



**INFORMATION ISSUE OF
ANTI-CORRUPTION TEMPORARY
INVESTIGATION COMMISSION
OF PARLIAMENT OF GEORGIA**

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Giorgi Baramidze

**Chairman of Anti-Corruption
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INTRODUCTION

In December 1995 the Parliament of Georgia adopted new Constitution which is assumed as a basis for introduction of the institution of parliamentary control, approved all over world-the structures of parliamentary investigation. With a view to put into practice Article 56 of the Constitution a new law "On Temporary Investigation Commission" was adopted on March 8, 1996, on the basis of which the Georgian Parliament's Anti-corruption Investigation Commission was set up in March 1996.

The chairman of Georgian Parliament Mr. Zurab Zhvania took the lead in proposing the idea of establishing the Commission, which was approved by the majority of votes and backed up by all political parties, presented in the Parliament of Georgia.

This step was taken by the Parliament for the purpose of introduction of Anti-corruption political methods and taking of integral and co-ordinated measures by the different public authorities. The fact that Georgia's President and Parliament proclaimed 1997 the year of beginning the struggle against corruption is a logical sequel of the mentioned processes. By that the State authority has confirmed once more its political will from the point of view considering corruption to be an urgent problem of the country.

According to the Resolution N 254-11s, passed by the Parliament, the subject of the Commission's activity was determined as "Investigation of the corruptive processes and corruptive crimes committed by the officials and taking corresponding measures within the Commission's terms of reference," which underlies the following orientation of activity:

1. Investigation and political assessment of the activities of high-ranking officials and State institutions. Besides that, main objective of the Commission was not exposure of certain persons' crimes and applying sanctions against them on legal grounds (it is beyond the competence of the Commission), but denunciation of the unrighteous, unqualified and in some cases, even inadequate actions, causing the

significant losses to the State and finally resulting in activization of the institutions of political or rather responsibility.

2. Exertion of political influence upon the officials and certain bodies of the executive power, responsible for preventive inspection, exposure or suppression of the corruptive crimes, i.e. the Commission should have taken the function of a catalyst in taking the effective and intensive procedural measures against corruption.
3. Investigation and analysis of the reasons causing corruption in the State structures and working out of appropriate recommendations on the basis of the obtained results, improvement and rationalization of the existing legislation by the means of revealing and eradication of the shortcomings, favouring the emergence and development of the corruptive processes. From this point of view, special attention should be given to the study of law-making, as well as other aspects of activity of the institutions of executive power, which entails the establishment of different excessive and in some cases, unlawful structures and barriers hampering the development of private business initiative in the country.

The Commission has done its bit in perfection of the anti-corruption legislation basis. On the Commission's initiative in October 1997 the Parliament of Georgia approved the law "On corruption and incompatibility of interests in State service institutions." The law, for the first time in the history of Georgian law-making, has introduced the definition of corruption and corruptive crimes, established the institution of declaring the financial activity of the high-ranking officials and their family members, as well as the norms, i.e. ethic code of behaviour of the State service personnel. The mentioned law has also improved and systematized the existing fragmentary and non-systematized legislative norms.

So far the Commission has investigated more than twenty sizeable cases of corruption and results and conclusions have been passed to the corresponding structures for taking appropriate measures. Part of those materials are introduced in the presented report dealing with the activity, orientation and peculiarities of the Commission.

Giorgi Baramidze

On Abuse of Authority by Cabinet of Ministers during the Process of Payment for Natural Gas from the Turkmen Republic

Having appointed the Intem Commission Fighting Corruption in 1996, the Parliament of Georgia charged it with the task to examine the process of payment for natural gas from the Turkmen Republic. The Commission set about the work on April 25, 1996.

It was very difficult to investigate this case, as it was linked with the activities of the Cabinet of Ministers over a three-year period. After studying the statutory acts adopted within that period, the necessity of investigation of those areas, which were regulated under the above mentioned statutory acts, became clear.

Owing to this the commission found it essential, that the Control Chamber should have checked the documentation in the Ministry of Trade and Material Resources, in the Ministry of State Property Management, as well as in the Department of "SakGazi" (Georgian Gas). The authorized bodies also checked those private organizations, which were directly related to transportation of the goods to the Turkmen Republic and realization of the statutory acts passed by the Cabinet. "Bemi", "Are", "Express XXI", "Dabruneba"(private firms) and others were the organizations of this type.

On the grounds of the Commission's appeal the Ministries of State Security and Internal Affairs, as well as the Prosecutor's Office of Georgia took part in the examination procedure. At the sittings of the Commission the explanations were given by D. Eliashvili, chairman of Department of "SakGazi"; M. Zankaliani, former Minister of Trade and Material Resources; D. Iakobidze, Minister of Finance; A. Silagadze, Minister of State Property Management; Z. Kervalishvili, Deputy-Chairman of the Cabinet; O. Patsatsia, Chairman of the Cabinet gave explanations to the commission. A. Margiani, Deputy-Chairman of the Cabinet failed to appear at the sitting of the commission.

In accordance with legislation, the minutes reported on the non-appearance of Margiani at the sitting were submitted to the court of Mtatsminda District. The court made an appropriate decision.

The decisions against all the above said persons were sent to the investigation bodies in order to be assessed from a legal point of view. These decisions were also brought to the attention of the Chairman of Parliament.

Besides that, the decision on the actions of D. Iakobidze, as a Minister in office, was sent to all fractions of Parliament in order to obtain points of view.

The commission raised a question concerning the abolition of the privatization of the Cognac Plant, complex of Gudauri and of "Mshvidoba" before the Prosecutor's Office of Georgia.

The Prosecutor's Office of Georgia has brought legal action against the privatization of Cognac Plant and complex of Gudauri.

All sittings of the commission were made public, the representatives of the mass information media took part and thus the information was available to the society

Information

After studying the documents drafted in connection with the payment for natural gas, bought in the Turkmen Republic, it was found that the Cabinet of Ministers had not elaborated an integrated concept for settling the mentioned problem. The Prime-Minister and Vice-Premiers acted without any agreement and often took decisions contradicting each other. They often ignored state interests and did not take into consideration the results of their decisions.

Under the agreement between the Republic of Georgia and the Turkmen Republic, concluded in 1992, the cost of Natural gas from the Turkmen republic was to be paid partially in currency and partially in clearing.

At the beginning of 1993 the Turkmen Republic owed 76,5 million dollars to the Republic of Georgia.

On February 25, 1993, the governments of Georgia and Turkmenistan concluded an agreement on trade and economic co-operation. Under this agreement (article 2) Georgia's Ministry of Trade was obliged to send goods to the Turkmen Republic on the basis of clearing.

The Cabinet and the Ministry of Trade did not seriously carry out inter-governmental obligations. They did not take effective control of the transport of goods to Turkmenistan, nor of the registration of the transported goods, nor of the payment for them. The Ministry of Trade only carried out a formal correspondence with the ministries, which were suppliers of the production and did not supervise practical implementation of the agreement.

The debt to the Turkmen Republic increased catastrophically as a result of non-existence of the unified system of payment for goods, transported to Turkmenistan and lack of state control over the transportation of goods. Till 1993, Turkmenistan owed Georgia 76, 500,000 US dollars, but in 1993-1995 Georgia became a debtor to Turkmenistan, because the promised goods had not been supplied. In 1995 the debt to Turkmenistan (without accrued interest) amounted to 386,000,000 US dollars. This debt is still unpaid.

Up to 1994 the delivery of goods to Turkmenistan was carried out by state organizations and after 1994 some private firms were also involved in the process. Though the relations with Turkmenistan in this field were established in 1992, the rule of payment of 25% of the marginal profitability for the goods delivered to Turkmenistan, was temporarily established only on July 8, 1994. This rule of payment was in force only one month and on August 18, 1994, the resolution of the government established another rule of payment. The supplier organizations were to be paid 40-45% of the clearing value. After three weeks this resolution was also changed without checking the results of previous resolutions. On September 6, 1994, the Cabinet of Ministers passed Resolution N638, which entitled the private organizations "Are Association" and "Bemi Society" to take part in the transportation of goods to Turkmenistan in order to pay off the debts. The goods transported by them were to be reimbursed by 80% of the clearing value. If the Department of "SakGazi" could not have paid for the goods transported by the private firms, those firms would have been given 15% (or more in particular cases) of the shares of the enterprises, remaining in state ownership. Under this resolution the institutions, organizations and enterprises of the republic were to deliver the goods proposed to be transported to Turkmenistan to the "Are" and "Bemi" Associations without obstruction. Under the same resolution "Are" and "Bemi" were permitted to postpone payment of taxes.

The resolution was signed by A. Margiani. He was also obliged to control its fulfillment.

It should be noted that this resolution was passed in violation of the law. A. Margiani had no right to sign it. In accordance with the law in force at that time (December 22, 1992) "On the Cabinet of Ministers of the Republic of Georgia", the right to pass a resolution was entitled only to the Cabinet and only the Chairman of the Cabinet was given the right to sign a resolution and a decree.

This resolution was not discussed by the Cabinet and it was passed under the so called "rule of questions" that was not allowed by the said law. In September 6, 1994, The Chairman of the Cabinet went on a visit abroad, but A. Margiani had no right to carry out the functions of chairman. Under the above mentioned law the Head of State should have authorized him to carry out the duties of the Chairman of the Cabinet. Such a decree by the Head of State was not issued, though there was an order by O. Patsatsia, appointing A. Margiani executor of his duties. This order was illegal and was dated September 15, which was unclear and absurd in the situation, for an order of that kind should have been issued before the chairman's departure but not after it.

It should be mentioned that the Resolution was drafted not by competent officials of the Cabinet, but by I Kipiani, Director-General of the society of "Bemi". I. Kipiani sent a letter to the Chairman of the Cabinet on August 17, 1994. "We send you the draft resolution of the Cabinet of Ministers of the Republic of Georgia. We ask you to examine and pass it" said the letter.

Firstly the Cabinet decided the draft-resolution, proposed by "Bemi", to be passed as a decree by the Head of State. The draft-resolution, after it had been slightly amended, was submitted to several members of government, and welcomed by them A. Margiani and Z. Kervalishvili, Vice-Premiers, D. Eliashvili, chairman of "SakGazi", D. Iakobidze, Minister of Finance, M. Zankaliani, Minister of Trade and A. Silagadze, Minister of State Property Management were those officials, who approved the draft-resolution.

This resolution was not signed by the Head of State and on this grounds it was given the status of a draft-order of the Cabinet (without any amendments). It was approved again by the same members of the Cabinet (apart from A. Silagadze and Z. Kervalishvili). The above mentioned officials did not study the draft-resolution proposed by "Bemi" and did not carry out any financial calculations related to it. They did not take into consideration that this resolution would damage state interests and establish unlawful tax exemptions for the part of private structures. Payment of 80% of the clearing value of the transported goods to Turkmenistan would give a huge profit to a certain private structure at the expense of the state and would raise the cost of natural gas, which would make state enterprises and the population, as consumers of natural gas, insolvent.

