

## Le Bureau du Congrès

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17 mars 2016

### **La situation de Giorgi Ugulava, Géorgie**

*Document soumis pour décision au Bureau du Congrès le 21 mars 2016*

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<sup>1</sup> *Ce document est classé confidentiel jusqu'après son examen par le Bureau du Congrès*

17 mars 2016

**M. Jean-Claude Frécon**

Président du Congrès des pouvoirs locaux et régionaux

**Membres du Bureau du Congrès des pouvoirs locaux et régionaux**

Conseil de l'Europe

Congrès des pouvoirs locaux et régionaux

**Monsieur le Président,**

**Chers collègues,**

Nous vous écrivons cette lettre pour attirer à nouveau votre attention sur la persécution politique et la justice sélective contre Gigi Ugulava, ancien maire de Tbilissi, membre du Congrès des pouvoirs locaux et régionaux du Conseil de l'Europe et l'un des leaders du Mouvement national uni, principal parti d'opposition en Géorgie.

Nous sollicitons votre soutien à une initiative qui vise à la prévention de la poursuite de la violation de ses droits et à la promotion de l'état de droit en Géorgie.

Comme vous le savez, le mandat du maire de la capitale Tbilissi, Giorgi Ugulava a été suspendu en Décembre 2013 sur la base d'une disposition plus tard jugée inconstitutionnelle par la Cour constitutionnelle de Géorgie. En Juillet 2014, quelques jours avant le scrutin crucial dans le cadre des élections locales, il a été arrêté et condamné à une détention provisoire controversée. À ce stade, M. Ugulava était le chef de la campagne pour l'ensemble du Mouvement national uni et largement apprécié pour s'assurer un soutien plus élevé pour son parti dans les zones urbaines par rapport à l'élection présidentielle de 2013.

La durée de sa détention provisoire a été prolongée au-delà des limites constitutionnelles à cause de la modification de l'acte d'accusation, la pratique qui a également été jugée inconstitutionnelle par la Cour constitutionnelle de Géorgie. M Ugulava a été libéré, mais ré-arrêté en 23 heures. Un signe clair de la motivation politique guidant la procédure pénale contre M Ugulava était l'accélération de sa condamnation qui a eu lieu à 23 :00, seulement 23 heures après sa libération suite à la décision de la Cour constitutionnelle.

La violation du droit à un procès équitable et les signes évidents de la pratique de la justice sélective dans l'affaire Ugulava ont soulevé des inquiétudes parmi de nombreux amis et partenaires de la Géorgie. Des déclarations critiques ont été émises par M Elmar Brok, député européen et Président de la commission des affaires étrangères du Parlement européen, M Pedro Agramunt, Président de l'Assemblée parlementaire du Conseil de l'Europe et M Joseph Daul, Président du Parti populaire européen. Commissaire aux droits de l'homme du Conseil de l'Europe, M. Nils Muižnieks était parmi ceux qui ont exprimé la préoccupation au sujet de la détention provisoire excessivement longue de M Ugulava. L'Assemblée parlementaire du Conseil de l'Europe a adopté la Résolution N2077 (2015) sur l'abus de la détention provisoire confirmant la motivation politique dans les cas des arrestations des dirigeants du Mouvement National Uni. Dernière, mais non le moindre, l'OSCE-BIDDH dans son Rapport de suivi des activités judiciaire (2014) a constaté de graves violations en ce qui concerne le droit à un procès équitable dans le l'affaire Ugulava. Résumé des faits concernant la répression politique de M Ugulava est joint à cette lettre d'information.

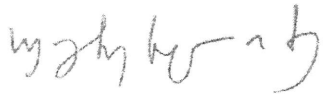
Dans ce contexte, nous pensons que le Congrès des pouvoirs locaux et régionaux du Conseil de l'Europe, un organisme qui est directement responsable de la promotion du développement de la démocratie locale et le respect des droits de l'homme dans les Etats membres du Conseil de l'Europe, doit jouer un rôle plus actif en créant un mécanisme pour assurer un suivi constant de l'affaire George Ugulava. Nous vous demandons d'aborder cette question lors du prochain Bureau du Congrès et d'envisager la création d'un mécanisme spécial de suivi comme cela a été fait dans le cas de Leyla Güven, ancien Maire de Viransehir et membre de la délégation turque au Congrès.

Nous vous demandons plus précisément de nommer des rapporteurs du Congrès pour assurer une surveillance constante de ce cas et de fournir régulièrement des informations au Congrès, de sorte que le Congrès puisse réagir en conséquence. Il est essentiel de garantir l'accès des rapporteurs du Congrès à toutes les parties, y compris les avocats de M Giorgi Ugulava, afin d'obtenir des informations complètes concernant son affaire.

