

**A Chronicle of Undeclared War
(The Authorities against the Bank)**

Tbilisi

May 2012

On October 7, 2011, Mr. Bidzina Ivanishvili, a Georgian citizen and a high-profile billionaire, acting within the frameworks of the Georgian Constitution and democratic standards, made public his political goal to come to power as the leader of a prospective party, as a result of the forthcoming parliamentary elections.

The day immediately following his announcement, a blatant attack against Mr. Ivanishvili's businesses, particularly so "Cartu Bank" JSC, began, followed by the intimidation of his milieu, with several of them still in custody- clearly for political reasons.

On 11th October- the person who had given away several billion USD for charity, and in particular contributed to the Georgian education and healthcare systems; and owing to whom approx. 600 listed Georgian cultural monuments had survived- was illegitimately stripped of his Georgian citizenship (as was Mrs. Ekaterine Khvedelidze, his wife), for reasons appropriate solely to the government.

Actions Taken against the Bank

1. Pressure Exerted on Bank Clients

As to the illicit actions undertaken against “Cartu Bank” JSC, those have first and foremost been targeted against the Bank clientele, with the sole purpose of pushing them to take their nominal accounts to other banks in order to create serious problems for Cartu. As a result, 45 million GEL was withdrawn in just the final two weeks of October. Most State organizations transferred their accounts, including their salary accounts, to other banks. Most of the Bank’s medium-sized and major clients were summoned (some of them repeatedly) by law enforcement bodies, and asked to present their credit-related documentation. Most clients requested copies of their contracts with the Bank. The same holds true for major depositors. Some clients even found it necessary to leave the country for a time. Bank-related documents, registered with the Court, the National Bureau of Enforcement, and the Public Registry, amongst others, were processed. Some borrowers, suspicious of the Bank’s activities, also got involved in the government-orchestrated campaign against the Bank.

2. The Collection- Related Special Operation

An unprecedented incident- a virtual onslaught against the Bank's tellers and cash managers, effecting an ordinary cash-box boosting transaction inside the BOG facility -was undertaken on 18th October last year. The raid involved the Police (some masked, others plain-clothed), as well as the Bank of Georgia and National Bank employees. As a result, four Cartu tellers and two cash managers were detained; 2 million USD and 1 million euro in cash, along with a Bank's collection van, were seized. Then followed the prompt institution of absurd proceedings regarding money-laundering charges

Description of the Assault:

On 18th October, 2011, Cartu Bank JSC Collection Service employees, driving in a special van, were to collect cash (two million. USD and one million. euro) from the Bank of Georgia (BOG) Head Office for delivery to that of Cartu Bank JSC. They arrived at the BOG Head Office and parked in a yard patrolled by security guards. One money collector and four cashiers of Cartu Bank JSC entered the bank to count and bring the money out. Since it would take them some time, the collection van left the area and drove back to the "Cartu Bank" JSC Head Office. In about half an hour, the collection employees called the van driver asking it to come and take them back to Cartu Bank JSC. They explained that BOG JSC had refused to provide the required sum. Around 10 minutes after this first call, the van driver was again contacted by the same employees who reported that BOG JSC had agreed to provide the sum; the van returned to the "Cartu Bank" JSC Head Office to wait. Two hours later, the "Cartu Bank" JSC collection van went back to the "Bank of Georgia" JSC head office to collect the money and take it to "Cartu Bank" JSC. The van entered the same yard and waited for the Cartu Bank JSC employees. After around 10 minutes, they called the van driver asking him to park the van in a certain place and so doing, the collection van stopped at the exit of BOG Head Office to wait for the Cartu Bank employees. Suddenly, the driver noticed that there were more security guards in the yard than before. He also noticed unfamiliar armed people, with video cameras in their hands, approaching the collection van. Some were plain-clothed; the others were wearing black uniforms and masks without insignia. Later, they turned out to be the same law enforcers who had detained the "Cartu Bank" JSC cash collector and four cashiers. The collection van driver and a policeman accompanying the collection vans were also detained. The law enforcers disarmed the driver and the cash collector and afflicted an injury to the accompanying policeman. Along with the van, they were all taken to the Tbilisi City Police Department.

After interrogation, the said people were released from the police station and the driver and the cash collector had their weapons returned to them.

That same day, media reports related that six Cartu Bank employees had been detained for suspected money-laundering and that 2 million (two million) USD and 1 mln (one million) EUR had been taken away as material evidence. Understandably, by doing so, the media violated the Bank's rights and marred its good standing.

Regretfully, BOG JSC supported the illicit actions of the so-called "law enforcers". In a usual situation, the aforesaid cash-box boosting transaction does not take long and requires the prior consent of the parties. However, in the case in question, the repeated change of stance by BOG JSC leads us to think that they wanted to gain time in order to plan and implement the assault.

The strengthening of a commercial bank with cash is an ordinary inter-bank transaction, so much so that it is not subject to monitoring. 200 other such transactions- of over 70m GEL -having been effected by "Cartu Bank" JSC in 2011. Clearing transactions in USD had been effected between the New-York "Deutsche Bank Trust Company" and "City Bank"- with the same in euros having been effected by the German "Kommerzbank".

In October, 2011, the Bank boosted its cash box in view of an increasing trend of cash withdrawal (mainly deposits).

The fact that, on 10th January, 2012, the Old Tbilisi District Prosecutor's Office returned the seized cash to the Cartu Bank JSC correspondent account- opened with the National bank of Georgia -testifies to the groundlessness of the aforementioned accusation. Incidentally, the Prosecutor's Office failed to provide the Bank with information or relevant documents. On 17th March, 2012, the Bank's armored collection van was also returned. Incidentally, under the Law of Georgia "On Public Purchases," the vehicle had been transferred into the ownership of the Interior Ministry Security Police Department (Public Law Entity). Moreover, the Tbilisi Prosecutor's Office claims that the investigation is still under way. However, it is unclear what the Prosecutor's Office has been investigating, for the Bank's employees (save the said four cashiers and two cash collectors who were involved) have not been asked a single question in the six months following the assault; nor have the law enforcers approached Cartu's correspondent banks or those involved in the transaction.

The Bank expected that the investigation results would already have been reported and that the investigating authority would have declared the decree of 'inapplicability of a criminal act'. However, our expectations have not been met. Therefore, the Bank is still unable to restore its infringed rights and at least to make a legally substantiated media statement about the lack of evidence regarding a so-called attempted legalization of illicit incomes.

3. Pressure By The National Bank Of Georgia

On 19 October 2011, the day immediately following the assault on Cartu Bank's cashiers and cash collectors, the National Bank of Georgia commenced an inspection of the Bank's financial standing. Namely, on the said day, the NBG Vice-President issued Order No.767 regarding the inspection (selective) of the Bank's financial standing and its compliance with the provisions of the law of Georgia "On Prevention of Legalization of Illicit Incomes". The inspection was to last from 19 October 2011 to 18 December 2011. However, on 16 December 2011, the NBG Vice-President issued Order No. 872, prolonging the inspection term for another two months, until 20 February 2012. On 17 February 2012, by Order 156, a change was made to the one of 19 October 2011, and the inspection term was once again prolonged- this time until 22 May 2012. The inspection has been under way for six months now, without any program determining the scope and term of the audit. As a matter of fact, in the last six months, the auditors have not performed any inspection whatsoever. Instead, they have been carrying out a preliminary control of the Bank's daily operations in a soft 'temporary administration' mode. Meanwhile, the Bank's financial standing provides no grounds for such a mode, inasmuch as the Bank still has the highest liquidity in the Georgian banking sector and fulfills all the prudential norms with a large reserve. Such an audit contravenes the laws of Georgia and the standards of international practice. It should be said that the 19 October 2011 order is in breach of the aforesaid law, namely:

Under section 1 of the Order, reflecting the substantiation thereof, the NBG employees were assigned the task of inspecting the Bank according to the Law "On Prevention of Legalization of Illicit Incomes", as well as according to the Regulation "On Receipt, Classification, Processing and Transfer of Information by Commercial Banks to the Financial Monitory Service of Georgia", approved by Order No.95 of 28 July 2004 and issued by the head of the said Service. The Regulation had been effective until 18 January 2012. On 17 February 2012, by Order No.156, a change was made in Section 2 (only) of the one issued on 19 October 2011, with its substantiation part (Section 1) remaining the same. Thus, according to the said Act, the auditors inspecting the Bank have to rely on the ineffective normative act, which is against the effective Laws. The official issuing the Act should not have made a change to the ineffective act but instead should have issued a new one with the relevant substantiation.