It should be also stated that this resolution did not annul any of the said resolutions and orders, though they were obviously contrary to the Resolution N638 passed by the Cabinet.

The resolution appeared to be unclear and inaccurate, which is inadmissible for a document of state importance. "No more than 15%" established by the state was changed in the same resolution by a contradictory explanation. "In particular cases more than 15% of the shares may be delivered". It was not clearly defined in which case it was possible to deliver the shares and what was meant by "more than 15%".

The resolution was illegal, as it contradicted the law "On Privatization of State Enterprises in the Republic of Georgia" adopted on August 9, 1991. Under this law,

the Cabinet of Ministers was not authorized to deliver the shares remained in state ownership to private firms as a repayment of debt. In accordance with the law, the privatization of state enterprises should have been implemented at auctions or under the rule of competition, and this was not taken into account by the resolution.

Article 23 of the law provides, that the privatization shall be considered annulled "if the procedure of conducting the auction or competition has been grossly violated" or "if the buyer has been given certain unlawful privileges over other buyers". The same article defines that privatization shall also be annulled "if in the process of purchase, an unlawful manner of payment has taken place". Thus all mentioned requirements were violated by the resolution of September 6, 1994.

In accordance with the resolution, as already stated, the "Are Society" and "Bemi" Ltd, were allowed to postpone payment of taxes, while the government had no right to take such a decision. This question is regulated by the law "On State Budget" and is a prerogative of the Parliament of Georgia. By such an action of the Cabinet the law "On Foundation for Taxes" was also violated. The Resolution N638, taken by the Cabinet of Ministers on September 6, 1994, was obviously harmful for the state, as it did not protect state interests and established unlawful tax exemption for certain private structures. On the basis of the said resolutions, the mentioned private structures made a huge profit and the state suffered a loss of 6,840,000 US dollars. D. Iakobidze, Minister of Finance, recognized at the sitting of the Commission, that the resolution was passed without any financial calculations and was based on proposals, suggested by the private firms.

M. Zankaliani, Minister of Trade and Material Resources at that time declared; "Silagadze, Iakobidze and I were skeptical about this resolution. I stated that it would not lead to any positive results, but I approved it anyway, because it was impossible to refuse it due to the effect of clearing. Besides, society would consider us to be against private business".

It is impossible to see a serious attitude of M. Zankaliani to the question, as he preferred to please the public, rather than safeguard state interests. He could not prove the expediency of the resolution and could not put forward reasonable arguments against the above said negative aspects.

A. Silagadze declared at the sitting of the commission, that though the requirements of the law on privatization and the resolution of September 6, 1994, contradicted each other, he carried out the privatization of the enterprises "Eniseli", "Gudauri", "Mshvidiba" on the grounds of this Resolution and did not violate the requirements established by this law.

The Commission thinks that A. Silagadze as a high-ranking official and politician, should have taken into consideration the state interests, observed the law and should not have fulfilled the requirements of the resolution, which were not in conformity with the law on privatization.

Before the mentioned resolution was published, some of the state organizations had already delivered the goods to the government of Turkmenistan, but Department of "SakGazi" could not pay for those commodities. For example, the Cognac Plant had sent 36,573 deciliters of cognac to Turkmenistan, which was registered by the government of the Turkmen Republic in December of 1994 and in January of 1995. In this case the Cognac Plant should have been repaid 498,000 dollars - the cost of the cognac. The director of the Cognac Plant was sure that "SakGazi" could not pay for the cognac and sent a letter to the Ministry of Trade in order to re-register the contract regarding the cognac on behalf of "Bemi", which had been promising to pay that sum. M. Zankaliani did not check whether the goods had

been registered or not in the Turkmen Republic (in fact by February 15, 1995, the cognac had already been delivered and registered). He met the requirement of the Cognac Plant and in accordance with the letter of February 15, 1995, allowed the Cognac Plant to re-register the contract on behalf of "Bemi". As a result the state should have paid not 498,000 dollars, but 80% (4,388,000 dollars) of the clearing value (5,485,000 dollars) of the cognac (in accordance with the Resolution N638 of September 6, 1994), i.e. 3,890,000 dollars more. The action of M. Zankaliani (re-registration of the contract) caused a loss of 4 million dollars. At the same time, this sum was given to "Bemi" as a present.

Besides, the Administrative Board for Building and Repairing of the Concern of "SakAvtoz" (Georgian Motor Way) of the Republic of Georgia in 1994 carried out the works worth 1,419,000 dollars in Turkmenistan. On January 11, 1995, M. Zankaliani sent a letter N130 to the Turkmen Republic's Ministry of Trade and asked, that the cost of mentioned works should have been considered to be the sum, which should have been paid under the clearing. Those works had been considered to be implemented by "Bemi".

M. Zankaliani acted in a same manner, when on February 8, 1995, sent a letter (38-01/41) to the Ministry of Trade of Turkmenistan and asked the goods worth 2,600,000 dollars to be registered on behalf of "Bemi". Though the goods were not transported to Turkmenistan due to unclear reasons.

Apart from the cognac, the cost of the production of Champagne Plant and Vine Plant of Varketili, which had been delivered to Turkmenistan, was also registered on behalf of "Bemi". The state should have paid 80,000 dollars for the goods produced by the Champagne Plant. The state paid 595,000 dollars (in accordance with the resolution of September 6, 1994) to "Bemi, i.e. 515,000 dollars more. The state should have paid 57,000 dollars for the goods of Vine Plant of Varketili, but actually it had paid 753,000 dollars, i.e. 696,000 dollars more. In both cases the state lost 1,211,000 dollars.

Registration of the goods, delivered to Turkmenistan by different state or private enterprises on behalf of "Bemi" was implemented in a similar way. As a result, as already mentioned above, the state suffered a loss of 6,840,000 dollars.

We must state, that M. Zankaliani had no right to re-register the contracts, as it is not indicated in Resolution N638 that the goods already transported to Turkmenistan by the state organizations should have been registered on behalf of private organizations or those private organizations should have obtained the clearing value of the delivered commodities. Because such a procedure of transportation and registration of the goods had not been stipulated by the resolution, its individual enforcement was violation of the law by the Minister of Trade. Establishment of such a procedure was the prerogative only of the Cabinet of Ministers, though it would have been illegal and harmful for the state anyway. The registration of the goods transported by state organizations on behalf of private firms was explained by M. Zankaliani in such a manner: It was not important who delivered the commodity and on whose behalf it was registered. The fact the state could not have paid for the goods and in such a situation private firms assumed responsibility for payment was the most important question. Information, obtained by the commission showed, that private firms paid for the goods to state organizations after "SakGazi" had paid for those goods. They did not spend their own money in order to meet the debts to state organizations.

"Bemi Society" pointed out in the contracts, concluded with state organizations (Vine Plant of Varketili, Cognac Plant, Champagne Plant etc.) that it would have paid to state organizations, after it had received money from "SakGazi".

For example, in the contract concluded on January 11, 1995, between the Vine Plant of Varketili and "Bemi", it was stated, that the cost of the goods would have been paid to the vine plant not later, than ten days, as from the date of receipt of money from "SakGazi". Such a procedure of payment was established in all other contracts.

Resolution N638 of September 6, 1994, signed by A. Margiani led to other irreversible results.

Because of gross violation of the law "On Privatization of State Enterprises", society of "Bemi" was given the shares worth 1,046,784 dollars, which were previously owned by the joint-stock company "Eniseli" (Cognac Plant). That sum amounted to 57,74% of the founding capital. "Bemi" was also given the shares of the society of "Gergeti" (Complex of Gudauri) which were worth 1,269, 000 dollars (64,26% of founding capital) and the shares of the joint-stock company "Mshvidoba", 142,543 dollars (58,99% of founding capital). The shares of other stock societies, worth 230,555 dollars were also transferred to the ownership of "Bemi", state property worth 3,153,000 dollars in all. "Bemi" paid nothing for that property and received it as the debt to the state, which actually was not met.

It should be noted, that privatization of "Eniseli" stock society was implemented without clearing up the fate of unic, century old cognac spirits, kept at the plant. The question regarding the argument between the government and buyers of the plant arose only after the privatization.

On March 31,1997, before the case was examined at the court, the leadership of "Bemi" had sent a letter to the Ministry of State Property Management. It was said in the letter: "We agree to the argument of the Parliamentary Commission, that in transference of shares of "Gergeti", the state interests have not been taken into account, that is why we ask you to give back the shares of "Gergeti", a stock society."

Before the resolution of September 6,1994 was passed A. Margiani, had successfully managed to promote a number private firms at the expense of state structures without any legal base.

On August 3,1994 a month before the resolution of September 6,1994 was passed and when the involvement of private firms in the co-operation with Turkmenistan had not been legalized, A. Margiani sent a letter (243/100) to I. Beridze, director of "Kartli", Tobacco Factory, and charged him categorically: "In order to meet the debt of "TbilGazi", you must send 10 million boxes of cigarettes to Turkmenistan through the firm of "Bemi". In accordance with this letter, in 1994-1995, the factory transferred to "Bemi" 10,557,474 boxes of cigarettes, worth 269,7 billion coupons. Because of this operation the factory was charged an excise worth 90,8 million coupons and the factory did not get any money for the goods delivered to "Bemi".

After four months, on December 29,1994, Mr.Bubuteishvili, President of "Bemi", addressed to Mr. Margiani: "We ask your permission in order to obtain 10 million boxes of non-filter cigarettes from "Kartli" (Tobacco Factory) for transporting to Turkmenistan."

On the following day, on December 30,1994, Mr. Margiani again sent a letter of the following contents to the director of "Kartli": "We ask you to take into consideration the interests of our country and to deliver the required goods." From

July to September of 1995, "Bemi" obtained 2,461,700 boxes of cigarettes (worth 88,8 billion coupons) from the tobacco factory.

The factory was charged again to pay appropriate taxes without any compensation for the commodities delivered to "Bemi"

As a result the factory suffered a huge loss and nearly went bankrupt, at the same time, the state lost 696,743 dollars. "Bemi" paid for the goods, received from the tobacco factory partially by meeting the debts to different organizations.

On July 15,1995, the Cabinet passed Resolution N418, which was signed by Z. Kervalishvili, Vice-Premier. This resolution annulled all previous decrees, pronounced by the Cabinet, regarding the transference of state shares in exchange of the goods transported to the Turkmen Republic. 60-70% of the clearing value should have been paid for the goods transported to the Turkmen Republic.

Thus, the resolution of September 6,1994, signed by A. Margarini had been in force for nine months and as a result the state suffered a loss of 6,840,000 dollars, a number of state organizations went bankrupt and the state debt increased by 200 million dollars.

