

The Case of Vakhtang Maisaia

The Volunteer Spy

Prepared at Human Rights Centre by:

Bakar Jikia

Edited by:

Ucha Nanuashvili

Tbilisi 2010

Contents

Introduction 3

Background 4

Main Actors 5

Detention, interrogations and a testimony 6

Charges and Evidences 11

Court Hearings 12

Physical Abuse, Latest Developments 14

Conclusion 15

Annex 1 16

Annex 2 17

Introduction

One of the leading Georgian political scientists and a military expert, a former Counselor at the Georgian Mission in NATO, Vakhtang Maisaia was arrested on May 5th 2009 in connection with the “*Mukhrovani Mutiny*” with charges in espionage for the Russian Federation. The arrest, court hearings and the case in general had a wide response from the side of the civil society. Charges in high treason and spying were put to doubt by representatives of Georgian NGOs.

The report tries to shed light on the case of the alleged spy. It does not aim at disproving or confirming Vakhtang Maisaia's guilt, but rather tries to uncover controversial details, unknown to the broad public before.

It has been extremely challenging to obtain any information on the case. The whole court hearing with all materials was classified secret, restricting any flow of official information. The prisoner himself however, wrote several letters describing conditions and circumstances of his arrest, detention, court hearings, evidences and imprisonment. It became possible from this materials, unveiled by his lawyer Mrs. Natia Korkotadze to draw a full picture of what looks like an extremely controversial case.

Background

On April 9, 2009 several-thousands strong demonstrations started in Tbilisi. Demonstrators accused President Saakashvili of authoritarian rule and of dragging Georgia in war with Russia last year which ended with drastic results for the country.¹ Unlike mass protest in 2007, violently dispersed by the police, 2009 events did not experience the same type of suppression. The law enforcing authorities used more covert and small scale oppressive activities, avoiding mass crack downs observed in November 2007.²

The alleged “Mukhrovani Mutiny” happened in May 2009. According the official information the tank battalion at the Mukhrovani base declared disobedience and mutiny. The statement was made by ministers of Defence and Foreign Affairs. The Officials declared that Russia was behind the mutiny, aiming at thwarting NATO exercises at least.³ Later on 5th of May the President of Georgia addressed the nation, calling for patience and acceptance of actions that the state would undertake in such situation.

According to unofficial estimates, around 40 people have been detained in connection with ‘mutiny’ charges. 13 civilians were also arrested alongside with military officers.⁴

The authenticity of the mutiny was immediately questioned by opposition and civil society representatives. The doubts were that the Georgian government was trying to use the staged event in order to draw public attention away from protest and regain popular support in the face of mass demonstrations.

¹ HRIDC Report – “Repressive Democracy?!” (2009; p4)

² “Repressive Democracy?!” reviews cases of attacks on demonstrators in 2009. Report available at <http://humanrights.ge/admin/editor/uploads/pdf/repressive%20democracy.pdf>

³ <http://www.civil.ge/eng/article.php?id=20851&search=mukhrovani>

⁴ <http://www.civil.ge/eng/article.php?id=20853&search=mukhrovani>

Main Actors

Vakhtang Maisaia, one of the leading political scientists and military experts in Georgia was born on 28th of August 1972. He graduated the department of Economics and Management in Mining and Geology at the Mining Geology Institute of the Georgian technical University. He also graduated the department of International Relation at the Social Scientific and Technical Institute. Maisaia also graduated the Georgia-American Institute of Public Administration where he received the degree of a Master of Arts in Public Management.

In 1998 Vakhtang Maisaia graduated the U.S. Air Force National Security Studies institute where he also taught the course on Foreign and Defense Policy of the CIS States.

In 1999 he defended the degree of Candidate of Political Sciences at the I. Javakhishvili Tbilisi State University and in 2000 graduated the George Marshall's European Center for Security Research, International and Security Research College - "21st Century Leaders" course. Later in 2002 he was a trainee at the NATO Defense College.

Maisaia worked as an adviser on American and European affairs at the Department of Youth in 1994-1996, as a leading specialist at the apparatus of the Parliament in 1997-1999, as a referent at the beaurau on CIS and Caucasus affairs at the President of Georgia, as an adviser at the Main Strategic Intelligence Department of the Ministry of Defense and as a deputy head of the NATO management of the Military-Political Department of the Ministry of Foreign Affairs.