The aforementioned administrative-legal act directly damages the Bank by infringing its rights and legitimate interests. Namely, it undermines the Bank's good standing since such a lengthy, virtually indefinite, inspection by the NBG audits, stands against administration standards. All the inspections that have taken place before October 2011, have never lasted more than a month. The ongoing inspection creates a sense of instability for the Bank's existing and prospective clients, who may understandably presume that the Bank may come to face even graver problems and that their property rights may be at stake. Under Article 3 (2) of the Law of Georgia "On the National Bank": the National

Bank shall secure the stability of the financial system of which the commercial banks are the pillar. The National Bank of Georgia has no right to exercise its legal powers for the purpose of achievement of a goal contravening them. What we mean is not the inspection of the Bank's financial standing, but the NBG control over Cartu's daily banking operations and supply of information to third persons. For instance, the head of the audit team transferred confidential information to the Chamber of Control; just a day after the supplying of information on the charity activities carried out by the "Cartu Charity Fund", the same information was published in "Alia" newspaper.

As a result, on 19 October 2011, just a few days after the commencement of the inspection, several major corporate clients of the Bank severed relations with it and on 21 October 2011, Wissol Petroleum Georgia JSC and PSP Pharma LTD terminated collection services .

Consequently, we may conclude that the administrative-legal acts issued by the NBG Vice-President are restrictive with regard to the Bank's legitimate rights and interests and so undermine its good standing.

In view of the Court's biased stance taken with regard to the Bank, its claim filed against the NBG to the Tbilisi City Court Collegium of Administrative Cases- for the annulment of the individual legal act- is unlikely to be satisfied.

Also, the National Bank has repeatedly requested the connection of Cartu's operational day software to their own computer, which is also against national banking legislation and international best practice, all the more so seeing as we have been promptly supplying the requested information and have proposed an online-monitoring of the Bank's operational day software at any work place.

In late 2011, Mr. Bidzina Ivanishvili purchased 10% stock (planned 25%) of JSC Progress Bank, leading to a similar "NBG audit" being started almost immediately.

Here, we should also mention the Georgian public's adequate assessment of the situation concerning "Cartu Bank", which was unmistakably demonstrated by an unprecedented public support campaign of last October-November, when, within the span of merely two weeks, 23 000 people opened accounts with the Bank worth an approximate 3m GEL. The National Bank of Georgia reacted to this promptly by requesting a list and the identification data (name, surname, personal and account numbers, and the deposited sum) of the depositors.

4. The Seizure of Assets Pledged for Loans

On 28 October last year, the Georgian Parliament made changes to the Law “On Enforcement Proceedings” and the Tax Code, which (as against the previous changes) were enacted promptly on 7 November. According to those, the tax authorities were granted a privilege in financial institution-borrower relationships, where a bank’s secured loans are concerned, if the grounds for a tax-related request had been created before the registration of a pledge or mortgage of a bank.

- On 28.10.2011, a change was made in the Law of Georgia “On Enforcement Proceeding”, according to which if the grounds of the tax-related pledge /mortgage arise before the registration of a pledge/mortgage with a commercial bank, the claim secured by the tax-related pledge/ mortgage shall be prioritized against that of the commercial banks.

- In the previous edition, agreed by the Association of the Banks and the Revenue Service, the liabilities in favor of the banks prior to the registration of the tax-related pledge/ mortgage had been prioritized against the claim secured by the tax pledge/mortgage, which means that prior to the issuance of a credit, a bank could check whether a client’s assets had been encumbered with a pledged/mortgage; The inserted sentence made it virtually impossible to determine when a Revenue Service claim would be prioritized against that of a bank.

- A similar change was made in Article 239 of the Tax Code.

- According to 10 changes made in Article 50 of the Law of Georgia “On Enforcement Proceeding”, if the enforcement proceedings are in favor of the State and no winning bidder was determined as a result of the first auction, or if the auction winner failed to pay the price of the assets within the terms under the Law, the National Bureau of Enforcement is entitled to issue an order on the nationalization in kind of the assets within 15 days upon completion of the auction.

- In the previous edition, in case of a failed first auction, a second was scheduled. Additionally, the new edition states that, for the purpose of a speedy sale of the assets, they can be nationalized in kind if the first auction fails.

- On 11.11.2011, a change was made in the Law of Georgia “On Enforcement Proceeding” (Article 77-1(7)) according to which if the coercive auction is held for the purpose of fulfillment of the decision under Article 2(1) (the sale of a debtor’s tax-pledged/mortgaged assets), upon the transfer of the assets in kind, all the substantive rights registered upon the creation of the liability- which led to the tax pledge/mortgage of the assets- are cancelled.

- In the previous edition, upon the transfer of the assets, all the rights registered upon the registration of the tax-related pledge/mortgage were annulled, which means that a creditor (a bank) was sure that its mortgage /pledge would not be annulled if the assets had been pledged prior to the date of the

registration of the tax-related pledge/mortgage. The new edition does not make it clear to the creditor when its mortgage would be cancelled, since the date of the creation of the liability underlying the tax-related pledge/mortgage on the assets will be made public only upon the registration of the tax pledge/mortgage with the Public Registry and the scheduling of a public auction; also, it is not specified in the executor's application for the scheduling of the auction, that the assets to be auctioned were encumbered in favor of the bank.

- On 28.12.2011, a change was made in the Law of Georgia "On Enforcement Proceeding" (Article 69(1)) under which the National Bureau of Enforcement shall hold a coercive auction within one month of the seizure of the assets, while if the assets for sale were evaluated 1 year prior to the enforcement proceeding, the National Bureau of Enforcement shall hold the auction within two weeks of the seizure of the assets.

- In the previous edition, the auction was held within two months from the commencement of the enforcement proceedings, i.e. the enforcement term for the cases related to the Budget was reduced from two months to two weeks. Since the assets for sale can be evaluated as of the previous date, the new edition of the article makes it possible to hold the auction within two weeks from the commencement of the enforcement proceedings.

According to the changes, if, as a result of the very first auction, no bidder comes out as winner or if he/she fails to pay the price of the assets within 15 days upon completion of the auction, the National Bureau of Enforcement can issue an order on the nationalization in kind of the assets, or a repeated auction, which, if a failure, may lead to the lifting of the encumbrance imposed- in favor of the creditor - and the return of the assets to the debtor.

By the aforesaid changes, the State created legal grounds for the return to the owners of any assets, free of any liabilities (including the Bank loan repayment one). This appears as an unmistakable indicator of a government scheme to bankrupt a political opponent's bank.

LAW EVALUATION

- An international fundamental legislative approach:
 - 1) "You cannot change the rules of the game". The law was given a retroactive effect since banks issued loans according to the previous wording of the law.
 - 2) The bank had repeatedly received certificates of no outstanding tax liability and mortgaged the assets, irreproachable in terms of the right of property.

The law leaves room for fraudulent activities to:

- a) a borrower – in terms of avoidance of debt payment to the bank in case of the “recognition” of a large tax arrear (which the Revenue Service does not inspect), and
- b) an executor – in terms of avoidance of payment by a person, its debt against the State in the event of return of the property to the person instead of the State, which is a precondition of debt repayment to the bank;
 - By the legislative change, if a person’s Tax liability amounts to, let’s say 100 GEL, while its overdue bank credit makes up 10,000,000 GEL, the State may appropriate (in whole) the assets irreproachable in terms of the right of property pledged as security for a bank loan worth 15,000,000 GEL without a) presenting to the Bank the encashment of 100 GEL in the bank account and b) leaving any room for the Bank to maneuver.

The legal act, of making loan security virtually meaningless, slowed down the Georgian banks’ credit-related activities considerably. Some of the Georgian banks reacted to the situation by suspending or decreasing the consideration of issuance of major credits, while the National Bank has brought down the monetary policy rate by 25 points: 26/10/2011 – down to 7.25%; 22/11/2011 –7%; 21/12/2011 - 6.75%; 18/01/2012 – 6.5% and 25/04/2012 – down to 6.25%. The aforesaid considerably heightened the country risk, which may have resulted in the drop of international investments and an increase in interest rates. Whether the government apply them to a client or a creditor bank, making the pledge and the first line mortgagee actually meaningless results in the downgrading of the security of a loan and makes extra reserves a necessity. The trend poses a bigger threat to the Georgian banking sector, and the economy at large, than a single commercial bank.

The four major international audit companies realized the implications of the trend. Sooner or later, a large outflow of deposits, bound to render a fatal blow to the banking sector, would have followed. Similar changes adopted by the Parliament a few years ago were cancelled within some three months (without enactment) as a result of a major outcry from the banks and, more importantly, international financial institutions.