On May 13,1994 A. Margiani issued Order N368. In accordance with that order "Are" was to be paid 35% of the clearing value of goods delivered to Turkmenistan. On May 14,1994, a contract was concluded between the chairman of "Are" and "SakGazi". Up to August 1994, "Are" transported to Turkmenistan goods worth 350,635 dollars.

On the grounds of the mentioned order the "Are-Association" was to be reimbursed 35% of this sum, i.e. 807,592 US dollars. Mr. Eliashvili, paid to "Are" 80% of the clearing value of delivered goods (1,845,925 dollars) under his own decision, while there was no any decision or order by the Cabinet. Such an action of D. Eliashvili caused a loss of 1,038,333 US dollars.

In order to prove the lawfulness of this action, on September 7, D Eliashvili enclosed a supplement to the Agreement of May 14,1994. According to the supplement, that the Resolution of May 13,1994, was annulled by Resolution N638, adopted by the Cabinet. In accordance of Resolution N638 the goods delivered to the Turkmen Republic were to be paid for by 80% of the clearing value. The supplement was signed by the president of "Are" and by D. Eliashvili himself. D. Eliashvili presented to the Commission the explanation (N336/60 07.12.1994) by V. Kapanadze, State Advisor in financial, credit and tax policy matters. The explanation stated: "As far as there are two resolutions on the same question, "SakGazi" must be guided by the last one". V. Kapanadze was not a competent official to give such an explanation. Besides, before three months of this explanation, D. Eliashvili had already decided to compensate 80% of clearing value of the goods to "Are". The decision was stated in the mentioned supplement, designed by him.

Under such a rule "Bemi Society" was paid for 58,600 bottles of cognac. As a result the Society obtained extra 153,800 dollars.

Issuance of an order by A. Margiani was illegal, as he was not appointed executor of the duties of the chairman of Cabinet by the Head of State.

It must be also stated, that in this resolution A. Margiani raised a question before the Head of State to exempt "Are" from all taxes and by such an action grossly violated the law. In the first half of 1994, the firm of "Express XXI" transported tobacco worth 53,454 dollars (worth 80,775 dollars including the cost of transport) to Turkmenistan on its own initiative.

The representatives of the firms found out in Turkmenistan, that in this republic they should have paid according to the clearing. The firm was forced to pass

goods to the government of Turkmenistan. On July 28, 1994, N. Sakhelashvili, Director of "Express XXI", sent a letter to the Cabinet of Ministers of Georgia and asked "Express XXI" to be paid for the goods delivered to Turkmenistan. The Cabinet met this requirement and on August 9, 1994, issued Order N645, signed by O. Patsatsia, Chairman. In accordance with this Order Department of "SakGazi" should have paid to "Express XXI" the sum in coupons worth 200,000 dollars. i.e. 200% of the clearing value of the goods delivered to Turkmenistan. "SakGazi" fully paid this money.

It must be mentioned, that in those times none of the enterprises was reimbursed by "SakGazi" for the goods, delivered to Turkmenistan. When "Express XXI" was reimbursed for the goods, Order N368 of May 13, 1994, issued by Vice-Premier was at hand.

In accordance with it, the goods delivered to Turkmenistan by "Are Society" were to be paid for by 35% of the clearing value. There also was Resolution N443 of July 8, 1994, issued by Prime-Minister, providing that state enterprises were to be paid for the goods, delivered to Turkmenistan by 25% of marginal profitability.

Thus, payment of 100% of value of the delivered goods to "Express XXI" was obviously illegal and harmful to the state. As a result, the state suffered a loss of 120,000 dollars.

As already mentioned, the order was signed by O. Patsatsia, Prime Minister. A. Margiani, Vice-Premier; D. Eliashvili, Chairman of the "SakGazi Department". M. Zankaliani, Minister of Trade agreed with O. Patsatsia and approved the order. M. Zankaliani declared at the sitting of the commission, that he did not remember why he had signed the order, as well as the situation the signing had taken place, though he considered the order to be unlawful.

The reason of the issuance of such an illegal order became clear, after the data related to this case had been studied.

In particular, the letter of June 28, 1994, by N. Sakhelashvili was addressed to A. Margiani, who in his turn, addressed it to A. Babukhadia (that time Head of the Department of Trade and Services of the Cabinet of Ministers), but the letter was not registered. A. Babukhadia explained, that he did not have anything to do with the payment for the goods delivered to Turkmenistan and the above said letter was not given to him and it was not registered either in the chancellery of the Cabinet, or in the chancellery of this department.

Badri Goletiani, a person linked with "Express XXI", explained: "I am the cross father of the son of Nodar Margiani, brother of A. Margiani. In July 1994 Nodar Margiani and I went to Avtandil Margiani and asked him the help in the repayment of 200,000 dollars. He told us to write an application on behalf of N. Sakhelashvili and phoned M. Zankaliani and D. Eliashvili". We think everything is clear. As a result of unregistered letter and protectionism the Chairman of the Cabinet issued an unlawful order. According to it the state money (120,000 US dollars) was transferred to private firms. It is a gross violation of the law.

Moreover, the "Express XXI" was not satisfied with 100% payment of the clearing value of the goods, delivered to Turkmenistan, and a year later, in August of 1995 the Firm demanded a repayment for transportation of the goods while the latter had been transported on the initiative of the Firm without any permission of the Government on it.

It is surprising, that under Order N543 of August 9, 1995, issued by O. Patsatsia, "Express XXI" was repaid 121 billion coupons (93,000 dollars) for

transportation the goods. The order stated that Department of "SakGazi" was to pay to "Express XXI" for the transport of tobacco.

D. Iakobidze, Minister of Finance, approved and signed this unlawful order, though "SakGazi" could not pay the sum due to lack of means.

It will be interesting to get to know the situation, in which the mentioned order was issued.

On September 6, 1994, N. Sakhelashvili addressed a letter to A. Margiani again and asked for the repayment for transport. A. Margiani sent this letter to D. Eliashvili and requested to solve the matter positively. D. Eliashvili could not settle the question "positively" as "SakGazi" had no money. After that N. Sakhelashvili submitted an application to the Head of State. From there application was sent to the Cabinet of Ministers without any instructions. The Cabinet, in its turn, sent it to the Ministry of Finance. On July 17, 1995, Mr. Murjikneli, Deputy-Minister of Finances sent a letter to the Cabinet. He stated, that as a contract between "SakGazi" and "Express XXI" had not been concluded and "Express XXI" had already been repaid 200,000 US dollars, the Ministry of Finance considered the payment for transport to be groundless. In spite of the conclusion by the Ministry of Finance, O. Patsatsia took a decision anyway on the repayment to "Express XXI" for the transport.

In December of 1993, "Paetoni", a joint enterprise of Georgia, Israel and England gave 620 tonnes of tea for preservation to "InterContact", a firm of Rustavi-City. Up to May 1995, the tea was preserved in railway blind alley of "InterContact" because of the death of A. Ketiladze, Director-General of "Paetoni".

The Service of State Security was interested in this fact and brought a criminal action against it.

Instead of transferring the money, obtained as a result of the sale of tea, to the state budget, Service of State Security and that time Chief of the Railway Department R. Vashakidze gave the tea, free of charge, to "Dabruneba", an Association of Refugees and Disabled from Abkhazia on the grounds of intercession on the part of certain Parliament members. The association transported the mentioned tea to the Turkmen Republic, without concluding any contract with "SakGazi" and without the permission by the government of Georgia. The Turkmen Republic obtained 702 tonnes of tea, the clearing value of which amounted to 1,404,000 US dollars.

On September, 5, 1995, T. Sadjaia, President of Association, addressed a letter to A. Margiani, former Prime-Minister and asked to pay for the tea, transported to Turkmenistan by "Dabruneba" under the clearing. He put forward an argument, that "Dabruneba Association" had been exempted from all taxes in accordance with Resolution N677-11, 1995, signed by the Chairman of Parliament.

On September 7, 1995, O. Patsatsia charged D. Eliashvili, Chairman of "SakGazi", first of all to pay fully for the tea transported to Turkmenistan by "Dabruneba", while in accordance with Resolution N418 of July 15, 1995, (paragraph 7), "Dabruneba" was to be paid no more than 60-70-% of clearing value.

D. Eliashvili refused "Dabruneba" to pay for the tea. In the letter, dated October 25, 1995, he mentioned, that Association had not negotiated the said question with "SakGazi" and had not concluded any contract with it. At the same time he pointed out, that "SakGazi" was out of means.

As a result of mentioned fact, the deputation of Abkhazia sent a letter to the Head of State. It was said in the letter, that "Dabruneba Association" partially had bought the lawgrade tea from the population and transported it to the Turkmen Republic. That action had been permitted by the Prime-Minister, but the executive bodies had not given the promised credit to "SakGazi", in order to pay for the

transported tea. The Head of State addressed the letter to Petre Bakradze, who made a conclusion on the question (though the owner of the tea, was not named).

In the conclusion dated September 7, 1995, P. Bakradze pointed out, that "Dabruneba" had implemented the mentioned action without the observance of the established procedures and without the resolution by the government. But as it served the interests of the refugees and disabled of the Abkhazian war, the Cabinet should have been charged to consider the question of repayment for the transported tea to "Dabruneba". In particular, on the grounds of the resolution of July 15, 1995, approved by the Cabinet, 60-70% of the goods should have been repaid for. On November 9, 1995, the Head of State issued Decree N184 and charged the Cabinet of Ministers to raise the means for the repayment to "Dabruneba" for the transported tea, in order to meet a debt for natural gas.

In the conclusion of P. Bakradze, the views of some Ministers on the repayment for the tea are cited, and in particular, the above discussed view of "SakGazi".

The Ministry of Trade and Material Resources considered, that though "Dabruneba" had transported the tea without the permission of the Ministry, it was necessary to pay 60-70% of clearing value of the tea, as the goods had been transported in fact.

The Ministry of Finance thought, that it was impossible to meet the requirement of "Dabruneba", as it had transported tea without a contract and without instructions of the government. Besides, "SakGazi" had no money and the state was unable to allocate money to "SakGazi".

On October 30, 1995, the Ministry of Economy sent a letter to the Ministry of Finance.

The letter said that "Dabruneba" was to be paid 60-70% of clearing value of the goods.

The letter was addressed to G. Gurgenidze, Head of Administrative Board for Agro-Industrial Works of the Ministry of Finance. G. Gurgenidze pointed out in the letter, dated December 8, 1995 and addressed to Murdjikneli, Deputy-Minister of Finance, that "Dabruneba Association" transported to the Turkmen Republic 702 tonnes of tea without a contract (the indices of grade and price were not fixed). The clearing value of the tea amounted to 1404,000 dollars. "In view of the above, the state debt must not be met, as the details of transported goods and implemented works have not been fixed", was said in the letter.

Thus, all mentioned Ministries and officials thought that "Dabruneba" was not to be paid for the tea or the money for payment of 60-70% of the clearing value of the tea was to be found.