Nous espérons sincèrement que votre réponse à cette demande sera favorable. Je reste à votre disposition pour tous renseignements complémentaires.

Je vous prie d'agr er, Monsieur le Pr sident et chers coll gues, l'expression de mes sentiments distingu s.

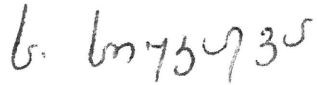
**Sevdia Ugrekheldze**



Repr sentante de la Chambre des R gions  
3e Vice-pr sidente (comit  de gouvernance)  
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Membre du Conseil Municipal de Tbilissi, en G orgie

**Sophiko Siukaeva**



Repr sentante de la Chambre des pouvoirs locaux,  
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Membre du Conseil Municipal de Terjola, G orgie

SUMMARY

Of

POLITICAL REPRESSION OF GEORGE UGULAVA, THE FORMER MAYOR OF TBILISI

After winning the October 2012 parliamentary elections and the peaceful transition of power, the 'Georgian Dream' coalition launched a politically motivated persecution against its opponennts and brought charges against former President Saakashvili and other high-ranking officials, including the former Prime Minister, the Interior Minister, the Justice Minister, the Defence Minister as well as other members of the United National Movement (UNM). George Ugulava, directly elected Mayor of Tbilisi, was still in office when he became a target of political persecution.

Ugulava has been in prison for twenty months. So far a verdict has been delivered by the first instance court regarding only one case, which has been appealed to the second instance court. Trials into cases against Ugulava are still underway. The process is closely observed by international organisations and European political institutions.

George Ugulava, one of the leaders of the UNM, in 2005 was elected Mayor of Tbilisi by the Tbilisi City Assembly, in 2010 became a first directly elected Mayor of Tbilisi. In 2014 he was in charge of the UNM election campaign.

Political repression of George Ugulava involved the following stages:

- illegal suspension of mandate
- detention during local elections
- abuse of pre-trial detention
- violation of a right to a fair trial

• **Illegal suspension of mandate**

On 22 December 2013, at 00:15 the judge of the Tbilisi City Court delivered a verdict suspending the mandate of the Mayor of Tbilisi without oral hearing based on the motion filed by the Prosecutor's office.

By its ruling of 23 May, 2014, the Constitutional Court of Georgia deemed unconstitutional the provision of law that was used for the suspension of the mandate of the Mayor of Tbilisi and established that, the review by the court of a motion regarding the dismissal of an official without oral hearing is a disproportionate restriction of the constitutional right to a fair trial and defence.

Despite the Constitutional Court decision, Ugulava was not reinstated to the office.

• **Detention during local elections**

On 2 July, 2014, the court rejected the Prosecution's motion regarding the seizure of passport as a preventive measure against George Ugulava. Ugulava informed the court at the hearing that he was going to visit Chisinau to attend the meeting of the Monitoring Committee of the Council of Europe Congress of Local and Regional Authorities and return back to Georgia the following day. Despite this, Ugulava, then chief of the UNM local election campaign, was detained on 3 July 2014 in the Tbilisi International Airport just during the second round of mayoral elections.

- Abuse of pretrial detention

According to the Constitution of Georgia (article 18), the term of detention on remand of an accused shall not exceed nine months. Few days prior to the expiration of the nine-month term, the pre-trial detention period was extended by re-imposing a new term, in contravention of the Constitution of Georgia.

On 16 September 2015, the Constitutional Court of Georgia issued a ruling deeming unconstitutional the norm of the Criminal Procedure Code of Georgia based on which George Ugulava had been kept in detention for more than nine months, pre-detention period limit.

The court ruling went into force upon its announcement in the court hall. Despite this, the Ministry of Probation refused to ensure the immediate release of George Ugulava upon the announcement of the ruling leaving him in illegal detention for over 24 hours and not releasing him until 11 pm of 17 September, 2015.

- Violation of a right to a fair trial

On 18 September, 2015, Tbilisi City Court judge Lasha Chkhikvadze delivered a verdict within four hours after leaving the courtroom for discussion room in violation of the adversarial principle. He did not allow the defence to summon to the court a key witness thus violating the right to a fair trial. The judge rushed the defence to pronounce the conclusion speech concerning a 71-volume case that involved the interrogation of 120 witnesses. Ugulava was not given enough time for preparing a closing speech. Released from illegal detention Ugulava was returned to prison after 23 hours, at 11 pm.

