruler shall turn into Misha II. If the authorities do not leap the present opportunity and fail to arrest criminals, we shall launch large-scale protest actions.

31-years-old Giorgi Gamtsemlidze ran h. is car at high speed. He was shot by a patrol officer. Jambul Gamtsemlize, father of the killed young man has been requiring to put the case under fair legal procedure. The patrol officer Vakhtang Gabuashvili killed the father of three children was condemned to two years of imprisonment.

Jambul Gamtsemlidze: They killed my son just for nothing, driving at high speed, you see. Giorgi was a Deputy Head of the Water Industry and Land Reclamation. Saakashvili, Merabishvili, Adeishvili are guilty of their death. We held an action at the Prosecutor's Office and only approximately





40 persons came to attend the meeting. It's a shame! The death of a little boy made people throughout Greece and France go out and in Georgia no one even cares for the lost lives of our genopool. We have already obtained data about more than 70 young man who were shot outside and now it's up to the society to respond the facts. Though, it shall be shameful of us if we keep

silent. As for the so-called zero-tolerance that they were so proud of, I have some questions about it. I'm asking what was the thing about my son to be forgiven?! The patrol officer who pleaded guilty had to fire a warning shot but he did not. Why? The boy was killed outside and dragged inside afterwards. Witnesses of the case were just withdrawn from the testimonies. Due to the materials the murderer has to be sentenced to 15 years of deprivation of liberty at least. It was a manslaughter ...he ran after my son, ran him down and shot him...for nothing...what on earth one should have forgiven Saakashvili?!

*Interviewer IRMA CHITAIA*

# Encroach upon the right to live

## The incomplete list of murders committed by the law enforcers in Georgia 2003-2009

### 2003 YEAR

1. **David Sakvarelidze** – died in Tbilisi, Gorgasali street, as a result of crushing to a armored car

2. **Eter Tsuliashvili** – died in Tbilisi, Gorgasali street as a result of crushing to a armored car (her three children were injured in the same accident)

3. **Giorgi Inasaridze** – found hanging at the preliminary detention isolator of the MIA

### 2004 year

1. **Otar Gvelukashvili** – killed in Gurjaani District village of Kardena-khi during conducting the special operations.

2. **Anton Kukulava** – Killed in Tbilisi during the detention attempt.

3. **Diko Barkaia** – killed in Zugdidi during conducting the special operations.

4. **Zaza Pantskeladze** - killed in Zugdidi during conducting the special operations

5. **Eugene Aprasidze** – killed in Mestia District village of Etseri during conducting the special operations.

6. **Omekh Aprasidze** - killed in Mestia District village of Etseri during conducting the special operations.

7. **Khvicha Kvirikashvili** – died in Tbilisi, in Gldani-Nadzaladevi District, after half an hour as the policemen took him home after detention.

8. **Alexandre Gomashvili** – Killed in Kakheti during the detention attempt.

9. **Amiran (Buta) Robakidze** – killed hands-up in Tbilisi in the Tsereteli avenue by the patrol inspector.

10. **Murtaz Kardava** – according to the official version killed by the associate of the Security Ministry, Entiko Simonyan while defending his own family from the attack.

11. **Temur Khubunaia** - according to the official version killed by the associate of the Security Ministry, Entiko Simonyan while defending his own family from the attack.



12. **Sulkhan Lomidze** – killed in Khelvachauri district during the special operation.

### **2005 YEAR**

1. **Vladimir Khoshtaria** – killed in Tbilisi during detention
2. **Akaki Korkotashvili** – Killed in Gurjaani district during the special operation.
3. **Avto Gumashvili** – killed in Akhmeta district village of Duisi during the special operation.
4. **Vakho Gumashvili** - killed in Akhmeta district village of Duisi during the special operation.
5. **Vakhtang Margoshvili** – according official version killed in Kvemo Kartli region, when illegally crossing the border near the village Vakhtangisi.
6. **Revaz Tsalani** – bed-ridden after terrible physical slaughter by the Special Forces.
7. **Varlam Nemsitsveridze** – killed in Tbilisi while releasing the hostage.
8. **Nestor Esebua** – killed in Abasha district, village of Marani during detention.
9. **Gia Okujava** – killed in Abasha district, village of Marani during detention.
10. **Temur Tsekvava** – killed in Abasha district, village of Marani during detention.
11. **Tamaz Kurkumeli** – killed in Tbilisi, Mukhiani settlement, during the special operation.
12. **Alexandre Tabagari** – killed in Lanchkhuti district village of Chonchkhati.
13. **Khvicha Meladze** - killed in Lanchkhuti district village of Chonchkhati.
14. **Giorgi Kvirikashvili** – killed in Tbilisi, Tamarashvili street.
15. **Giorgi Manjavidze** - killed in Tbilisi, Tamarashvili street.
16. **Levan Gulua** – killed in Tbilisi, in Gamsakhurdia Avenue, during detention.
17. **Rezo Sarjveladze** – killed in Tbilisi, during detention.

### **2006 YEAR**

1. **Murad Gorgadze** – killed in Tbilisi, near metro station Samgori
2. **Roman Surmanidze** - killed in Tbilisi, near metro station Samgori
3. **Marad Artmelidze** - killed in Tbilisi, near metro station Samgori
4. **Sandro Girgvliani** – died in Tbilisi, Okrokana area, after the multiple injuries by the group of officials from MIA.

5. **Gia (Giorgi) Telia** – killed in Tbilisi during the special operation.
6. **Jemal Chkhaidze** – killed in Terjola district village of Kveda Simoneti during the detention by the policemen.
7. **Zviad Babukhadia** – killed in Baghdati district village of Vartsikhe, during the special operation.
8. **Butkhuz Kiziria** – killed in Baghdati district village of Vartsikhe, during the special operation.
9. **Valeri Bendeliani** – killed in Baghdati district village of Vartsikhe, during the special operation.
10. **Zurab Vazagashvili** – killed in Tbilisi, on the right-hand bank, at the tennis courts, during the special operation conducted by over 100 law enforcers and other associates of MIA.
11. **Alexandre (Sasha) Khubulov** – killed in Tbilisi, on the right-hand bank, at the tennis courts, during the special operation conducted by over 100 law enforcers and other associates of MIA.
12. **Mikheil (Mishiko) Berdzenishvili** – killed in Sagarejo during detention.
13. **Gela Tsindelani** – killed in Mestia district village of Tchuberi during the special operation.
14. **Jaba Jabanishvili** – died because of wounds in Borjomi during the special operation of July 21.
15. **Khvicha Kokaia** – killed in Khobi district during the special operation.
16. **Valeri (Varlam) Pkhakadze** – died in Kutaisi because of wounds got during detention, because policemen did not ensure emergency assistance during long time.

## 2007 YEAR

1. **Mikheil Kirakosyan** – killed by the patrol policeman in Akhaltsikhe district after the victim refused to stop the motor-bike.
2. **Giga Tcharbadze** – run over by the car driven by a policeman.
3. **Alexandre Khositashvili** – died in Tbilisi, in the Village Dighomi, after slaughter by law enforcers.
4. **Oleg Meskhidze** - killed in Ozurgeti during the special operation.
5. **Jumber Nagervadze** – according to the official information, hang himself in Batumi detention facility.

## 2008 YEAR

1. **Tengiz Gogia** – killed in Senaki district village of Menji, during the special operation (according to the official information he blew up himself);

2. **Roland Makharadze** – killed in Batumi, in Chavchavadze street, during the release of hostages.

3. **Giorgi Gamtselidze** – killed by a patrol-inspector during detention at the metro station “Rustaveli”.

4. **Roin Shavadze** – according to the official information killed while attempting to escape, in Kobuleti, on Kakheti highway; found severely tortured.

5. **Nata Jitchonaia** – while standing in the “live chain” in Zugdidi district village of Rukhi, run over by a car driven by a drunk policemen.

6. **Alexander Kvezereli** – according to the official information, killed during the dispute by Otar Boghlotsishvili – former chief of No.6 division of Kakheti district main office of MIA.

7. **Zurab Matnadze** – killed in Tbilisi, on Rustavi highway, after detention; according to the official information died as a result of patrol car accident.

#### **2009 YEAR**

1. **Gia Krialashvili** – killed in Tbilisi, Gldani district (Tianeti highway), during the special operation;

2. **Jimi Megrelidze** – killed in Zugdidi during detention;

3. **Mamuka Chkharchkhalia** – died in Tbilisi, after the bullet shot into his head at the turn to Nutsubidze III Plateau.

#### **Penitentiary System**

On March 27, 2006 in penitentiary facility No.5, during suppress of so called riot, 7 prisoners were killed by the law enforcers according to the official information.

#### **Judiciary system and Prosecution**

After a year of imprisonment Rodion Kirakosyan was released as a result of plea bargain, accused in premeditated murder.

# Extracts from the report by Independent International Fact-finding Mission on the Conflict in Georgia, established by the Council of European Union

1. The result of armed confrontation is always human tragedy. After fighting has ended there is a sad record of killings and other losses, of intense suffering, of dreams and hopes that were shattered, in many cases forever. We do not know of any better way to understand the root causes of the 2008 conflict in Georgia than through the minds of those who took part and those who had suffered. We will come to know that all sides involved in the conflict had their grievances, that their actions had origins in their experience and memory, and that most of those taking part thought that what they did had to be done. In a close look at the peoples motives we shall understand their aspirations, even when we are not able to accept the means. Understanding the people will lead us to the facts. This Report will try to give a fair and even-handed view of the actions taken by the sides to the conflict, and their reasons as well as their consequences. Many of these will be critically reviewed. Nothing, however, will touch upon our respect for either individual fates or the aspirations of the peoples of the region, large or small. These aspirations were not the decisive causes of the hostilities, as similar problems were peacefully solved elsewhere. It was the way in which these problems were handled and sometimes exploited which paved the way to armed confrontation. On this basis of respect and understanding, it is the purpose of this



Report to describe the events that occurred, so that conclusions might be drawn for a safer future of the region and beyond.

**2. On the night of 7 to 8 August 2008, a sustained Georgian artillery attack struck the town of Tskhinvali. Other movements of the Georgian armed forces targeting Tskhinvali and the surrounding areas were under way, and soon the fighting involved Russian, South Ossetian and Abkhaz military units and armed elements. It did not take long, however, before the Georgian advance into South Ossetia was stopped.** In a counter-movement, Russian armed forces, covered by air strikes and by elements of its Black Sea fleet, penetrated deep into Georgia, cutting across the country's main east-west road, reaching the port of Poti and stopping short of Georgia's capital city, Tbilisi. The confrontation developed into a combined inter-state and intra-state conflict, opposing Georgian and Russian forces at one level of confrontation as well as South Ossetians together with Abkhaz fighters and the Georgians at another. Such a combination of conflicts going on at different levels is particularly prone to violations of International Humanitarian Law and Human Rights Law.

**This is indeed what happened, and many of these instances were due to the action of irregular armed groups on the South Ossetian side that would not or could not be adequately controlled by regular Russian armed forces.**

Then another theatre of hostility opened on the western flank, where Abkhaz forces supported by Russian forces took the upper Kodori Valley, meeting with little Georgian resistance. **After five days of fighting, a ceasefire agreement was negotiated on 12 August 2008 between Russian President Dmitry Medvedev, Georgian President Mikheil Saakashvili and French President Nicolas Sarkozy, the latter acting on behalf of the European Union. An implementation agreement followed on 8 September 2008, again largely due to the persistent efforts of the French President.** This successful political action stood in contrast to the failure of the international community, including the UN Security Council, to act swiftly and resolutely enough in order to control the ever-mounting tensions prior to the outbreak of armed conflict.

Since then, however, with the exception of the establishment of an EU Monitoring Mission (EUMM) and the Geneva talks, almost no progress has been made in the difficult process of establishing peace and stability in the region. The situation remains tense and volatile, and there are many who fear a resumption of hostilities.

**3. The shelling of Tskhinvali by the Georgian armed forces during the night of 7 to 8 August 2008 marked the beginning of the large-scale**

**armed conflict in Georgia, yet it was only the culminating point of a long period of increasing tensions, provocations and incidents.** Indeed, the conflict has deep roots in the history of the region, in peoples' national traditions and aspirations as well as in age-old perceptions or rather misperceptions of each other, which were never mended and sometimes exploited. While the region had also known a long tradition of peaceful cohabitation of different nations and creeds, there were among its smaller nations underlying feelings of deprivation and of having been relegated to inferior status. Soviet federalism did not help to overcome latent antagonisms, and the chaotic period that followed the break-up of the Soviet Union further added to a pattern of mutual mistrust and even hostility in the region. The wave of newly-found self-consciousness that followed political changes in Georgia since the end of 2003 clashed with another wave of assertiveness emanating from the Russian Federation, which tried to establish a privileged zone of interest in its "near abroad", where developments and events thought to be detrimental to Russians interests were not easily accepted. At the same time, **the peacekeeping arrangements that were established with the help of the international community were increasingly outrun by new and more threatening developments in the political and military situation.** They had been set up in the 1990s after the armed conflicts in Abkhazia and South Ossetia in the wake of Georgian independence and since then had remained more or less unchanged. Without the adjustments and political support that the international organizations present in the region would have needed, they finally lost their grip and could no longer fulfill their intended functions.

13. The ever-mounting tensions in the conflict zone were approaching the level of open military confrontation. **Already in spring 2008, a critical worsening of the situation in the Georgian-Abkhaz conflict zone could be observed. One of the sources of tension was the intensification of air activities over the zone of conflict, including flights over the ceasefire line both by jet fighters and by unmanned aerial vehicles (UAVs). A number of Georgian UAVs were reportedly shot down by Abkhaz and Russian forces. In April 2008, the Russian-staffed CIS PKF was reinforced by additional troops and in late May 2008, a Russian military railway unit was sent to Abkhazia to rehabilitate the local railway, allegedly for humanitarian purposes, in spite of Georgian protests.** The spring events were followed in summer 2008 by bombings of public places on the Abkhaz side of the ceasefire line, as well as roadside explosions on the Georgian side. In the course of summer 2008, the main focus of tension then shifted from the Georgian-Abkhaz to the Georgian-Ossetian conflict

zone, triggered by subversive attacks as well as by intensified exchanges of fire between the Georgian and South Ossetian sides, including mortar and heavy artillery fire. **In early July the conflict already seemed on the verge of outbreak as diplomatic action intensified at the same time.**

In mid-July, a yearly US-led military exercise called “Immediate Response” took place at the Vaziani base outside Tbilisi, involving approximately 2 000 troops from Georgia, the United States, Armenia, Azerbaijan and Ukraine. During the period of 15 July – 2 August 2008, Russian troops carried out large-scale training exercises in the North Caucasus Military District, close to the Russian-Georgian border as well as on the Black Sea. **In early August, the South Ossetian authorities started to evacuate their civilian population to locations on the territory of the Russian Federation. Indeed, the stage seemed all set for a military conflict.**

**14. Open hostilities began with a large-scale Georgian military operation against the town of Tskhinvali and the surrounding areas, launched in the night of 7 to 8 August 2008.**

Operations started with a massive Georgian artillery attack. At the very outset of the operation the Commander of the Georgian contingent to the Joint Peacekeeping Forces (JPKF), Brigadier General Mamuka Kurashvili, stated that the operation was aimed at restoring the constitutional order in the territory of South Ossetia. Somewhat later the Georgian side refuted Mamuka Kurashvili’s statement as unauthorized and invoked the countering of an alleged Russian invasion as justification of the operation. **The official Georgian information provided to the Mission says in this regard that “to protect the sovereignty and territorial integrity of Georgia as well as the security of Georgia’s citizens, at 23.35 on August 7, the President of Georgia issued an order to start a defensive operation with the following objectives:**

1. Protection of civilians in the Tskhinvali Region/South Ossetia;
2. Neutralization of the firing positions from which fire against civilians, Georgian peacekeeping units and police originated;
3. Halting of the movement of regular units of the Russian Federation through the Roki tunnel inside the Tskhinvali Region/South Ossetia”.