In such a situation, D. Iakobidze, Minister of Finance, by Order N145 of December 22, 1995, reimbursed 100% of clearing value of goods to "Dabruneba". The sum amounted to 1, 404,000 US dollars, i.e. 421,000 US dollars more. As a result the state suffered a loss of the same sum.

The Commission did not agree about the arguments given by Mr. Iakobidze, that he had interpreted the decree by the Head of State as if he should have paid 100% of clearing value of goods.

O. Patsatsia, Chairman of the Cabinet and Z. Kervalishvili, Deputy-Chairman of the Cabinet declared at the sitting of the Commission, that all above mentioned abuses were caused by the existing difficult situation. O. Patsatsia also said that his signature on some statutory acts may have been falsified, which, of course may have factually taken place. This fact should be cleared up in the process of investigation.

Conclusion of the Commission

The Temporary Investigation Commission Fighting Corruption obtained explanations from O. Patsatsia, Z. Kervalishvili, D. Eliashvili, M. Zankaliani, D. Iakobidze, (A. Margiani did not appear at the sitting of the commission), analyzed the data obtained and came to the following conclusion:

I. As the Chairman of the Department of "SakGazi" of the Cabinet Ministers, D. Eliashvili carried out his duties carelessly. As a result the state suffered a huge amount of money.

In particular:

1) Mr. Eliashvili paid for the goods transported to Turkmenistan to "Are" and "Bemi" and by his action violated the law. As a result the state suffered a loss of 1,192,133 dollars.

2) Mr. Eliashvili took part in drafting the illegal Resolution N638 of September 6, 1994 and approved it. Due to this resolution, the state suffered a loss of 6,840,00 dollars. Because of unlawful actions by D. Eliashvili the state lost in all 8 million dollars.

II. As Minister of Trade and Material resources, M. Zankaliani:

1) did not show a serious attitude to the re-registration of contracts regarding the transport of goods by the state organizations on behalf of private firms. As a result the state organizations suffered great losses.

2) took part in drafting Resolution N638 of September 6, 1994 and approved, it. As a result the state suffered a loss of 6,840, 000 dollars.

3) took part in drafting Order N654 of August 9, 1994 and approved it. In accordance with the order "Express XXI" was unlawfully paid 120,000 dollars and the state lost the same sum of money.

As a result of illegal actions of M. Zankaliani, the state suffered a loss of almost 7 million dollars. The state debt amounted to 400 million dollars due to his careless fulfillment of duties.

III. As Minister of Finance, D. Iakobidze did not supervise the rational and economic use of state money. As a result the state suffered a loss of a huge sum.

In particular:

1) On December 22, 1995, he unlawfully paid the extra 421,000 dollars, for goods delivered to Turkmenistan by the "Dabruneba Association" and the state lost the same amount of money.

2) took part in drafting Resolution N638 of September 6, 1994 and approved it. The state lost 6,840,000 dollars because of this resolution.

3) took part in drafting Order N543 of August 9, 1995 and approved it. Under this order, "Express XXI" was to be paid for the transport of goods, delivered to Turkmenistan in violation of the law. This sum amounted to 121 billion coupons (93,000 dollars). But "SakGazi" did not pay because of the lack of money. Thus, as a result of unlawful actions by D. Iakobidze, the state suffered a loss of 7,260,000 dollars.

IV. As Minister of State Property Management, A. Silagadze, on the basis of Resolution N638 of September 9, 1994, transferred the state property worth 3,153,000 dollars to "Bemi", a private firm. It was a gross violation of the law as "Bemi" paid nothing for the state property. As a result the state suffered a loss of 3,153,00 dollars.

V. As Deputy Prime Minister, Z. Kervalishvili:

1) As Deputy Prime Minister and supervising the field of fuel and power economy, Z. Kervalishvili could not fulfill his duties properly and failed in taking control of the transport of goods to Turkmenistan, stipulated by the inter-governmental agreement. As a result, Georgia got into the debt to the Turkmen Republic and the debt amounted to 400 million dollars.

2) Z. Kervalishvili actually took part in drafting Resolution N638 of September 6, 1994, which was obviously illegal and harmful to the state. Due to this resolution the state lost 6,840,00 dollars.

VI. As Deputy Chairman of the Cabinet, A. Margiani:

1) overstepped his authority and signed Resolution N638 of September 6, 1996, which was illegal and harmful to the state and caused a loss of 6, 840,000 dollars.

2) did not take any practical measures for fulfillment of the resolution of September 6, 1996, signed by him, could not eliminate the disadvantages related to the fulfillment of the resolution, that resulted in the huge loss. Moreover, the resolution had been in force only for several months and private firms, due to the absence of control, stopped their delivery of goods to Turkmenistan. As a result, Georgia fell into debt to Turkmenistan and the debt amounted to 400 million dollars.

3) established unlawful privileges for certain private structures at the expense of the state interests and put state organizations in a position of disadvantage. As a result the state organizations almost went bankrupt.

After the products from the Tobacco Plant "Kartli" was transferred to 'Bemi", the state suffered a loss of 696,743 dollars.

4) approved the unlawful draft-order of August 9, 1994, designed by the Chairman of the Cabinet. As a result the state suffered a loss of 120,000 dollars.

As Deputy Vice Premier, he was not authorized to approve the mentioned order, but he did so because of his private interest, that is inexcusable for a high ranking official.

5. having unlawfully obtained 200,000 dollars, after a year "Express XXI" demanded to be paid for the transport of goods to Turkmenistan (121 billion coupons). Though A. Margiani was not officially connected to those actions, he wrote categorical instructions on a letter from the director of "Express XXI" due to private interests. "To D. Eliashvili We ask you to settle this question positively", he wrote in the instructions. This fact proves that his attitude to the questions of state importance was careless and totally inexcusable.

6) A. Margiani had been breaking laws systematically and exempting private firms from taxes, (Resolutions N638 and N773, Order N368 of May 13, 1994). As a result of illegal actions of A. Margiani, undermining the economy of the state, caused a loss of 7,656,500 dollars in all.

VII. As Chairman of the Cabinet, O. Patsatsia:

1) could not ensure the legitimate work of the Cabinet. The members of the Cabinet, as well as Patsatsia himself, passed a number of resolutions and orders, contradicting each other and ignoring the state interests. Such an action can be characterized as a gross violation of the law "On Cabinet Ministers".

2) could not elaborate and exercise the levers for the control of the implementation of the intergovernmental agreements, concluded with the Turkmen Republic. As a result Georgia fell into debt, worth 400 million dollars to Turkmenistan. This debt is still unpaid.

3) could not suppress the willful actions of vice-premiers, who passed a number of unlawful resolutions (on the ground of the approval by three or four

ministers) undermining the economy of the country. For example, Resolution N638 of September 6, 1994, signed by A. Margiani, for the control of the implementation of the intergovernmental agreements, concluded with the Turkmen Republic. As a result Georgia fell into debt, worth 400 million dollars, to Turkmenistan. This debt is still unpaid.

4) did not take any control of the decisions made by the Ministers, who took advantage of the situation and made a number of illegal decisions, harmful to the state. For example, D. Eliashvili, Chairman of "SakGazi" paid to "Are" and "Bemi" 1,192,000 dollars extra. As a result the state lost the same amount of money.

5) showed inexcusable generosity in spending the state money and unlawfully paid large sums to private firms.

a) ignored the statutory acts signed by himself in which payment of 25-35% or 40% of the clearing value of the goods, transported to Turkmenistan, was stipulated, he ensured 100% payment of clearing value of the goods to "Express XXI". As a result the state lost 120,000 dollars.

b) ignored categorical refusal by the Ministry of Finance and met the requirement of "Express XXI" (which asked to be paid for the transport of goods. The sum to be paid amounted to 121 billion coupons, i.e. 93,000 dollars) without any revision and consultations by competent ministries. If his decision had been carried out, the state would have lost 93,000 dollars.

6) did not try to clear up the situation and spend money economically, did not take into consideration the views of the competent Ministers and made decisions personally. In spite of the refusal by competent ministries and in accordance with his instruction "Dabruneba Association" was paid 100% of the clearing value of the goods transported to Turkmenistan (1,404,000 dollars). As a result the state suffered a loss of 421,000 dollars.

The state suffered a loss of 8,573,000 dollars in all because of unlawful actions of O. Patsatsia.

(We have to note, that the figures may be changed in the process of procedural investigation and economic examination).

The Ministry of Internal Affairs has been investigating this case for a year, but unfortunately no results have been observed as yet. The actions of the above mentioned persons have not been assessed from a legal point of view, though the commission submitted appropriate data to the Ministry long ago.

We should not fail to take into consideration the fact, that internal and external conflicts, as well as difficulties in state organizations and private firms, disorder in business contacts have worsened the already existing chaotic situation.

The cessation of supply of gas and electricity in such a situation could cause political instability. The lack of time put organizations and persons, linked to the mentioned problems, in a very difficult position.

In Such a difficult situation, it was possible to make decisions, as a result of which thousands of owners obtained property without payment of its real value.

The Commission thinks that taking steps with the purpose of checking the results of privatization would be considered to be an obstruction to privatization. Citizens having a desire to be involved in privatization will become skeptical about the process or about the current economic reforms, and this would be harmful to the state.

Taking into consideration the above mentioned argument, the Commission does not think the involvement of law-enforcement and audit bodies in the revision of

the results of privatization to be essential (apart from the actions, which are considered to be criminal).

Tbilisi
September 2, 1996

Reaction:

The information and conclusion of the Commission have been sent to the President of Georgia, as well as to the Parliament Chairman and law-enforcement bodies. As a result, D.Eliashvili, Chairman of the "Sakgazi" Department and D.Iakobidze, Minister of Finance, are dismissed from their posts.

On the grounds of the information presented by the Commission two criminal cases have been brought into action at the Ministry of Internal Affairs.

The Ministry of Internal Affairs ceased the criminal case denouncing the Finance Minister D.Iakobidze and passed a resolution rejecting the commencement of suit against him.

The above mentioned criminal case has been investigated by the experts of the Commission and both resolutions concerning the cessation as well as the rejection of commencing of the suit have been considered to be unlawful and appealed against. The Public Prosecutor annulled both resolutions as unlawful and renewed the preliminary investigation of the case.

The investigation of the second case is still in progress.

On Licence Chamber of the City Council of Tbilisi

The main purpose of the Temporary Investigation Commission Fighting Corruption is to promote market economy and private business as much as possible and to protect them against unlawful actions of state organizations.

In may of 1996, under the instructions of the Chairman of Parliament the Commission studied the problems facing the trade and industrial enterprises of Tbilisi. The representatives of the Prosecutor's Office of Georgia, Ministry of Internal Affairs, Tax Inspection and Control Chamber also took part in it.

It turned out that the most of the heads of trade and industrial enterprises were displeased with the activities of the License Chamber, set up by the City Council of Tbilisi.