Pedro Agramunt, elected President of the Parliamentary Assembly of the Council of Europe (PACE), called George Ugulava a political prisoner and highlighted the importance of taking up the issue with the Georgian authorities.

Numerous concerns have been raised regarding Ugulava's case among local and international NGOs and European political institutions. Below are the links to some of the respective statements and resolutions.

#### CEMR deplores the suspension of mandate of the Mayor of Tbilisi under unclear conditions 20.01.2014

*The Council of European Municipalities and Regions (CEMR) shares the deep concerns expressed internationally about the suspension of mandate of a democratically elected official under unclear conditions.*

*"The autonomy of local and regional authorities is the bulwark of personal liberties, that is the first and fundamental principle upon which our community of local and regional authorities is based", says Frédéric Vallier, Secretary General of CEMR. "We are building a democratic Europe, where democracy and the rule of law are indispensable, and self-governing local authorities are one of the main foundations of any democratic regime."*

*"We call on the Georgian authorities to safeguard the principles of law and presumption of innocence as expressed in the European Convention on Human Rights, as well as to pay full respect to the fundamental principles of local self-government as expressed by the European Charter of Local Self-Government, as Georgia is party to both of these European treaties."*

<http://www.ccre.org/en/actualites/view/2777>

**Michael Aastrup Jensen calls Ugulava's authority suspension by court 'alarming'** 16 January, 2014

*„It's alarming that the directly elected mayor's authority is suspended by court's decision”*

<http://www.georgianjournal.ge/politics/26016-jensen-calls-ugulavas-authority-suspension-by-court-alarming.html>

**The functioning of democratic institutions in Georgia**

Report | Doc. 13588 | 05 September 2014

*The Monitoring Committee takes note of the large number of allegations of possible criminal conduct by former government officials during their tenure. At the same time, it is seriously concerned about allegations that the arrests and prosecution of a number of former government officials are politically motivated and amount to selective and revanchist justice. The Georgian authorities are called upon to ensure that the investigation and prosecution of former government officials are conducted impartially, transparently and in full respect of the principles of a fair trial, as enshrined in the European Convention on Human Rights.*

<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21123&lang=en>

**EU STATEMENT**

**by the Spokesperson on the arrest in Georgia of suspended Mayor of Tbilisi, Gigi Ugulava**

July 04, 2014

*„We note that Mr Ugulava, previously suspended as Mayor of Tbilisi, is the opposition's chief campaign organiser during the ongoing municipal elections in Georgia. We recall Prime Minister Gharibashvili's announcement on 14 April of a moratorium on the arrest and prosecution of opposition figures during this election period”.*

[http://eeas.europa.eu/statements/ocs/2014/140704\\_01\\_en.pdf](http://eeas.europa.eu/statements/ocs/2014/140704_01_en.pdf)

**CSOs react to extension of pre-trial detention for Gigi Ugulava**

18 March 2015

*The manner in which this case has been conducted points to artificial protraction. This raises a concern that the Prosecutor's Office may have artificially broken down a single case into three separate cases, in an effort to request multiple terms of pre-trial detention for Ugulava at favorable times. This naturally indicates that the case might be driven by political purposes.*

*'Georgian Young Lawyers' Association'*

*'Transparency International (TI) Georgia'*

*'International Society for Fair Elections and Democracy' (ISFED)*

*'Civil Development Agency' (CiDA)*

<http://www.transparency.ge/en/node/5113>

## **U.S. Embassy Statement on Additional and Re-qualified Charges against Members of Former Government**

March 14, 2015

*“We are concerned by the announcement of additional or re-qualified charges being filed against members of the former government. These additional charges, against former Tbilisi Mayor Gigi Ugulava in particular, appear to be an effort to subvert the nine-month limit on pre-trial detention. We encourage the government of Georgia to take steps to strengthen the Rule of Law and avoid any perception it may be engaging in a campaign of politically-motivated justice.”*

[http://georgia.usembassy.gov/news-events/emb\\_news2015t/statement\\_ruleoflaw.html](http://georgia.usembassy.gov/news-events/emb_news2015t/statement_ruleoflaw.html)

## **A statement of NGOs regarding the imposition of pretrial detention on Gigi Ugulava**

March 17, 2015

*With the ruling of March 14, 2015, the Tbilisi City Court, on the basis of a motion of the Chief Prosecutor's Office, decided to impose pretrial detention on Giorgi Ugulava. This happened at a time when the maximum 9-month-long measure of restraint for one of the cases launched against Ugulava was about to expire at the beginning of April. When imposing the new measure of restraint, the Court relied on the criminal case against Ugulava in which he has been charged since July 28, 2014. The fact that the motion was put forward by the Chief Prosecutor's Office and granted by the Court is a precedent of abusing the justice system, and this decision has further strengthened the perception in a part of the public that leaving Giorgi Ugulava under imprisonment is an end in itself for the government.*

