

# GEORGIA AFTER NOVEMBER 2003: ACHIEVEMENTS AND TRENDS

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There is a common opinion that the post-November 2003 events in Georgia should help to consolidate its statehood and state institutions. The most important of these events were: peacefully ridding Ajaria (and the whole country) of Aslan Abashidze, uniting several ministries into one, and reducing the army of bureaucrats. The new leaders of Georgia have also been paying more attention to its armed forces, and so the list can go on.

Every revolution also has its negative aspects; in Georgia they left grim memories. Since the day of independence, power has changed three times through coups and bloodshed, but never according to the Constitution. Coups and bloodshed have become a habit—the constitution was no longer regarded as having value. The next coup was discussed as something trivial like making arrangements for spending an evening with friends or hav-

ing a friendly game of cards. Coups relieved people of the need to think during election campaigns and of the opportunity to make a well-substantiated choice. Not infrequently, when talking among themselves in various backyards where the common people normally congregate, the Tbilisi populace consoled itself with, "We can always topple them if they turn out to be bad." For my part I am prepared to accept a coup (or a revolution—tick the

appropriate box) if it radically changes the situation for the better.

The promises of the powers that be and their dreams are better left aside—it is the action that counts. Leaders are judged by their ability to cure the ills of the past and to capitalize on the positive factors. The fifteen months which have elapsed since the events of November 2003 are not enough to pass a final judgment, yet are more than enough to size up the trends.

## Economy and the Budget

In 2003, the GDP, which is the generally recognized sign of the state of economic health of any country, grew by about 8 percent, a great share of which came from the Baku-Tbilisi-Ceyhan project now being carried out. The trend has been preserved despite the project's three-week suspension for ecological reasons. This pipeline, the gas pipeline between Baku, Tbilisi, and Erzurum, as well as the East-West transport and communication system are obvious achievements which the new leaders inherited from their predecessors.

The chronically unimplemented budget is one of the obvious failures: it caused wage arrears (which have been piling up for months and years), even though in 2003 it was still the private sector that supplied up to 80 percent of the state treasury income. All those paid by the state, primarily pensioners, had to bear the brunt of the crippling budget. It was the nagging monetary problems caused by it that sealed the fate of the old leaders. The new leaders, drunk on the euphoria of victory, heaped on the nation promises to improve the situation in the social sphere. When the time came to get down to business, they took very effective steps to collect more taxes and establish law and order in the customs service. Results were soon forthcoming: for the first time in many years (according to the results assessed for the first six months of 2004), the budget showed a surplus. The cabinet is convinced that this covers up the errors it made during the same period, as well as all its failures. The results, however, did nothing to improve the life of the most vulnerable social groups. Indeed, in such countries as Georgia stricter tax collection and tightened customs control send the food prices up; the extra money created by these measures went to the power-wielding ministries.

Meanwhile, the new leaders have found another—highly original—method for filling the state coffers. They confiscated huge sums of money and expensive property from former bureaucrats and working businessmen (more about this below).

## Democracy and State Administration

The absence of a classical checks and balances system is an obstacle that prevents further democratization of Georgian society and reform of the state structures. The powers that be want neither checks nor balances: in two weeks they formulated several constitutional amendments to tip the balance in favor of the president and executive power to the detriment of the parliament. The latter approved them without a murmur in several minutes. Significantly, the voting took place in January 2004 after the new president had been sworn in, while the deputies who demonstrated unanimity were elected in 1999. Officially, the parliament, which should have resigned in November 2003, extended its powers after the coup. Since new

parliamentary elections were looming on the horizon, many of the deputies exchanged their votes for administrative support.

Here is another thought-provoking detail: the NGOs, which shouldered the task of unofficial counting of the votes and assumed the role of guardian of the election's candor, went to court to contest the results of the elections by party lists. They said nothing about the voting in the single-member districts. No reasonable explanation for this comes to mind. Indeed, people voted for parties and individual candidates at one and the same time; vote counting proceeded according to the same rules, while falsifications, if there were falsifications, could not be limited to some ballot papers and not to others. In full conformity with the lawsuit, the court annulled the results of the November voting by party lists and left intact the results for single-member districts. The current parliament is made up of deputies who miraculously avoided the well-channeled popular ire and party members with unblemished mandates. By the way, the man who headed the vote-counting procedure and was responsible for the peculiar composition of the present parliament was appointed mayor of Tbilisi.

