

## **Georgian PM Bidzina Ivanishvili's Open Letter to European People's Party**

*Released on March 14, 2013*

European values – personal freedom, respect for the dignity of others, participation in governance, accountability and transparency of the government, rule of law, protection of human rights and interests of minorities – all these constitute the driving force behind the Georgian people's longing for the West. In the 2012 election, Georgian citizens mandated the Georgian Dream political coalition to build a state upon these very values.

Georgian society is unequivocally grateful to the West for all its assistance and support. However, we cannot but question the actions of representatives of the political forces who welcomed a facade democracy built upon violence, humiliation, abuse of power, poverty, and hopelessness and who now harshly criticize a new Georgian Government that has taken the path of actually building a democratic state as opposed to renovating this facade.

We would like to express our respect of the European People's Party as one of the largest, influential, and successful political forces in Europe. Naturally, our respect covers the individual members of the EPP, with whom we have already had the opportunity to meet.

The influence of the EPP comes with certain responsibilities, also towards the countries of the European Union neighborhood which have great expectations of their ever-closer relationship with the European Union. With this in mind, we write to draw your attention to certain facts and events that may not be widely known.

In early 2004, in the wake of the Rose Revolution, the victorious force, the United National Movement, tailored the constitution of Georgia to suit its needs. In doing so, the UNM upset the balance of power between the various branches of government. The UNM redrafting of the constitution empowered the presidency to an extent that rendered both the parliament and the judiciary mere formalities (see the 2004 opinion by the Venice Commission). Effectively, the president assumed the role of constitutional dictator. The strongest manifestation of this was the provision which entitled the president, alone and uncontested, to appoint a government without the consent of parliament. Tailoring the constitution to suit the will of a single person in such a manner entailed autocracy and the absolute monopoly over parliament and the judiciary by a single political force. The government also blatantly interfered with the media and created business monopolies.

Do you consider it compatible with democracy to have a president entitled to appoint a government without consulting the parliament? Are you aware of any other democratic country with such a system? If your answer to these questions is negative, then allow me to ask whether you consider it acceptable to have a political entity, instigator and promoter of such a system, as a member of your political family?

President Saakashvili often says that he will not exercise this constitutionally-guaranteed absolute power. Yet, he has never in his nine years of power rejected it outright. Moreover, he has been amending the constitution to strengthen his power even further. Only a few examples suffice to illustrate this point:

1. In the eight years since the Rose Revolution, the constitution has been amended twenty-five times. One of these amendments authorizes a President, elected for a five-year term, to remain in office for an additional ten months: although President Saakashvili's five-year term expired in January 2013, the country will not have a new President until end 2013;
2. You may remember that on the fourth day after I announced my intention to enter politics, president Saakashvili revoked my citizenship. This step entailed harsh international criticism, and was quickly assessed as an attempt to get rid of the main opponent in the political struggle. It proved impossible for the president to admit his mistake. In addition, he would not allow the subservient judiciary to pass judgment such a decision would equal undermining his authority. Rather than backtrack on his decision, Saakashvili opted for the tried and tested 'easy' solution of having the parliament amend the Constitution. The resulting amendment was absurd, unsubstantiated, and tailored to suit one man's interests only, yet another defamation of the notion of parliamentary democracy. This utterly anomalous constitutional norm authorized citizens of all EU member states residing in Georgia for the past five years to hold senior office and run for parliament. Accordingly, I was entitled to participate in the election as a French citizen. Today I fulfill the duties of prime minister as a French citizen. European states themselves have yet to reach such levels of "commendable" democracy. Should I be granted Georgian citizenship, however, I will no longer be authorized to serve as Prime Minister. By his actions, the President once again proved to Georgian society and the international community that he is an uncompromising leader who is willing to deploy any form of violence against the law in order to save himself;
3. Another instance of manipulation and obedience of the parliament is related to the artificially created chaos and violence in the banking industry in 2011. In November 2011, the parliament adopted amendments that undermined the banking sector. The sole reason behind the adoption of this law was to bankrupt and devastate Cartu Bank, owned by my family. At the same time, it was clear that the international community would not let Saakashvili keep this law to bankrupt banks artificially. All stakeholders were aware that the only bank against which these amendments would be enforced was the Cartu Bank. Five months later, the law was restituted to its former state without any more explanation than the adoption of the amendments had entailed. The targeted bank suffered a loss of 190 million GEL.

### **Judiciary**

Ensuring a fair judiciary has been the greatest challenge facing the Georgian state. Throughout the years, the annual report of the US Department of State has addressed the issue of politically-motivated decisions by the Georgian courts. The 2011 Report of the Council of Europe's Commissioner for Human Rights harshly criticized the sentencing standards of the Georgian judiciary. The statistics were appalling. Besides convictions, the rate of which exceeded 99 percent, the rate of confessions and plea bargains reached 90 percent.