After the question had been studied, it was ascertained, that the Licence Chamber of the Tbilisi City Council (established on the grounds of Order N82 of May 24,1995 of the Tbilisi City Council and Decision N07.05.50 of September 20,1995 of the Board of City Council) registered and issued licences for the enterprise to this or that manufacturer, neglecting with that the organizational and legal form. The Chamber was also given the right to suspend or annul the issued licence, to stop or control the activity, while under the effective legislation only the courts are entitled to register an enterprise, and it is after that the latter has the right to begin the stipulated activity. the Tax Inspection is charged to take control of the activity in accordance with the law and it is illegal to give its functions to the Licence Chamber. The Licences for the enterprise must be issued by the appropriate Ministries in accordance with the sectors.

The Chamber of Licence and Enterprise issued in all 22,000 Licences. The structure, established in order to provide the budget with finance, could not fulfill even this function and the revenues obtained through its activity amounted only to 0,5% of the budget.

The above mentioned decision of the City Council also violated the law "On Manufacture" and Resolution N322 of August 23,1994, passed by the Head of State.

In view of the above, on June 4,1994, Georgia's Temporary Investigation Commission Fighting Corruption made a decision at the sitting.

Decision:

Extract from the minutes of the Commission sitting Minutes N2

The Commission concluded:

1. To raise a quarter before the City Council of Tbilisi in order to annul Order N82 of March 24, 1995 "On measures for Establishment of Unified Municipal System for Registration and Licensing of some kinds of Enterprises," as well as the Decision N07.05.50 of September 29, 1995 of the Board of the City Council "On Establishment of the License Chamber of the Tbilisi City Council" as contradicting the Constitution of Georgia and the law "On Manufacture."
2. Entrust the Committee of the Georgian Parliament for Economic Policy and Reforms with the analyzing of the present situation in the licence system of Georgia.

3. Entrust the City Municipality of Tbilisi with informing the Commission in two weeks period about the result of the discussion and the measures to be taken.
4. The above mentioned decision should be published in the press.

The City Council of Tbilisi issued Order N58 on June 20,1996. According to this order. "In view of the decision of the Temporary Investigation Commission Fighting Corruption, of the Parliament of Georgia, the activities of the Licence Chamber of the Tbilisi City Council shall be suspended.

Tbilisi
June 4, 1996.

Reaction:

The city council of TBilisi on 20 June, 1996 has suspended the structure of „Unified Municipal System for Registration and Licensing of some kinds of Enterprises”.

On Breaches Committed in Allocation, Usage and Repayment Of the Credit of Turkey

In 1992-1993 Georgia received the credit of and the 224 million dollars from the foreign countries Turkey, Russia, China, Austria, Armenia, Azerbaijan, Kazakhstan, Turkmenistan as well as European Union, the World Bank, International Monetary Fund and the Bank for Reconstruction and Development.

It is clear to everybody that Georgia, having gained independence in 1992--1996, waged war for territorial integrity and fought the civil war, was unable to exist without credits. But that is another matter how the country made the use of those funds for the revival of the Republic and welfare of the people living in Georgia. In one word the situation can be appraised as very bad. Many factors gave rise to this. On the one hand, it was caused by insufficient skills and experience of the people taking part in putting in use those credits, and on the other hand, the carelessness and irresponsibility of certain officials whose actions led the state to the loss of million dollars. It appears that those actions not seldom entailed the corruptive crimes which should attract the attention of the law-enforcement bodies.

The above noted results were conditioned by the fact that the state had not taken the control of the situation concerning the usage and repayment of the credits, to say nothing of the lack of legislative basis in this sphere of activity, by means of which we try to screen our incapability.

On September 8, 1992 the Council of the State of Georgia issued a decree, according to which "the Government of Georgia shall make decisions on debt increasing within the limits established by the supreme legislative power" (article 2). By operation of Article 26 of the same law "the Government of Georgia shall make decisions on distribution of the foreign credits within the limits established by the supreme legislative power".

None of these articles have ever been put into practice for the simple reason that Parliament of Georgia failed in discussing the question on obtaining, usage and canceling of the credits.

Neither had been carried into effects the engagements stipulated by the mentioned law concerning "the duties of the Ministry of finance to work out the common rules for controlling the foreign debts, taking stock of the obtained and apportioned state credits and conducting the talks with the foreign creditors on the conditions of taking and paying off the loan". It was only in 1996 that the Ministry of Finance started about regulation of the foreign debts.

Non-compliance with the requirements and non-observance of the laws are mentioned below among entailed deplorable consequences.

The credits of 50 million dollars allotted by Turkey can serve as an example for that failure.

Information

The agreement on allowance of the credit was made as far back as 1992.

On December 10, 1992 the Foreign Ministers of Turkey and Georgia, Mr. Hickmet Chetini and Alexander Chikvaidze met in Antalya, Turkey. The main subject of their talk was the strengthening and development of mutual trade and economic relations between Georgia and Turkey, that was presented in the agreement

signed by the parties. It is noted in the article 4 of the Agreement that the Eximbank of Turkey and the National Bank of Georgia should negotiate at the next meeting on allowance of 50 million dollars of trade credit to Georgia.

According to the same agreement "the Government of Georgia shall be the guarantee for observance of obligations concerning the obtained credits".

On February 12, 1993 the Vice-Premier of Georgia Roman Gotsiridze and the Finance Minister Kakha Popiashvili signed a guarantee letter ensuring the Turkish party that the Georgian Government shall be the guarantee for compensation of the credit.

On the same day the agreement between the Eximbanks of Georgia and Turkey was signed. The signatories of the Agreement on the Georgian side were the President of Eximbank of Georgia Mikhail Likhachov and Vice-President Valeri Vibliani.

The terms of the agreement on Turkish credit were severe and unilateral:

1. It was not a currency credit, but a technical, commercial one, accrediting the purchase of the goods produced in Turkey. In accordance with the Agreement, at least 50% of all goods should be of Turkish production.

2. The credit was to be short-term (3 years) and the paying off conditions were very unfavorable: 40% of the credit should be called in for the first and second years (totaling 80% for the first two years), and as for the third year, agreement envisaged compensation of 20%.

3. According to the Agreement, annual percentage tax was established as so-called "Libor"+1%; as to the non-payment of any sum (basic or percentage), a fine of so-called "Libor"+ 4% was imposed.

4. By the sum of the allocated credit the Georgian side was entitled to call in only 95% of the goods cost, as to the rest, they had to get 5% themselves and transfer into the account of the Turkish side. The above-mentioned caused additional difficulties, as at that time the country was unable to afford such a big sum of money.

5. The Georgian side had to pay off the rest 5% in every 6 months.

Having drawn up the contract basis, the Committee for Foreign Economic Relations made an analysis of real condition of the project that should be financed by the Turkish project and on October 13, 1993 the Conclusion was presented to the Cabinet of Ministers and David Iakobidze, the Finance Minister.

Under the Protocol No. 213g of October 29, 1993 signed by the chairman Otar Patsatsia, Cabinet of Ministers, the following organizations have been financed by the credit obtained from Turkey :

1. The Bread-stuff corporation
Used amount - \$ 11.784.625
2. The Ministry of Trade
Used amount - \$ 8.503.185
3. The "Coca-Cola Kavkasioni"
Used amount - \$ 4.944.998
4. The Shulaveri Wool Factory
Used amount - \$ 2.374.012
5. The Drinking Water "Geva"
Used amount - \$ 4.750.000
6. The Firm "Aragvi"
Used amount - \$ 1.693.103

7. The Ministry of the Post and Communication

Used amount - \$ 4.997.605

8. The Rustavi Cement Factory

Used amount - \$ 2.569.750

Of the total 50 million credit \$ 41.517.278 have been used. From June 1993 to May 1994 all above listed organizations drew the agreements on credit with the Eximbank of Georgia. Besides, the Bread-stuff Corporation, the Ministry of Trade and the Ministry of Post and Communication were given the guarantee letters signed by David Iakobidze, the Ministers of Finance, allotting 15 million dollars for the Bread-stuff Corporation, 10 million dollars for the Ministry of Trade and 6 million dollars for the Ministry of Post and Communication.

The guarantee letter for the Ministry of Trade was drawn on the grounds of the Resolution No. 777 of October 17, 1993 signed by Prime-Minister Otar Patsatsia, as regards the letters for the other two Ministries, they were drawn up by the Minister of Finance without any resolution.

The Ministry of Economics did not advise the Ministry of 8,5 million dollars for the reason that they had not carried out a marketing analysis and realization of certain kinds of goods at the stipulated cost seemed to be doubtful; Thus, there was not "absolute guarantee of repaying the credit"(the letter of the committee for Foreign Affairs to the Minister of Finance, October 13, 1993).

The mentioned consideration had been presented to the Minister of Finance D.Iakobidze and the Chairman of the Cabinet of Ministers O.Patsatsia in a written form, but they ignored it and allocated the credits to the Ministry of Trade.

What concerns to the private structures, the firm "Aragvi" enjoyed the guarantee of the foundation of democracy and restoration. As to the Shulaveri Wool Factory, the credit was given through the mediation of the former Minister of Industry V. Kereselidze. Besides, the credit agreements between 5 mentioned organizations and the Eximbank, the mortgage agreement was also made quite lawfully. According to the mortgage agreement, in case of failure in repaying the credit, the Eximbank will be entitled to take the possession of those organizations' fixed and movable property, the available amount and final products, as well as the goods purchased under the agreement.

It should be mentioned that mortgage agreement was a mere of formality as the cost value of the property of these organizations was much less than the credit allotted for them. For example, the cost of fixed and movable property of the Drinking Water Factory "Geva" amounted \$ 244,000.

Besides, the above listed eight organizations have been inspected in the first quarter of 1995 by the Chamber of Control. The inspection has been carried out on the grounds of the Resolution of December 24, 1994 adopted by the Prime Minister, entitling the Prosecutor's office of Georgia, the Ministry of Internal Affairs, the Tax Inspectorate and the Ministry of Finance to implement the investigation in order to clear up the situation in those organizations concerning the credits. The conclusion of the Chamber of Control is as follows: "With respect to the credit all statutory and legislative acts have been disregarded. Owing to this fact, the proper and timely repaying of credit becomes problematic". None of the mentioned Ministries have reacted upon the serious abrogations noted in the revision act of the Chamber of Control.

Owing to the above mentioned, that is how matters stand concerning the credit repayment:

I. Rustavi Cement Factory

As it has been noted above, the Rustavi Cement Factory obtained a credit of \$ 2.569.750 from Turkey. This amount has been used for purchasing the technological equipment (filters, a packing and transferring shop complex, etc.).

The factory has not paid a dollar so far. The leaders of this factory, as well as the Ministry of Finance, give the energetic crisis as a valid reason of it. But actually the factory has not been inspected by anybody and the real reason for non-repayment of the credit has not been established.