Before the November coup, too, the constitutional and legal system of Georgia was far from perfect; the elections of 1999 and 2000 under President Shevardnadze were neither honest, nor upright. The same applies to the November 2003 elections, even though the conclusions supplied by international observers about the previous elections were uniformly favorable. Those who rule Georgia today, however, won the previous elections and never doubted their honesty and transparency. They remained silent until 2 November, 2003 when they suddenly realized that the same methods were applied against them.

This brings to mind an Oriental parable about a pupil who, being paid 8 measures of rice instead of the promised 10, fled from the dishonest employer to the teacher.

"Would you have left him if you got 12, instead of the promised 10, measures," asked the teacher.

"Never in my life," was the answer.

*"It seems that you were offended by having too little rather than by your master's cheating," concluded the teacher.*

### Constitutional Changes

In February 2004, the parliament adopted constitutional amendments; preserving all the rights the president had under the 1995 constitution, the new amendments strengthened the executive branch. The amendment which allowed the president to disband the parliament (according to the 1995 constitution, the parliament could impeach the president) vested him with virtual control over the parliament. It could be disbanded if it fails to approve: the budget submitted by the cabinet; the presidential candidate for the premier; new laws (depending on the voting results the government may call for vote of confidence).

The new amendments allow the president to remove judges; the parliament stopped being a check-and-balance instrument because it cannot pass the budget-related laws without the cabinet's approval.

### Local Self-Administration

In 2002, the compromise between the opposition (today, many of its members are found in the echelons of power) and President Shevardnadze reached on the eve of the local elections produced a law under which the president could appoint heads of local administration (*gamgebeli*) from among the elected chairmen of the local councils (*saekrebulo*). The rule was enacted after the local elections of June 2002. In this way, the local leaders were partially elected by the people and for this reason were not accountable to the president alone. Since the parties that the coup brought to power had virtually no local roots, they

had to find a way to appoint their own *gamgebeli*. The solution proved to be simple one: the president assumed the right to appoint temporary administration heads whose power rested on the president's decision rather than on a direct or indirect popular vote.

The new authorities failed to fulfill the central of their revolutionary promises—direct elections of mayors of large cities, including Tbilisi. Direct elections were postponed until 2006: the argument was an old one—the country had not yet matured enough to be trusted with elections.

In Ajaria, the new system allows the president to disband the local parliament for various reasons. The president of Georgia appoints the head of the autonomous republic's cabinet; it is for the local legislature to approve his choice. Its refusal to do this is fraught with disbandment. (I do hope that the president of Georgia did not have in mind the model of broad autonomy offered Abkhazia and South Ossetia from the high U.N. rostrum.) The EuroCouncil Venetian Commission severely criticized these novelties. Before that, the president of Georgia tried (without success) to expel from the country the representative of the EuroCouncil Secretary-General and called the Secretary-General himself an “insolent bureaucrat.”

## **The Election Code, Parliamentary Elections of March 2004, and the Resultant Deputy Corps**

Together with the above measures, the new Georgian leaders initiated amendments to the Election Code (under which the November 2003 elections were carried out). To my mind, the new document is less democratic and less honest than the previous one. For example, under the so-called “formula of former U.S. Secretary of State Baker” and according to the old election code, President Shevardnadze appointed five out of fifteen members of the Central Election Commission. Accordingly, power had five places in all the lower election commissions compared to the nine allotted to the opposition. The president chose the head of the Central Election Commission out of three OSCE-recommended candidates. At the parliamentary elections of 2004, the president appointed five members out of the total fifteen and two members from the opposition. One of the two places went to the National Movement headed by Mikhail Saakashvili, another, to the United Democrats headed by Zurab Zhvania. Today, both are part of the ruling party. Under the new law, the OSCE has no role to play in selecting candidates for the post of chairman of the Central Election Commission (the chairman is appointed by the president himself). In this way, power controls eight out of fifteen commission members. One is tempted to ask: Are the members of a commission which merely summarizes the election results important? The answer is simple: alas, Georgia has not yet reached the level of democracy and rule of law at which this factor becomes unimportant.