To our surprise, this time the National Bank of Georgia endorsed the changes detrimental to the national banking system, the economy and the country’s image. Of all the Georgian commercial banks, it was only Cartu which protested against the new legal norms. The others did not even respond to our call to discuss the poignant issue at a Georgian Bankers’ Association meeting. It is

even more concerning that the international financial institutions operating in Georgia, including the major investors in the Georgian banking system, opted for reticence. Nor did the Georgian Bankers' Association react to "Cartu Bank" JSC appeals in writing.

THE SITUATION IN OTHER BANKS

- The other commercial banks made changes in their credit policies and decreased credit activities considerably;
- In line with the NBG verbal order, the other commercial banks stopped refinancing loans of "Cartu Bank" JSC in order to hinder the improvement of the bank's liquidity on the one hand, and to support the government's punitive operation of seizing the Bank's collaterals, on the other. Between the 2008 financial crisis and October 2011, the issuance of large credits by some banks for the purpose of repayment of the others' smaller ones was a major source of growth thereof. Now, this practice is regarded by the authorities as support to the Bank's liquidity.
- Legislative changes against which all commercial banks and the Bank Association were fighting together just one year ago, were adopted without any consultation, with no one to make any objection;
- The other commercial banks were given a promise that the legislative changes would not be applied to them, which is actually a masked threat to guard against their possible claims;
- The partner commercial banks slackened their relationships with "Cartu Bank" JSC e.g. "Basis Bank" JSC started forwarding its Visa service to another partner.

That, and the information arriving from fellow bankers, substantiated our suspicion that the legislative changes would be employed as a politically motivated punitive operation against Cartu Bank. The subsequent developments have confirmed our suspicion. Relying on "the legislative framework", the government swiftly started a punitive operation for seizing Cartu's collaterals.

The aforesaid legislative changes gave way to a new wave of a politically motivated campaign against the Bank, namely the assets of the clients who owned the collaterals underlying the Bank's credit claims. A tax-related pledge/mortgage (allegedly arising before the registration of a pledge/mortgage in favor of Cartu Bank JSC) would be registered, and the coercive enforcement proceedings described below would be implemented in favor of the Revenue Service LEPL: a)

cancellation of the Bank's registered right to pledge / mortgage by way of coercive public auctioning (or without it) of the assets; b) the transfer of the assets (in kind) into State ownership; c) the return of the assets by the State to their original owners, normally the legal entities established by the companies incorporated in the off-shore zones, foreign nationals or/and the original owners of the said assets.

Here are some noteworthy facts:

- Only the "Cartu Bank" clients "proved to have had" or acknowledged old major tax indebtedness;
- The property (real and movable) of one or several legal entities (e.g. in one case seven entities) had been pledged with the Bank as security for the business groups' credit liabilities. Curiously enough, all the legal entities "proved to have" tax-related debts and those belonged to the period prior to the registration of a Cartu pledge/mortgage;
- Recent statistics of detection of a major tax liability show that the Bank could have merely one borrower of that kind per year. However, over the last three months, 26 Bank clients (100 times more than the statistical data) were "found" to have extremely large (100 times over the said statistics) tax liabilities. Thereafter, the rate returned to normal;
- The Budget liabilities and their timings are suspicious, too. In one case, the liability was "detected" at the expiration of the period of limitation, in 2005. (On 1 January that year, the period of limitation expired and the documents were also destroyed). The 40m GEL liability, 25m of which is related to social insurance fees, is an incredible amount for a general service business which could hardly have charged 100m GEL to its salary account in 2004.;
- Also, according to the Statistics Department, the total amount of turnover in the Georgian non-state sector of services, on repair of household and personal demand items, constituted only 7.8 million GEL and an average monthly nominal salary of individuals employed in this sector was 34.6 GEL;
- Prior to taking loans and "detection" or "acknowledgment" of a tax liability, all the organizations had submitted certificates on the unavailability of budget arrears and reconciliation acts;

- Most of the borrowers were denied access to www.rs.ge where, by entering the personal code, they could obtain information on their current tax liabilities (including the reconciliation act);
- In order to cause greater damage to the Bank, in several cases some businesses that were unable to have tax liabilities resorted to a ploy of reselling the pledged assets to the associated companies by installment that “detected” the large hidden tax liabilities the following day;
- In all the cases, it was not the clients’ bank accounts but their assets that were seized (by tax collection; a well-tested way of recovering a tax liability). Moreover, in the cases of several business groups, the tax collection certificate was submitted at a public auction, resulting in the appropriation of most of the assets by the State. According to the available information, the tax collection certificate reflected the full amount of the tax liability yet if such a tax liability was paid in kind, what amounts was the tax collection certificate related to?! It is evident that it is not the collection of tax liabilities from the Bank’s corporate clients but the seizure of their assets pledged/mortgaged in favor of “Cartu Bank” JSC;
- There were several cases of the phoney public auctioning of the seized movable/immovable assets, since 100% of those- irreproachable in terms of the right of property -were appropriated by the State (the Georgian Ministry of Economy and Sustainable Development) in kind. Consequently, the “Cartu Bank” pledge/mortgage on them was cancelled;
- The circumstance that, instead of selling them, the State appropriated the seized assets in kind, as confirmed by some of the more honest clients, made our suspicion- that those acknowledging the “debts” would recover the seized assets by means of a certain fraudulent scheme -even stronger, which was the case on 03/02/2012;
- In one case, the trades of a unit put out to a public auction were terminated pre-term, so the Bank was not given the opportunity for the next bid;
- In another case, another commercial bank was on the first line, while Cartu was the second line mortgagee. The date of detection of the owner’s tax liability came to be between the mortgage encumbrance dates by the two banks. As a result of the auction, Cartu’s mortgage was cancelled, while that of the other bank was left intact, which came up as another piece of evidence of the application of the legislative changes to our Bank solely;

- In only 33 public actions out of 92 did the trades actually take place. The Bank took part in 31 of those. In all the 33 actual trades, the buyer (“Cartu Bank” in 31 cases) faced “an unidentified competitor” who emerged as the winner;
- The Bank’s 31 attempts at involvement in public auctions came to nothing. As it became evident later, none of those 33 winners paid the declared price of the assets and no repeat auction was held, so all the units were appropriated in kind by the State. No information on the auction registration and the Budget payment of 10% deposit (or a bank guarantee) is available to the Bank. The total of the deposit amounted to 9,405,455 GEL, which makes it clear that the National Budget interests are just a pretext;
- Five of our corporate clients whose assets were auctioned are joint stock companies with five persons as their principal shareholders. The said organizations owned the following five major assets located at: #7 Vekua str., Tbilisi; #37 Agladze str., Tbilisi; #60 Chavchavadze Ave., Tbilisi; #4 Yumashev str., Tbilisi and a wine factory in the village of Okami. It was not only the Bank but over 1000 minor shareholders- who lost the assets underlying their shares -that was affected by the aforementioned illicit actions;
- The annual financial reports of the joint stock companies are posted on the Stock Exchange web-site: www.gse.ge and sent to the NBG president. Three of our five client JSCs are in the database and, according to the reports, their tax liabilities are extremely small;
- As a result of auctioning two assets– residential houses in Tbilisi (in Pikris Gora and Digomi housing estate) built up by a high profile developer company, over 100 families lost the right of property;
- Some of the units changed hands four times in just four months and all those without the payment of the price. Nor were the VAT or 7% executor’s dues paid;
- Incidentally, upon the appropriation in kind by the State, the assets should have been alienated/privatized by way of a) a public auction or b) a direct sale. a) No relevant information regarding the auctioning of the said assets was posted on the official web-sites: www.eauction.ge and www.privatization.ge; b) by the relevant decree, the Georgian President makes a decision on the direct sale of the assets. The decree is to be posted on the web-site of “The Georgian Legislative Messenger”, which has not been done to date. Nor was the information posted on the Georgian President’s web-site (in the Legal Acts area). To our

best knowledge, the GNS investigative studio requested the information from the Georgian Ministry of Economy and Sustainable Development, which confirmed the direct sale of the assets. If the President issued the decree, it should have been posted. Otherwise, it is ineffective. If so, the Georgian Ministry of Economy and Sustainable Development was not entitled to the alienation. Consequently, the present status of the assets is illicit;