According to the Ministry of Finance, besides the credit debt the enterprise has a national (budget) debt, amounting 547.029 lari and some 236.876 lari of various organizations. As to the credit debt, it makes up \$ 3.073.525.

II. The Drinking Water Enterprise "Geva"

The credit allocated for this Enterprise, as mentioned above, amounted \$ 4.750.000. In 1994 part of this sum was used for arranging of the natural Drinking Water Enterprise near the Natakhtari village.

The Enterprise has not repaid a dollar and the credit debt makes up \$ 5.409.167 at a present moment.

According to the Ministry of Finance, the reasons of non-payment of the credit are as follows:

1. Notqualified equipment and machinery
2. Notqualified filters because of which the production was of poor quality.
3. Blocking of the railway communications, entailing the failure in meeting with a ready market of Russia.

Reliability of this information should be checked by the law-enforcement bodies. As to us, we would like to acquaint you with one episode: According to the information made by T.Chavchavadze, head of the Tax Inspection of Mtskheta on July 8, 1995 "The shops of the Drinking Water Enterprise "Geva" were sealed up by the executives of the Ministry of Internal Affairs" and T.Chavchavadze could not communicate with the executives of the Enterprise "Geva".

III. The Shulaveri Wool Factory

\$ 2.374.012 had been allocated from the Turkish credit or the Shulaveri wool factory. The sum should have been used for purchasing 1496 tons of wool. In fact, only 956 tons of wool of poor quality had been imported, as the rest 550 tons, the process of delivery had been stopped.

In order to compensate the loss the Factory brought in action against the Turkish side at the Commercial Law Court of Moscow and the letter was enforced by action to compensate \$ 2.374.012. The Turkish side did not make the amends as it is noted in the basis of contract of February 12, 1993 that any kind of dispute between the parties (Georgia and Turkey) shall be settled by the Court of London according the Laws of England.

According to the information of the Ministry of Finance the case has been brought before the court of Ankara and the results are not known yet.

In respect with the Shulaveri Wool Factory it should also be noted that on October 4, 1994 a criminal case was instituted and is still in progress at the Investigation Department of the General Prosecutor.

In his letter of November 1, 1996 concerning the wool imported from Turkey, the General Prosecutor gives the following information: "Certain executives of Shulaveri Wool Factory and the Eximbank of Georgia acted irresponsibly, as far as the Director of the Shulaveri Wool Factory was too late in laying a claim on delivery of low-grade wool," as to one of the employee of the "Sakeximbank", "he made an unwarranted request to the Eximbank of Turkey for extension of the term of credit, thus enabling the Turkish side to deliver the third and fourth batches of the worthless wool and write of above \$ 1.2 million to its advantage".

As to the General Prosecutor's letter of February 19, 1997, we got an information that the investigation of the case has not been finished yet for the lack of responses from the Ministries of Trade, Foreign Economic Relations and Foreign Affairs of Georgia as well as from the "Interpole" and the Embassy of the Republic of Turkey.

This factory, like two above mentioned ones has not repaid a dollar so far and its credit debt makes up \$ 3.057.263.

IV. The Firm "Aragvi"

The Firm "Aragvi" has used a credit of \$ 1.693.103. At first \$ 3,3 million had been allocated for purchasing of building materials and furniture to arrange a tourist's complex for 64 persons in Gudauri village. In April-June 1994 the goods purchased on credit were delivered from Turkey. The rest of the credit sum has not been obtained through the supplier.

Judging from the revision act of the Chamber of Control, the goods of the \$ 11.437 worth have been transferred by the Firm "Aragvi" to the account of executing the project of the "Sakgvirabmsheni", the goods of \$ 69.185 worth were given to the hotel for 8 persons in Gudauri village and the goods, purchased for the rest \$170.159 are kept at the warehouse of "Aragvi".

As the investigation showed the materials concerning the firm "Aragvi" had been sent to the Ministry of Security. According to the information given by this Ministry "The undated and waste acts are drawn up as a result of the inspections carried out in 1995-1996 by the Prosecutor's Office and Chamber of Control of Georgia, as well as by the executives of the export-import Bank of Georgia". There is a noteworthy detail in the letter: "According to the preliminary data given by the experts, the cost of the purchased goods is much higher than the real price".

The firm "Aragvi" has to call in a credit of \$ 1.861.170 before the end of November of the current year.

We have already mentioned the irresponsibility of the executives of Tax Inspectorate, they failed to communicate with the personnel of the firm "Gava" when inspecting the enterprise. The same can be said concerning the firm "Aragvi".

The letter of July 26, 1996 sent to Tax Inspectorate by Z. Kiratishvili, Chief of Inspection of the Vake district, says that "they have no information about the address and activities of the firm "Aragvi".

It is quite clear that "working" of such officials will not favour the repayment of the state credit.

V. "Coca-Cola Kavkasioni"

The enterprise has used \$ 4,844,998 of the credit. The sum was spent on purchasing the boxes, bottles and corks from the firms of Turkey.

According to the conclusion of the Ministry of Finance "Coca-Cola" is in a better financial position than other organization. The enterprise carries out its regular activities and the productivity is growing year after year, in 1996 the firm transferred 2,2 million Lari to the state budget, but as a matter of fact "this firm of good financial position" has repaid only \$ 376,972 of the credit debt and in spite of expiration of credit repayment firm (December 16, 1996), the credit of \$ 5,641,068 has not been repaid so far. As concluded by the Ministry of Finance, the achievements and plans for the future of the enterprise "Coca-Cola" "are based on re-investing of extra financial resources, obtained through non-repayment of the to face the fact that \$ 5,5 million should be repaid from state budget.

Of different opinion is the Procurator's Office of Georgia. It is noted in the letter of May 13, 1996 that "Particular attention should be directed at the organizations which obtained the credit, keep on producing and realization of the goods, have constant income and refuse to pay of the credit (such organizations as "Coca-Cola Kavkasioni", the Ministry of Post and Communication)

It is obvious that of 5 organizations, involved in debt of above \$ 20 million, three organizations have not repaid any dollar, as to the rest two enterprises, they have paid off some 400 000 dollars, and the state does not take any measures concerning the matter!

As it has been noted all private organizations have concluded the mortgage agreements with the Eximbank. According to the law it is necessary to realize the agreements, as regards the ministries and officials are under suspicion that they have got the percentages from those organizations or the credit have been allocated under the patronage.

If the conclusion is wrong, we have to clear up the question of the law.

VI. The Ministry of Communication

Out of 5 260 000 dollars, allocated for the Ministry of Communication, 4997 600 dollars have been used. The Ministry of Communication and Post has paid off 567 599 dollars and the debt of this structure 5050 957 dollars. According to the Ministry official the fact that part of telephone subscribers is unable to pay for the service in proper time. As to us, we find an assertion groundless.

Correctness of our opinion is proved by the Conclusion of Eximbank of Georgia dated 1995, pointing out that "the Ministry is solvent and can pay off the total debt, including the percentage one."

VII. The Bread-stiff Corporation

Out of the credit amounting 12 937 000 the Corporation has used 11784625 dollars. The sum has been spent for purchasing of 76 400-ton wheat and 15 600-ton flour, Bread was realized at firm prices and the Corporation has repaid 233 348 dollars 80 tar. As to the debt, it makes up 14625034 dollars, which should be paid off by the state budget.

VIII. The Ministry of Trade and Material Resources

Out of 8 900 000 dollars credit 8 503 185 dollars have been used by the Ministry.

The Ministry of trade and Material Resources has concluded 4 agreements with the Turkish firms;

1. 1281250 dollars have been spent on purchasing of the accumulators and pullovers from the firm "Sarpi".

2. 4525 739 dollars have been spent on purchasing of the curtains, table clothes, margarine, glazed tiles, stone tiles, refrigerators, and tire-covers from the "Junicom".

3. 1 171 250 dollars have been used on delivery of the sanitary engineering and the articles of general consumption from the firm "Sovturi".

4. 1972617 dollars have been paid for delivery of the leather wares, shoes, cosmetics, from the firm "Saidam".

The goods have been selected and the agreements are signed by Giorgi Gorgodze, Ex-Chief of Foreign Relations Administration under the Ministry of Trade and Temur Khursidze, former Deputy Minister of Trade.

According to the Resolution N9 of January. 1994 passed by the Ministry of Trade the Refrigerating Plant Enterprise N4 was instructed to receive and provide transportation of the goods purchased under the credit of Turkey. But the goods have been redeemed from the Seaport and Custom -house of Pot: by the administrators of the Trade Houses "Sameurneo Sakoneli", "Sakpeksatsmelvachroba" and "Sportkultsakoneli".

The Trade House 'Sameurneo-Sakoneli'

(Household Goods, Director G.Erghemlidze) obtained the goods to a total value of 4271500 dollars of which the goods to value of 105 000 dollars had been realized to the end of 1994. 40 600 dollars of the sum have been transferred to the Eximbank and 64 600 dollars have been used to big cover the expenses of transportation the goods from Hie Republic of Turkey. In our opinion the sum is to big and the case should be checked by the investigation agencies.

Trade House "Sakpeksatsmel vachroba"(Footwear shops of Georgia, Administrator Sh.Kirvalidze) have received the goods at a value of 304 400 dollars. Till the end of 1994 the goods of 20800 dollars. Value had been realized 19600 dollars of the amount have been transferred to the Eximbank and 1200 dollars have been spent to the expenses.

It should be noted that various articles (shoes, handbags, etc) of 398 600 dollars value have not been included in the income. As stated by the officials of the Control Chamber checking the case, the retail prices for realization of the goods had not been established besides that the agreements on storage of the goods were missing as well.

According to the Resolution passed by the Ministry of trade Mr. Tamaz Daushvili, Director of the 'Sportkultsakoneli' sports goods at that time, was charged with receiving and transporting part of the goods purchased on credit including taking-out of the goods, such as garments from the Port of Poti. The goods at a value of 3194 400 dollars have been brought in to the bases of the "Sportkultsakoneli".

It is noted in the revision act of the Control Chamber that by the end of 1994 available funds of the 'Sportkultsakoneli' amounted to 59 200 dollars after realization of the goods. 44 700 dollars have been transferred to the Eximbank and 14 500 dollars have been allocated in T.Daushvili's own name to cover the expenses of

transportation of the goods. As a matter of fact, the mentioned expenses have not been registered officially, to say nothing of the unilateral acts signed by the individuals engaged for delivery of the goods. Is registered besides that, the loss of 79794 dollars caused by burning of the goods van (\$17760) and breakage (\$62034) when transporting the goods on the territory of Georgia.

