



# **Collapsed State Institutions and the Danger of Halting the Anaklia Sea Port Construction**

**March 2019**

**Georgia's Reforms Associates (GRASS)**

**Authors:** Paata Gaprindashvili  
Davit Kutidze  
Teona Absandze

The [statement](#) released by the Prosecutor's Office of Georgia on 9 January 2019, in regard to the investigation about one of TBC Bank's transactions (the investigation was launched on 2 August 2018), made the public aware of a process which is of a much bigger scale than only a "legal dispute." In accordance with the information of the Prosecutor's Office, the investigation is about an alleged money laundering case which took place more than ten years ago.<sup>1</sup> Mamuka Khazaradze and Badri Japaridze, founders of TBC Bank, are the main figures of the aforementioned investigation.

TBC Bank and its founders [deny](#) the allegations. As clarified by TBC Bank, the aforementioned transaction was verified multiple times by relevant agencies under the previous and the incumbent authorities. At the same time, in connection with the placement of TBC Bank's shares on the London Stock Exchange, the transactions were scrutinised in 2014 and 2016 and received positive evaluations, including by the English regulator. **Founder of TBC Bank, Mamuka Khazaradze, speaks openly about the political motivations behind this case. Mr Khazaradze states that he is a target of an orchestrated campaign and is currently being attacked by the state apparatus.**

In accordance with the [decision](#) adopted on 13 February 2019 (the decision was a result of a study of the controversial transaction), the National Bank of Georgia demanded the withdrawal of Mamuka Khazaradze and Badri Japaridze from TBC Bank's Supervisory Board and imposed a GEL 1 million fine on the Bank. The public was also informed that the Financial Monitoring Service also addressed the National Bank of Georgia about the aforementioned transaction.

**In accordance with the information of the National Bank of Georgia released for FactCheck, the request from the Financial Monitoring Service to study a transaction more than five years old is the only such request ever and is something which has never been done before.** As clarified by the statements of the regulatory body, it was allowed because of the risks of a conflict of interests at TBC Bank as well as because of the facts of violating the legislation governing conflicts of interests. Of importance is that the National Bank speaks about the conflict of interests alone. However, the Prosecutor's Office started an investigation on a much more grievous crime; that is, money laundering. **It is logical to assume that if the National Bank had seen the signs of money laundering in a particular transaction, it should have had an appropriate reaction and not have limited itself to react only to the issue of a conflict of interests.** However, nothing of this kind has happened. Naturally, questions are raised in regard to the facts based upon which the Prosecutor's Office "detected" the signs of money laundering in the aforementioned case. As stated by Mamuka Khazaradze, it is also unclear for him why

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<sup>1</sup> The Prosecutor's Office believes that Samgori Trade LTD and Samgori M LTD received a USD 17 million loan from TBC Bank in April 2007 with the loan having been issued without any collateral and through an accelerated procedure. As soon as the loan money was credited to the companies' accounts, the Founder of TBC Bank and the Head of the Supervisory Board, Mamuka Khazaradze, as well as the Deputy Head of the Supervisory Board, Badri Japaridze, (as individuals) borrowed the same amount of money from the aforementioned companies which TBC Bank had lent them for the purpose of financing working capital. At the end of 2008, TBC Bank wrote off these loans earlier than the date prescribed by banking regulations without due justification and moved them to the external balance account. In 2012, TBC Bank completely released the Samgori Trade and Samgori M companies from the financial liabilities which they owed the bank when the latter agreed to move these liabilities to an offshore company.

one governmental body accuses him only of a conflict of interest whilst the other presses charges for money laundering.

After the decision of the National Bank of Georgia, TBC Bank stated that it would take legal action to protect its own rights and that it would appeal the unfair decision. However, in a few days, Mamuka Khazaradze and Badri Japaridze resigned from their positions on the Supervisory Board of TBC Bank. In addition, TBC Bank stated that it is terminating the legal dispute and will pay the imposed GEL 1 million fine. Therefore, the National Bank of Georgia's dispute with TBC Bank ended with that although the Prosecutor's Office continues its investigation on the same fact. As stated by Mr Khazaradze, his decision to resign was motivated to safeguard TBC Bank's interests and prevent the emergence of any threats against the Bank's financial stability as GEL 200 million in damage was inflicted to the Bank's shareholders because of the publicity of the Prosecutor's Office investigation and the negative buzz surrounding this case. Mr Khazaradze also stated that he had been "kicked out" of the bank and had no choice but to leave. He states: "The case of TBC Bank is now over but the problem with us – the founders of the bank – is still ongoing. This case cannot end like this. I have declared many times that I would use all local and international legal instruments at my disposal."