**15. The Georgian allegations of a Russian invasion were supported, *inter alia*, by claims of illegal entry into South Ossetia of a large number of Russian troops and armor, prior to the commencement of the Georgian operation.** According to Georgian answers to the Mission’s questions, the process of building-up of Russian forces in South Ossetia had started in early July 2008, continued in the course of August and included troops and

medical personnel, tents, armored vehicles, tanks, self-propelled artillery and artillery guns. This process allegedly intensified in the night of 6 to 7 August and in the late evening of 7 August. Georgian allegations of Russian military build-up in South Ossetia prior to 8 August 2008 were denied, however, by the Russian side.

**According to the Russian information provided to the Mission, the first Russian units entered the territory of South Ossetia, and Russian air force and artillery began their attacks on Georgian targets at 14.30 on 8 August, i.e. immediately after the decision for an intervention was made by the leadership of the Russian Federation.**

**16.** The Mission is not in a position to consider as sufficiently substantiated the Georgian claim concerning a large-scale Russian military incursion into South Ossetia before 8 August 2008. However, there are a number of reports and publications, including of Russian origin, indicating the provision by the Russian side of training and military equipment to South Ossetian and Abkhaz forces prior to the August 2008 conflict. Additionally there seems to have been an influx of volunteers or mercenaries from the territory of the Russian Federation to South Ossetia through the Roki tunnel and over the Caucasus range in early August, as well as the presence of some Russian forces in South Ossetia, other than the Russian JPKF battalion, prior to 14.30 hours on 8 August 2008. Also it seems that **the Russian air force started its operations against Georgian targets, including those outside South Ossetian administrative boundaries, already in the morning of 8 August, i.e. prior to the time given in the Russian official information.** The Russian air force reportedly started its attacks in central Georgia (Variani, Gori), gradually extending such activities to other parts of the country, including the Senaki military base, military targets in the port of Poti and the capital of Tbilisi as well as some dual purpose objects such as the Tbilisi airport radar, railroad tracks and other infrastructure and communication facilities. **There are conflicting reports over whether in some instances civilian objects were hit deliberately or in terms of so-called collateral damage. The Mission found no conclusive evidence for either version.** In addition to the Russian ground and air forces, the Black Sea fleet also soon engaged in the armed conflict, attacking targets on Georgian territory outside South Ossetia and providing naval cover for land operations.

**17.** In the course of the armed conflict, subsequently named a “five-day war”, and its immediate aftermath, the Russian side justified their military intervention by their intention to stop an allegedly ongoing genocide of the Ossetian population by the Georgian forces, and also to protect Russian



citizens residing in South Ossetia and the Russian contingent of the Joint Peacekeeping Forces deployed in South Ossetia in accordance with the Sochi Agreement of 1992. **Russia claimed that in the morning of 8 August 2008 two Russian peacekeepers were killed and five wounded by the Georgian attacks on the peacekeepers' premises in Tskhinvali. Georgia denied having conducted deliberate attacks against the Russian peacekeepers, arguing that the Georgian troops entering Tskhinvali were fired at from the Russian peacekeepers' compounds and that they had to return fire. The Mission does not have independent reports which could substantiate or deny the allegations of either side.** Albeit, taking into account the existing dangerous conditions on the ground, casualties among the Russian PKF personnel were likely. As far as Russian and South Ossetian accusations of genocide are concerned, they became less frequent in later months as the alleged Georgian intent for genocide could not be proven. The number of casualties among the Ossetian civilian population turned out to be much lower than claimed at the beginning. **Russian officials stated initially that about 2 000 civilians had been killed in South Ossetia by the Georgian forces, but later on the number of overall South Ossetian civilian losses of the August 2008 conflict was reduced to 162.** On 10 August, the Georgian Government declared a unilateral ceasefire and its intention to withdraw Georgian forces from South Ossetia. This ceasefire, however, was not followed by the opposite side. Finally, by the night of 10 to 11 August, most of the Georgian forces had withdrawn from the territory of South Ossetia. They were followed by Russian troops who entered deeper into Georgian territory by crossing the administrative boundaries of both South Ossetia and Abkhazia and set up military positions in a number of Georgian towns, including Gori, Zugdidi, Senaki and Poti.

**During the final phase of military hostilities, Abkhaz units supported by Russian forces attacked the Georgian positions in the upper Kodori Valley and seized this territory, which had been vacated by the Georgian forces and most of the local Georgian population by 12 August 2008**

18. Russia called its military actions in Georgia a “peace enforcement operation”, while Georgia called it an “aggression”. The international community, including major actors such as the EU, was reluctant to enter into any formal qualifications. There was, however, a general call to stop the fighting. On 12 August, French President Nicolas Sarkozy, in his capacity as Chairman of the European Council, went to Moscow and Tbilisi in a move to stop the military hostilities. A six-point ceasefire plan was agreed upon, providing, *inter alia*, for the immediate cessation of hostilities and

withdrawal of forces to the positions occupied prior to the armed conflict. **However, the Russian and South Ossetian forces reportedly continued their advances for some days after the August ceasefire was declared and occupied additional territories, including the Akhagori district which had been under Georgian administration until the August 2008 conflict, even if it is located within the administrative boundaries of South Ossetia as they had been drawn during the Soviet period.** Most of the Russian troops withdrew from their positions beyond the administrative boundaries of South Ossetia and Abkhazia after 22 August, some of them only after an implementation agreement was reached on 8 September 2008 in Moscow or even as late as early October 2008. The full compliance by all parties with the above two agreements remains a matter of dispute. **It should be noted, however, that with the implementation agreement concluded on 8 September 2008, the theatre of events ceased to be in the military sphere of operations and went back to the realm of political and diplomatic action.** This included a fierce discussion of the responsibilities for the conflict, which started even before the guns had fallen completely silent.

19. There is the question of whether the use of force by Georgia in South Ossetia, beginning with the shelling of Tskhinvali during the night of 7/8 August 2008, was justifiable under international law. **It was not. Georgia had acknowledged that the prohibition of the use of force was applicable to its conflict in South Ossetia in specific legally binding international documents, such as the Sochi Agreement of 1992 or the 1996 Memorandum on Measures to Provide Security and Strengthen Mutual Trust between the Sides in the Georgian-South Ossetian Conflict. Even if it were assumed that Georgia was repelling an attack, e.g. in response to South Ossetian attacks against Georgian populated villages in the region, according to international law, its armed response would have to be both necessary and proportional. It is not possible to accept that the shelling of Tskhinvali during much of the night with GRAD multiple rocket launchers (MRLS) and heavy artillery would satisfy the requirements of having been necessary and proportionate in order to defend those villages. It follows from the illegal character of the Georgian military assault that South Ossetian defensive action in response did conform to international law in terms of legitimate self-defence. However, any operations of South Ossetian forces outside of the purpose of repelling the Georgian armed attack, in particular acts perpetrated against ethnic Georgians inside and outside South Ossetia, must be considered as having violated International Humanitarian Law and in many cases**

**also Human Rights Law. Furthermore, all South Ossetian military actions directed against Georgian armed forces after the ceasefire agreement of 12 August 2008 had come into effect were illegal as well.**

**20. At least as far as the initial phase of the conflict is concerned, an additional legal question is whether the Georgian use of force against Russian peacekeeping forces on Georgian territory, i.e. in South Ossetia, might have been justified. Again the answer is in the negative.** There was no ongoing armed attack by Russia before the start of the Georgian operation. **Georgian claims of a large-scale presence of Russian armed forces in South Ossetia prior to the Georgian offensive on 7/8 August could not be substantiated by the Mission. It could also not be verified that Russia was on the verge of such a major attack, in spite of certain elements and equipment having been made readily available. There is also no evidence to support any claims that Russian peacekeeping units in South Ossetia were in flagrant breach of their obligations under relevant international agreements such as the Sochi Agreement and thus may have forfeited their international legal status.**

**Consequently, the use of force by Georgia against Russian peacekeeping forces in Tskhinvali in the night of 7/8 August 2008 was contrary to international law.**

**21. When considering the legality of Russian military force against Georgia, the answer needs to be differentiated. The Russian reaction to the Georgian attack can be divided into two phases: first, the immediate reaction in order to defend Russian peacekeepers, and second, the invasion of Georgia by Russian armed forces reaching far beyond the administrative boundary of South Ossetia.** In the first instance, there seems to be little doubt that if the Russian peacekeepers were attacked, Russia had the right to defend them using military means proportionate to the attack. **Hence the Russian use of force for defensive purposes during the first phase of the conflict would be legal. On the second item, it must be ascertained whether the subsequent Russian military campaign deeper into Georgia was necessary and proportionate in terms of defensive action against the initial Georgian attack.** Although it should be admitted that it is not easy to decide where the line must be drawn, it seems, however, that much of the Russian military action went far beyond the reasonable limits of defence. This holds true for all kinds of massive and extended military action ranging from the bombing of the upper Kodori Valley to the deployment of armored units to reach extensive parts of Georgia, to the setting up of military positions in and nearby major Georgian towns as well as to control major highways, and to the deployment of navy units

on the Black Sea. All this cannot be regarded as even remotely commensurate with the threat to Russian peacekeepers in South Ossetia. **Furthermore, continued destruction which came after the ceasefire agreement was not justifiable by any means. It follows from this that insofar as such extended Russian military action reaching out into Georgia was conducted in violation of international law, Georgian military forces were acting in legitimate self-defence under Article 51 of the UN Charter.** In a matter of a very few days, the pattern of legitimate and illegitimate military action had thus turned around between the two main actors Georgia and Russia.

24. Finally the military action that took place in the upper Kodori Valley must come under scrutiny. The Moscow Agreement on a Ceasefire and Separation of Forces of 1994, which had been signed also by the Abkhaz side, stipulated that “The parties shall scrupulously observe the ceasefire on land, at sea and in the air and shall refrain from all military actions against each other”. **As the upper Kodori Valley did not belong to the Abkhaz-controlled territory under the provisions of the Moscow Agreement, the attack against it by Abkhaz units supported by Russian forces constituted an illegal use of force as prohibited by the Ceasefire Agreement and Article 2 (4) of the UN Charter and also an armed attack against Georgia in the sense of Article 51 of the UN Charter. The use of force by Georgia in defence of the attack was at the same time justified in terms of legitimate self-defence.** The Abkhaz leadership gave, however, four different explanations in an attempt to justify its military operation. Abkhazia claimed that the military operation was launched “to liberate the Kodori Valley” and also that it had to be carried out to abort terrorist attacks against the civilian population. It further claimed the Abkhaz operation was necessary to pre-empt an imminent military operation by Georgia against Abkhazia, and finally Abkhazia deemed itself obliged to open a “second front” in accordance with its Treaty on Friendship and Cooperation with South Ossetia of 19 September 2005. However, none of these explanations can be considered as substantiated in fact or as legally valid. Hence **the use of force by Abkhazia was not justified under international law. The same applies for the Russian support of these actions.** Concluding the discussion on the use of force in the August 2008 conflict, a final look should be given to the repeated instances of threat of force by one side or the other before the beginning of the August 2008 conflict. **It should be noted that Article 2 (4) of the UN Charter as well as the relevant ceasefire agreements require that states and parties to the conflict not only refrain from the use of force but explicitly also from**

**the threat of force.** Threats of this nature are equally not in conformity with Article 2 (3) of the Charter, which stipulates the obligation to settle conflicts peacefully. The threats of force by all sides were consequently illegal and as such, violated international law.

25. While it is true that political and military events and developments, together with their legal implications under international law, attract the attention of policy-makers, it is also true that most people directly involved in the conflict remember human fates and human suffering first and foremost. **The August 2008 armed conflict unfortunately saw many crimes committed in violation of International Humanitarian Law and Human Rights Law. Beyond those acts committed during the five days of hostilities from 7/8 to 12 August, additional acts were perpetrated after the ceasefire came into effect, raising serious concerns about the co-responsibility of those forces in control of the situation, whose duty it was to protect the civilian population. Most of the violations committed during the August 2008 conflict and weeks after the ceasefire were committed in South Ossetia and in the adjacent so-called buffer zone. By contrast, few violations were reported in the upper Kodori Valley and Abkhazia. This exception does not relate, however, to the situation of ethnic Georgians in the Gali district of Abkhazia and the upper Kodori Valley, where their rights as a minority seem to be endangered.**

26. As for the conflict in South Ossetia and adjacent parts of the territory of Georgia, **the Mission established that all sides to the conflict - Georgian forces, Russian forces and South Ossetian forces - committed violations of International Humanitarian Law and Human Rights Law. Numerous violations were committed by South Ossetian irregular armed groups, by volunteers or mercenaries or by armed individuals. It is, however, difficult to identify the responsibilities for and the perpetrators of these crimes. The fact that both Georgian and Russian forces in many cases used similar armament further complicates the attribution of certain acts. If it were not for the difficulties of identification and attribution, many of these acts have features which might be described as war crimes.**

27. The Russian and South Ossetian charge of genocide against Georgia was one of the most serious allegations made. There was an urgent need to examine this allegation, due to the grave connotations conjured by the term genocide in public opinion and conscience, and also to its very specific legal definition and to the ensuing serious consequences under international law. **After having carefully reviewed the facts in the light of the relevant law, the Mission concludes that to the best of its knowledge alle-**

**gations of genocide committed by the Georgian side in the context of the August 2008 conflict and its aftermath are neither founded in law nor substantiated by factual evidence.** This finding is mainly based on the fact that international law requires proof of specific intent for the crime of genocide to be constituted. It follows from this, that measures such as educational and public information initiatives should be taken to ensure that unfounded allegations of genocide do not further fuel tensions or encourage acts of revenge. With regard to allegations of ethnic cleansing committed by South Ossetian forces or irregular armed groups, however, **the Mission found patterns of forced displacements of ethnic Georgians who had remained in their homes after the onset of hostilities. In addition, there was evidence of systematic looting and destruction of ethnic Georgian villages in South Ossetia. Consequently, several elements suggest the conclusion that ethnic cleansing was indeed practised against ethnic Georgians in South Ossetia both during and after the August 2008 conflict.** Even at the time of the writing of this Report, the situation in the Akhalkgori district at the southeast end of South Ossetia continues to be a matter of concern, as ethnic Georgians are still leaving the region