To our regret, the list of losses and damages can be continued:

- The warehouse of "Sportkultsakoneli" received a batch of fire -covers, missing 76 pieces.
- The loss, caused by transporting the lot of margarine from Turkey to Georgia, amounted to 31219 dollars (though, the loss has been compensated by the port of Poti and Railway Department)
- The goods of 4245 dollars worth have been robbed from the Telavi Trade House.
- The goods at a value of 8909 dollars have been taken away from the commercial firm "Khashuri".
- The goods of 7444 dollars value was missing in the store N 64 of the Trade House "Sameurneo Sakoneli " (the census material of the Tax Inspection was sent to the Police but the case has not been investigated because of the lack of sufficient argumentation's)

Dutch tiles at a value of \$2620 have been witten off by the state entevisse "NIK-91"

We have already showed a loss of margarine fast we have not fold all. 1448 tons of margarine in all, at a value of \$1213 760 has been delivered from Turkey. The product has been sold at a symbolic ration price, 1 kilogram priced 24000 coupons, and i.e. about 6 cents.

It was done on the grounds of the Resolution of February 17, 1994 signed by Mr.Zankaliani, former Minister of Trade, who, according to his words, was influenced by humane considerations. But the facts belie his words. To begin with, the ration of margarine, 200 grams per capita, could not by any relief for the population. Secondly, realization of the margarine in that way brought in small profit, amounting to 84200 dollars instead of 121300 dollars the sum has been used for spent to cover the expenses of transportation of the goods, hat service, etc. Not a single dollar has been transferred to the bank. 1131135 dollars, wasted because of the difference of prices, have been set down to the prices of other goods, resulting in increasing the cost of the latter's. Just this is one of the reasons of finding no market for those goods.

Besides that, the difference of the post-realization and realization prices reduced the taxable profit. Concerning this the Control Chamber paints outing the revision act according to the in force (Instruction N1 passed on January 31 1994 by the Tax Inspection, article 8) the ministry of Trade is charged with paying 3045 920 dollars for state budget.

More distressing is the case concerning the firm 'Zarua'

On May 29 1995 the Tbilisi cold store No. 4 and the Russia firm 'Zarua' concluded an agreement signed by the Former Minister of trade T.Zankaliani on the part of Georgia. Under the agreement the goods at a value of 1,2 million dollars imported from Turkey have been delivered to the "Zarya".

"Zarya" was obliged to pay off 25 percent of the value in tree days after receiving the goods, as to the rest 70%; it should've been paid during the two month. To our regret, even two years later "Zarya" has not rapid a dollar.

The guarantee of the firm "Zarya" is Swiss firm "Albatross holding LTD", presided by someone named Arvelod Jgerenaya. A.Jgerenaya strangely enough, has

not been asked to draw up a guarantee letter, though he is named in the Agreement and figures as a signature; As regards the Agreement and, it is drawn up so badly that gives no information on.

The mentioned firms, such as addresses, registration agencies, dates and number of registration, appropriate bank certificate confirming the solvency and trustiness of those firms.

As it has been cleared up the commission, on June 23, 1995 A.Jgerenaya founded a joint Georgian – Turkish bank «Avirgobank» on the base of the «Eurobond» (after reorganization of the latter). On July 31, 1995 was issued a License on execution of banking operations. Arvelod Jgerenaya has been appointed the Chairman of the Supervision Council. But T.Zankaliani has two letters of Aa.Jgerenaia. One of them, dated July 2, 1996 and addressed to D. Iakobidze and T. Zaldatishvili deals with the promise of A. Jgerenaia that his firm shall repay the credits by installment until the and of September 1996. As to the second one, dated December 24, 1996 and addressed to M.Zankaliani, seems to be rather hopeless, In that letter A.Jgerenaia expresses his can contact him in Switzerland.

Neither old new Ministries of Trade (Mr. M. Zankaliani and Mr. T. Zaldastanishvili) not Ministry of finance (Mr. D. Iakobidze) and the Prosecutor's office of Georgia (Mr. J. Babilashvili) have taken any effective measure so far in order to ascertain the whereabouts of the above mentioned firms (Zarua), «Albatros Holding» and «Avirgobank») and sequester the properties of the latter companies.

Though, it should be mentioned that the Ministry of Trade and Foreign Economic Relations of Georgia really sent a latter dated October 30, 1996 to the General as well as the firm it say and take every measures envisaged by the fur.

Our Commission too has taken an interest in this case and applied to the general procurator for some information. The latter, in his turn, notified us on November 1, 1996 that the materials about the «Zarya» had been forwarded to the Ministry Internal affairs.

The Ministry of internal Affairs has not acknowledged the receipt of the materials. In response of as second letter the officials of the mentioned Ministry at last recollected at last and on March 6, 1997 informed us that the materials on the firm «Zarva» had been forwarded to the materials been forwarded to the Ministry of Internal affairs.

The Minister of Internal of the materials. In response of as second latter the officials of the mentioned Ministry at last and an March 6,1997 informed us that the materials on the firm «Zaria» had been forwarded to the materials on the Ministry of State Security according to the information of the latter the ministry of state security received the current years.

What has happened with the goods imported from Turkey?

The realization cost of the goods imported from Turkey to a total value of 7 750 856 dollars amounts to 10 million dollars calculating on the expenses of circulation of the goods and compensation of margarine price.

According to the notification of the Ministry of Trade so far, it dosing the fast tree years have been realized the goods to a total value of 2 349 752 dollars, as to the credit repayment, the Ministry of finance informs that only 1 029 103 dollars have been transferred to the account. The goods to a total value of 6 million dollars have not been sold yet and are stored in the warehouses.

Present-day officials of the Ministry of Trade suppose that the goods from Turkey have found no market because of heavy prices and poor quality, as the former

officials of the same Ministry, they think that it happened owing to bad organization of the goods realization.

The Ministry of Finance accuses the old administrative officials of the Ministry of Trade for the most part of neglecting the following circumstances when determining the nomenclature of the goods intended to be bought:

- 1). The buying power of the underpaid population of Georgia at that time.
- 2). Heavy price of certain goods under credits
- 3). Not taking into account the possibility of delivery of the analogous to the goods imported from Turkey.

The argument of the Ministry of finance seems to be more convincing. In 1994-1995 the population of Georgia was starving in the true sense of the word and it is difficult imagine that they could afford buying of such goods as refrigerators, leather or suede jackets etc. We also call the heavy wholesale price of those goods in question.

As it has been noted, the Ministry of Trade is out of means to repay the sum to be paid off it amounts to 9, 5 million dollars.

Apparently the state has to repay this and the sum which has to been reimbursed on the part of the Ministry of Trade, should be written off as a loss.

To make the picture complete we have to speak of the measures concerning the credit repayment taken by credit repayment.

Such measures were taken in deep, but on the paper only and it is quite clear that they were of no use. That is why the case of Turkish credits has not had any progress.

As far back as 1994 (March 14) copies of the labels signed by vice premier O.Patsatsia were forward to every creditors to provide clearing off the liabilities in time.

On December 16, 1994 Chairman of the Cabinet of Ministry Mr.Otar Patsatsia held a consultation on the problems concerning the credits of Turkey. The General Procurator reported on the abuses of credits. The meeting participants formed a government commission presided by President of «Sakeximbank» Mr.Z.Sioridze. The officers Chamber and Ministry of Finance became the members of the commission.

On December 21, 1994 the Cabinet of Ministry formed a special commission consisting of the representation of National Bank, Committal for foreign relations, State Tax Inspiration, Ministry of Internal affairs, Control chamber and Ministry of finance.

The Cabinet of Ministers held another consultation on the question of Turkish credit on March 21, 1995. One more commission was formed at the session under the leadership of Mr.I.Bachiashvili, Chairman of the committee of foreign Economic the cabinet of Ministry once a month on the situation concerning the credits repayment.

According to the information presented on August 11, 1995 by the prosecutor's Office, they applied the Chairman of the cabinet of Ministry to oblige the agencies under his administration to provide the prosecutor office with information. The same request to the Committee of foreign Economy Republic. In response they received a little notifying that «owing to tack of the revision-controlling service the Committee is neither obliged nor able to carry out that kind of work.»

The Style and methods of working of the Cabinet of commission each time, though without any success and profit of the case is clear. Did not react upon the

revision act drawn up by the Control Chamber in 1995 and dealing with quite a number of abuses.

Since 1996 the Cabinet of Ministers has been abolished. Hence the measures concerning repayment of the Ministry Turkey should have been taken by the Ministry of Finance, Ministry of trade and Economy reactions but the Ministry of finance and Trade refuse to take responsibility for the above mentioned.

The Ministry of Trade supposes the Ministry of Finance to be responsible as far as the "EximBank" has notifying that the latter bears the responsibility for clearing off the debts and other expenses in case the Ministry fails to repay the outstanding debt percentage, as well as other expenses.

The Ministry of Finance argues against it on the grounds of the Resolution No. 777 passed on October 17, 1993 by the Prime Minister and the financial responsibility of a resolution for the credit repayment lies upon the Ministry of Trade and Material Resources. So, the latter bears material as well as moral responsibility.

In order to attack the problem in 1996 the Ministry of Finance continuously charged the Tax Inspection with providing reimbursement of the sums. As to fulfillment of the task we can judge by deeds of the high executives, holding the films «Gheva» and «Aragvi» up as an example. As regards the Ministry of Trade and foreign Economic Relations for years it has formed three different commissions concerning the problem of Turkish credit, those commissions carried out their activities under the leadership of Deputy Ministers. Other measures have also been taken. The Ministry raised a question before the Ministry of Finance to mark down the goods, but the effort proved to be vain.

On May 17, 1996 the Ministry sent a letter of concrete suggestions to the State Minister Mr.N.Lekishvili. He, in his turn, forwarded the letter to the Ministries of Justice, Finance and economies to take the measures: But none of the above mentioned has done anything.

Their inertness was caused probably by «the circumstance depriving the Ministry of Justice of the possibility to give independent consideration to the subject under discussion», as commented the Minister of justice Mr.T.Ninidze on February 27, 1997. Other Ministries seemed to be of the same opinion.

Since August 15 to September 10, 1996 an inventory of the retail trading network and joint stock companies had been made, but it did not settle the question

On October 30, 1996 a letter concerning the problem of the firm «Zarya» was forwarded to the General Procurator. We have already discussed the measures taken by the prosecutor's office in order to work out the problem.

On November 9, 1996 the Ministry of Trade Presented the «Results of Inventory and Information on Current circumstances» (as defined by the Ministry) to the Chief of Economic Service Mr.P.Bakradze, though the latter in his last letter dated March 5, 1997 notified that materials concerning the credit of Turkey had been presented to the Economic Service of state Administration by the Ministry of Trade and Economic Relations not on his own initiative but on the request of the mentioned Service.

On March 15, 1997 the Consultation and Economic Council under President of Georgia consulted the situation concerning the repayment of the credit obtain from Turkey.

President charged the General Procurator with bringing a criminal action and infringes and holds a preliminary inquiry of the case.

Thus, 2 262 266 dollars out of the credit obtained from Turkey amounting to 41 517 278, have been repaid. As to the debt. It makes up 48 154 964 dollars and the

sum is more than the given credit as it counts the percentage of 2857 069 dollars and a fine of 4 459 611 dollars.