- We tried to obtain additional information on the Georgian Government’s website (from the Legal Acts’ area). However, the 2012 order decree area proved to be under construction.
- Along with several natural persons and legal entities, as well as with a Georgian parliamentary faction, Cartu Bank JSC requested the Public Registry to provide the documentation (purchase contract etc.) regarding the title to the privatized assets. They provided an abstract saying that the assets had been alienated “on condition of meeting the contractual obligation”;
- The companies which “suffered damage” continue operating the units “seized” by the State. The Bank was unable to obtain information on the execution of lease contracts;
- If the fictitious persons originally returned the assets to the newly established companies, the procedure became recently unmasked.: in the cases of “Batoil” Ltd, “Georgian Wines” Ltd, “Okami” JSC etc., upon the privatization, the founders or Management members thereof have retained their position in the newly formed companies “receiving the assets”.
- On 26/03/2012, Cartu Group JSC, the shareholder of Cartu Bank JSC dispatched a letter to the Minister of Economy and Sustainable Development reflecting its wish to acquire 18 assets, and asked for the information on the privatization terms thereof. No response arrived. Meanwhile, six out of the 18 units have been privatized on undetermined terms. We managed to find out the purchase price of one of them which was much smaller than the executor’s evaluation and the bid the Bank had offered at a public auction.
- The case of Logos business group was marked by several breaches:
- The assets of the Group had been mortgaged/pledged and then seized by the executor. Afterwards, the mortgage/pledge and the lien were lifted, the assets pledged or non-pledged with the Bank were set apart, the owners were changed, then a tax-related pledge/mortgage arose once again and the executor’s lien imposed. A case of a changed owner is curious enough: Ms. Nino Maisuradze, the owner of an alienated apartment re-registered it in the

name of Mr. Giorgi Isakadze, 100% shareholder of Logos Ltd who once again re-registered it in the name of Logos Ltd.

- The prospected right of property of Logos Ltd was cancelled as a result of auctioning the assets of “White House” partnership, so that no person seeking for the acquisition thereof could appear. For some unclear reasons, the said assets were not auctioned as those belonging to Logos Ltd.
- The “White House” partnership assets were auctioned on 23.02.2012 while the mortgagee bank received the executor’s notice on 27.02.2012.
- The Logos Ltd assets traded on 23.02.2012 were repeatedly auctioned on 07.03.2012 with the same conditions;
- In three cases, several apartments (32 in one case) in a single constructed residential house were put out to auction in a single lot which made their public trading impossible, so that the State could easily appropriate them.
- The case of “Progress” business group was marked by the following irregularities: the public auction of a Progress Ltd car, whose original actual owner was the company founder’s wife, was to have been completed on 16.03.2012 but was prolonged until 19.03.2012.
- Curiously enough, the founder of Progress Ltd contributed his apartment into the capital of a company with major liabilities.
- The actual Founder of Progress Ltd left Georgia.
- In several auctions involving Cartu Bank JSC, the trades continued up to the bid 70% higher than the executor’s evaluation, with 99 bids made;
- Before auction, there were merely two storeys in a residential house constructed by Award Build Ltd. Curiously enough, although the asset was “seized” and transferred into State ownership, its former owner is continuing the construction, with five storeys now in place.
- The irregularities occurring in case of Batoil business group:
 - The Batoil Ltd oil factory is located in three land lots: 21 000 m², 3 000m², and 2000m². The 21000m² land lot was mortgaged in favour of Cartu Bank JSC and the other two in favour of another commercial bank; only the assets encumbered in favour of Cartu bank JSC were seized;
 - The machinery of the Batoil Ltd oil factory were alienated without the lessee’s consent;

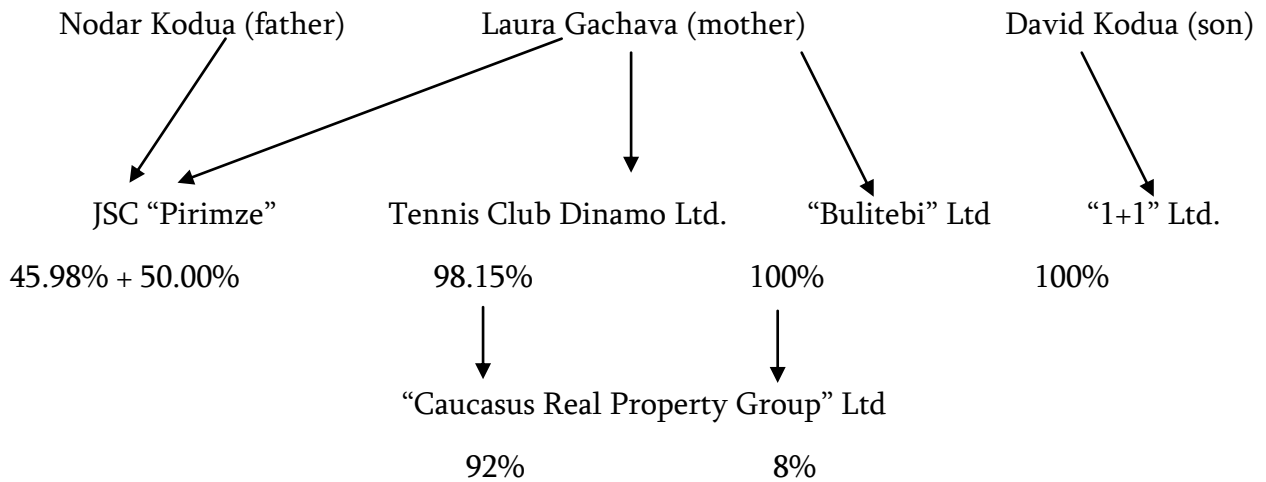
- Prior to the auction, the Batoil business group assets had been fictitiously alienated by way of a one month instalment. The auction was held upon the expiration of the term of that one month, with the purchase price still unpaid.
- On 10/11/2011, on the grounds of fictitious one month purchase contracts, the Caucasus Cereal Company Ltd, a Batoil group member, purchased its two expensive assets for 15,065,593 GEL. It is noteworthy that the Caucasus Cereal Company Ltd had an outstanding budget liability, which hit 20 mln GEL in just a few days. The liability has not been met to date.
- Enforcement proceedings were commenced for the purpose of repayment of credit arrears regarding the Bank, to which end it paid 2% of the enforcement service fee in the amount of 421 000 GEL, which the Bank has not recovered to date. In the said case, the enforcement proceedings, commenced for the purpose of collection of a “detected” tax-related liability, overtook those launched in favour of the Bank and the auction was held only in favour of the Revenue Service (allegedly for the collection of tax arrears);
- In the case of two business groups, along with three other commercial banks, the Bank funded a major syndicated investment project. The said commercial banks were the 2nd and 3rd line mortgagees after Cartu Bank. However, as a result of the auctions, their rights to claim were cancelled too, though none of them objected.
- Within the effective term of the legislative changes, a borrower of a major commercial bank that had applied for a Cartu Bank JSC credit, proved to have a tax liability dating back to 2004, i.e. later than the Bank’s mortgage date (2003), so the Bank did not suffer damage;

Example: Pirimze Group

Structure of Founders

(The Kodua-Gachava Odious Oligarchic clan)

Mr. Erekle Kodua, the son of Nodar Kodua and Laura Gachava, and brother of David Kodua, holds the position of the Head of the Criminal Police Department of Georgia and patronizes the family businesses



- "Clothing Factory Laura Gachava" Ltd. – 100% Laura Gachava
- "Medical Center" Ltd (DKC) – 100% Laura Gachava
- Note: Only the companies associated with Cartu Bank JSC are specified

The Scheme against the Bank

- 03/10/2007 –Pirimze JSC and its shareholder- Laura Gachava -submitted a credit application to Cartu Bank JSC;
- 17/10/2007 –Pirimze JSC had no Budget arrears (corresponding certificate submitted from the Tax Inspection);
- 14/05/2008 – 340.16m² area on the fifth floor of a house located at #3 Vekua str., Tbilisi, and 639m² of non-residential area on the sixth floor of the same building, along with the relevant share of the land plot (initial price 1,350 000 GEL)- owned by the Tbilisi local government- were put out to a public auction at the bid of 20 000 GEL. Incidentally, the said two floors were transferred into public ownership with respect to the "Pirimze" JSC tax arrears of the recent years;