**28.** As regards the provisions of International Humanitarian Law on the conduct of hostilities and the protection of non-combatants, the violations in question mainly concern the ill-treatment of persons, the destruction of property and forced displacement. More specifically **the violations include indiscriminate attacks in terms of the type of weaponry used and their targeting, the lack of adequate protection by Russia and Georgia, widespread campaigns of looting and destruction of ethnic Georgian settlements by South Ossetians, as well as ill-treatment, gender-related crime including rape, assault, hostage-taking and arbitrary arrests, together with the failure by Russian forces to prevent and stop violations by South Ossetian forces, armed irregular groups and armed individuals before and after the ceasefire in South Ossetia and the adjacent territories.** Adding to the severity of the situation, there was a considerable flow of internally displaced persons (IDPs) and refugees. Reportedly about 135 000 persons fled their homes, most of them from regions in and near South Ossetia. While most persons fled to other parts of Georgia, a significant number also sought refuge in Russia. The majority fled because of the dangers and the insecurity connected to the conflict situation. But also numerous cases of forced displacements in violation of International Humanitarian and Human Rights Law were noted. More than 35 000 IDPs/refugees are not expected to return to their homes in the foreseeable future, owing to the continued insecurity of the situation or to the destruction of

their homes and property. **It needs to be stressed that both South Ossetia and Abkhazia, together with Russia, must take appropriate measures to ensure that IDPs/refugees, including those from the conflicts of the early 1990s, are able to return to their homes with no conditions imposed other than those laid down in relevant international standards, and that Georgia must respect the principle of return based on free individual decisions by the displaced persons.**

**29.** GRAD multiple rocket launching systems and cluster munitions are the two types of weaponry considered particularly dangerous for non-combatants because of their indiscriminate deadly effects. As far as the use of cluster munitions is concerned, Georgia has admitted their use only for specific military purposes, whereas Russia claimed that Georgia used them also against civilian targets. Russia has denied the use of cluster munitions, in spite of several independent reports confirming such use, including a commission of inquiry set up by the Dutch Ministry of Foreign Affairs in order to investigate the death of a Dutch journalist in Gori on 12 August 2008. **There are similar contradictions relating to the use of GRAD rockets. Georgia claims that GRAD were only used against strictly military targets such as South Ossetian artillery in one of the Tskhinvali city districts, whereas OSCE observers and other independent sources confirm the massive shelling of other parts of Tskhinvali as well during the night of 7/8 August 2008, both from multiple launch rocket systems and artillery pieces. Reports from Amnesty International and Human Rights Watch also confirm this. This would indicate that during the Georgian offensive on Tskhinvali cluster munitions on whatever scale and GRAD MLRS were both used, amounting to indiscriminate attacks by Georgian forces, owing to the uncontrollable effects of such weaponry and its use in a populated area. There are also some indications and consequently concerns regarding Russian use of cluster munitions in military attacks on Gori and possibly elsewhere.**

**30.** Could there have been ways to avoid the conflict? It is true that peace efforts had been made over the years and there were even situations in which a peaceful settlement appeared to be less remote than before. Even though these efforts had failed, they still provide lessons for all concerned.

The point of departure of all such plans had always been that any kind of settlement would have to be achieved, first of all, through Georgian constitutional reform, allowing for a meaningful degree of autonomy of Abkhazia and South Ossetia within a federal Georgia. In the negotiations on the political status of these two entities, the parties had a choice of variants of federalism. The Georgian Government was in favor of a so-called asym-



metrical federalism, in which one constituent state would enjoy more powers than the other. Under this model, Abkhazia would receive a higher level of autonomy than South Ossetia. However, the Abkhaz and South Ossetian sides had a strong preference – if their first choice for independence should prove to be impossible – for a confederation. Under the confederate model, their sovereignty would be recognized internationally and this in principle, would give them the right to secede, as they saw it.

This combination of a weak federal government and sovereign powers for the member states was not appealing to the Georgian authorities. The Georgians were also afraid that, even if secession did not materialize immediately, the constituent states and their interests or even their possible grievances could be used as convenient levers by an outside power for constant intervention into Georgia's internal affairs.

**36. This Report shows that any explanation of the origins of the conflict cannot focus solely on the artillery attack on Tskhinvali in the night of 7/8 August and on what then developed into the questionable Georgian offensive in South Ossetia and the Russian military action. The evaluation also has to cover the run-up to the war during the years before and the mounting tensions in the months and weeks immediately preceding the outbreak of hostilities.** It must also take into account years of provocations, mutual accusations, military and political threats and acts of violence both inside and outside the conflict zone. It has to consider, too, the impact of a great power's coercive politics and diplomacy against a small and insubordinate neighbor, together with the small neighbor's penchant for overplaying its hand and acting in the heat of the moment without careful consideration of the final outcome, not to mention its fear that it might permanently lose important parts of its territory through creeping annexation. **We also notice with regret an erosion of the respect of established principles of international law such as territorial integrity, and at the same time an increased willingness on all sides to accept the use of force as a means to reach one's political goals and to act unilaterally instead of seeking a negotiated solution, as difficult and cumbersome as such a negotiation process might be.** And finally, we see the long trail of human suffering and misery in the wake of armed action. Where lies the responsibility for all that has happened? Overall, the conflict is rooted in a profusion of causes comprising different layers in time and actions combined. **While it is possible to identify the authorship of some important events and decisions marking its course, there is no way to assign overall responsibility for the conflict to one side alone. They have all failed, and it should be their responsibility to make good for it.**



**37. Finally, it must be noted that there are no winners in this conflict. Everyone has lost, if not in terms of life and property alone, at least in the field of hopes and prospects for the future.** Apart from the immediate losses on the ground, the political situation is more difficult than before. This is true not only of relations between Tbilisi on one side and Sukhumi as well as Tskhinvali on the other, where the conflict of August 2008 has not settled any of the contentious issues. The situation in the conflict region continues to remain tense. Any incident may spark off grave consequences. Relations between Georgia and Russia have come to an all-time low. In addition to all individual human tragedy and on top of the substantial regional outfall of the conflict, **the international community is among the losers, too. The threat and use of force have now returned to European politics. Established principles of international law such as respect for sovereignty and territorial integrity of states were ignored. As human suffering and political instability continue, the conflicts in Georgia urgently call for efforts to end them in a negotiated and peaceful manner.**

## **“Peas about a Wall...”**

The reader had the opportunity to become acquainted with the events illustrated in the reports of the Public Defender before 2008 year via the material presented and discussed in the book, the documents for which have been obtained through the independent journalistic investigation as well as from the international organizations protecting the human rights.

Now we would like to offer you the extracts from the report of 2009 of the Public Defender of Georgia that clarify that Georgian Government did not take into consideration the recommendations of international organizations in the field of human rights and freedom protection. And, consequently, the situation with this regard has significantly worsened recently and remained like the “voice from the desert”...

### **The Ministry of Internal Affairs and Human Rights**

There are many cases recorded by the Public Defender, when the force used against the people participating in the manifestations exceeded the permissible limit. Meanwhile, there were the facts when the journalists were unable to perform their duties in full because of the actions conducted by the law enforcement agencies.

The above mentioned enables us say that recently, the use of excessive forces by the law enforcement institutions was remarkable. It in turn calls in question the reform of the law enforcement system being implemented since 2004.

The question of the excessive use of force by Police is still urgent. It shall be underlined that there was a case of illegal use of force on the part of the police against the representative of the Public Defender’s office. As a result, emergency medical assistance was provided to person, which prevented him from performing his official duties and obligations. By this action the policemen violated the organic law of Georgia “On Public Defender of Georgia”.

After the analysis of the Cases submitted to the Public Defender’s office it was stated that the number of cases regarding the excessive use of the force by Police has been increased in the West Georgia.

The most complaints regard to treating arrested people with physical

and physiological pressure by the policemen. For example, as explained by Sulkhan Kobuladze on February 10, 2009 at the nighttime hours he entered 2nd Unit of Kutaisi Department of Internal Affairs to ask the policemen for making a phone call to his friend in order to ask him to bring some fuel for his vehicle stopped nearby. Short dispute took place between the citizen and the policemen after which S. Kobuladze found himself on the floor. The arrested person remembers that he was abused verbally and physically (was beaten with kicks) by the policemen.

The injuries of Kobuladze are also mentioned in the register book of the arrested persons placed at the temporary detention cell.

The investigation on the mentioned fact is still underway as a result of the appeal of the Georgian Public Defender to the law enforcement agencies.

There have been a number of facts of physical abuse of the persons placed at the temporary detention cells recorded recently. In some cases the mentioned facts are confirmed by the witnesses. According to the official information received from the Ministry of Internal Affairs of Georgia, from January 1 to July 1, 2009, in total 9 358 persons were placed at the temporary detention cells of the Main Department of Human Rights Protection and Monitoring department at Ministry of Internal Affairs of Georgia, among them 2 748 had body injuries and 16 persons claimed to the police.

For example, on May 12, 2009, after being placed at the temporary detention cell Nugzar Otanadze was beaten with rubber batons by the persons without masks. They used to take him out and put his head into cold water. In the explanation given to the authorized representative of the Public Defender, Denis Gvenetadze mentioned that on January 21, 2009 he was beaten by the law enforcement officers and the fact was certified by the witnesses.

## **Prosecutor's Office of Georgia and Human Rights Inefficient Investigation of Criminal Cases**

The Law "On Prosecutor's Office" dated from October 21, 2008 indicates that the Prosecutor's Office is imposed an obligation to implement criminal proceedings; to take appropriate measures at the stage of preliminary investigation in order to ensure criminal proceeding; to carry out the preliminary investigation in full in cases stipulated by the Law.

The citizens appealed to the Public Defender many times on the facts of violations of the law by the law enforcement bodies.

In most cases the applications were connected with the use of the excessive force by the Police against the persons. Each of those cases was studied by the Public Defender and sent to the Main Office of the Prosecutor of

the Ministry of Justice of Georgia. However, it should be mentioned that this kind of cases are not investigated quickly and effectively by the Prosecutor's Office as a rule.

This is also confirmed by the fact that the most of the cases of the past years are not investigated until now. The investigation of a number of cases are (so called Case on Bare Prisoners, mentioned in the Public defender's Report of the second part of 2006 year) underway during 3 or 2 years (Case of A. Bakhutov, G. Ekhvaia – mentioned in the first and the second parts of the Report 2007).

It becomes quite clear that possible facts of violation on the part of the law enforcement bodies are not really effectively investigated and they are often unreasonably extended.

It is noteworthy that in some cases the investigation is being extended even when video material necessary for the recognition of violators of the law is attached to the case.

Vakhtang Lagidze was physically abused by 12 persons on April 14 of the current year. As (according to his explanation) he was beaten at the territory close to the World Bank, the Public Defender demanded from the office of the World Bank the record of the video camera installed on the building. The details of the abuse and the faces of the assaulters are clearly visible on the record.

On April 21, 2009 the Public Defender sent the material and the video record for further response to the Chief Prosecutor of the Ministry of Justice of Georgia. On May 8 of the current year the Public Defender's office was informed in response that the investigation is underway on the fact of the robbery conducted against Vakhtang Lagidze.

It shall be underlined that when there are materials in the case records which make it possible to identify the criminals and still the investigation of the case is under way during 6 months, this creates a basis to doubt about ineffective investigation being carried out by the Prosecutor's office, as well as unfair performance of official duties by specific prosecutors.

### **Qualification of Possible Torture Facts (Article 1441 of Criminal Code of Georgia) under the Article about the Exceed of the Official Authority (Article 333 of Criminal Code of Georgia)**

The Public Defender was referred by the citizens with the appeal that the public officials implemented against them the actions stipulated by Article 1441 (Torture) or Article 1443 (Inhuman treatment) of the Criminal Code. As a rule, under this condition, the Public Defender refers to the

Prosecutor's Office of Georgia to initiate the investigation on the mentioned facts. And the Prosecutor's Office mostly initiates the investigation not on the basis of the above mentioned Articles but gives mitigated qualification to the actions of the public officials and as a rule the investigation gets initiated under Article 333 of the Criminal Code (Exceeding the Official Authority).

For example in the first half of 2009 year during the course of the protest rally the investigation on the fact of violations on the part of public officials were mainly initiated under Article 333 of the Criminal Code of Georgia (please, see Assemblies and Manifestations), while the Public Defender considers that in a number of cases, actions taken by the law enforcement bodies were of more serious character and possibly included the signs of torture, inhuman and abusive treatment.

A number of Agreements ratified by Georgia in the field of human rights unambiguously and unconditionally prohibit the torture, the inhuman treatment or treatment humiliating the dignity. Article 17 of the Constitution of Georgia, Article 3 of the European Convention on Human Rights, Article 7 of the International Pact on Civil and Political Rights and Article 1 of UN Convention against the Torture prohibit torture, inhuman care or abusive treatment as an Absolute Right. According to Article 1443 of Georgian Criminal Code, "Humiliation or enforcement or the abusive treatment of the person resulting in strong physical, psychical or moral pain to the person is punishable".

According to the opinion of the Public Defender's office, the materials sent by the Ombudsman to the Prosecutor's Office on the range of cases represent the sufficient basis for the commencement of the investigation on the basis the Article 1441 or Article 1443 of Criminal Code of Georgia.

# Situation in the Penitentiary Institutions of Georgia

## General Overview of the Situation

Care of the detained persons in the penitentiary institutions is the responsibility of the Government. According to the rule of the European prisons:

“Treatment of all detained persons is to be implemented on the basis of respect of his/her rights”.

During the planned monitoring the questions were cleared out requiring the prompt response from the competent bodies.

The reform of the penitentiary system is one of the topical questions among the ongoing legal reforms in Georgia. The effective implementation of the reform in the penitentiary system greatly depends on comprehensiveness of the legislation, how the state politics is reasonable in this field and how the existing system is relevant with the International experience and the standards.

From March 21 to April 2, 2007, after the visit of the CPT - European Committee for the Prevention of Torture and Inhuman or Degrading Treatment to Georgia, it was marked:

“The fact that Georgia has placed so many citizens in prisons may not be explained only by the increase of the crime but also by “zero tolerance” towards the criminals on the part of the law enforcement institutions. The responsibility is to be shared between the Prosecutor’s Office and the Court. It shall become impossible for the prison construction program to keep up with the rapidly increasing demand. The moment that the budget resources are limited has to be taken into consideration and the existing resources are allocated not only for the reconstruction works and creation of the infrastructure but for training of the employees, salaries and etc.”.

One of the basic principles of the European prisons sounds like this:

“The existence of the prison conditions humiliating the Human Rights is not justified by the lack of the resources”. With this respect the Government has to satisfy at every stage the allocation of necessary resources for settlement of the problems existing in the penitentiary system.

At present many reforms are planned to be implemented in the penitentiary system; among them the improvement of the probation system, the launch of new mechanism of pre-term conditional liberation, construction of the institutions according to the standards, what is certainly connected with the increased costs.