According to the 2010 statistics, the number of prisoners exceeded 24 000. This number broke all European records. In addition, in the past eight years, the country has had over 200 000 probationers. These statistics enable us to state with all assuredness that nearly every family has had a probationer among its members. 653 prisoners have passed away in detention. The whole world has witnessed the examples of systematic torture and abuse.

The deep-rooted problems of the judiciary are best described in the ruling of the European Court of Human Rights on the murder case of a young banker, Sandro Girgvliani, who was tortured to death by order of senior officials (*Girgvliani and Erukidze vs. Georgia*). The ruling reads: *“The Court is struck by how the different branches of State power – the Ministry of the Interior, the Public Prosecutor’s Office, the Prisons Department, the domestic courts, and the President of Georgia – all acted in concert in preventing justice from being done in this gruesome homicide case.”*

### Media

On January 24, the Parliamentary Assembly of the Council of Europe pointed to a number of alarming trends in Georgia in its resolution on media freedom. None of these accusations has a basis in fact or reality. The last sentence of this resolution is the best example to illustrate this point. This sentence expresses concern about the change of management of the Public Broadcaster. You may have heard about the Imedi television station, how it was raided in 2007, how its journalists were physically abused, its equipment destroyed, its property confiscated. In a matter of weeks, this television station wound under the control of the head of the President’s Administration. Following the 2012 election, the Imedi television company was finally returned to its legal owner. This restoration was considered by the people of Georgia and media freedom advocates as a praiseworthy instance of restored justice and upholding of property rights. Similarly, no single statement related to Georgia in this Resolution is true. Please study the state of affairs better before supporting a text of this type, lest national interests suffer due to such unsubstantiated accusations and lest you find yourselves in an awkward situation after the truth has been revealed.

Interestingly enough, where has international criticism been all these years while the three main Georgian broadcasters, including the Public Broadcaster, have been turned into part of the propaganda machine of the National Movement? We do hope that you will carefully assess the developments in the Georgian media market between 2004-2007. We are convinced that your assessment will match ours.

### Elections

Equally interesting was the electoral environment, which preceded the transfer of power: the unlawful detention of up to 150 Georgian Dream supporters; the seizure of private property; the public, exemplary eviction of 60 of our coalition’s contributors; the humiliation of hundreds of our members and activists; fines amounting to hundreds of millions of GEL; the sequestration of the bank accounts of Georgian Dream coalition member parties and the clampdown on almost all political activity; the persecution, blackmail and dismissal from office of thousands of Georgian Dream supporters for political reasons; the enforcement of a ban on

advertising campaigns from any party other than that governing; the illegal use of administrative resources for partisan goals by the ruling team, including the illegal and fictitious employment of over 21 000 party activists in government agencies and enterprises; the entry into polling stations by special forces on election day and the modification of voting records... This list could go on, yet full and substantiated information is better provided in the reports of local and international observation missions, including the OSCE Election Observation Mission.

Interestingly enough, while the international community is full of enthusiasm for Saakashvili's voluntary transfer of power, whether he had any alternative is hardly ever discussed. A few days before the election, the Georgian people already openly and adamantly voiced their choice. On one hand, the September 28 national 'grandiose' gathering at the Tbilisi Soccer Stadium (which can seat 80 000) by the United National Movement, was postponed three times due to their inability to mobilize a sufficient number of supporters. Eventually, 50 000 attendants were forcefully brought in from across the country. On the other hand, the final election Georgian Dream campaign rally held on the main square of the capital on September 29 gathered half a million Tbilisians, an unprecedented triumph of freedom, despite intimidation, fines, evictions, arrests and lay-offs.

These two events mirrored public attitudes at that particular moment, not only in terms of the popularity of one political party or another but, more importantly, in terms of the willingness of citizens to protect their votes and choice. It was this open and strong statement by half a million Tbilisians on September 29 that forced Saakashvili to peacefully transfer power.

### **Corruption**

An extensive assessment of the state of affairs in Georgia of recent years in terms of corruption and embezzlement of budget funds would be lengthy. We will limit ourselves to citing only a few examples. While you consider them, please ask yourself the following question: Are you aware of any other democratic country where nearly half of all citizens live below the poverty threshold, while the government indulges in such luxury?