- 19/07/2010 – the Bank and “Pirimze” JSC reached an amicable arrangement at Court;
- 04/11/2011 – the surplus of approx. 200 000 GEL (reflected in the relevant reconciliation act) of “Pirimze” JSC;
- 11/2011 - Mr. Giorgi Kodua, a son of Mrs. Laura Gachava, appeared in “the personal opinion” program of “Maestro” channel complaining about the government harassment of the Sky Georgia air company he owns;
- 11/2011 – deterioration of health condition of the Kodua family members: Mrs. Laura Gachava, a Bank borrower, had had a heart attack, while David Kodua, her son, developed a kidney problem;
- 15/11/2011 – the “Pirimze” Business Group credit arrear regarding “Cartu Bank” JSC hit over 3 tens of GEL millions;
- 24/11/2011 - by 12 month installment, “Pirimze” JSC purchased properties owned by “Caucasian Real Property Group” Ltd and “1+1” Ltd to the total of 13,103,978 GEL. The newly formed “Caucasian Real Property Group” Ltd could not have had Budget arrears;
- 25/11/2011 – at the end of the expiration of the limitation period (2005) it turned out that “Pirimze” JSC had a tax liability of 107,134,234 GEL. On 01/01/2012, the year 2005 was assigned to the tax amnesty period. Due to the six year limitation period, the books and records had been destroyed. The amnestied amount is suspicious: 25m GEL insurance premiums. It is not possible that, in 2004, a general service company charged 100m GEL salaries to the accounts of its employees. According to Statistics Department data, in 2004, the total turnover of the private sector shops repairing staple goods and personal demand items made up only 7.8 million GEL and an average monthly nominal salary of an employee was 34.6 GEL;
- 25/11/2011 – 11 movable-immovable assets (nine units), pledged with “Cartu Bank” JSC as collateral, were encumbered with tax-related mortgage/pledge;
- 30/11/2011 – executor seized the same 11 movable-immovable assets (ning units), which had been pledged with “Cartu Bank” JSC as collateral;
- 11/2011 – regarding a property located at #33 Chavchavadze Ave., Tbilisi, an arrangement was reached with the investor on a 10-year lease for 43.000 USD per month from March 2012;

- 11–12/2011 – the Bank repeatedly sent warnings to its borrowers. However, no response followed;
- 12/2011 – in each case the Bank appealed to the relevant instance court, requesting suspension of the enforcement proceedings (prohibition of the alienation of property in any way) and imposition of lien. Tbilisi City Court dismissed the case. The Bank appealed the ruling but the Appeals Court upheld the First Instance Court rulings, so the Bank’s request for the termination of illegitimate enforcement proceedings was turned down;
- 19–22/12/2011 –public auctions were held. The Bank participated in two of them. In an e-auction, “smithjuniorandcompany” JSC made the largest bid and the winning company did not pay the declared price of the purchased property. The Bank was unable to obtain the information whether the deposit of 10% (1,122,500 GEL) was paid;
- After a “competitor’s” regular bid, one of the auctions (involving the Bank) was terminated pre-term;
- 12/2011 –100% of the property, irreproachable in legal terms, was appropriated by the State in kind;
- The “aggrieved” companies continue regular operations in the units “forfeited” by the State. The Bank failed to obtain information about lease agreements concluded with the State;
- 03/02/2012– in just one day, the State sold all the 11 movable-immovable assets (the nine units) of Pirimze Group to companies established by agents of the ex-owner. Thereby these properties were actually returned to the ex-owners (under the sale-purchase contracts, the obligations are yet to be fulfilled); moreover, all seven objects of Pirimze JSC and one mixed unit (domestic service, an office building, a unit under construction, and a medical institution) were purchased by one person in just a day.
- It should be noted that the sale of the property by the State should have been carried out either via a public auction or via a direct sale on the basis of the presidential decree requiring publication in “The Legislative Messenger”. The Bank applied to the Public Registry for the entitlement (sale-purchase contract etc.) but to no avail;
- 11/02/2012– a lease agreement was concluded with “ICR International Corporation” Ltd, the investor registered with the Public Registry regarding the aforementioned asset located at #33 Chavchavadze Ave., Tbilisi. Under the 10-year lease agreement, the monthly rental was

determined as 43.000 USD. Thereafter, the renovations of the property started. To our best knowledge, it was to this end that the owner took out a bank loan secured by the said lease agreement;

- 20/02/2012 – There is no tax collection document reflecting the payment of the “detected” tax arrears by the Pirimze Group borrowers, issued by the Revenue Service. That undoubtedly testifies to the fact that it is not the tax collection but the appropriation of the “Cartu Bank” collaterals that the government seeks;
- 24/02/2012 – a Rustavi 2 TV Business Courier program discusses a profitable clothing factory owned by Mrs. Laura Gachava;
- The 24/11/2011 sale-purchase contract, 19-22/12/2011 public auctions and the 03/02/2012 sale-purchase contracts were implemented without the payment of the relevant prices. Nor were the VAT and the executor’s 7% dues paid;
- 04/2012 – the Bank filed a claim at the Tbilisi City Court Collegium for Administrative Cases against the Georgian Finance Ministry Revenue Service and “1+1” Ltd associated with “Pirimze” JSC, requesting the cancellation of the Revenue Service administrative legal acts, on the grounds of which the “Pirimze” JSC assets were pledged/mortgaged for the reason of tax arrears and claimed damages in the amount of 8,258,650.62 USD. The hearing has not commenced as yet. Also, by a civil action, the Bank requested the fulfillment of loan liabilities by “Pirimze” JSC and the associated companies. This hearing has also not commenced;
- 04/2012 – a “Pirimze” JSC shareholder, financially affected by the family of Mrs. Laura Gachava, asked for the Bank’s assistance;
- 03/05/2012 – a company owned by Mrs. Laura Gachava was awarded the Golden Status prize by Mr. Kakha Baidurashvili, President of the Commerce and Industry Chamber (ex-Finance Minister);
- 10/05/2012 - a clinic located ay #16 Kavtaradze str., Tbilisi, was acquired by Mrs. Laura Gachava’s family and named for David Kodua, her son. Even today, after the asset was purchased by Ms. Ekaterine Papavadze on 03/02/2012- the founder of “DEKA” Ltd (date of establishment 12/01/2012)-, the clinic still has the signboard “DKC” (David Kodua Clinic).

1. Pirimze – 3 Vekua str., Tbilisi (9 260 m² – 14,180,000 GEL)



2. 33 Chavchavadze Ave., Tbilisi (4 085 m²– 9,950,000 GEL)



3. 29 Chavchavadze Ave., Tbilisi (3 696 m²– 7,300,000 GEL)



4. 5 Melikishvili str., Tbilisi (2 587 m²– 5,150,000 GEL)



5. 10 Melikishvili str., Tbilisi (2 214 m²– 5,000,000 GEL)



6. 60 Chavchavadze Ave., Tbilisi (1 670 m²– 8,000,000 GEL)



7. 8 Arakishvili str., Tbilisi (342 m²– 1,990,000 GEL)



8. 1 Chirnakhuli str., Tbilisi (20 000 m²– 6,690,500 GEL)



9. 16 Kavtaradze str., Tbilisi (12 195 m²– 18,440,000 GEL)



Objects Appropriated by the State

Address	Building (m2)	Assessment of executor (GEL)
3 Vekua str. Tbilisi	8 142	12,500,000
(construction right to an underground parking lot)	1 118	1,680,000
33 Chavchavadze Ave. Tbilisi	4 085	9,950,000
29 Chavchavadze Ave. Tbilisi	3 696	7,300,000
5 Melikishvili str. Tbilisi	2 587	5,150,000
10 Melikishvili str. Tbilisi	2 214	5,000,000
60 Chavchavadze Ave. Tbilisi	1 670	8,000,000
8 Arakishvili str. Tbilisi	342	1,990,000
1 Chirnakhuli str. Tbilisi	20 000	5,790,000
(factory equipment)	–	900,500
16 Kavtaradze str. Tbilisi	12 195	18,440,000
	56 049	76,700,500

Return of Objects by the State

Address	Property receiver	Director –100% owner
3 Vekua str. Tbilisi, (construction right to an underground parking lot until 2057)	“PP” Ltd.	Ekaterine Papavadze
33 Chavchavadze Ave. Tbilisi	“PP” Ltd.	Ekaterine Papavadze
29 Chavchavadze Ave. Tbilisi	“PP” Ltd.	Ekaterine Papavadze
5 Melikishvili str. Tbilisi	“PP” Ltd.	Ekaterine Papavadze
10 Melikishvili str. Tbilisi	“PP” Ltd.	Ekaterine Papavadze
60 Chavchavadze Ave. Tbilisi	“Colossus XXI” Ltd.	Gela Davadze
8 Arakishvili str. Tbilisi	“PP” Ltd.	Ekaterine Papavadze
1 Chirnakhuli str. Tbilisi (factory equipment)	Financing Service-Center “Profit Devizi” Ltd.	Nanuli Partsvania
16 Kavtaradze str. Tbilisi	“Deka” Ltd	Ekaterine Papavadze

Information on the Buyers:

- “PP” LTD, TIN 404922474; legal address: apt.24, #8 Bakhtrioni str., Tbilisi; date of establishment: 15/12/2011; Ms. Ekaterine Papavadze, the US national Director and 100% shareholder. To our best knowledge, the said person is the sister of Mr. Erekle Kodua’s deceased friend;
- Ms. Ekaterine Papavadze is also the Director and 100% shareholder of “PEK” Ltd. The Company owned a three-storey building on the corner of Wine Ascent, Tbilisi. The actual owner of the structure was Mrs. Nanuka Zhorzholiani, wife of Mr. Erekle Kodua. The said person intended to make it into a restaurant to which end she applied for a loan to “Cartu Bank” JSC but was refused it. A greater part of the asset was alienated in favor of “Kopala” Ltd on 12/12/2011;
- “DEKA” Ltd, TIN 404925747; legal address: apt.24, #8 Bakhtrioni str., Tbilisi; date of establishment: 12/01/2012; Ms. Ekaterine Papavadze, Director and 100% shareholder.
- “Colossus XXI” Ltd; TIN 206335474; legal address: apt.1, bld. 4, #35 Moscow Ave., Tbilisi; date of establishment: 13/10/2008; Mr. Gela Davadze, Director and 100% shareholder;
- Financing Service-Center “Profit Devizi” Ltd; TIN 206270033; legal address: #1 Chirnakhuli str., Tbilisi; date of establishment: 17/01/2007; since 02/12/2011, Ms. Nanuli Partsvania is Director and 100% shareholder;

On 02/12/2011, Ms. Nanuli Partsvania also acquired a part of the house located in Razmadze str., Tbilisi, formerly owned by Mr. Nodar Kodua.

Note: in the recovery of the assets, in order to reduce the number of relevant persons, a single person was registered as the 100% shareholder and director thereof.

Public Registry National Agency

Under Article 2(“s”) of the Law of Georgia “On Public Registry”, the accessibility of information is determined as the supply and familiarization with the information and documentation filed with the Public Registry and the registering authority. Under Article 6 (1) of the same law “Accessibility of Information”, “the data registered with the Public Registry and the documentation filed with the registering authority are public and accessible to any person save in cases specified in the Georgian Laws”. Article 7 of the same law defines the guidelines of logging the Public Registry and accessibility thereof. Part 1 thereof states that: “the Agency is authorized to preserve and issue a softcopy of a document drawn up by or filed with it”.

Under the legislation, regardless of the public accessibility of the information enshrined in the law, the Public Registry National Agency will not issue copies of the contracts on the grounds of which a part of the assets (pledged with the Bank as collateral) appropriated by the State, by way of direct sale, were presumably returned to the former owners thereof represented in the contracts by third persons.

Since 2006, “Cartu Bank” JSC has been an authorized customer of the Public Registry National Agency, maintaining the relevant relationships with it via its Legal Department employee, who is also one of the said Agency. The Bank has regularly requested the supply of public information filed with the Public Registry National Agency, including certified copies of various contracts. From 2006 to 2012, the said relationships proceeded unhindered. However, after the State started the transfer to the original owners of the illicitly appropriated assets, the information preserved by Public Registry National Agency, namely, the sale-purchased contracts, have ostensibly become classified. The Bank’s repeated requests for the copies of the aforesaid contracts have been neglected by the relevant district service of the Agency, as have been our complaints lodged to the Agency itself. Thus, the Agency has breached both the relevant law and the by-law (Regulation) governing the issuance and terms of supply of public information. We assume that either the said contracts were not filed with the Public Registry National Agency, which is a criminal offence (at least the forgery of documents), or they contain information which- if divulged -will make evident the illegitimate actions against the Bank.

The government’s punitive operation against “Cartu Bank” JSC affected the Bank’s 13 borrower business groups (30 clients in all). 195 movable-real properties, of 190m GEL, pledged/mortgaged

with the Bank were put out to 92 public auctions. At the time of the pledge, the assets were owned by 42 owners, while at the time of the auctions there were but 26 owners as a result of the fictitious sales and the punitive operation. Thus, in the first (I) quarter of 2012, 125m GEL credit liabilities of the Bank remained unsecured and 28.5% of the credit portfolio had to be written off the balance. Also, in the fourth (IV) quarter of 2011 and first (I) quarter of 2012, some of the Bank's clients migrated to other commercial banks. In order to prevent the negative results (possible breach of banking standards), the Bank adequately increased its controlling interest and most of the credit liabilities regarding the insider clients were met. As a result of the three adverse factors, the Bank's credit portfolio decreased by 43.2%, as did its assets. Therefore, for the first time in the 15 years of its operation, the Bank closed the first (I) quarter of 2012 with a 75m GEL loss. Regardless of the aforesaid, "Cartu Bank" JSC still remains the highest liquidity financial institution in Georgia.

Key Indicators of the Bank (million GEL)

	30.09.2011	31.12.2011	31.03.2012
Assets	532,4	433,8	343,5
Portfolio	435,1	366,0	247,2
Controlling interest	250,0	303,0	253,9
Liquidity	58%	48%	63%
Position (Assets)	VI	VII	IX
Position (Portfolio)	V	V	VII

"Theory of Relativity"

- Out of 19 commercial banks, only the customers of Cartu Bank JSC appeared to have large tax liabilities;
- They simultaneously desired to recognize tax liabilities;
- 100% of revealed/acknowledged tax liabilities appeared to have arisen prior to the bank's mortgages;

- All the companies- members of one business group (in certain cases, all seven companies simultaneously) -appeared to have major budget liabilities, all arising prior to the bank mortgage;
- 100% of properties taken out to 92 public auctions were appropriated by the State;
- It was only at 31 out of 92 public auctions involving Cartu Bank JSC that a person interested in the purchase of property (competitor) emerged. In none of the cases did the buyer pay the sum, nor was a second auction held, and the property was appropriated in kind by the State;
- All the seven assets of Pirizme JSC, and one of Medical Center Ltd., were purchased by one person in just one day;
- 100% of the Bank's claims to the Court and the executors were rejected;
- In case of fair enforcement of the Law, the sums obtained would have been:
 - Cartu Bank JSC - 125 million GEL, relevant to its financial loss;
 - Bank of Georgia JSC - 965 million GEL ;
 - TBC Bank JSC 725 million GEL;
 - Procredit Bank JSC 245 million GEL;
 - Bank Republic JSC 170 million GEL;
 - Liberty Bank JSC 125 million GEL;
 - VTB Bank JSC 110 million GEL;
 - 19 commercial banks (total) 2,8 billion GEL.

We believe that the aforesaid testifies to the Georgian Government's desire to create grave financial problems for Cartu Bank JSC in order to make it breach the standards and allow the National Bank of Georgia to introduce temporary administration.

The members of the Georgian public that follow closely the developments concerning the Bank, will remember that on 20 April 2012 the President signed legislative changes adopted by parliament on 30 March by which the notorious amendments made last October were cancelled.

By doing so, both the MPs and, first and foremost, the President, made it evident that it was not for concern about the Budget- or harmonization with international best practice -that the changes had been aimed: a greater part of the seized Cartu Bank JSC assets did not go into the National Budget but were returned to their original owners, while the remaining ones are still in public ownership to be subjected to the same fraudulent scheme. As to the government's reference to an ostensible similar world practice, last December the US Chamber of Commerce Tax and Legal Affairs Committee issued an opinion calling upon the Georgian authorities to re-enact the previous addition of the law in order to avert the risks threatening the country and, more precisely so, its banking sector. Ironically, in backing down, the MPs did not claim that it would be against international best practise.

The actual goal of the authorities was and still is a politically motivated assault against Cartu Bank JSC established by Mr. Bidzina Ivanishvili. The harassment campaign has been orchestrated by all the branches of power, and involved the NBG, while the banking sector and the international financial institutions operating in Georgia opted for a low profile.

As a result, the assets of 190m GEL pledged with Cartu Bank JSC were blatantly expropriated and the Bank suffered a 125m GEL direct loss.

The timing of the restoration of the pre-last November status quo was carefully selected. We have repeatedly told the public that unless the drastic law had been rescinded by mid April, the interior banking system would have been at risk and the Georgian government would have failed to have kept its promise, given to the banking institutions, that the politically motivated lawmaking would not affect them. It was by such a promise that the authorities managed to secure the reticence of the banking sector and the international financial institutions, so that Cartu bank JSC was left face-to-face with a hostile government.

We call upon the Georgian authorities and the President personally to grant the law a retroactive effect, to restore justice and to return our illicitly seized assets if, by the latest legislative changes, the authorities really admitted to the mistake made last October and did not just make an attempt at protecting the banking system from the virus of the punitive operation carried out against Cartu Bank JSC.

Unfortunately, the international financial institutions, which made a huge financial and technical investment in Georgia for the purpose of the formation of a proper banking system, have turned a blind eye to the government's arbitrary actions;

Here are some landmarks of the Georgia – International financial institutions successful collaboration:

- a speedy bridling of a huge inflation (1993-1994);
- a remarkably successful monetary reform (1995);
- creation of outstanding banking legislation to underpin a civilized banking sector (1995);
- establishment of the independent National Bank of Georgia (1995).