Vakhtang Maisaia also served as a counselor at the Georgian mission in NATO. He returned to Georgia in the beginning of 2008.

Olena Yatsunska, the Ukrainian political scientist and a political analyst of the company Novartis.⁵ Vakhtang Maisaia was introduced to her in Budapest. Yatsunsk refused to give any comments on Maisaia's case to the HRIDC investigative team and asked to live her alone.

Ioseb (Dodo) Dolezhal was the representative of the pharmaceuticals company Novartis in Slovakia. He was introduced to Maisaia by Yatsunsk in Munich in 2003. The official Georgian prosecution claims that it was Ioseb Dolezhal to whom Vakhtang Maisaia was sending secret data regularly. As Dolezhal stated in his telephone conversation with Elene Magradze, the wife of Vakhtang, he lost his job due to the spy scandal in Georgia and was interrogated and even beaten by Slovak law enforcers.

Ian, whose surname is still unknown and has not even been established by the investigation, worked as a head of the Eastern Europe Marketing Department of Novartis corporation. He was introduced to Maisaia by Dolezhal according to official version of the investigation. In the same telephone conversation with Vakhtang's wife, Dolezhal stated that Ian has disappeared after the spy scandal.

Detention, interrogations and a testimony

Vakhtang Maisaia was arrested by the representatives of the Ministry of Internal Affairs on the day of alleged Mukrovani Mutiny on 5th of May at the Georgian University where he was giving lectures. His arrest happened directly during the session in front of students and colleagues and it is questionable whether such form of arrest, harming his dignity was necessary. Detention in a public space especially during the lecture can only be justified by extreme emergency. According to the Georgian legislation a person can be arrested in a

⁵ Novartis is a global pharmaceutical company ranked third in total sales in the world and sixth largest in terms of revenue. More information on Novartis available at <http://www.novartis.com/>

public space or work only in case of extreme necessity⁶. Maisaia could have been easily arrested after the lecture or before going to the University.

It is noteworthy that the arrest of the alleged spy took place 9 months after the August 2008 war and coincided with the so called Mukhrovani mutiny. With the intelligence data and evidences the law enforcers claimed they possessed, the accusing could have been arrested much earlier, in particular during the duration of the conflict, when the arrest would have prevented the leak of strategic information.

According to the advocate, Natia Korkotadze her defendant's arrest had a political background. *"I think, it was political will of the government. When the so-called mutiny happened, Vakhtang was called from Bratislava and asked what was in fact going on here. Vakhtang replied it was no mutiny and everything was bluff; then he asked the person who called him to call in 2 hours because he was busy. Maisaia promised him to provide detailed information about the mutiny. Exactly 2 hours later he was detained"* – states the attorney.⁷

Later the expert unveiled the information he has promised to deliver to his Slovak colleagues straight before his arrest. It contains no secret data but focuses on a hidden agenda of the regime to use the so called mutiny for its goals. In particular, recovering popular support in the face of mass demonstrations of April 2009; getting rid of rising number of dissatisfied officers and personnel at the Ministry of Defense and the MIA as well. *"Cleansings in Army and MIA started as soon as the "Mukhrovani Mutiny" happened"* – Maisaia reports.

He also sent the list consisting of over twenty highly ranked officials in the Georgian government, military and also foreign diplomatic missions.⁸ According to the letter the law enforcers gave him the list in order to blame these people as his allies in espionage.

⁶ Georgian Criminal Procedure Code – Article 171; part 2

⁷ <http://humanrights.ge/index.php?a=article&id=4605&lang=en>

⁸ The full list of officials is provided in Annex 1.

Number of national as well as international NGOs reacted on the matter. The Human Rights Center (HRIDC) called upon international organizations to get interested in Maisaia's case and demand prompt and impartial investigation.⁹ The World Organization Against Torture (OMCT) has started an urgent campaign, rising concerns over safety and security of the detainee respect of his rights. OMCT called for international society to urge Georgian authorities to guarantee Maisaia's security, access to materials to his attorney, prevent any torture or other violation of detainee's rights, provide impartial investigation and release him immediately in case of absence of valid legal charges.¹⁰

It is noteworthy that shortly after the arrest, president Saakashvili already declared Maisaia guilty by stating: *"it has already been established and he (Maisaia) also has confessed that every two hours he was transferring to the enemy (during the August war) information about the movement of Georgian armed forces so that the enemy could easily find our military units and bomb them"*.