Public Defender refers with the recommendation to the Government of Georgia, Ministry of Penitentiary, Probation and Legal Assistance to take into consideration while drafting the budget those increased financial requirements which are necessary for successful implementation of current and planned reforms.

After the allocation in the penitentiary institutions the imprisoned persons should not lose the feeling of the human dignity despite the heaviness of the crime committed by them; though there are some institutions in the penitentiary system of Georgia where the allocation of the prisoner may be considered as inhuman treatment. The examples are Prison N1, N3, N4, Public Prison N7 of strict and prison regime, Public Prison N9 of strict regime. In his Report of the second half of 2008 year the Public Defender filed a recommendation with the Penitentiary Department of the Ministry of the Correction, Probation and Legal Assistance requesting liquidation of the mentioned institutions (except for the N 7).

For present the construction of several new institutions (buildings) is being carried out, which shall replace the existing ones, except for Prison N1.

Public Defender refers with the recommendation to the Minister of Correction, Probation and Legal Assistance to ensure the liquidation of Prison N 1 in the shortest period of time.

Public Defender always underlined in his Parliamentary Report the circumstance that according to the Criminal Code of Georgia the aim of the punishment, besides the establishment of justice and avoidance of new crime, is the re-socialization of the criminal. The achievement of this important aim is impossible under the existing conditions. Moreover, the person who committed a crime which is less heavy, less dangerous for the society in the penitentiary institution may become asocial, wicked and psychologically disturbed individual, eventually more dangerous for the society than he was before imprisonment.

The detained persons and their family members refer to the Public Defender with the applications. They underline the poor conditions of the prisoners, degrading treatment of the administration members towards them in some penitentiary institutions. The mentioned especially applies to administration of Ksani Public Prison N7 of strict and prison regime. The prisoners of the mentioned institutions often applied to the representatives of the Public Defender about coarse treatment on the part of the administration. The mentioned is confirmed by the prisoners but also by the observation of the Public Defender representatives. The personnel of the administration talk about prisoners mockingly and in a rough manner and say that they deserve hard conditions.

In Kutaisi Prison N2 of strict regime and Khoni Prison N9 of common and strict regime, at the medical institution of the detained persons and prisoners, Geguti Prison N 8 of common and strict regime the prisoners mention that the personnel of the institutions treat them carelessly and rudely. For normal functioning of the penitentiary institutions and for the re-socialization of the prisoners special attention has to be paid to the professionalism of the personnel working at the administration of the penitentiary administration and to their attitude towards the prisoners. The personnel should be acquainted with the Georgian Legislation as well as with the International Standards. This will enable them to have an idea what rules and standards they have to be guided by.

According to Sub-Article 1 of Article 14 of Georgian Law “On Imprisonment”:

“During implementation of his/her official duties the personnel should wear the uniform”. On written request of the Public Defender the reply from the Penitentiary Department was that all the employees of the institutions wear special uniform though while monitoring it appeared that the most part of the personnel wore civilian clothes while implementation of the official duties. The exception was the personnel of the Prison N 8.

Chapter XIII of Georgian Law “On Imprisonment” is dedicated to the social service, the aim of which is “to assist the detained persons to keep and obtain the socially, legally and morally justified contacts with the society, to solve personal or family problems. Employment shall assist the detained persons to raise self-consciousness, assist their relationship with the representatives of the society which may help the detained persons to settle their living conditions after the liberation”. According to the same law, every imprisonment institution has the social worker implementing the above mentioned functions. Unfortunately, a social worker is hired and dismissed by the Director of the institution what is often reflected on the degree of independence and impartiality of the social workers.

Besides the above, the presence of the social workers in some of the institutions bears a formal character and often the detained persons do not know who this function is imposed on. There were the cases when the prisoners went on the hunger-strikes with the request of the meeting with the social worker. Often the professional level of the social worker is quite low, which does not allow him/her to provide the prisoner with competent assistance.

## **Medical Personnel**

The monitoring showed that there are 74 independent medical activity subjects employed by the system of Georgian penitentiary institutions (except for the medical institutions). Besides, 12 doctors work at the medical



institution for the prisoners diagnosed with tuberculosis and 62 doctors- at the medical institution for the detained persons and the prisoners. In total, 11 dentists work at all institutions; besides the above mentioned, one dentist works in each of the West and the East groups of the consultant doctors. The doctors are not distributed equally and proportionally. There is no even one specialist of this or that field in one the institutions, while there may be several doctors of the same specialization in other institution. There is no dentist in 8 out of 18 institutions. Except for the medical institution for the detained persons and prisoners there is no psychiatrist employed at any of the penitentiary institutions. In total 3 psychiatrists work at the institutions for the detained persons and prisoners. 2 psychiatrists also work in the West and the East groups of the consultant doctors. In total 5 doctor psychiatrists serve 20 000 prisoners and 39 psychiatric beds exist in the medical institutions for the detained persons and prisoners. Women prisoners absolutely lack the mentioned service as there is no medical institution for women in the penitentiary system and the prisoners fallen under this category do not get moved to the civil psychiatric institutions. In total 172 nurses are employed in the penitentiary system institutions, among them 66 (38%) work at the medical institutions of the detained persons and prisoners. With regard to the pharmacist (provisor), 17 specialists work in the penitentiary system and there is no even a single pharmacist or provisor in 3 institutions, which makes the problem existing in terms of accessibility of the medical assistance even more acute

The medical personnel, among them the chief doctors, are completely unaware or aware at the minimum level of the medical legislation and the documentation regulating the penitentiary health care. The most of the doctors have not been trained or involved in the continuous medical education program, which sets limits on possibility to improve doctors' qualification.

The majority of doctors believe that it is not their obligation to control the sanitary-epidemiological condition.

The contractor organizations of the Penitentiary Department implement the deratization and the disinsection. The doctor often is not aware of the type of work the representatives or employees of these organizations carry out at the institution. Some of the doctors are not aware at all of the sanitary-epidemiological standards.

The medical personnel is under subordination of the Penitentiary Department until today. Therefore, the autonomy and the professional dependence of the doctors is quite limited. The settlement of the mentioned question has to be solved urgently. The doctors, which have to work in the risk zones, are often facing the resistance and their social and legal rights are

being violated. Because of that they are unable to solve the existing problems. Unfortunately, the vicious practice of punishment of the prisoner with participation of the doctor still exists at the penitentiary institutions. This is prohibited by the Georgian Law “On Medical Activity” and the principles of the medical ethics. Despite the numerous recommendations of the Public Defender’s office in connection with these issues, directors of the institutions still require from the doctors to sign the references or any other documents and this allow placing of the prisoner in the punishment cell. Although it is noteworthy, that at some of the institutions the mentioned practice has been stopped on the basis of the issued recommendations.

### **Inappropriate Treatment**

Tuberculosis is one of the main problems existing in the penitentiary system institutions. Despite the assistance provided by the International Committee of the Red Cross, the situation existing with this regard is alarming. According to the mortality spectrum, tuberculosis was the reason of death in majority cases of the patients deceased in the first part of 2009 year. 1218 patients with tuberculosis are registered at the penitentiary institutions. Among them 679 are undergoing a course of treatment at the medical institutions of tuberculosis for the detained persons and prisoners and 204 – at the medical institution for the detained persons and prisoners. 335 patients are placed at various institutions. 204 patients are enrolled in “DOTS” program and only 4 patients - in the “DOTS+” program.

Taking into consideration the forensic examination, outcomes of the review of the existing medical documentation and spectrum of the patients, there is a serious systemic problem, conditioned by overall crisis of both the prisoners living elements and the medical service.

The problem related to Hepatitis virus shall given a special consideration among the issues existing in the penitentiary health care.

In some institutions of penitentiary systems (6 institutions) the cases of Hepatitis are not paid any attention at all. Only 290 patients with the virus Hepatitis are registered in other institutions.

The interviewing of local doctors reveals that the problem is much more serious than indicated by the statistical data. In case of the total screening of the Hepatitis, one of the markers of virus Hepatitis may be found in approximately 40-60% of the patients.

The forensic and medical expertise of the deceased prisoners does not show any consoling results. The majority of the deceased patients have morphologically proven damage of the liver at certain degree, starting from easy morphological changes up to far gone cirrhosis forms. It shall be not-

ed that there are single cases of the Hepatitis recorded at the institution of under-aged prisoners and No.5 institution of women and under-aged prisoners. The sanitary situation in the prisons has to be paid attention, the non-observance of the asepsis norms during dental and invasive manipulations, the existing practice of sterilization and etc.

Against the background of this kind of situation we may proclaim that the spread of the Hepatitis forms at this scale are explained exactly by the situation existing in the penitentiary system. The mentioned tendency was repeatedly approved in law cases against Georgia at the European Court of Human Rights.

Despite the strategy of struggle against Hepatitis approved by joint Decree of the Minister of Labor, Health and Social Defense of Georgia and Minister of Correction, Probation and Legal Assistance of Georgia the real measures in this direction are not still taken.

The spread of the HIV/AIDS infection in the penitentiary system is also important parameter. According to the information handed to the Public Defender's office by the doctors of the system at the first part of 2009 year, 93 infected persons with HIV infection are registered in the penitentiary system. Presumably the quantity of those who are not registered or who are not aware about the situation of their health is much higher. While discussing the tendencies of spreading AIDS the same factors as mentioned above with regard to the virus Hepatitis shall be taken into account. The isolation of the prisoners with AIDS does not take place according to the medical sign though the discrimination is obvious if taking into account the attitude of the forensic-medical expertise towards the prisoners deceased with the AIDS.

Similarly to previous years the shameful tendency when the expert refused the cutting of the deceased by the AIDS person still continued at the first half of 2009 year according to the notion that there are not any safety recommendations or guarantees.

The cases of insular diabetes have been considerably increased as compared with other diseases. In total 154 persons are registered with this diagnosis. The circumstance that there is no possibility to keep the food regime for the patients with the insular diabetes is alarming. Against this background even during perfect medical treatment regime all medical efforts are unsuccessful. It is disturbing fact that there are only single cases recorded when the person with the diabetes had been consulted by the endocrinologist. In other cases the treatment and the regime does not conform modern requirements and the interests of the patient's health.

The question of bronchial asthma is also quite critical. There are registered

100 patients with this disease and almost none of them are consulted by the allergist, since the quality of treatment they are provided with may not be high.

There are many cases of Asthma status registered. With this regard, correspondence of the health of the prisoners with the local climate is not regulated.

Many recommendations are issued by the Public Defender of Georgia for transfer of the patients from the Western region institutions to the Eastern region institutions.

From the additional factors the problem of the environmental pollution is to be taken into consideration. From this point of view the conditions of the medical institutions for the detained persons and the prisoners and the landfill (the process of burning of the garbage) at the adjacent territory of Tbilisi Prison N8 is glaring.

There are 142 cases of epilepsy registered by the doctors at the penitentiary institutions. Among them some prisoners have serious forms of the epilepsy. There are cases of epileptic status development. At this time the emergency medical assistance and placement of the patient at the penitentiary medical institution is the only way to solve the problem. Despite the fact that the majority of the patients is consulted by the neurologist the supervision of the specialist doctor over this kind of he contingent at the penitentiary institutions of Georgia is non adequate. Accordingly the quality of the implemented treatment is not satisfactory. Simply to say, the prisoner with the epilepsy disease consulted once or twice a year by the neuropathologist despite the course of the illness is left without qualified medical treatment.

As for the relocation of the patients to the penitentiary system because of the medical evidence, it has to be mentioned that there are only 1146 patients relocated to the medical from institutions for the detained persons and prisoners. 640 patients are relocated to the medical institutions for tuberculosis for the detained persons and the prisoners. As for relocation of the patients to the medical institutions of the civilian type, the possibilities with regard are quite limited and there have been 104 cases of such relocation (including both stationary and ambulatory recollections, when patient is relocated only for several hours) have been recorded recently.

Almost half of relocations made outside to the medical institutions of the civilian type falls on Prison No.5 for women and under-aged persons. Out of the rest 17 penitentiary institutions, only approximately 50 prisoners have been relocated for the reason of the ambulatory and stationary medical aid. The mentioned tendency was conditioned by the absence of the Women's Department at the medical institution for the detained persons and prisoners.

The louse, bed bug and the flea is widely spread in the majority of the institutions. The patients have itch and other infectious diseases, decrease and increase of which carries the seasonal-wave character.

As a rule, psychiatrist and psychologist are not involved in cases of emotional tension, depression or suicidal attempts. The reason in the most cases is the absolute absence of this kind of the specialists.

On the basis of the above-mentioned, we can conclude that the issues related to psychical health condition in the penitentiary institutions are way beyond the marking of the crisis and alarming situation.

Ignoring the rights of the prisoners falling under special category

There is not any adequate approach to the prisoners falling under special category. There are places where women and juvenile delinquents are kept under unqualified conditions. The rights of the people suffering from mental health problems are being violated in a rather severe form. There exist the facts of inhuman treatment towards such people. Such treatment needs to be immediately suppressed and extirpated.

The attention to drug-addicted persons is not adequate, either. The consultation of an addiction expert is not available except for few penitentiary facilities. There is no single, unified approach towards the prisoners with dangerous contagious diseases.

Along with the cases of obvious obliteration of the epidemic factors that exposes the health conditions of other prisoners and of the staff of the penitentiary facility to a big danger, there have been revealed the facts of discrimination, as well.

There are a big number of prisoners in the facilities of Georgian penitentiary system, whose confinement for a long time is incommensurable with their lives. There are no conditions, special treatment, qualified personnel or proper medications for such prisoners. The fact that they are still confined in the penitentiary system should be viewed as a clear demonstration of inhuman treatment.

Specific issues related with the health condition of the people in the pre-detention facility are not properly taken into consideration. Forensic medical examination of the prisoners having injuries has almost never been carried out. Visit of the doctor is either not allowed or is such a long process that it severely violates the prisoners' right to health.

## **Other cases of infringement of the rights of prisoners**

Medical personnel of almost all the penitentiary facilities state that the prisoners go through medical examination upon entering the facility. How-

ever, during the monitoring process it became obvious that the above examination bears the features of informal procedure, and in most cases, does not conform to the compulsory criteria specified in the law. In almost absolute majority of cases of examination of the patients, the procedure is performed in the attendance of the penitentiary facility staff member – an officer on duty or chief warder. The above approach is applied in any case of the patient’s contact with the doctor. The above severely violates the principles of medical secrecy, personal privacy and confidentiality, which is absolutely inadmissible.

The patients are less informed about the conditions of their health. Their comments have almost never been included into the medical documentation.

### **Medical infrastructure of penitentiary system**

In accordance with the Law on Imprisonment, a penitentiary facility where more than one hundred (100) person serve sentence, has to have a hospital. Based on the data as of the first half of 2009, five off eighteen facilities do not have hospitals. Three of the facilities have never had such units, while in two facilities the hospitals do not function due to long-term reconstruction works. There are no doctors on duty and qualified medical aid is not available in the penitentiary facilities during non-working hours or on week-ends.