Now that the National Bank has unfortunately turned into a department of the Prosecutor's Office, the abovementioned accomplishments are being wasted. Therefore, the international financial institutions bear moral responsibility for what is going on.

Now that the criminal offences committed against Cartu Bank JSC over the last six months are evident, we urge the missions of the international financial institutions in Georgia, and their head offices, to duly assess the government's actions in order to prevent a virtual profanation of the Georgian banking system to which you have contributed so much.

5. Inactive Court and Pressure by Chamber of Control

Since 5 October 2011, i.e. the day the bank's beneficiary-owner, Mr. Bidzina Ivanishvili made his public statement on his plans to get engaged in political processes, the bank has not been allowed any claim, appeal or application at the Georgian Common Courts with the exception of very rare cases. The Court has been especially biased and partial when dealing with the sales of property that was to serve as security for mortgages at the Bank to cover alleged tax liabilities towards the Legal Person of Public Law Revenue Service. In its suits, in the manner provided by civil and administrative procedures, the bank has been trying to avoid the expected loss, and requested the Court to disallow forced public auctions before completion of the proceedings and termination of the administrative statutory acts that established the existence of tax liens/mortgages. From 7 November 2011 to March 2012, the bank submitted dozens of similar claims, all of them disallowed. Following the procedure, for appealing against the judgments, has been equally unsuccessful. Courts of Appeal have denied the private claims of the bank without any justification, with unprecedented partialness and bias. Increased numbers of claims against the Bank have also been lodged. In one particular case (Application by Frutera Ltd to use a provisional remedy on its suit), the Court allowed the claim and terminated the process of enforcement that had been in progress in favour of the bank. Meanwhile, none of the claims by the latter have been allowed. In another instance, the Civil Panel of the Tbilisi City Court disallowed the bank's application to use attachment on the property of the guaranteeing physical persons, motivating its decision on the assumption that such remedy would interfere with the usual business activities of the limited company they owned (the case of Mali Group Ltd). Unfortunately, we can refer to multiple cases of unheard illegitimacy in this regard.

Cartu Bank JSC has also been included in the unfair, illegitimate and unreasonable process of inquisition carried out by the Chamber of Control.

Natia Mogeladze, Head of Political Party Financial Monitoring Service of the Chamber of Control considered Protocol of Administrative Offence #000008 of 9 March 2012, formulated by the Chamber of Control and based on the alleged violation of Par 1.a-1, Article 26, Organic Law of Georgia "On Political Unions of Citizens".

The Head of the Service considered that the administrative offence- provided for by Par 1.a-1, Article 26 and Article 34 of the Organic Law of Georgia “On Political Unions of Citizens”, and resulting in the imposition of a fine of GEL 822,040 on the bank by the Decision of 12 March 2012 - was an established fact.

The bank disputed both the Protocol of 9 March 2012 and the Decision of 12 March 2012 in the manner provided for by the Laws. The appeal was based on the following circumstances:

- In accordance with the Protocol formulated by Giorgi Amiranashvili, Deputy Head of the Political Party Financial Monitoring Service of the Chamber of Control of Georgia, Cartu Bank JSC had committed an offence provided for by Par 1.a-1, Article 26 of the Organic Law “On Political Unions of Citizens”, demonstrated by the fact that the bank awarded its employees with bonuses with the aim of making an illegal donation. According to the official, “on 8 February 2012, Cartu Bank JSC issued to its employees bonuses in the amount of their 12-month salary. Namely, Zviad Khukhunashvili was transferred GEL 47,256 and Ramaz Kurdadze was issued GEL 55,500; later both employees were commanded by management of the Bank to transfer the amounts, as a donation, to Non-Entrepreneurial Non-Commercial Legal Person Public Movement “Georgian Dream”, which is a subject regulated by the Organic Law and affected by the limitations provided for by the Law”.
- The Bank, in fact, did not commit the offence described above, which resulted in the absence of the administrative charge applied. On 12 March 2012 Natia Mogeladze, Head of the Political Party Financial Monitoring Service of the Chamber of Control of Georgia, made illegitimate and unjustified conclusions, and applied a measure provided for by Article 34-2 of the Law in the form of a fine of 10-fold amount of the illegal donation made. This violated the requirements set forth in Article 237 of the Code of Administrative Offences of Georgia, which reads: “an official authority (official), following from the law and full realization of legitimacy, shall assess evidence by its inner conviction based on a comprehensive, full and impartial examination of all the facts in their entirety”.
- The conclusion made by the officials, formulating the decision that “the illegal donation by a legal body through a physical person” was an established fact “as long as Cartu Bank JSC had done everything within its power to have the amounts issued to its employees as alleged

bonuses and later transferred as a donation to the account of a political organization”, was partial, as it contradicted the facts of the case: the Chamber of Control used as evidence the testimonies provided by Ramaz Kurdadze and Zviad Khukhunashvili, whereby they said they were allegedly forced by the management of the Bank to transfer the amount received to the account of Non-Entrepreneurial Non-Commercial Legal Person Public Movement “Georgian Dream”. However, this fact was not confirmed by the other employees of the bank who had also received bonuses. These employees explained the distribution of bonuses by the environment of force majeure that had developed around the bank in the previous few months. The decision to distribute bonuses was made in order to facilitate the process of work under such force majeure conditions, and did not aim at donating the money to anyone. This is especially true when we take into account that, within the period preceding the bonuses, four key figures left the management. The bank had suffered a great loss for the past few years, and the bonuses served to indicate that the bank’s owner would use all legitimate means to help the bank to survive, that there was no reason for the staff to leave the bank en masses (within the same period the heads of two departments, several heads of divisions and several regular employees had also left the bank).

- There were no grounds for instituting administrative proceedings against the Bank, for under Article 26(1(“a1”)) and Article 34²(2) of the Organic Law of Georgia “On Political Associations”: *“the receipt by a political party of financial and other material donations from legal entities, their associations, other organizations, as well as donations by natural persons or legal entities in favor of a political party shall result in the charging of the former a fine tenfold the amount of the donation”*. The legal preconditions of the legal effect, i.e. the fine, were inapplicable since none of the Bank employees (including Messrs: R. Kurdadze and Z. Khukhunashvili), who had received the bonuses actually transferred them to the account of the “Georgian Dream” public association (non profit organization). Therefore, the Bank did not make any donation whatsoever.
- By its blatantly illegitimate decision of 26 March 2012, the Tbilisi City Court rejected the appeal of the Bank. The decision was upheld by the Tbilisi Appeals Court Chamber of Administrative Cases. The said decisions are illegitimate due to the following circumstances:

- a) The basic rights and freedoms enshrined in Chapter II of the Georgian Constitution, with due regard to their contents, shall apply to legal entities also (Article 45 of the Constitution);
- b) Under the Georgian Constitution and the International Law (“the European Convention of Human Rights and Basic Freedoms”) a person has the right to have one’s case heard by an independent and impartial court;
- c) Every person, whose rights and freedoms under the Convention have been violated, shall have an effective means of legal defence against the national authorities even if the violation is committed by a person exercising one’s official powers;
- d) Under Article 1(p2) of the Administrative Procedures Code of Georgia “Unless otherwise prescribed by this code, provisions under the Civil Procedures Code of Georgia shall be applicable to administrative proceedings”. Consequently, the court decision should have been based on Article 105, pp.1 and 2 of the Civil Procedures Code of Georgia (“for the Court, no evidence shall be pre-emptive. The Court shall assess the evidence according to its beliefs based on a comprehensive and impartial consideration thereof, whereupon it shall conclude whether the circumstances relevant to the case are available”).

- Besides, the Court misinterpreted the law and passed an illicit ruling in breach of Article 393, p.2 (c) of the Georgian Code of Civil Procedures. Disregarding the motives reflected in the claim, it concluded erroneously that by paying the bonuses to 19 employees on 8 February 2012, the Bank made an illicit donation in favor of “the Georgian Dream” public association, yet there were no factual or legal grounds for the conclusion. Namely:
- In any jurisdiction, an offence is a violation or non-fulfillment of legal requirements. Articles 10, 11 and 12 of the Administrative Code set out the grounds for the imposition of responsibility for an administrative offence: a person shall be held responsible for an offence committed deliberately or by negligence. Therefore, no responsibility can be imposed when a person has not committed one, violated the order determined by Laws, breached its obligations, violated another person’s rights or- by a deliberate or inadvertent action -caused an illicit effect. Consequently, for an action to be deemed an administrative offence, the following four elements must be

available: a) the illegitimacy of an action; b) damage; c) consequential relationships between an action and the relevant damage; d) guilt. If any of the above elements is unavailable, no administrative responsibility can be imposed.