The parliamentary elections of 2004 were much better organized than the elections of November 2003, yet during the election campaign the opposition was cornered. It had practically no access to the media, which were working round the clock telling the masses about the election campaign of the president and his party. Despite the insistent and repeated recommendations of the EuroCouncil, the election barrier was not lowered from 7 to 4 percent, allegedly due to the lack of time needed to draft and pass a corresponding law. Let me remind you that the constitutional amendments were drafted in ten days and passed in ten minutes.

The opposition had the official status of a parliamentary minority in the legislatures of 1995 and 1999; this gave it a vice-speaker, deputy chairmen of all committees, equal time with the majority for making contributions at plenary sittings, etc. The parliamentary elections of 2004 left one opposition—the Right Opposition, composed of the New Right and the Industrialists. It was deprived of an official minority status and of all related rights.

## Freedom of Speech

The old regime could boast of an obvious achievement—freedom of speech: there were 7 or 8 private TV channels in the country and numerous privately owned newspapers. The majority trusted them not only because of their objective coverage of events, but also because power had no control over them. In the wake of the November coup, three channels (Iberia, Channel 9, and Ajarian TV) were closed down. There were attempts to dispose of the Kavkasia TV Company; recently, several publications were closed down as well. Critical comments about the powers that be that appeared in the *Georgian Times* newspaper attracted the attention of the law enforcement bodies.

## The Rule of Law

Since the first days of Georgia's independence none of the leaders have been able to organize an honest and transparent regime based on the rule of law. In recent months, the situation worsened: top bureaucrats and rich businessmen were arrested and charged with corruption and tax evasion. All of them were detained for three months in strict accordance with the demands of the prosecutor. The prosecutor's office treated them and their relatives in a very strange way, to say the least, which smacked of racketeering. None of the cases has so far reached the court because the prosecutors are providing no evidence. The detained are confronted with lists of their property and bank assets which have nothing to do with reality and means that the authorities are proceeding from their own calculations. The detained are asked to "voluntarily" return them to the nation and thus buy their freedom.

For some strange reason, those who lived for many years on small salaries, but were able to buy their freedom for hundreds of thousands, or even millions, thus indirectly admitting to bribe-taking, are set free, while those former bureaucrats who deny all accusations and refuse to pay (they probably have no money at all) are kept behind bars.

This prompts a question: how do the authorities select those who should be subjected to racketeering? The answer is an obvious one: on the basis of public opinion and social order. Those who control the media can manipulate public opinion. As a result of the many months of struggle with the "hydra of corruption," none of the prisoners or former prisoners accused of corruption were kept in prison on strictly legal foundations.

Struggle against violations of the law should be carried out within the limits of the law and according to court mechanisms and court decisions—justice should not be turned into an instrument of popular anger. By allowing persons under investigation to buy their freedom, the state undermines the principle of the rule of law and admits that those who can pay are immune. This approach encourages real and potential embezzlers, who know that the money will come handy some day; this approach tramples down the constitution and depraves society. Georgian justice is growing increasingly dependent on the executive power—the already disrupted balance between the branches of power is being destroyed. When the president appointed one of the leaders of the ruling party the Supreme Court Chairman, the checks and balances system received another blow. It was under Soviet power that the Supreme Court Chairman was inevitably a member of the C.C. Communist Party of Georgia.

Torture is another problem: according to the human rights organizations, since December 2003 over 500 detained who were transferred from detention places to prisons bore traces of torture. The case of torture of the former chairman of the Auditing Chamber became widely known. The Georgian leaders demonstrate total indifference to the repeated recommendations of the European Human Rights Court to change the measure of restraint currently being applied to the former fuel and energy minister for health reasons (he has already spent several months in detention). According to the human rights organizations, a ransom is also being demanded for him. One of the active members of the Kmara organization went as far as saying in a radio interview: "Under Shevardnadze, the situation in this sphere was much better."