With the exception of the ruling elite (members of the government and the Parliamentary Majority deny the political context of this case), almost all political parties to be reckoned with, analysts or NGOs see clear political motives in the case launched against TBC Bank. **There are suspicions that this process is aimed directly against Mamuka Khazaradze's person and is orchestrated by the chair of the ruling party, Bidzina Ivanishvili.**

Georgia's Western partners also underline the importance of TBC Bank's case. As stated by the Ambassador of France to Georgia, Pascal Meunier: "In the last months, negative signals come from Georgia in regard to justice... Developments around TBC Bank are strange... It is possible that something illegal could have happened more than ten years ago but it is unclear for us why that topic had become of interest now, after so much time and not before." The United States Chamber of Commerce also calls upon the Prosecutor's Office to have a transparent and fair investigation and states that otherwise this dispute will inflict irreversible damage to the economy and the reputation of Georgia as well as to potential foreign direct investments. As stated by the Deputy US Ambassador to Georgia, Elizabeth Rudd, Georgia's investment climate depends upon the proceedings and the results of the investigation. The UN Resident Coordinator, Luisa Vinton, is of same opinion and states that TBC Bank's case will be a test for the Georgian judiciary and the business environment.

Suspicions about the political motivations behind this case are further abetted by the combination of events which became public in the last months after launching the investigation against TBC Bank. First and foremost, it is suspicious to launch an investigation about a transaction which took place ten years ago. Furthermore, there is no plaintiff in the case, we know nothing about the victim and the state budget was not inflicted with damage as a result of the transaction. It is currently known that the Prosecutor's Office launched the investigation on 2 August 2018 based upon information submitted by the LEPL Financial Monitoring Service. However, it is still ambiguous as to why the Financial Monitoring Service itself took interest in a case which is more than ten years old. It seems that finding the old transaction was a deliberate act.

The launching of the investigation on the case of the aforementioned transaction almost coincides with the resignation of the former Prime Minister of Georgia, Giorgi Kvirkashvili (13 June 2018). The Rustavi 2 TV channel reported about the close ties between Mr Kvirkashvili and Mamuka Khazaradze. As reported by Rustavi 2 (unconfirmed information), in a conversation with Giorgi Kvirkashvili (which was secretly recorded and Bidzina Ivanishvili listened to it later), Mamuka Khazaradze referred to Mr Ivanishvili as an oligarch and stated that the country should be governed by business instead of oligarchs. In addition, based on Rustavi 2's confidential source from the Georgian Dream, Mr Khazaradze used all of his available means to help Mr Kvirkashvili become independent of Bidzina Ivanishvili as a player. In accordance with the same source, the Anaklia project further inflamed Mr Ivanishvili's suspicion of a secret conspiracy because during his time in office as the Prime Minister of Georgia, Giorgi Kvirkashvili allotted Anaklia as the country's main project to Mamuka Khazaradze.<sup>2</sup>

As mentioned previously, these reports are based on one confidential source alone and it is hard to assert how reliable he is. Mamuka Khazaradze himself denies the aforementioned ties and says that he has never taken interest in politics. **However, as stated by the founder of TBC Bank, if Bidzina Ivanishvili has a certain personal interest in him, it could be because Mr Ivanishvili considers Mamuka Khazaradze, who is one of the major stakeholders of the Anaklia project and generally an influential figure, as a potential rival. In this context, Mr Ivanishvili's statements that TBC Bank "has devoured the whole country" and impoverished people whilst Mamuka Khazaradze himself demonstrated "ungratefulness" to Bidzina Ivanishvili are of importance to consider.**

The political opposition believes that the actions of the National Bank of Georgia are another example of proof that there are political motivations behind the TBC Bank case. In particular, the opposition asserts that the National Bank's decision on 13 February 2019, demanding Mamuka Khazaradze and Badri Japaridze's withdrawal from the Supervisory Board, was unnecessarily harsh. The NGO sector also called the National Bank's aforementioned decision as hasty and declared that these types of actions engender many suspicions and threaten Georgia's financial stability. In turn, Mamuka Khazaradze states that the **National Bank cannot make independent decisions and is under the subordination of politicians which was hinted to him by the President of the National Bank, Koba Gvenetadze, himself.** Of note is that the President of the National Bank was summoned to the Parliament of Georgia (at the request of the Parliamentary Minority) in regard to questions raised about the National Bank. However, at the behest of the Parliamentary Majority, the aforementioned session ended without deliberations.