- A security service of 3 500 officers served the president; he had eight functioning residences; he had two airplanes; two helicopters and three additional helicopters commissioned;
- Last year alone, 16 million dollars were spent from the public budget on services provided by lobbyists who primarily lobbied a particular individual personally. A large portion of this money, often in installments of 300-400 000 US dollars, was paid in cash, and all this was classified as top secret;
- Hundreds of millions of budget money is not properly accounted for;
- Despite tireless insistence by NGOs and court disputes, the expenses of the president's and the government's reserve funds worth 100 million remained classified. The overwhelming majority of these funds were used to finance Saakashvili's whims. I will not stoop to listing these expenses in detail, but we can provide a list to interested parties upon request;

- Throughout these years, up to 10 000 cases involving proprietors “volunteering” to alienate their real estates in favor of the state have been described, as well as thousands of cases of state property being alienated for a symbolic price, one GEL, by presidential decision;
- Saakashvili exercised full control over business through his inner circle: Defense Minister Kezerashvili, Justice Minister Adeishvili, and others. We should not rule out the possibility of state funds having been diverted to Europe.

This list can also go on infinitely. For an independent assessment of corruption in Georgia during the Saakashvili era see the ‘Who Owned Georgia’ study by Transparency International – Georgia and the ‘Rehabilitation Process behind the Facade’ study by the Georgian Young Lawyers Association (GYLA).

By ending these corrupt practices, the new government has freed up to one billion GEL. These savings are reflected in the new budget and will be allocated to the fields of healthcare, agriculture, and education.

### **Violence**

Following the February 8, 2013 brawl, unambiguously provoked by the mayor of Tbilisi, where a female member of parliament suffered a bloody nose, representatives of the European People’s Party participated in a staged show, visiting the parliamentarian who pretended to be bedridden five days after the incident. Although we denounced this violent incident immediately and punished the perpetrators the next day, the opposition nonetheless labeled us an oppressive government. For the sake of striking a balance, we would like to see at least questions raised in relation to the cases of the parliamentarians kidnapped and victimized between 2005-2007; the brutal dispersal of the November 7, 2007 peaceful rally; or the punitive operations carried out by the authorities on May 26, 2011, which entailed unlawful imprisonment and physical injuries to of hundreds of people.

### **Human Rights**

We will not go on describing torture of prisoners, inhuman treatment, blackmail and violation of privacy, infringement of property rights, and other issues as the list could continue indefinitely. Those interested in the fate of Georgia, however, will find all the information they require in the reports of the Public Defender of Georgia, Human Rights Watch, Amnesty International, the US Department of State, and other reputable and reliable reports.

Just ask yourself the following question: Why did the then acting minister of justice, prosecutor general, defense minister, interior minister, deputy interior minister, the head of the security agency, and others flee the country **on the very day after the election?**

We believe that the new government achieved a great deal in its first four months, and it needs the support and advice of friends to achieve even greater success. 1) The branches of government reclaimed their functions for the first time in the past nine years, and signs of balance of power became evident. With a view to restoring constitutional balance, a substantial revision of the constitution will be launched with the active participation of society. 2) Public

discussions are underway on the concept of the decentralization of government and self-government. 3) Despite public pressure to carry out a rigid and swift judiciary reform, the government opted for an extremely cautious approach that is built upon recommendations by the non-governmental sector and the Venice Commission. 4) The media have been freed from governmental pressure. 5) All reforms and processes involve broad participation and control by civil society and take into account its criticism and recommendations.

Yes, the government faces a number of challenges. The legacy handed down to us is not encouraging. However, it should be noted that the expectations of us from within and without the country differ. Domestically, the Georgian people have been demanding a swift and uncompromising investigation of crimes committed throughout the years. Outside the country, on the contrary, we are called on to start afresh, wiping the slate clean so to speak. This approach, however, in our opinion, would encourage a sense of impunity and do the new government a disservice.

Our task is to walk on thin ice and find the golden mean that will not hurt the notion of justice and rule of law, on one hand, and will not give anyone an impression of political retaliation, on the other. We can assure you that it is not an easy task, especially in a country where a given party and the government were conjoined.

Our government has made known every step of the way its openness and willingness to take into account the recommendations of the international community. We ourselves invite observers, so that they may become convinced of the conscientiousness of our intentions and our willingness to prioritize respect for the law. The European Union has already delegated Mr. Thomas Hammarberg with a mission of this nature. Monitoring of legal processes is underway, including one carried out by the Office for Democratic Institutions and Human Rights (ODIHR).

Before making far-reaching assertions about “closing European doors”, I urge you also to delegate long-term observers to Georgia and see for yourselves that the will of the Georgian government to ensure democratic governance is unwavering and that our mission implies unequivocal commitment to democratic values, the rule of law, and human rights, while the demand and desire of the Georgian people is to live by true Western values. Doomed is any government that decides to stray from this path. Georgian society has proven this point more than once.