## Separatist Conflicts

I have already written that on many occasions public opinion dominated over the constitution, while important decisions are prompted by social order rather than objective analysis. The Tskhinvali conflict was obviously escalated without preliminary diplomatic, military, and economic preparation by a desire to promptly fulfill the lavish pre-revolutionary promises. This resulted in 16 deaths on the Georgian side (the loss of life on the Osset side remained unknown), the Russian peacekeepers extending their zone of deployment (even though the Georgian executive and legislative powers recognized Russia as one of the conflicting sides), and the confidence gradually emerging between Georgians and Ossets being destroyed. It cannot be promptly restored. The level of safety of the Georgian population in the Tskhinvali Region was considerably lowered. There is no progress in the talks with Abkhazia either.

## Foreign Policy

Georgia has achieved more in this field than in others: the new leaders inherited good or very good relations with their neighbors (with the exception of Russia) and fairly warm relations with practically all the European states; membership in the Council of Europe and the WTO, allied relations with the United States, which included military-political cooperation and armed participation in the counter-terrorist coalition, as well as allied relations with Ukraine. Integration into NATO has started; there is an Agreement on Partnership and Cooperation with the EU. I should say that the new leaders are successfully developing the positive trends in many respects. We have finished elaborating the IPAP with NATO; we have joined the EU New Neighbors Initiative, we have successfully completed the Georgian-American "Train and Equip" program, we have become one of the candidates for the Millennium Challenge program, which promises large investments.

In the case of Russia, the far from simple relations with this state, a key one for Georgia, inherited from Shevardnadze became even less stable and less predictable. Not only the ordinary people, but also experts cannot guess what will come next. Life has taught us that nothing good will come. The newly elected president paid his first official foreign visit to Moscow, during which he spoke to the Russian president (nobody knows about what), from which he emerged radiating happiness and then was warmly greeted at the Moscow Institute of International Relations. After his return home, he invited Russian business to buy up Georgia; and the defense minister declared that the Russian military bases were no longer one of the key problems of bilateral relations. Two months later, however, in an interview with a large French publication and speaking in front of the students of a military academy, the Georgian president warned the nation that it should be prepared for a war against Russia. More than that: in the summer of 2004, one of the leaders of the ruling party, chairman of the parliamentary Committee for Security and Defense, challenged Russia by saying: we were no worse than the Chechens, who had been successfully opposing Russia for several years.

The presidential press service offers no reliable information; in the absence of it, we can surmise that Moscow hinted to our leaders that Russia might relent on the Georgian territorial integrity issue if Tbilisi stops insisting on the withdrawal of Russia's military bases. At the same time, in the spring of 2004, top Georgian bureaucrats and the president started talking about the possibility of settling the Tskhinvali conflict in several months. They also said that the Abkhazian conflict could be settled. The United States will not like this: the Americans know that Russia's military presence in Georgia is fraught with longer-term and more serious danger than merely disrupted territorial integrity. (I totally agree with them.) The bases issue, which was essentially settled according to the CFE-adapted variant, cannot be revised. At the Istanbul OSCE summit, the president of Georgia resolutely insisted on the withdrawal of the Russian bases. These developments were followed by failures in Tskhinvali, restored railway communication between Moscow and Sukhumi, energy problems in Georgia and, significantly, statements by Rus-

sian Foreign Minister Sergei Lavrov, who reproached Georgia for having failed to fulfill its obligations. I wonder what were they?

### *C o n c l u s i o n*

In Georgia there are hopes for renovation and progress. This sends positive signals to power and forces it to fit these expectations and pre-revolutionary promises (some of them hardly realizable). When the leaders find themselves outside control of the opposition (weak and disunited), the media (unoffending and cautious), and public opinion they are expected to form, the top crust becomes accustomed to unlimited power and wishes to consolidate it even more, while the president assumes the role of a “kind and just czar.” This shows that we may lose the few democratic and liberal achievements of the past and become, in the eyes of the civilized world, a territory through which Azerbaijan moves its oil and gas.

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