A threatening letter (which starts with these words: "We have confirmed information that you are fighting against us and the fight does not concern only business"), that was disclosed on 6 March 2019, raises further questions and brings much concern vis-à-vis the events unfolding around TBC Bank and Mamuka Khazaradze. As stated by Mr Khazaradze, the Minister of Internal Affairs, Giorgi Gakharia, was in his office and handed a letter to an intermediary (Mr Khazaradze refuses to reveal the identity of the intermediary<sup>3</sup>) who then transmitted the letter to Mr Khazaradze in November 2018 prior to the run-off of the Presidential election. The letter contains specific demands and threats against Mamuka

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<sup>2</sup> Mamuka Khazaradze is a founder of TBC Holding. In turn, TBC Holding is a founder of the Anaklia Sea port construction consortium, its main partner and project developer.

<sup>3</sup> As reported by Rustavi 2, Badri Japaridze was the intermediary. However, neither Mamuka Khazaradze nor Badri Japaridze has confirmed this information.

Khazaradze to ruin his reputation on the local and international levels should these demands not be met. There are also two demands in the letter to alter the editorial policy of TV Pirveli and Artarea to be favourable to the Government of Georgia. In addition, before the second round of the Presidential election where United National Movement and Georgian Dream-backed candidates were facing each other, Mamuka Khazaradze had to make a public statement against the United National Movement.<sup>4</sup> In particular, he had to say that the United National Movement is a revanchist power which used to terrorise business whilst in power and it is unacceptable to have them back in government. As stated by Mr Khazaradze, he fulfilled only this last one of all of the demands he received. On 2 November 2018, Mamuka Khazaradze did indeed issue a [statement](#) with a similar content. Although, he did state that perhaps the person who gave him the demands did not like the part of his statement where the existing problems in the judiciary were highlighted<sup>5</sup> and, therefore, the demand was not considered to have been fulfilled.

In spite of such shocking accusations presented against the Minister of Internal Affairs, the Prosecutor's Office of Georgia, whose actions warrant severe criticism, only questioned Mamuka Khazaradze and concluded that his information is insufficient for further proceedings. The Prosecutor's Office also did not question either of the individuals named by Mr Khazaradze, to whom he showed the letter, or Minister Gakharia, as expected, who denies these allegations in public statements. Giorgi Gakharia states: "I have neither written a letter to Mamuka Khazaradze nor sent him anything." According to Mamuka Khazaradze's information, the original letter has been sent to London for appropriate scrutiny and the public will be notified about the results in the nearest future. In addition, as stated by Mr Khazaradze, if he lies and slanders the Minister of Internal Affairs, would it not be logical that the Minister brings this case to court in order to honour the dignity of his uniform?

Apart from the suspicious circumstances vis-à-vis a politically motivated attack against Mamuka Khazaradze, a negative campaign has also been launched in social networks (which is very similar to the campaigns against opposition candidates during last year's election period) targeting his person. In addition, he speaks about a massive cyber attack which was launched against TBC Bank's system soon after the Prosecutor's Office started the investigation. As stated by Mr Khazaradze, the Bank's technical team neutralised the attack and identified a specific address from where the cyber attack was launched (a building situated at 12 Rustaveli Avenue where presumably the offices of Koka Kandashvili and Shalva Ramishvili, Bidzina Ivanishvili's affiliates, were located). The information collected by TBC Bank's technical team was immediately submitted to the Ministry of Internal Affairs although in the subsequent eight months, the Ministry "could not find out anything."

### **Danger of Halting the Anaklia Sea Port Project**

The fact that Mamuka Khazaradze is the founder and main partner of the [consortium](#) which is responsible for construction of the Anaklia deep-water sea port further attests that the processes

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<sup>4</sup> Georgia's ruling party in 2003-2012.