The medical equipment in the penitentiary system is very scarce. None of the penitentiary facilities (except for the therapy facility for prisoners and convicted persons) has the medical equipment and items needed for emergency medical aid. Medical infrastructure is obsolete and out of order. Sanitary and hygienic standards of the medical units are beneath criticism.

### **Deceased prisoners**

The official information about the precise number of the deceased prisoners in the facilities of the penitentiary system of Georgia during the first half of 2009 is not available. The letter sent by the first Deputy Chair of the Penitentiary Department to the Ombudsman of Georgia on July 15, 2009 clarifies that one of the fifty-four (54) deceased prisoners died in the Kutaisi Hospital, one - in the Psychiatric Unit of the National Bureau of Forensic Examination, three prisoners died in the National Center of Tuberculosis, two – in AIDS and Clinical Center of Immunity, one - in the Gudushauri National Medical Center, three - in penitentiary facility No.2, and one more - in penitentiary facility No.7 (12 patients altogether), while 42 died in the medical institutions for the convicted persons and prisoners.

The above information does not conform to the information submitted to the Ombudsman's office. Based on that information, one person died in the penitentiary facility No.2 in Rustavi. Generally, the information about the conditions in the facilities of the penitentiary system of Georgia submitted to the Ombudsman's office does not coincide with the information obtained by the office. Based on the Ombudsman's information one prisoner died in the facility No.6 in Rustavi, and one in the facility No.3 in Tbilisi, two people died in the facility No.7 in Ksani (contrary to one patient as it was noted in the official information), two patients died in the Geguti facility No.8, two – in the medical institution for the convicted persons having tuberculosis, and one -in the Tbilisi penitentiary facility No.8.

After having summarized the above information, we can conclude that in the first half of 2009, sixty-two-(62) prisoners died in the facilities of Georgian Penitentiary System instead of 54 as it was reported by the Penitentiary Department.

Having in mind the aim of making the obtained information more precise, the Ombudsman's office applied to the Samkharauli National Bureau of Forensic Medical Examination on August 12, 2009. The above Bureau not only did not send the precise information but it did not respond to the Ombudsman's letter within the time-frame set by Georgian legislation. On September 8, 2009 the staff members of the Ombudsman's office visited the National Bureau of Forensic Examination and requested the answer to the Ombudsman's letter. The copies of the medical forensic examination of the forty-five deceased prisoners were handed to them. The representatives of the Bureau promised to provide the copies of the forensic examination of another nine prisoners in the nearest future.

Based on the analysis of the conclusions provided by the National Bureau of Forensic Examination, about 63% of the deceased prisoners had lungs tuberculosis, and in some cases tuberculosis of other organs. For the reporting period, tuberculosis is named to be No.1 reason for the lethal cases among prisoners. The situation last year was similar. 22% of the above cases of tuberculosis was accompanied by pleurisy and pneumonia. In 90% of the cases, the direct cause of death was named to be ordinary pneumonia.

It is alerting that in XXI century the death rate caused by pneumonia still stays to be very high. Ombudsman recurrently spoke about this in his reports. Hepatitis and liver cirrhosis are the next two diseases rated to have high mortality-17%. In 9% of the cases the death was caused by voluminous bleeding, and the derived from it hemorrhagic shock. In 7% of the cases the reason was acute disorder of cerebral circulation, which in some cases was the result of the crack of cerebral aneurism, and since the latter

was not diagnosed, no appropriate treatment had been given to the patient. In 6% of the cases the reason of the death was acute myocardial heart attack. 7% of the deceased prisoners were HIV positive, and respectively, no dissection of the corpse was performed. The reason of the cases of death was also malignant tumors - (7%), meningitis - (6%), one patient died after the surgery period due to universal peritonitis and septicemia/sepsis as a result of placing not sufficient number of stitches; and one prisoner committed suicide.

### **Age categories of the deceased**

Age categories of the deceased persons can be grouped as follows:

<b>Age</b>	<b>Percentage</b>
21-30	22%
31-40	19%
41-50	30%
51-60	20%
61-70	9%

An overwhelming majority - (77%) died in the medical institutions for prisoners and the convicted persons at the Penitentiary Department; about 10% - in different penitentiary institutions, and 13% - in different medical institutions not subordinate to the penitentiary system.

The above picture demonstrates that healthcare service of the penitentiary system of Georgia is still in deep crisis resulting in the deaths of hundreds of prisoners and thousands of the convicted people. The flaws revealed within the system are very similar, which puts the issue of moving the healthcare service of the penitentiary system under the Ministry of Labor, Healthcare and Social Protection on the agenda. It is also reasonable that we create an anti-crisis team that will comprise qualified experts and specialists working in the field.

### **Inappropriate Treatment**

After the monitoring group of the office of the Ombudsman of Georgia conducted its monitoring in 2009, the administration of the Kutaisi No.2 penitentiary facility performed exemplary punishment of the prisoners that spoke about the conditions in the penitentiary system with the Ombudsman's trustees. They were taken to the so called "boxes", were made stand in water up to knees, and were beat. Based on the information provided to the Ombudsman's office, the Director of the penitentiary facility was instructing the process of beating. More than a few prisoners that gave writ-



ten explanations to the Ombudsman's trustees, stated about physical savage reprisal in case of minor deviations from the rules.

Taking into consideration that illegal use of force, beating, torture, and inappropriate treatment became "a norm" for the staff members of the Kutaisi penitentiary facility No.2, the Ombudsman of Georgia appealed with the recommendation to the Minister of Justice to start preliminary investigation of the above facts in conformity with article 1443 of the Criminal Code of Georgia (humiliation and inhuman treatment).

The reply received from the General Prosecutor's Office on June 8, 2009 states that a preliminary investigation on the case No.073090235 started on May 11, 2009 by the West Georgia Department of Investigative Office of The Ministry of Penitentiary System Probation and Legal Assistance. The crime under the investigation is qualified in sub-paragraphs "b", "g", "d" and "e" of part two of article 1443 of the Criminal Code of Georgia. It was also noted that forensic medical examinations were to be held, 70 prisoners and the convicted persons were to be interrogated, and respective documentations – collected.

It is noteworthy that the behavior of the Director of the Kutaisi No.2 prison of high security is very aggressive towards the prisoners, as well as towards the prison staff. During the monitoring process, in the presence of the members of the Ombudsman's monitoring group, the Director was addressing the employees of the penitentiary facility in a humiliating and brutal manner.

Based on what the prisoners say, we can state that the facility administration punishes them through putting the prisoners for a long time in the room, the so called "room for those who are going to the court hearings", which is one square meter with a single long bench in it. In addition, the monitoring group members saw a prisoner, who was placed in the punishment cell with water on the floor as the leakage was obvious.

The most obvious example of inappropriate treatment of the prisoners in the Kutaisi No.2 penitentiary facility is the incident that took place in July 2009. During this incident body injuries were inflicted on juvenile offenders.

Based on the information as of July 7 of the Penitentiary Department, on July 6, 2009 seven juvenile offenders, dissatisfied with the court ruling, made a mess of the room and broke the furniture in it. Nobody was injured during the incident. The investigation started on the fact of damaging the state property. All the seven convicted persons, participating in the incident, based on the decision made by the Penitentiary Department, were transferred to the women and juvenile conventional prison.

The Ombudsman's trustees, upon the receipt of the information, visited the Kutaisi prison No.2 of high security on July 7.

At first, the Director told the representatives of the Ombudsman that due to the incident only three off the nineteen juvenile offenders were left in the prison, and that the others were transferred to different facilities. Later, it became clear that only seven juvenile offenders were transferred, while twelve, the ones who took part in the incident, were still in the penitentiary facility.

The Ombudsman's representatives met with the juvenile offenders. Based on the explanations given by them at 9pm, on July 6, 2009 the prison guard noticed that the ward bars lacked some parts and brought the officer of the custodial supervision unit to the ward. As the prisoners explain, they used to have a TV set fixed in the door bars. They gave the TV set to the next ward prisoners, and respectively, the door bars lacked some metal components.

About five employees of the custodial supervision unit inspected the ward but could not find any metal parts missing in the door anywhere. After about twenty minutes they came back together with other staff members, and moved the prisoners to the so called "quarantine building". At the entrance of the building L.L. - one of the juvenile offenders teased another one and, this used as the pretext by the prison employee, he slapped the juvenile offender in the face. The prisoners who stopped and looked back when they heard the noise, saw that one of the prison's employees was holding L.L. with his hands, while another was beating him. Then, the employees took one of the prisoners to the wall and started to strangle him.

The fact of beating the juvenile offenders was followed by verbal protest of other juveniles. They first demanded to take them back to the ward, and then to meet with the Director. Ultimately, the juvenile offenders were placed back in their ward but they started banging on the door and making noise as a sign of their protest. The prisoners from the next ward joined them and also started making noise in support of the juvenile offenders. After this, the Director of the facility met with them. The prisoners expressed their dissatisfaction with the fact. They said that they used abusive words only towards the facility employee who was beating their ward mate. After having met with the Director, the juvenile offenders got calm, and as they noted, some of them even fell asleep.

Despite the fact that everything calmed down, at about 2 o'clock in the midnight, special squad soldiers, wearing masks, entered the ward, and demanded from the prisoners to leave the wards. The juvenile offenders stated that they threatened with self-infliction to protect themselves. Some

of them cut their hands. The juvenile offenders of three wards were take out into the corridor, made put their hands on the wall and the special squad soldiers started to humiliate them verbally and physically. They were beating the juveniles slapping, beating with wet towels, and padlocks not allowing them to move.

Based on the prisoners' statements, the special squad soldiers were exercising more than usual punishment against the prisoners of the ward No.102, L.L. being among them, who collapsed on the floor. After having moved the prisoners to the corridor, the special squad soldiers read down the names of the seven juvenile offenders and gave short shrift to them. As the prisoners say, they had been standing with their hands placed on the wall for five hours, and in case of movement they were threatened to be urinated on and taken to the so called "ward of cocks". As an after treatment, they were forced to get through the so called "corridor" walking through which the special squad soldiers and the prison staff members were beating and spitting on them. Later, they were moved to the quarantine building.

The testimonies given by the juvenile offenders, put in absolutely different wards, are absolutely similar about the reason of get beaten, methods and forms used, as well as about the location where the incident took place.

The injuries on the bodies of the prisoners were obvious. Some of them did not have cloths, while some lost their shoes when moved to another building. The y say that the scene of moving them out off the ward has been taped. It is noteworthy that based on the official information disseminated by the Penitentiary Department, nobody had been injured during the incident, which is not true. When the Ombudsman's representatives made visual examination of the juvenile offenders it was obvious that as of July 7 the twelve juvenile offenders kept in No.2 prison of high security had injuries of different types and sizes.

On July 7, the prisoners were examined (most likely it was medical examination). The examination was superficial, and actually did not identify any injuries inflicted on the prisoners. The visual examination was performed by a male stranger, who just made notes about the profile of the prisoners. Based on the explanations provided by the juvenile prisoners, after the incident they had not been visited by the facility doctor, either.

The representatives of the Ombudsman of Georgia met with two inspectors of the penitentiary facility – Imeda Janelidze and Shota Kachibaia. The above persons, based on the explanations provided by the facility Director, had also been injured during the incident. The above inspectors refrained from any kind of cooperation with or giving any written explana-

tion to the representatives of the Ombudsman. However, they displayed the injuries they had. Particularly, Mr. Janelidze had three red spots on the left shank, and Mr. Kachibaia had a little damaged skin on the left knee-cap, and a small redness on his right palm.

The representatives of the Ombudsman once again visited the twelve juvenile prisoners on July 8. The juveniles, put in one of the wards, turned out to be beaten a few hours prior to the visit. As it was noted in the explanation, at 11 am, on July 8 the prisoners called the guard due to some clogging-related problem with the sewage system. The four men who entered the ward made the juvenile offenders turn their backs upon them, and started to beat them, using four-letter words and spitting on them. Afterwards, they threw away all the things off the table and made the prisoners collect the items.

It is obvious that the employees of the No.2 Kutaisi prison of high security used absolutely incommensurate force that can be evaluated as inhuman treatment: forcing the prisoners to stand for four-five hours with their hands back on their heads, beating them with wet towels and padlocks, using abusive treatment, spitting in the face, and using abusive and unquotable words against the juvenile offenders.

It should be especially noted that one of the juvenile offenders – D.B. – was isolated from the others after the incident, and was taken to the so called “box”, which is a small dark, damp and airless ward with damaged walls and ceiling, water leakage and specific smell. The space of the ward is two and a half square meters where there is water of about two -centimeter-height, everywhere on the floor.

On July 15, 2009 the Ombudsman of Georgia applied to the Attorney General with the recommendation to study and scrutinize the facts of inappropriate treatment against the juvenile offenders that took place at the Kutaisi No.2 penitentiary facility.

The Ombudsman was informed from the Attorney General’s office that the West Georgia Unit of Investigation Department of The Ministry of Penitentiary System, Probation and Legal Assistance started a preliminary investigation on the presumable fact related with verbal and physical abuse committed by the Kutaisi No.2 prison of high security staff against juvenile offenders. The action was brought based on part one of article 333 of the Criminal Code of Georgia – abuse of authority.

Another example of inhuman treatment is also the case of Tristan Akhrakhadze, kept in the Geguti No.9 penitentiary facility of general and high security. He was placed in the separate ward of the so called medical unit. The ward did not have any sanitary arrangements or door in it. There was

no way to fully close the window. It was complete insanitariness everywhere. Tristan Akhrakhadze did not have any medical furniture or items necessary and appropriate for the patient. He permanently sat on the bed motionless and could not move without help to adhere to the norms of personal hygiene. Based on the explanations of local staff, one of the prisoners was helping him in satisfying his biologic needs. The inability tortured the patient every time he would need this kind of assistance.

There are no special conditions that would enable the medical personnel to take care of similar category of patients. Based on this, it is natural that local physicians come across a huge variety of problems during the process of treatment and taking care of such patients, especially when there is no qualified personnel to perform such work.

Due to the above conditions and provided facts, the Ombudsman of Georgia believes that a long-term imprisonment is incommensurable to the patient Akhrakhadze, and on August 13, 2009 the Ombudsman appealed to the Chair of the Penitentiary Department with the recommendation to ensure forensic medical examination of the prisoner Tristan Akhrakhadze to assess his health conditions and, based on the conclusion of the forensic medical examination, to issue solicitation to the relevant court about releasing the prisoner from confinement and serving sentence or to postpone the confinement in conformity with the rule specified in Georgian legislation. On September 9, 2009 the Ombudsman received a reply to his recommendation, which stated that the confined Tristan Akhrakhadze was freed from imprisonment based on the pardoning act of the President as of August 29, 2009.

### **Inaccurate Definition of Regime Conditions as of Legislation**

According to items 2 and 3 of Article 73 of the Law of Georgia “On Imprisonment”,

“2. Prisoners in a penitentiary establishment of general regime are housed in dormitory, if the Statute does not consider otherwise;

3. Prisoners, who are imprisoned in a penitentiary establishment of general regime, have the right to:

Walk freely at the territory of this establishment, according to the rule established by its Statute”.