*'Georgian Democracy Initiative'*

*'Media Development Foundation'*

*'Identoba'*

*'Georgia's Reforms Associates'*

*'Tolerance and Diversity Institute'*

*'Article 42 of the Constitution'*

<http://gdi.ge/en/news/a-statement-of-ngos-regarding-the-imposition-of-pretrial-detention-on-gigi-ugulava.page>

## **Abuse of pretrial detention in States Parties to the European Convention on Human Rights**

(Resolution 2077 (2015)1)

*The following abusive grounds for pretrial detention have been observed in a number of States Parties to the European Convention on Human Rights, namely:*

*7.1. to put pressure on detainees in order to coerce them into confessing to a crime or otherwise cooperating with the prosecution, including by testifying against a third person (for example certain cases of opposition leaders in Georgia, such as former Prime Minister Merabishvili);*

*7.2. to discredit or otherwise neutralise political competitors (for example, certain cases of United National Movement (UNM) leaders in Georgia);*

*the possibility for the prosecution to circumvent statutory time limits imposed on pretrial detention by modifying or staggering indictments (for example, in the cases of Mr Ugulava and Mr Akhalaia, before the judgment of the Constitutional Court of Georgia in September 2015).*

<http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=22206>

## **Statement by the president of the EPP in CoE on Gigi Ugulava re-arrest**

18 September, 2015

*Chairman of the EPP-CD Group in the Council of Europe, Pedro Agramunt, has deplored the re-arrest of former Mayor of Tbilisi Gigi Ugulava less than 24h after release.*



*The acceleration of one of the cases against Mr Ugulava was clearly politically driven, accompanied with signs of interference into the work of justice system and aimed solely at incarcerating a major Georgian political figure as soon as possible.*

*it is a violation of human rights and an abuse of the judiciary designed to silence Georgia's leading opposition politicians”.*

*“The imprisonment of Mr. Ugulava in Georgia is bad, unacceptable, extremely disturbing, a mistake and politically motivated”, Mr. Agramunt said.*

*Chairman of the EPP-CD Group has expressed his solidarity and support of EPP-CD Group in the Council of Europe with Mr. Ugulava, his relatives and UNM colleagues.*

<http://www.epp-cd.eu/statement-by-the-president-of-the-epp-in-coe-on-gigi-ugulava-rearrest/>

### **EPP outraged at re-arrest and political suppression of Georgian opposition leader Ugulava**

September 19, 2015

*The EPP strongly condemns such politically motivated cases and is shocked at the continuous interference of the government in the work of the judiciary.*

<http://www.epp.eu/press-releases/1015/>

### **Elmar Brok, Chairman of the European Parliament's Foreign Affairs Committee and Cristian Dan Preda, EPP Group's Coordinator for Foreign Affairs Commenting on the news about the sentencing to Gigi Ugulava.**

September 21, 2015

*“We have received with great shock and sadness the news that former mayor of Tbilisi Gigi Ugulava has been again arrested and sentenced to over four years of jail time. This comes just one day after his release following a groundbreaking verdict of the Georgian Constitutional Court, which found his prolonged pre-trial detention illegal and unconstitutional. Gigi Ugulava enjoyed not even a full day of freedom with his family and friends. The situation in Georgia sends an alarming signal. The justice system is becoming an effective tool of vengeance against political opponents in the hands of the authorities”*

<http://pr.euractiv.com/pr/georgia-instrumentalisation-justice-must-stop-now-131783>

### **Observations on the human rights situation in Georgia: An update on justice reforms, tolerance and non-discrimination**

January 12, 2016

*The Commissioner is concerned about the alleged use of politically-motivated measures and a biased approach when it comes to members of the opposition, in particular the United National Movement (UNM). Whereas there is an overall decrease in the recourse to pre-trial detention as a preventive measure, which is a positive trend that should be pursued, problems can be observed in the use and extension of pre-trial detention in relation to members of the opposition. For example, in the case of Giorgi Ugulava, a former mayor of Tbilisi and prominent figure of the UNM, these measures were broadly perceived as aiming to keep him in detention. It also appears that opposition members and/or sympathisers face relatively harsher treatment by law enforcement and judicial bodies for alleged offences committed.*

<https://wcd.coe.int/ViewDoc.jsp?id=2401427&Site=CommDH>