<sup>5</sup> The existence of a systemic, authority-loyal [clan](#) in the judiciary is a matter of huge concern for Georgia's civil society.

against him are of a larger magnitude. This port bears the greatest strategic importance for Georgia.<sup>6</sup> *The Economist's* [article](#), published on 14 February 2019, characterises the Anaklia sea port as a bridge between Georgia and Europe. Furthermore, *The Economist* considers the Anaklia sea port as an attractive strategic asset for Europe which might contribute to Georgia's membership in the European Union and NATO. In addition, Article 7 of the [Constitution](#) of Georgia contains a passage about Anaklia's having the status of an exclusive economic zone which underlines its importance.

There are suspicions in the public that the main target of all of these processes is the Anaklia sea port. In particular, this is in light of the fact that investigative bodies took interest in this ten-year-old case when one of the important phases of the Anaklia sea port project is about to be completed. **In accordance with one of the versions, Bidzina Ivanishvili himself aspires to grab the sea port project whilst another version says that it is intended to fully halt the sea port construction which is in Russia's interests.** As stated by Mamuka Khazaradze, there are people both in Russia and Georgia who are interested in the failure of the Anaklia sea port project. **In addition, there are people in the Government of Georgia who do not like the Anaklia sea port construction idea and were supporting the expansion of the Poti sea port in its stead.**

Russia's interests not to build a sea port in Georgia are "understandable." On the one hand, Moscow does not want to have a new rival port built on the Black Sea and, on the other hand, it is absolutely unacceptable for Russia to have projects of international importance successfully carried out in Georgia which will bring economic wherewithal in the country and move it closer to the West. However, it is very hard to speak affirmatively about whom from among Georgia's authorities would be interested to see the Anaklia deep-water sea port fail. However, if such interest does exist, then it is a clear betrayal of Georgia's national interests.

The Anaklia sea port is Georgia's first deep-water sea port. It will be equipped with modern hardware and infrastructure. The construction of the Anaklia deep-water sea port's first phase is scheduled to be completed and inaugurated by 2020. In total, the sea port's development will be carried out in nine phases and the total amount of investments will constitute USD 2.5 billion. The Anaklia sea port's depth will be 16 metres which will allow it to receive 10,000 container (TEU) vessels. The fact that the Anaklia sea port's construction is in danger is [proven](#) by the combination of the latest events. Mamuka Khazaradze states that the investigation launched by the Prosecutor's Office (which decelerated after the EU decided to allocate funds to one of the phases of the port construction) scares away current and potential investors. Mr Khazaradze says that as of today, the consortium has already spent USD 70 million for the project and an additional USD 600 million is to be invested by July 2019. However, as a result of the Prosecutor's Office's investigation and the negative buzz around the case, these funds might not be invested which will impede the construction of the port.

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**As stated by Mamuka Khazaradze, no matter how well the consortium works to attract investors, the project will be doomed without the support of the state, particularly because of the project's public and private partnership nature.** However, Mr Khazaradze states that instead of providing support, the state is putting obstacles: the Prosecutor's Office launched a groundless investigation, his name has been deliberately discredited and statements on the development of the Poti sea port are becoming vocal which the founder of TBC Bank [believes](#) to be intended to denigrate the importance of the Anaklia sea port. In addition, members of the Government of Georgia indicate in their latest statements that the Anaklia Development Consortium is lagging behind the project deadlines and it has no experience to carry out similar projects. The Minister of Regional Development and Infrastructure, Maia Tsikitishvili, [stated](#) that the Consortium's problems started to emerge as early as in 2017 but the Government of Georgia did not bring them to the public (however, if problems have been observed since 2017, it is unclear why the authorities have not made any public statement about this). In accordance with Ms Tsikitishvili's statement, the main problem is the Consortium's violating construction deadlines. The Consortium denies these allegations and states that no obligations have been violated. As stated by the Consortium, only the so-called financial closure date was postponed until 1 July 2019 whilst the construction deadlines have not been affected and the sea port will receive the first ship in 2020 as per the initial schedule. In addition, Mamuka Khazaradze says that the state itself failed to meet its obligations in a timely manner and protracted the tenders to build the infrastructure needed for access to the sea port. The Minister of Economy and Sustainable Development, Giorgi Kobulia, did not [deny](#) that state tenders have failed vis-à-vis certain projects.