According to items 2 and 3 of Article 74 of the same Law,

“2. Prisoners in a penitentiary establishment of strict regime are housed in dormitory, if the Statute does not consider otherwise.

3. Prisoners, who are imprisoned in a penitentiary establishment of strict regime, have the right of free movement within the territory of this establishment, according to the rule established by the Statute.”

Orders N365 and N366 of the Minister of Justice regulate the rule of movement of prisoners.

Based on the amendment as of June 1, 2009 made to the Order N147 of the Minister of Corrections, Probation and Legal Assistance dated as of April 16, 2009, regime of the Rustavi Establishment N6 was defined as general, strict and of maximum security. There is no appropriate infrastructure in the Establishment N6 relevant to general and strict regimes and all prisoners are on maximum security regime – they are not able to move freely within the territory of the Establishment as prescribed by the Law for general and strict regimes.

Prisoners from the Tbilisi Prison N7, who have been prescribed general or strict regimes, are transferred to the Rustavi Prison N6. It is assumed that this way that are transferred from maximum security regime to general or strict regime. In fact, they remain on the maximum security regime. The reason is that in Prison N7 mainly members of so-called criminal world are detained. Despite the fact that the Law does not consider particularly strict conditions for such category of prisoners, in fact, they pay most of their punishment under the circumstances of a maximum security regime.

According to part 7 of Article 25 of the Law of Georgia “On Imprisonment”, transfer of prisoners onto the maximum security regime is permitted with up to one year term, whilst according to item 8 of the same Article, the Head of Department, with the nomination of Director of Penitentiary Establishment, is authorized to prolong the 1-year term on a maximum security regime with another year, of which the Commission of Penitentiary Establishment will be informed.

Director of a Penitentiary Establishment is authorized to address the Head of Department with an appropriate nomination also in case if a prisoner was extended the term of change of regime. However, according to observations of a Public Defender (Ombudsman) representative, basically, there are one and the same prisoners who are placed in this Establishment. According to them, these prisoners are kept in this Establishment for years and as soon as a maximum security regime is completed they are transferred into a penitentiary establishment of different regime for 2-3 days, and are again brought back to the Prison N7. The issue needs a thorough study.

A Public Defender (Ombudsman) addresses the Head of a Plenipotentiary Establishment of the Ministry of Corrections, Probation and Legal Assistance of Georgia with the recommendation to study the above described facts and, in case of confirmation, take law-governed measures.

A Public Defender (Ombudsman) addresses the Minister of Corrections, Probation and Legal Assistance of Georgia with the recommendation to make appropriate amendments to the Law.

Until now, the Commission is not informed about the content of notification since the Law says nothing about response of the Commission that can be followed up on such notification.

The above shall be considered as a gap in the Law.

## **Senior Prisoners**

Article 65 of the Law of Georgia “On Imprisonment” names the age of seniority (women – from the age of 65, men – from the age of 70) as one of the reasons to flee from a penitentiary establishment.

According to the letter of August 7, 2009 by the Penitentiary Department, there were 71 senior prisoners, among them 13 women, who were imprisoned in penitentiary establishments. None of the prisoners have been fled because of the seniority age.

According to item 2 of Article 33 of the same Law, seniors, in comparison to other prisoners, shall have improved living and nutrition conditions.

On written question of a Public Defender (Ombudsman) about senior prisoners using improved conditions, the Administration was informed: “The Penitentiary Department, as of necessity, ensures improved living conditions to senior prisoners”. Having this general response, it is unknown what is exactly meant under improved living and nutrition conditions.

According to observations made by Public Defender’s (Ombudsman’s) representatives, senior prisoners are in the equal conditions with other prisoners.

A Public Defender (Ombudsman) addresses the Minister of Corrections, Probation and Legal Assistance of Georgia with the recommendation to define improved living and nutrition conditions of senior prisoners by law (“f” sub-item of item 1 of Article 65 of the Law of Georgia “On Imprisonment”. Letter 10/9/4-13304 as of August 27, 2009).

## **Women Prisoners**

According to the Order of the Chairman of Penitentiary Department as of April 21, 2009, part of the imprisoned women are placed in the Rustavi Establishment N1 of general and strict regime, whilst the other part – in the Tbilisi Establishment N5. Monitoring showed that women prisoners in the Kutaisi Establishment N2 of maximum security and strict regime, the Batumi Jail N3 and Zugdidi Jail N4 are placed with yet not sentenced people that is not in accordance with the law, and, by uncertain reasons, their trans-

fer to the establishment intended for prisoners is delayed. Women prisoners in the Zugdidi Jail N4 also mentioned about having no access to items of personal hygiene.

A Public Defender (Ombudsman) addresses the Chairman of the Penitentiary Department of the Ministry of Corrections, Probation and Legal Assistance of Georgia with the recommendation to ensure placement of women prisoners in the establishment of general regime as considered by legislation and to control access of all necessary hygienic items at every shop of the establishment where they are housed.

### **Minor (under-aged) Prisoners**

Despite repetitive recommendations from Public Defender (Ombudsman), a separate infrastructure for minor girls is still not available. The Order N6 of the Minister of Justice of Georgia as of January 1, 2007 considered the creation of department for female minor prisoners within the Tbilisi Penitentiary Establishment N5 for Women and Minors of General and Maximum Security Regime, however due to absence of such department, minor girls were housed with majors (full legal aged) or, based on their personal request, were housed in jail.

To correct the existing situation, the Public Defender (Ombudsman) addressed the Minister of Corrections, Probation and Legal Assistance with the recommendation in March of 2009.

Minor boys are housed in the Avchala Educational Establishment for Minors; however, the monitoring showed that several of them were housed together with the major (full legal aged) prisoners in the Kutaisi Establishment N2.

### **Life-sentence Prisoners**

During monitoring, there were 81 life-sentence prisoners within the penitentiary system of Georgia, among them 3 women. According to item 4 of the recommendation (Rec (2003)23) by the Committee of Ministers of the Council of Europe, “Prison life should be arranged so as to approximate as closely as possible to the realities of life in the community (normalization principle)”.

According to item 7 of the same document, “consideration should be given to not segregating life-sentence and other long-term prisoners on the sole ground of their sentence (non-segregation principle)”.

Life-sentence prisoners, according to the requirements of the Law, are on the regime of maximum security; accordingly, the normalization principle is not secured, and most of their life they [life-sentence prisoners] spend



in isolation from other category prisoners and exercise the right of being out of doors only for one hour or an hour and a half. This, in long-term perspective, can be evaluated as an inhuman treatment.

Neither is the progression principle secured, according to which individual planning for the management of the prisoner's life or long-term sentence should aim at securing progressive movement through the prison system. Big majority of life-sentence prisoners (71) are housed in the Rustavi Establishment N6. From time to time, with the aim of punishment, they are transferred to the Tbilisi Jail N7 where they experience a stricter regime.

A Public Defender (Ombudsman) addresses the Parliament of Georgia with the proposal to make respective amendments to the Law of Georgia "On Imprisonment" so that to follow the European prison rules when defining the regime for life-sentence prisoners.

## **Overcrowding**

### **EUROPEAN STANDARDS**

According to the European Prison Rules, "every prisoner shall be provided with a separate bed". According to the standards of the European Committee for the Prevention of Torture (CPT), every prisoner shall have at least 4 sq. meters of area for its own use.

### **GEORGIAN LEGISLATION**

According to item 2 of Article 33 of the Law of Georgia "On Imprisonment", "the norm of living area per prisoner shall not exceed 2 sq. meters in the penitentiary establishment; 2.5 sq. meters – in jail; 3 sq. meters – in women's establishment; 3.5 sq. meters – in education establishment for minors and less than 3 sq. meters – in medical establishment".

## **The Problem and the Ways of its Resolution**

Overcrowded penitentiary establishments remain one of the major challenges for the years that, on its part, make number of reforms and initiatives ineffective.

Incorrect approach shall be named as one of the reasons for unresolved problem of overcrowding – increase in number of establishments is discussed as a primary method for resolution of the issue while the subject requires much more comprehensive approach. Such vision is described in the recommendation NR (99) 22 of the Council of Europe dated September 30, 1999.

According to this recommendation, the following activities are considered as ways for resolving the problem of overcrowding: mitigation of crim-

inal law policy, decriminalization of actions of minor jeopardy, reducing the duration of imprisonment (deprivation of liberty) at maximum and extensive use of non-prison suppression measures or punishments, conditional penalties, amnesties and pardons.

According to item 1 of this Recommendation, “deprivation of liberty should be regarded as a sanction or measure of last resort and should therefore be provided for only where the seriousness of the offence would make any other sanction or measure clearly inadequate”. The recommendation on European Prison Rules as of January 11, 2006 states the same.

The issue of overcrowding is still very evident in majority of establishments. Namely, in Rustavi Establishment N2, where the limit is 2744, 3223 prisoners were housed during the monitoring; Ksani Establishment N7 (limit – 1600, housed – 2475); Medical Establishment of Detainees and Prisoners with Tuberculosis (limit – 540, housed – 672); Tbilisi Jail N1 (limit – 750, housed – 947); Batumi Jail N3 (limit – 557, housed – 832); Zugdidi Jail N4 (limit – 305, housed – 462).

In some of the establishments, along with the problem of overcrowding, prisoners are in the most severe living conditions that in combination can be evaluated as a very inhuman and humiliating treatment.

These circumstances are oppressed by the fact that in several establishments, by violating the law, prisoners and persons in pre-trial detention are housed together.

One of the issues that the Minister of Corrections, Probation and Legal Assistance and the Public Defender (Ombudsman) focused on during their meeting was in fact the issue of overcrowding of penitentiary establishments. According to the statement made by the Minister, new establishments are planned to become operational by February 2010 that will at some point resolve the problem of overcrowding.

By end of August 2009, the number of prisoners in the Tbilisi Jail N1 reached 1127.

## **Sanitary and Hygienic Conditions**

### **EUROPEAN STANDARDS**

According to the European Prison Rules, adequate facilities shall be provided so that every prisoner may have a bath or shower, at a temperature suitable to the climate, if possible daily but at least twice a week (or more frequently if necessary) in the interest of general hygiene. “Prisoners shall keep their persons, clothing and sleeping accommodation clean and tidy... For this purpose, the prison authorities shall provide them with the means for doing so including toiletries and general cleaning implements and ma-

terials”. “Every prisoner shall be provided with a separate bed and separate and appropriate bedding, which shall be kept in good order and changed often enough to ensure its cleanliness”.

### **GEORGIAN LEGISLATION**

Sanitary and hygienic conditions in prison are paid an extensive attention in the Georgian legislation as well. Namely, these conditions are described both in the Law of Georgia “On Imprisonment” and Order N5/500/0 of the Minister of Health and Social Security of Georgia, dated December 22, 1999, “On Nutrition Norms, Clothing and Sanitary and Hygienic Conditions of Prisoners”.

According to sub-item “b” of item 1 of Article 27 of Law of Georgia “On Imprisonment”, prisoners are obliged to “maintain personal hygiene, keep their clothes, beds and living spaces clean and tidy”.

According to item 2 of Article 34 of the same Law, “prisoners shall be provided by clean bedding and hairdresser’s services at least once a week”. According to item 2 of Article 35, “prisoners shall be provided by beds and beddings given to them clean and not damaged. Change of beddings shall meet the requirements of hygiene”.

According to sub-items “b” and “c” of item 1 of Article 42 of the same Law, medical service or doctor of a penitentiary establishment is obliged to regularly check “b) sanitary and hygienic condition of area and premise of the establishment; c) condition of clothes and beddings of prisoners and its seasonal adequacy”.

Despite the above-mentioned, sanitary and hygienic conditions of penitentiary establishments of Georgia, to be mild, is unsatisfactory. Intensity of bath or shower, as a rule, does not give prisoners an opportunity to keep themselves clean. This problem is more visible in jails where prisoners cannot access showers without administration. The Kutaisi Establishment N2 shall be mentioned here, where prisoners are lacking the possibility of bath for years and take showers in chambers with water from bottles.

Except from several establishments, administration does not provide prisoners with necessary beddings and hygienic supplies. They are only provided with cleansing soap and powder and that is not regular but on request.

Prisoners receive beddings by parcels or purchase them in shops of establishments.

Furthermore, in establishments where acceptance of beddings by parcel is prohibited, prisoners are complaining that beddings available in shops are of low quality (change of colors) and expensive.

Despite the requirements as set by the Law, doctors in none of the establishments do regular check ups on sanitary and hygienic conditions as well as of clothes and beddings. The main problem, according to the Public Defender's Office, is lack of medical staff in establishments. Considering the number of prisoners, doctors are not often able to perform their major function – take care of health of prisoners and control sanitary and hygienic conditions of establishments.

As a result of the inspection held by the monitoring group it has been established that general sanitary and hygienic conditions of majority of penitentiary establishments not only do not satisfy national or international standards but is very perturbing at the same time. Chambers and other infrastructures are dirty; louses and rodents are visible in chambers; disinfection and deratization is not perfect and regular. It is also notable that floors, walls or toilets of chambers in some of the establishments are in such a poor condition that it is almost impossible to keep the tidiness. This problem requires an immediate attention; otherwise, the health of prisoners is in serious danger.

## **Reaching Out to Outer World**

The right to use telephone is guaranteed in majority of penitentiary establishments, although Zugdidi Jail N4 seems to be exclusion in this regard. During monitoring in the first half of 2009, no telephone devices were found here at all. The right to call was exercised only by those prisoners who were tasked to assist in household activities.

In July of 2009, four telephone devices were installed in the Zugdidi Jail N4, but none of them worked, so the prisoners still had no possibility to call.

During the same period, prisoners of Batumi Jail N3 could not purchase phone cards and therefore had no access to phones as well, but this problem resolved before the monitoring took place.

Radio and television broadcasting is more of a problem usually. As for the radio, today all establishments have access to radio. Television is still being a luxury and is used as a tool to motivate prisoners. Due to this, many establishments do not possess TV sets at all, although the law envisages only certain legally binding restrictions in this regard. Restriction, such as complete deprivation of right to receive information is not applicable to any active regimen in the world.

Tbilisi Jail N7 was a separate, particular case, where telephones did not work as well as TV. There is a suspicion that this was some kind of punishment measure. It's also worth mentioning, that TV sets are not set to broad-

cast live programs but are centralized to play DVD entertainment programs and movies. The radio also has only one frequency pre-selected by the administration.

Based on the above, the Public Defender's Office thinks that prisoners of Jail N7 lack the possibility of full access to information.

Also interesting that during monitoring, many prisoners were concerned about their claims, saying that they were not accepted or sent out. These are the claims which reflect violations of prisoners' rights by the employees of penitentiary establishments. There are a lot of cases, when the administration sends out such written claims, but authors are not provided with letter registration numbers, which makes the case unclear and once again proves incapability of social services active in penitentiary systems.