Under the Resolution of September 1, 1994 issued by Head of the State the sum is considered to be State debt and should be repaid by the State debt budget.

Conclusion of Commission

1. According to the Agreement concluded by the foreign Ministers of Georgia and Turkey on allocation of the commodity credit amounting to 50 million dollars by Turkey for Georgia the further negotiations should have been on at the level of the Turkish Eximbank and the National Bank of Georgia, but it did not take place. By declining the National Bank to take part in the talks the Cabinet of Ministers at that time promoted the receiving of credits under the terms unfavorable for Georgia.

2. Under the Decree issued on September 8, 1992 the Ministry of Finance in the way of duty had to «carry on negotiations with the foreign creditors on the terms of receiving and paying off the loan». The action of the former Minister of Finance K. Popiashvili, Vice Premier and curator of the Ministry of Finance R. Gotsiridze is supposed to be contradicting the interests of the State. Having worked out the unacceptable for Georgia terms of receiving and repaying the loan, on February 12, 1993 he presented a guarantee letter in Ankara notifying the Turkish side that repayment of the credit shall be guaranteed by government of Georgia. The same day, on the instruction of the above mentioned officials, the President of the Eximbank Mr. M. Likhachov and Vice President Mr. V. Vibliani signed the credit agreement concluded between the Eximbank of Turkey and Eximbank of Georgia.

The Agreement was shackling because of the short term of settling the debt (3 years), heavy percentage and fine sanctions («hibor+1», «hibor+4»), imposing the Georgian side to cover the expenses of transportation and insurance (5% of the total sum), progressive order of repaying the credits (40-40% for the first two years, 20% for the third year) and frequency of paying off the credits (once every 6 months). The responsibility for execution of the above-mentioned lies upon the Cabinet of Ministers at that time.

3. In accordance with Article 26 of the Decree dated September 8, 1992 passed by the State Council «government shall take decisions on the usage of foreign credits». But this was practically neglected in the case of receiving and using of the Turkish credit. There is no resolution of the Cabinet of Ministers concerning the matter, with the exception of the Protocol N21/39 of the Staff of the Cabinet of Ministers, signed by Chairman of the Cabinet of Ministers Mr. O. Patsatsia, though it is illegal and creates favorable conditions for giving part of the credit to the organizations incapable to pay off the loan.

4. When allocating the credits a demand of producing the conclusions on the part of different governmental structures was a formality and those conclusions have not been taken into consideration. According to the Conclusion of the Committee credit to the Ministry of Trade was inadmissible for the doubt about the realization of goods at the stipulated price and proceeding from the assumption it was impossible to pay off the credit.

Moreover, neglecting the argumentation of the Conclusion N777 dated October 17, 1993 Prime Minister Mr. O. Patsatsia instructed the minister of Finance Mr. Iakobidze with sending a guarantee letter to the Eximbank on allocation of credit to the Ministry of Trade. Instead of suspending the action of the letter, the Minister of

Finance on his turn issues the guarantee letters on allowance of credits to the Ministry of Communication and the Food-stuff Corporation.

5. It was absolutely unwarranted on the part of the Committee for Foreign Economic Relations to draw a positive decision on the credits of Shulaveri Wool Factory, "Coca-Cola Kavkasioni", Drinking Water Factory "Gheva", firm "Aragvi" and Rustavi Cement Factory".

None of these enterprises, taking into account their basic means and turnover of all capital, could ensure the balance of the amount of credits on A.Geleshvili, chairman of the Committee at that time. (It should be also noted that mortgage agreements had not been registered officially by the moment of issuing of Conclusion).

6. The Ministry of Finance (Minister D.Iakobidze) neglected the requirements of the Decree «to decline the debt management and calculate the obtained and allocated State credits», favoring with that ineffective usage of the given credits concealing the facts of infringement. It was only in 1996 when the Ministry of Finance set about registration and calculation of the foreign debts, though no measure, envisaged by the law has been taken to pay off the loan.

7. Since presenting a credits application the Ministry of Trade and material Resources (Minister M.Zamkaliani) has been ignoring the existing situation of the country when making this or that decision. Carrying out the activities coordinated with the officials and structures agencies of the administration the Ministry tenured creation of real conditions leading the county to the damage of million dollars, which should be repaid to Turkey by the state.

The Ministry of Trade and Foreign Economic Relations (Minister K. Zaldastanishvili) makes no practical efforts for realization of the imported goods; Nothing is done in order to investigate the receiver of the guides a Russian firm and to take up the sums increasing the amount that should be repaid from the State budget.

8. The Ministry of the Post and Communication obtained a credit of 5 million dollars. Half a million dollars have been paid off so far. As to the credit amounting to 5 million dollars, it is still unpaid. The responsibility for this rests upon:

- D. Iakobidze, former Minister of Finance. He on his initiative undertook the responsibility of a guarantee for repaying the credits.

- P.Indjia, Minister of the Post and Communication. According to Revision Statement of the Tax Inspection Mr. P.Indjia is solvent enough to cover the loan but is shirking the repayment of the credit and with that increases the loss of the State budget.

9. Special attention should be paid to unsatisfactory functioning of the Prosecutor's office of Georgia, which:

- Failed to take the measures neither in accordance with supervisory procedure (i.e. one of the basic functions of the Prosecutor's Office right up to November 25,1995) nor after receiving the Revision Statement of the Control Chamber;

- Being member of almost all the Commissions formed on the credits of Turkey, failed to influence the commissions and did not take the measures to eliminate the negative processes concerning the repayment of the credits of Turkey;

- Delayed the investigation of the criminal case closely associated with the credit of Turkey (Shulaveri Wool Factory).

10. The Commission considers it to be expedient:

- To take notice of the fact that on March 15, 1997 at the session of the Economical and Consultation Council under President of Georgia the General Procurator of Georgia was instructed with drawing up a conclusion on breaches and

abuses on taking into consideration the responsibilities of the criminals and presenting it to the Security Council.

- To forward the Information and conclusion to the State Administration office, the Ministries of Finance, trade and foreign Economical Relations, Communication, Economy and to the General Procurator of Georgia.

Tbilisi
April 28, 1907

Reaction:

On the grounds of Trade and of the presented materials actions of the two criminal cases have been commenced at the Ministry of State Security. The investigation is not finished.

Ex-Minister of Trade and Material Resources M.Zankaliani and as well as other high officials are made answerable for the criminal cases mentioned above.

On the Breaches Committed at the Joint – Stock Company «Elvamalmshenebeli»

On June 15, 1996 the Commission was handed in an application (Col. – 227260) of the shareholders of the Joint – Stock Company «Elvamalmshenebeli» dealing with the complicated situation taking place at the enterprise «Elvamalmshenebeli», caused by certain subjective and objective reasons.

The applicants made a request for investigation of the mentioned problem.

A copy of the named application (N70/62; 12.07.96) has been also forwarded to the Commission from the secretariat of the Chairman of Parliament.

With a view to make careful study of the question the commission coordinated the work with the control chamber of Georgia. The Prosecutor's offers of the Republic periodically provided the Commission with information (a criminal action N169611 has been commenced by the Procurator's offers of Railway Transport of Georgia against the former administrators of the joint – Stock Company «Elvamalmshenebeli»).

Information is obtained from the Department of Industry under Ministry of Economy of Georgia and the Railway Department under Ministry of Transport of Georgia. The working group members held meetings with the high officials of the mentioned public administration.

On the grounds of the obtained information the following has been established:

Information

Proceed from the information provided by the Information and Intelligence Service of Georgia, as well as the City Municipality of Tbilisi, the Control chamber checked up a certain part of Finance and Economic activities of the enterprise «Elvamalmshenebeli» for the period since January 1, 1991 to December 1, 1993. The results of the revision was discussed at the Council meeting of the Control chamber of Tbilisi, held on February 11, 1994.

For gross violations and irresponsible behavior of the board of manager the leaders of the enterprise have been removed of their posts.

A new Directorate of the Joint Stock Company «Elvamalmshenebeli» (Director General Z.Chivadze) was given the time to introduce proper order in the counting of the enterprise. The Control Chamber of Tbilisi executed a documentation revision of financial and economic activity of the enterprise for the period of functioning under the former and new board of management.

The results of revision, eliciting facts of serious violations were discussed at the presidium session of the Control Chamber of Tbilisi and on August 9, 1995 was adopted a Resolution N6/1 «on the results of the documentary revision of financial and economic activity of the enterprise «Elvamalmshenebeli» under Ministry of Industry».

Financial and economic activity of the enterprise was considered to be unsatisfactory. According to Item 4 of the Named Resolution Director General Z.Chivadze and chief bookkeeper V.Metreveli deserved to be removed of their posts.

On August 25, 1995 the materials were presented to the Ministry of Industry. The latter should have studied the case and informed the control Chamber about the measures undertaken by the Ministry until November 1, 1995. But as it turned out the Ministry of Industry did not react in any way.

According to the President's Decree N30 issued on January 3, 1996 the Joint-Stock Company «Elvamalmshenebeli» had been passed to the Railway department, but the officials of the named organization appeared to be unstable concerning the question and did not react correspondingly upon the Resolution of the Control Chamber.

Conclusion of the Commission

Having discussed the information on gross violations taking place at the Joint-Stock Company «Elvamalmshenebeli» the Commission concludes.

1). The Ministry of Industry did not take any measures to implement the Resolution N 6/1 adapted by the control Chamber of Tbilisi. According to oral motivation of their inaction the Ministry officials had been looking forward the repeated Discussion of the case at the presidium sitting of the Control Chamber of Tbilisi. It is absolutely unjustified.

2) The Railway Department, having put off the implementation of the Resolution twice, first for half a year, then for a year, did not discuss the materials of the Control Chamber at all.

3). Proceed by the above said, the principal items of the Resolution N6/1 of August 9, 1995 passed by the control Chamber of Tbilisi have not been implemented so far.

The Commission concludes:

1). Raise a question before the Railway Department of Georgia to discuss the case immediately and ensure the fulfillment of the Resolution N6/1 dated the August 9, 1995 of the Control Chamber of Tbilisi as well as determine the expediency of leaving the directorate members of the Joint-Stock Company «Elvamalmshenebeli» on their posts and immediately inform the Commission about the undertaken measures.

2). Information and Conclusion of the commission on the above mentioned case shall be sent to the procurator's Office of Georgia.

3). Proceed from the specificity and significance of the question, the Information and Conclusion of the Commission shall be presented to the president of Georgia.

Information and Conclusion concerning the mentioned case shall be forwarded to the appropriate organization for undertaking of overspending measures.

Tbilisi
March 20, 1997

Reaction:

Director General of the «Elvamalmshenebeli» Z.Chivadze has been removed of his post. With a view to prevent the further violations a number of structural reforms have been carried out the enterprise.



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