Mamuka Khazaradze believes that the latest statements from the authorities on the sea port construction deadlines are the first signal of how the Government of Georgia intends to remove him from the project. The businessman [thinks](#) that under the accusations of failure to deliver project commitments, authorities will attempt to "kick him out" from the sea port project similar to how he was "kicked out" from TBC Bank.

As mentioned previously, the authorities have recently started to talk about the Consortium's failure to deliver commitments. In addition, in order to reach a final agreement on the investments attracted by the Anaklia Development Consortium, investor banks request certain guarantees from the Government of Georgia. These guarantees are known to the public as the "8-Point" plan. If the authorities and investor banks fail to reach an agreement on the aforementioned points, then the project might find itself at an impasse. The Anaklia Development Consortium underlines the importance of this process and states that the continuation of the project depends upon the agreement between the banks and the Government of Georgia.

The Minister of Economy and Sustainable Development, Giorgi Kobulia, states that negotiations with investors will be finished in a few weeks. However, he also [states](#) that of the list of demands presented by the investors, one of the "hardest" points is the cargo guarantee.

On 21 March 2019, the Minister of Regional Development and Infrastructure, Maia Tsikitishvili, had a hearing at the Parliament of Georgia at her own request. Ms Tsikitishvili spoke about the project developments and sought to persuade MPs that the Anaklia Development Consortium is inexperienced

in implementing similar projects and cannot handle its respective commitments. The Minister also voiced her assumption that the Consortium will not meet the construction deadlines.

The Minister also presented the demands of the banks to MPs and spoke about the risks which the aforementioned “8-Point” plan contains. Ms Tskitishvili portrayed the situation in such a way as if the state has to undertake a huge risk if it accedes to these demands. In fact, this is about investing USD 400 million by international financial institutions (EBRD, OPIC, ADB and AIIB) and they demand certain guarantees from the state which is absolutely logical. **If any of the demands contains a risk for the state, then it is necessary to hold negotiations on this topic and not outright demonise these conditions.** It seems that the main aim of the Minister’s visit to the Parliament of Georgia was to discredit the Anaklia Development Consortium. The Minister sought to portray the situation in a way that the Anaklia Development Consortium would be responsible for impeding the construction of the Anaklia sea port and the role of the state here was negligible. **Whilst speaking about the Anaklia sea port, Ms Tskitishvili put the main emphasis on details (whether or not they are of importance) and thereby put the strategic objective – the successful implementation of the Anaklia sea port project – into question.** This sentiment has been expressed by the Government of Georgia since 2013 and for a variety of reasons it has become an endless process.

It is evident that if the authorities and investors fail to reach an agreement on specific conditions, investments will not be made and the allocation of funds for July 2020 (the scheduled financial closure) will become difficult. The Government of Georgia will probably respond to that with imposing certain sanctions or by cancelling the contract with the Consortium altogether.

Finally, no matter what political motivations are behind the dispute against TBC Bank, one fact remains – it was a huge blow for state institutions. Numerous questions and a general distrust toward state institutions (Parliamentary Majority, Ministry of Internal Affairs, National Bank and the Financial Monitoring Service) have further increased. Furthermore, if we assume that suspicions about the persecution of a particular businessman is real, it looks like **state institutions are on the verge of collapse as they cannot pursue their legitimate goals and are in service of the illegitimate interests of one man – Bidzina Ivanishvili alone.** Currently, it seems that, unfortunately, the Anaklia sea port project implementation will be either hampered, in the best case, or stopped, in the worst case, which will harm Georgia’s interests. It would be better for the authors and the actors of this process to think twice that the country’s strategic interests suffer from their actions and sooner or later they will have to pay a respective price for that.

**As stated by the Deputy Prime Minister, Maia Tskitishvili, there is a normal working regime between the banks, the consortium and the authorities. This process was not impeded by any questions and the Anaklia project implementation is not in danger. Soon, at the beginning of April, there are scheduled negotiations between the Government of Georgia, the Anaklia Development Consortium and international banks. It is obvious that the results of these negotiations go beyond the boundaries of a single, albeit large business and are intertwined with the Georgian state and the future of its people.**