The Public Defender addresses the Head of Penitentiary Department of the Ministry of Corrections, Probation and Legal Assistance of Georgia with recommendation to take up the legally binding control measures over protection of outgoing correspondence from penitentiary establishments.

Prohibition of Torture, other Violent, Inhuman and Dishonoring Treatment or Punishment in Georgia

# Investigation of Torture Cases

The issue of quick and effective investigation of cases of torture by law enforcement bodies still remained problematic in the first part of 2009.

In some cases, the delay of investigation of torture cases by the Prosecutor's Office clearly exceeds any acceptable terms. The Public Defender has been sending materials on many cases of possible torture and inhuman treatment for initiating investigation, but the persons indicated in these cases remain unpunished till to date. For example: VS. Iremadze case (The Public Defender's II Semiannual Report of 2008); Gocha Ekhvaia Case (The Public Defender's I Semiannual Report of 2008); Roin Shavadze Case (The Public Defender's I Semiannual Report of 2008); The Martkopi Orphanage Case (The Public Defender's I Semiannual Report of 2008); A. Bakhutov Case (The Public Defender's II Semiannual Report of 2007); "The Nude Prisoners" Case (The Public Defender's II Semiannual Report of 2006).

The Public Defender reviewed citizens' claims which pointed on their torture and inhuman treatment by public servants.

The Public Defender has addressed the Prosecutor's Office many times with recommendation to initiate investigation of torture and inhuman treatment cases, although preliminary investigation has launched only for 4 such cases: preliminary investigation under Article 144 (Torture) (Nikoloz Bibilashvili Case; Jimsher Japaridze Case; Lasha Jankhoteli Case). Preliminary investigation of other cases launched under Article 333 of Criminal Code of Georgia (Power Abuse).

For example, material on Zaza Mekarishvili case reveals that a grenade was stealthily placed in the residence of Zaza Mekarishvili (this fact is approved by candid recordings of Mekarishvili's relatives), and he was physically abused during detention, which is approved by corresponding medical documentation submitted to the Public Defender's Office.

Jimsher Japaridze addressed Public Defender with an inquiry on March 18 2009, where he stated that he was detained by Zestaponi Police Officers on February 15 2009. After transfer to Police Unit, the Police officers pressured him to confess the fact of a rape, threatening with imprisonment. The applicant says he was beaten and forced to undress and confess the fact.

The Public Defender thinks, that the General Prosecutor's Office shall prioritize prompt and adequate response and effective investigation of cases of possible torture, dishonouring and inhuman treatment. Based on this,

the Public Defender of Georgia continues to watch the progress of investigation of such cases.

The Public Defender's Office hopes that such cases will be investigated in reasonable terms, which would be indicative of the quality of law enforcers' work in the country.

The recommendation of Public Defender on this issue is the following: General Prosecutor's Office of Georgia shall carry out effective, unbiased and prompt investigation of cases of possible torture and put forward the issue of punishment of those - responsible for such crimes.

# Freedom of Assembly and Manifestation

## Use of Nonlethal Weapons by Law Enforcers during Assemblies and Manifestations

As already mentioned, the Article 12 of the law on Police was amended on July 17 2009 by adding “Nonlethal Weapons” to the list of special means.

Old formulation of Article 12 of the Law on Police listed “special means” very precisely. By May 6, the list of permitted means included: rubber bludgeon, tear gas, water cannon, but the list did not include rubber and plastic bullets. The list was precise and complete and use of any other special means was prohibited. This argument is reinforced by Clause 1 of Article 10 of the law on Police, which mentions, that “the police officer has the right use physical force, special means and authorized fire arms when on duty, in cases and with the rules envisaged by the present law”. Because Article 12 did not permit usage of rubber and plastic bullets, the law enforcers abused their power on May 6 2006. Ministry of Internal Affairs and all military divisions under the ministry which represent executive authorities are obliged to fulfill their duty by following the law precisely, which means that use of any means not permitted by the law is prohibited. Therefore, use of rubber and plastic bullets on May 6, 2009, when nonlethal weapons were not in the list of “special mans”, represents an abuse of power. Therefore, David Chantladze was damaged as a result of illegal use of weapon and this act represents a power abuse, which falls under Article 333 of the Criminal Code of Georgia.

On 23 September 2009 the Public Defender’s Office was informed that the Detective Unit of the Tbilisi Main Division of the Ministry of Interior Affairs of Georgia was conducting a preliminary investigation with regards to the incident that took place on the territory adjacent to the Main Police Unit, on 6 May 2009. However, it is not known by which clause of the Criminal Code in particular has the investigation started and whether there are any victims. The Public Defender addressed General Prosecutor’s Office of the Ministry of Justice of Georgia and Ministry of Interior Affairs of Georgia with the recommendation to ensure quick and transparent investigation of the given criminal case.

## Physical Abuse

On May 11 2009 international human rights organization “Human Rights Watch” issued a statement, which says that the Government of Georgia



should not decline its commitment to defend human rights, during negotiations with political opponents. “From 9 April 2009 Georgian opposition started continuing protesting demarche requesting resignation of President Saakashvili. “Human Rights Watch” documented major assaults made against opposition demonstrators and concludes that these assaults were aimed at intimidating the demonstrators and hindering implementation of their right for freedom of assembly”.

The Public Defender recorded several facts during assemblies-manifestations, when victims stated that some strangers physically abused them. They related the assaults to their political activities. Public Defender was given explanations on 32 similar cases. In most cases, persons incurred physical damages, which were proved by medical documentation submitted to the Public Defender’s Office. In each case, the Public Defender sent explanations at hand, and in some cases videotapes showing facts of assaults, to Prosecutor General’s Office of Georgia for further action. According to the information he currently possesses, each fact is being investigated. Follow-up reaction on the above-mentioned cases is beyond the competency of the Public Defender and establishing objective truth about these facts is the prerogative of investigative structures and then the court.

Cases, where victims state about the presence and inactivity of law-enforcers at the places of incidents (e.g. explanations of Shmagi Gelbakhiani, Shalva Radiani, Temur Radiani, Gocha Gabaidze and Amiran Gabaidze) deserve special attention. “Human Rights Watch” states the similar. The latter addressed in written the Government of Georgia on 7 May 2009. Recommendation: Prosecutor General’s Office of the Ministry of Justice of Georgia to ensure quick and transparent investigation of the above-mentioned cases.

## **Disproportional Use of Force**

Approximately at 14.00 on 15 June 2009, a group of citizens carried out protesting demonstrations in front of the Tbilisi Main Division of the Ministry of Interior of Georgia. There were about 100 demonstrators participating. Representative of the Public Defender’s Office was monitoring the demonstration. In about 10 minutes from the start of the demonstration, law-enforcers conducted a raid on the participants, all journalists and operators were deprived of cameras and physically abused.

The police detained about 38 demonstrators. According to the official information of the Ministry of Interior of Georgia, representatives of the opposition blocked the main entrance of the police and motor road near the Tbilisi Main Division. The police tried to clear the entrance and the motor

road. The demonstrators disobeyed the police officers and physically opposed them. The demonstrators were detained by law-enforcers on the fact of opposing the police.

Later, the Ministry made another statement, according to which the law-enforcers noted several people during the demonstration, who participated in 12 June 2009 events at the Parliament, and attempted to detain them. The demonstrators opposed the law-enforcers, which caused the incident.

The General Inspection of the Ministry of Interior carried out an investigation of the incident of 15 June. As a result, 2 employees received a very strict warning, 4 employees – a warning, and 3 employees were deprived of authority before the end of the investigation.

Representatives of the Public Defender have taken explanations from demonstrators and journalists, as well as persons detained by administrative rule.

On 16 June 2009, representative of the Public Defender visited Gudushauri National Medical Centre. According to the registration book of the reception Division, on 15 June, 17 participants of the demonstration were registered with skull and cerebral traumas and various bruising. It is obvious from explanations and mass media, in particular, from shots/pictures disseminated by the internet edition iTV.ge that there was no violence or opposition from the participants of the demonstration, whereas the police has started to break up the demonstration without any warning. In addition, the demonstrators did not block the road and they were located beyond 20 meter radius from the Main Division building.

According to the shots/pictures disseminated by iTV.ge and explanations of demonstrators, the law-enforcers laid siege to demonstrators without any warning and a chance to run away, and started beating them. According to the explanations of participants of the demonstration, they received physical offence mainly in the back and head area. This is proved by registers in the diary of the reception division of the Gudushauri Medical Centre. Police officers have first beaten the demonstrators during detention, then laid the detainees on the floor of the Main Division and caused physical and verbal offence to them. The above fact is proven by the representative of the Public Defender who was also severely beaten and detained. Then the detainees were registered and placed into temporary detention isolator.

In temporary detention isolator they were deprived of items and clothes and registered again, however no minutes of detention were recorded during detention neither for the representative of the Public Defender nor other detainees.

On 23 June 2009, Centre for Psycho-rehabilitation of Victims of Torture, Violence and Expressed Stress Effect “Empathy” conducted medical monitoring in temporary detention isolator No.2 of the Tbilisi Main Division of the Ministry of Interior of Georgia and provided consultation to 5 detainees. According to the “Empathy” report, descriptions of emergency brigades and medical personnel of the temporary detention isolator do not coincide and in many cases even oppose each other. According to the conclusion of the “Empathy”, there were facts of at least severe, dishonouring and inhumane treatment, which are even more aggravated by inadequate medical service.

“Main Principles about Use of Force and Firearms by Law-enforcers” defines that “when carrying out their duties, the law-enforcers should make a maximum use of non-forcible means prior to use of force and firearms. They can use force and firearms only in case if all other means turned out to be unsuccessful, or there is no hope for achieving the desired result through their use”. In the same Principles, a special chapter is dedicated to police control over the unlawful assemblies, which says that “when breaking up unlawful but peaceful assemblies, the law-enforcers should abstain from use of force, or if possible, reduce it to a necessary minimum within the use of force”.

According to the clause 2 of article 10 of the Law of Georgia “About Police”, a policeman is obliged to warn a person ahead about use of physical force, special means and firearms, give sufficient time for him/her to fulfill legal request of the policeman, except for the case when delay might cause infringement of life and health of a citizen or/and policeman, and other serious result, or if it is impossible to make such a warning in the given situation”.

According to the sub-clause “e” of the first clause of article 9 of the same law, a policeman has the right “to stop illegal rally, demonstration, vigil etc., as well as on-going demarche if it causes danger to public safety, human life and health, property and other rights defended by the law”.

It became clear from the shots/pictures of 15 June demonstration in front of the Tbilisi Main Division, that there was no warning made to the demonstrators from the law-enforcers. In addition, there was no obvious danger that the demonstration with about 70-80 participants would take an illegal character.

The European Court of Human Rights established that “the use of force should not be more than absolutely necessary to achieve legitimate purpose. During use of force, not only actions of those persons who represent-

ed State will be taken into account, but circumstances related to them, including planning and control of use of force”.

Code of Conduct of representatives of law-enforcement bodies was approved by 34/169 resolution of 17 December of 1979 of the UN General Assembly. According to sub-clause “b” of article 3 of the mentioned Code, “the force shall be used in accordance with the proportionality principle; it is unacceptable that the interpretation of this principle is made the way that use of force is disproportional to achievement of legitimate goal”.

According to the Public Defender, the police officers committed prohibited actions towards victims placed in the Gudushauri National Medical Centre actions (article 333 of the Criminal Code – Power Abuse and article 1443 - Humiliating and Inhuman Treatment).

# Freedom of Speech and Expression

The currently existing problems with regard to freedom of expression do not differ significantly with the difficulties existing in the second half of 2008 year. The media map of Georgia has not changed considerably either. The only significant novelty is publication of *Liberali* - an independent journal, which has appeared on Georgian media market since May, 2009.

During and after the protest actions of April 09, 2009 held by a number of political parties marked out the issue related to security and adequate carrying out of professional activities by the journalists while reporting on assemblies and manifestations. The problem related to putting obstacles in the journalists' path on the part of public officials (especially, law enforcement officers) during carrying out their professional activities still remains unsolved.

Reports of almost all reputable international organizations denote deterioration of the condition of the media in Georgia. In accordance with the recent report of the international organization Freedom House, Georgia is among those 18 countries, where the situation in terms of democracy has been deteriorated. Moreover, Georgia's rating has fallen down to the lowest level since 2003 and the degree of democracy has been worsened almost in all directions.

The authors of the report assess ratings of the specific country based on different criteria; the independent media is one of them.

The Constitution of Georgia ensures the freedom of speech and expression and prohibits censorship, although, in practice, specific journalists and media holders face pressure and availability of information, which is ensured by the Constitution and law are often hampered. Mass media, the owners of which support the authorities hold a dominant position in Georgian media.

Accordingly Georgia's rating in the category of the independent media has not been raised as compared with the last year's level and remains at 4.25. Besides, cognizance shall be taken of the statement of the European Court of Human Rights regarding substantial role of the press in democratic society. The function of the press is to disseminate information and ideas which are interested for the society by any means, which do not contradict with its obligation and responsibility. Besides, along with the objective of the press to disseminate the information which is interested for the society,

the society also has the right to receive it. Without this, the press would have been deprived of possibility to implement its vital function of Public Watchdog.

Proper protection of freedom of expression is a sort of a test for the democratic state, since freedom of expression is one of the most important basics of democratic society and guarantees provided for the press are very significant. From this point of view, the type of communication and transparency the public officials have in relationships with the journalists is of the utmost importance.

### **Pressure on the journalists’ and preventing their activities**

There have been many cases of assaults on the journalists and prevention of carrying out of their professional obligations recorded since 2004 year until today. One of the priorities of the Public Defender’s work has always been protection of the journalists’ rights.

Free and unimpeded activities of the journalists are very important for the democratic society. Proceeding from this, the state shall ensure taking of effective measures with regard to these issues through the relevant agencies, as well as timely and transparent investigation. For the purpose of better representing of the existing situation, the information has been withdrawn from the Ministry of Justice Main Prosecutor’s Office regarding the number of cases the investigations had been initiated on based on Articles 153 and 154 of the Criminal Code of Georgia.

Department of Human Rights Protection of the Ministry of Justice Main Prosecutor’s Office informed the Public Defender’s office that the Main Prosecutor’s Office of Georgia does not have any statistics on the above-mentioned issue, which does not enable the Public defender to analyse adequately the existing situation.

In the first half of 2009 year a number of applications were submitted to the Public Defender on the facts of pressure on the journalists, prevention of carrying out of their professional activities and verbal, and in some cases, physical abuse.

In the first half of 2009 year the cases of Giga Makarashvili, Nika Avaliani, the journalists of the Public Broadcaster and Levan Kubaneishvili, the Director of the Public Broadcaster can be considered as successful. The relevant agencies took all necessary measures during the investigation in order to protect freedom of journalistic activities of the above-mentioned persons in these particular cases and ensure effective and transparent investigation.

Taking of the similar effective measures is necessary also in cases, when the journalists talk about pressure or abuse on the part of both the officials and ordinary citizens due to discharge of their official duties.