- In the said case, the Chamber of Control assumed that the Bank's action constituted an offence under Article 26 (1) (a) of the Organic Law of Georgia "On Political Associations". Yet the provision thereof stipulates that an offence is the receipt- but not an attempted receipt -by a party (or a person of similar standing) of financial or other material donations from legal entities, associations thereof or other organizations. Under Article 25(2) of the same law: "a donation is financial resources transferred by a citizen to the account of a party..." Comparison of the two legal standards leads to the conclusion that it is not the payment of bonuses to the employees that constitutes an offence (which was actually the case) but the transfer of a donation to the account of a party (or that of a person of equal standing), which was not done in the said case. Even if the Organic Law (the disposition of the relevant article) stipulated a sanction for an attempted offence, namely an attempted donation, none was made in the case in question, for not a single recipient of the bonuses made an attempt at transferring the sum to the bank account of the "Georgian Dream" public association (non-profit organization) (otherwise the defendant would have provided the Court with the relevant evidence, such as cash receipts or/and payment orders, which the Chamber of Control of Georgia can obtain in accordance with the Organic Law of Georgia "On Political Associations").
- As to the assessment of the Bank's action as stipulated by Article 34²(2) of the Organic Law of Georgia "On Political Associations", there is no evidence of the offence since the Bank did not make a donation (a financial or material donation made by a natural person or a legal entity in favor of a political party as prohibited by the Georgian Laws).
- Notwithstanding the fact, the Court agreed with the assumption of the Chamber of Control and concluded that, as theretofore the Bank had never paid its employees bonuses over twofold the amount of their salaries, and since in their clarifications to the Chamber of Control Messrs. Ramaz Kurdadze and Zviad Khukhunashvili

confirmed the Bank management's intention for the bonuses to be transferred to the "Georgian Dream's" bank account, it was the case of "an illicit donation by a legal entity via a natural person". In its argumentation, the Court stated that "Cartu Bank" JSC had "done all in its power to have the employee bonuses transferred as a donation". It is this phrase that demonstrates the legitimization (via the misinterpretation of the law) of the Control Chamber's illicit and unfounded decree and it is evidence of the Court's biased stance!

- The Court did not assess the accounts given by the other Bank employees (N. Javakhishvili, N. Khaindrava, I. Beraia, M. Begiashvili, and G. Merabishvili, amongst others), who asserted the contrary and explained in detail the amount and the purpose of the bonuses. As a matter of fact, the bonuses had been designed for prevention of a massive outflow of qualified staff resulting from an unfavorable situation surrounding the Bank. As mentioned above, regardless of the stress caused by an assault on the Bank's collection van, a multimillion loss etc., the Bank employees fulfilled their office duties in good faith.
- If Ms. Natia Mogeladze had compared the "large" bonuses paid to the "Cartu" employees with the ones provided to those employees of the other banks, she would have seen that both their salaries and bonuses are much larger than ours. Compared to "Cartu," the other banks have enjoyed favorable conditions, and not one of them is obliged to report how they intend to dispose of the bonuses.
- A bonus is a type of remuneration; its amount unrestricted by law. The recipients thereof are free to dispose of it at their own discretion. The same holds true for the aforementioned Messrs. R. Kurdadze and Z. Khukhunashvili, but it was only after nearly a month that they made the totally unfounded anti-Bank statement. The aforesaid decree failed to state that it was not only to Messrs: R. Kurdadze and Z. Khukhunashvili that the constitutor of the Bank had given the bonuses, but to 17 other employees, also.
- Additionally, their claim that the Management requested donation of the bonuses to the "Georgian Dream" public association has not been proven. They contradict the other evidence contained in the case and, thus, did not form the grounds for the First

Instance and Appeals Courts to deem them sufficient evidence of the offence committed by the Bank.

There could hardly be another instance of a business confronted by all the State machinery: the three branches of power resorting to all means at hand for the sole purpose of causing it damage.

It should be said that Cartu Group JSC, 100% shareholder of Cartu Bank JSC, has also come under huge pressure: repeated on-the-spot inspections, delayed Customs clearance of goods or deliberate damage thereof, resumed consideration of long-standing claims, Control Chamber fines of millions of GEL and so on.

Cartu Bank JSC has repeatedly issued statements regarding the aforesaid violations and proceedings.

Cartu Bank JSC has supplied the embassies, international financial organizations, other banks, and the media with detailed information on the actions taken against it.

Finally, we call upon the Georgian authorities to stop the harassment of Cartu Group JSC commercial units, namely Cartu Bank, since it causes a threat to the entire Georgian economy and the country's international image.

- Appendix 1 (4pp): the total appropriated and sold assets pledged for loans by the Cartu Bank clients along with the details of the auctions.
- Appendix 2 (2pp): implications for the Georgian banking sector of the Law "On Enforcement Proceedings" (scenario).

10.05.2012

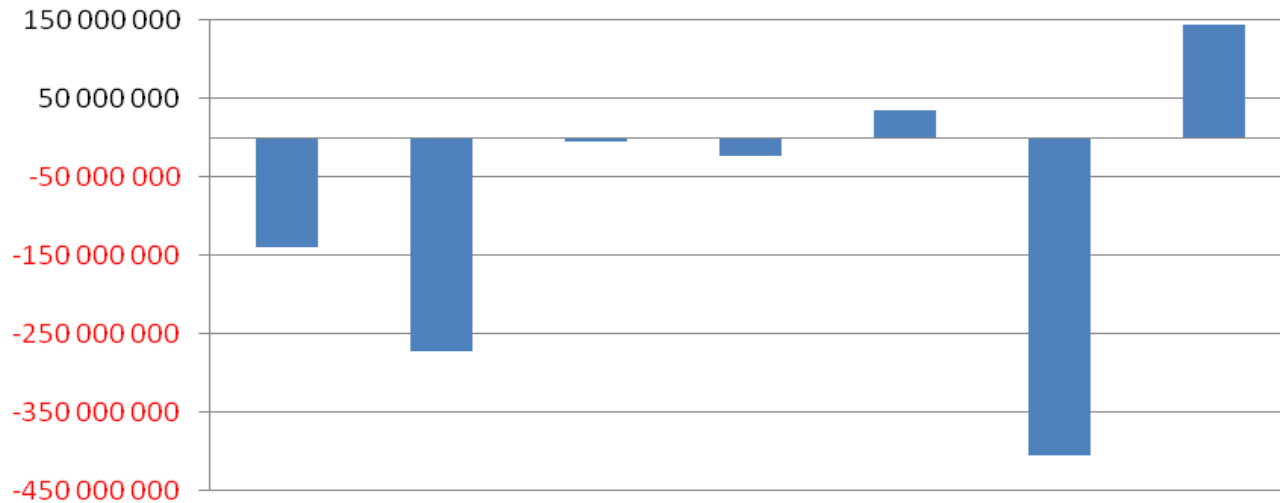
Appendix 2

- Changes in the supervisory capitals of the banks providing the law had been equally applied to all the commercial banks

Financial indicator	Bank of Georgia	TBC Bank	Procredit Bank	VTB Bank	Bank Republic	Cartu Bank
Supervisory capital, GEL	791,740,220	491,910,740	171,244,076	83,845,064	102,403,223	302,978,880
Total loans, GEL	2,669,730,410	2,019,505,976	680,610,206	304,109,038	472,092,229	365,951,183
Financial loss, GEL	820,000,000	620,000,000	210,000,000	95,000,000	145,000,000	108,700,000
Loss/loans, %	31%	31%	31%	31%	31%	31%
Supervisory capital upon the financial loss, GEL	-28,259,780	-128,089,260	-38,755,924	-11,154,936	-42,596,777	221,848,000

- The banks would have had to write off 30% of the total loans, which would have made the supervisory capital a negative value and led to the breach of virtually all the supervisory standards

Bank of Georgia TBC Bank Procredit Bank VTB Bank Bunk Republic TOP 5 Cartu Bank



Increase (+)/ reduction (-) of the banks' liabilities to the clients after the August 2008 war, GEL

- The financial crisis in the wake of August 2008 armed conflict, brought about a gross outflow of the deposits. Namely, in July-December 2008, the liabilities to the clients of 5 major Georgian banks reduced by 400 mln GEL.
- At the same time, "Cartu Bank" 's liabilities to the clients increased by 145 mln GEL owing to channeling the equivalent of 150 mln USD by the Bank's shareholder, which came up as an unprecedented support to the Georgian Financial Market.