As reported by the newspaper “Batumelebi”, on January 23, 2009 Natia Rokva was detained in Batumi by the employees of the Ministry of Internal Affairs Adjara Regional Office Special Operation Department (SOD), while the journalist was capturing on video a special operation organized by the SOD.

As stated by Nana Phazhava, the regional correspondent of Presa.ge, she was standing in front of open gates of Dadiani Palace on May 20, 2009 in Zugdidi, trying to report on the visiting session of the Government, when high officials of the regional police ordered her to leave the territory.

On January 26, the editorial office of a newspaper “Guria News” disseminated an appeal regarding the fact of threatening phone calls made by Anton Khundadze, the chairman of Chokhatauri Municipality towards George Girkelidze and Nato Gogelia, the journalists of “Guria News”. In accordance with the appeal of the editorial office, Khundadze got irritated by the journalists’ interest in local budgeting process and newspaper articles published on this subject.

As explained by Zviad Khujadze, the editor of the information service and the journalist of “Zdveli Kalaki”, the Kutaisi regional radio company Gizo Tavadze, the head of the Kutaisi City Hall Municipal Department of Culture, Sport, Monuments Protection and Education physically and verbally abused him on May 16, 2009.

The Public Defender sent the information available to him on all these facts to the relevant agencies for further actions. Authenticity of the above-mentioned cases shall be verified by investigative actions carried out by law enforcement bodies. Further inquiry of these facts is beyond competence of the Public Defender’s Office, although it is necessary that the relevant agencies take objective, transparent and unbiased measures.

Preventing the journalists’ professional activities during assemblies and manifestations

Starting from April, 2009, the central streets of Tbilisi were permanently cordoned off by the demonstrators. Due to a very high interest of the society in this event, a big importance was attached to ensuring of the journalists’ free work and their security, in order to enable them to provide accurate, unhindered and comprehensive information about the existing situation. Unfortunately, in a number of cases, the aggression revealed on the part of the society favoring the opposition towards some mass media created problems for the journalists during performing their professional duties.

There were a number of cases when the journalists became victims of aggression on the part of law enforcement officials. Enforcing the journalist to abstain from obtaining and disseminating information is a crime provided for by Articles 153 (infringement of freedom of speech) and 154 (illegal prevention of the journalist's professional activities) of the Criminal Code of Georgia. Besides, the positive obligation is imposed on the state to preclude prevention of the journalist's professional activities; otherwise inactivity is being considered as restriction of freedom of expression.

Abuse of the journalists on the part of law enforcement officers

As it was already mentioned, during the protest actions there were cases of the journalists' abuse and preventing them from carrying out their professional activities on the part of law enforcement officers.

On April 6, 2009 the patrol police physically abused Nino Komakhidze, the journalist and Ani Khavtasi, the photo reporter of the newspaper "Ver-sia", while they were performing their professional duties outside the Public Broadcaster building. The Public Defender's representatives accepted their explanations.

On May 06, 2009 the journalist of the Public Broadcaster was injured during the incident that took place at the Tbilisi Main Department of the Ministry of Internal Affairs. The Public Defender's representatives contacted the journalist, who abstained from entering the event. Despite the fact, that the Public Defender did not study this particular case considering the journalist's will and no further actions were taken, the existence of such event was confirmed in the official statement made by the Ministry of Internal Affairs itself.

The journalists were physically also injured on June 15, 2009. As explained by Ann Broladze, the journalist and Shota Kapanadze, the cameraman of TV company Maestro, on June 15 there were at the Tbilisi Main Department of the Ministry of Internal Affairs for coverage of the incident. They were deprived of video camera and video tapes by the policemen, the cameraman was physically abused. As explained by the journalists, policemen were acting purposefully; they followed after the journalists with the purpose of taking away the video tapes.

The democracy implies freedom of expression, including by means of media, which is recognized by Article 24 of the Constitution of Georgia. Freedom of expression is a claim set up for any society which pretends to democratic character. On its part, freedom of expression depends to a great extent on the person's right to obtain information within reasonable limits. Article 41 of the Constitution of Georgia recognizes the right of any interested subject to receive information from official sources. The building of



public institution is one of the places where one can obtain the information from the official source. Accordingly, it is important that the journalist has an opportunity to work freely both inside the building of the public institution and on the adjacent territory. The officials are imposed an obligation to support the journalists in carrying out their activities.

Article 4 of Law of Georgia "On Police" defines obligation to ensure legitimacy, protect the person's dignity, honour and legitimate rights of the citizen while carrying out its activities by the police. In accordance with Article 15 of the Criminal Code of Georgia, illegal prevention of the journalist's professional activities is announced as an incriminatory action. Accordingly, the Main Prosecutor's office shall promptly react on all such cases, initiate their inquiry and carry out quick and effective investigation.

# In lieu of epilogue

By reading through this book, the question may arise to the reader: is it a simple accumulation of the facts, which are still instances, particular cases or we contend with certain politics, systemic approach?

We will try to answer this question.

There are two fundamental institutes existing in the fields of human and civil rights protection: the President of the country, as a head of executive power represents a supreme constitutional guarantor ensuring civil rights and freedoms in the country; and in case, if these rights are not endured by the state machine, then one can stand upon his/her rights by legal methods and on legal bases through the justice system.

I would like to give two examples of how these institutes are functioning in Georgia.

After coming to power as parliamentary deputies (since 1995 year), the faction of Zhvania-Saakashvili in addition did two things: they tried to get under control financial flows in the country and, what is important in the spirit of this book, the judicial system. Therefore, they established two agencies – the Ministry of Taxes and the Council of Justice, which essentially was and is the agency of administrative control over the courts. The next step was staffing of these structures with their own personnel. For this purpose only their promoted workers were infiltrated through qualification examinations invented by them.

Proceedings in financial and judicial systems were taking course at different levels of tension; however, proceedings in tax inspection field were particularly disgusting. Certainly, lawsuits against a re-formed Ministry of Taxes radically increased, which, since its establishment, has been chaired by a very close ally and protégé of Z. Zhvania – Mr. Machavariani, a Vice-Speaker of the Parliament of Georgia.

To continue our story, one specific case demonstrating a general situation is of particular interest. A citizen A.A. has been working for a tax inspection system for more than ten years and was considered as a very knowledgeable and experienced worker. However, he had never held any high positions but worked as one of the minor tax inspectors in one of the district tax inspection offices in Tbilisi by the moment the above-mentioned Ministry has been re-formed.

He passed all exams in excellence, met all requirements and was competing for just his former position of minor tax inspector, however... The Qualification Commission did not nominate him for the position but recommend-

ed another person, who never had a working experience in financial and fiscal sectors before and never held or competed for another position.

The citizen A.A. appeared to be a person with character and ineffectively exhausting all possible techniques to prove his rightness claimed in the final court, where one can vindicate their claims on legal basis and according to legal procedures.

This case demonstrates a principle, which was supported by a group of Zhvania-Saakashvili from the very beginning and which was enthusiastically introduced in everyday life after the “rose revolution”: “Those, who are not with us, or whom we do not want, [they] are against us; we are right against them in everything, always and everywhere; we are not ceremonious (soft) and will crush them defiantly for everyone to see”.

The story of the citizen A.A. continued not less interesting than its first part. His court case, rather the decision has no analogues in world practice not in terms of law and jurisprudence but exactly by its cynical attitude and demonstrating the above principle: in its decision, the Court of Appeal agreed with the plaintiff’s arguments, confirmed that his rights were derogated, agreed that his rights were derogated by a defendant (i.e. Ministry of taxes chaired by M. Machavariani) and that he should have been appointed at an appropriate position, but (!) in its conclusion the Court indicated that in this specific case it [the Court] could not ensure his legal rehabilitation and refused to satisfy his claim.

As a reminder, this decision was made by a Court of Appeal.

The Supreme Court upheld the decision.

Possibly, one can misbelieve; however, this is just a fact.

It happened shortly after M. Saakashvili was personally awarded by an international prize for a successful reform of judicial system of Georgia.

During E. Shevardnadze’s presidency, there was an office at the State Chancellery to serve high officials. This Office was re-named several times and its legal status had been changed too. Eventually, it operated in the form of LTD and was titled as an “Office of Public Provision” (hereinafter referred to as the “Office”). It had been operational in this form and under this title during the “rose revolution”.

A citizen G.Ts. worked for this Office and had a trivial court case for non-payment of remuneration. Meantime, the Office was decided to phase out and the President Shevardnadze issued an appropriate order. The phase-out process was delayed as a result of the court case of the citizen G.Ts. as long as it is widely known that all accounts need to be settled when organization is liquidated. This was the situation how the Office met the “rose revolution”.

As M. Saakashvili took the presidency, at some point it became necessary that the President's allies completed the Office liquidation process as soon as possible. And so the solution was found: not waiting for, at least formally, a final court decision, regardless the law, which disallowed any other entity to resolve the case for court proceeding, Saakashvili issued an order about liquidation of the Office based on which the citizen G.Ts. was refused by the court to satisfy his claim in pretence that the defendant is no longer available, therefore, there is no one to claim with.

With his order, M. Saakashvili, entertaining presidential authorities, directly violating another law, took a role of arbiter in a dispute between himself as a governmental institution and another subject and resolved it in his favor by leaving a citizen of his own country without any opportunity to achieve justice through court institutions and receiving a well-deserved remuneration for his work.

And now at the dawn of his presidency, Saakashvili, from a supreme constitutional warranty of rights and liberties of people, turned into a supreme violator of these rights and liberties - that he is exercising with impunity up to the present day.

In the end to have a full picture it needs to be mentioned that the Office of Public Provision possessed a substantial property, including immovable, both within and outside the county, and in particular: Georgian cultural and educational complex "Mziuri" in Moscow, at Starii Arbat. Privatization (rather grab-it-ization) of tidbit immovable was getting prepared and the citizen G.Ts. was preventing it with his court proceeding for what he was punished. There was news spread by media sources that the "Mziuri" privatization was lobbied by then Ambassador of Georgia to Russian Federation I. Chubinishvili, a protégé of Z. Zhvania. He was even once asked about the subject in live.

Soon after Saakashvili has been elected as the President [of Georgia] in 2004 and Z. Adeishvili has been appointed as the General Prosecutor, with purposeful modifications to the Criminal Procedure Code, essential arrest of a suspect, at the option of a prosecutor, was legitimated, whilst the judicial control was led to the following: a measure of restraint is selected immediately after filing accusation. Formally, applying a measure of restraint falls within the court competence, however accusation is filed and idea of applying measures of restraint, say, arrest, is brought into court by a prosecutor. When a matter is for consideration, the court is limited by a sanction of an article according to which a person is alleged. In the Criminal Procedure Code we literally read the following: when matter is for consideration about selecting measures of restraint, the court is not authorized to consider

and study relevancy and level of proof of accusation. The court is left nothing to do but to check if the sanction of given article considers imprisonment. A legal situation is formed in fact when a prosecutor is authorized by law to present any accusation, while there are no legal mechanisms to control legitimacy and adequacy of his/her actions.

This is on examination stage. Perhaps, someone naive thinks that during court investigation per se one can secure the truth.

Every prosecutor and judge has a desk book of a kind, sort of a guideline to action. The book is an office book which gives “recommendations” of General Prosecutor and Chairman of the Supreme Court. It lists almost all articles of criminal code and provides “recommendations” on what sort of punishment under which article to be requested in the court by a prosecutor and what type of punishment to be imposed by a judge.

In addition, the article of the criminal code, establishing responsibility for unlawful sentencing or other court decision was abolished.

We can only add that under the circumstances when two highest public institutions are transformed into a mechanism of suppression of its own citizens, while the laws - into the means of legitimating lawlessness, there is no point to get surprised by facts described in this book, and by many other facts, much more than these, not fallen in the book. The sources of such facts need to be analyzed and exterminated. We hope that our book will put its mite into such an important issue.

**TARAS GAGNIDZE**  
**NGO Chairman**  
**“Historical Heritage”**

# Contents

Persecution of political opponents	6
Dismissal from job due to political motive	16
Pressure on the entrepreneurs	21
Impaired Right to Freedom of Assembly and Manifestation	24
Degree of strictness of punishment (sanction)	28
Restrictions on Freedom of Expression	36
Illegal obstruction of journalists' professional activities	46
Using economic leverages to influence independent media	49
Violation of socio-economic rights	58
Violation of property right	62
Illegal demolition of real estate	73
Violation of human rights during psychiatric (mental) treatment	79
Persecution of persons who criticize authorities or support opposition	82
Criminal Case of the Supporters of Political Union "Justice" (Samartlianoba)	116
Prisoners Die in Custodies Because of Inactivity of Penitentiary Department	129
Court Dismissed the Only Witness from the Court Room	131
"Mr. President, Why Did Your Security Guard Kill My Son?"	132
Almost Committed a Crime or Almost a Fair Trial	137
Neither House, Nor Compensation...	142
The State Assists Only Those IDPs Who Live in Cottages in New Settlements	145
The Minister Threatened IDPs with Physical Assault in His Office	147
"If You Do Not Leave the Area We Will Drag You Out With the Support of Special Unit"	150

Public Defender VS Akhalaia	153
“Legal Criminals” in the Government Slightly Adapted	157
School Teachers Are Compelled To Join National Movement	161
Impoverished Families left without Social Allowance	163
Before the court trial they made two unknown medicine injection to the political prisoner Vakhania	166
Georgian Ministry of Internal affairs oppresses journalist Besik Pipia	167
What kind of relations does Besik Pipia have with this case?	172
Aleksei Venediktov: Mikheil Saakashvili the son of Nikoloz Saakashvili treats the journalists improperly, he acts disgusting with the Press	174
How “the Nationals” pardoned the deceased	175
The personnel of 033 was fired for not confirming the intoxication of their colleagues	176
Citizens aged from 3 till 60 stayed without affordable medical care	178
War is Over or Wave of Repressions Blankets Country	181
Identify Misha’s death-men!	185
High-rank Policeman kills a Security-guy of the Georgian Patriarchy	189
They hit us ruthless, as if we were going to seize the Police Station	192
Ministry of Interior Warns Refugees not to Join Protest Actions	194
Proof of Witness by Jaba Zhvania	197
The Ministry of Internal Affairs threatens crippled participants of the rally	200
Where they Beat us	203
Rights of Orthodox Christians	211
Journalistic Investigation by the Journalists’ Union “Obiektivi” regarding the severe violations of freedom of speech in Georgia	216

Gela Nikoleishvili: prisoners sleep even in tents in prison yards	233
The number of facts of trampling the right to life has reached a record figure	239
Iuri Vazagashvili: I shall be silent only if they shoot me down like my son	244
Encroach upon the right to live	248
Extracts from the report by Independent International Fact-finding Mission on the Conflict in Georgia, established by the Council of European Union	252
 <b>CONCLUSION</b>	
“Peas about a Wall...”	266
Situation in the Penitentiary Institutions of Georgia	270
Investigation of Torture Cases	294
Freedom of Assembly and Manifestation	296
Freedom of Speech and Expression	301
In lieu of epilogue	306