According to internationally established standards confirmed in the Georgian legislation, the presumption of innocence represents one of the founding principles of the criminal law, implying that every person charged with criminal charges should be presumed innocent unless proved guilty by law.¹¹ According to the Georgian legislation the only body authorized to declare a person guilty is the court judgment.¹² Therefore in the above mentioned statement the president clearly violated the presumption of innocence, declaring the arrested guilty long before the court hearings have even started.

⁹ <http://humanrights.ge/index.php?a=announce&id=87&lang=en>

¹⁰ <http://omct.org/index.php?id=APP&lang=eng&articleSet=Appeal&articleId=8695>

¹¹ Article 6.2 of the Council of Europe Convention on Protection of Human Rights and Fundamental Freedoms; Article 11 of the Universal Declaration of Human Rights

¹² Constitution of Georgia – Article 40, part 1

After the arrest, the former envoy was taken to the "Module" building (ministry of Internal Affairs) where he was being interrogated for 5 hours.¹³ As the attorney claims, the detainee was constantly being taken out of his cell for further interrogations every 2 to 3 days where she was not allowed.

In her press conference held at the Public Defender's office, the attorney made issues of communication with her defendant and access to materials public. *"I am not allowed to introduce the detainee with the reports of accusation side. Consequently, I cannot hear the comments of Maisaia on the accusations against him. I am a lawyer and not military expert so I cannot say whether the materials belong to state secret. I cannot show the materials to any other military expert to hear their comments on the accusations"* – the lawyer stated.

According to the defense, immediately after the arrest, the detainee became the subject of psychological and physical oppression. As a result of the intimidation from law enforcement officers, Maisaia signed the testimony where he pleaded guilty resulting in Irakli Batkuashvili and Besik Oboladze also being arrested.

The detailed information on how the above mentioned testimony was obtained and recorded is provided in one of the letters sent to the former Public Defender of Georgia, Mr. Sozar Subari via the attorney. In the letter we read that after being taken to the module building and verbally explained the charges, Vakhtang Maisaia was asked to write a testimony regarding the beginning of his cooperation with the pharmaceuticals company Novartis, with Olena Yatsunska, the political analyst of the company and Ioseb Dolezhal, the representative of the company in Slovakia. According to Maisaia's letter, the testimony was not liked by the deputy head of the Department of Counter-Intelligence and was torn and thrown into the garbage can. *"He wrote his own version, the one which was later released into the Georgian mass-media"* writes the expert. *"He also told me to read his version in front of the camera,*

¹³ The headquarters of the Special Operative Department of the MIA (SOD) and the Department of Constitutional Security (CUD) is referred as a "Module" building.

otherwise they could arrest my wife as an accomplice in espionage.” In this new version all employees of Novartis corporation were spies with whom the Georgian political scientist was cooperating and sending secret information on regular basis.

The video version, aired by the media was suspicious and controversial. Careful analysis of the tape unveils clear signs, confirming that the detainee was reading a text. Psychologists who decided to remain anonymous, conclude that while speaking, the person showed on the video was looking at one place, not into the camera, often stuttered when pronouncing new words and then went back to repeat them. The same was confirmed by the lawyer of the Human Rights Centre, Mrs. Nestan Londaridze.

In one of the letters addressed to the Public Defender, the former Georgian envoy recalls an acquaintance with a person whom he had not seen before. As the prisoner recalls, he was taken out of his cell on 20th of June, at night, and taken to the room on a third floor where the investigator, his personal supervisor and a stranger were present. Maisaia describes the stranger as a Russian speaking middle height man, dressed in black, with dark hair and light colored eyes. The man was introduced as Spartak. Vakhtang’s personal supervisor, Zviad explained that he was from the Russian federal security service, FSB, repeating it several times. Spartak was particularly interested how did Maisaia knew so much about Russian security services. *“The man asked me about my hostile attitude towards Russia. He asked me about the source from which I obtained the information about the military armament of Russia, namely, how I was informed about the disposition of the Russian troops at the Georgian border before the August war.”* – recalls the expert. The presence of the FSB representative in a Georgian closed type facility, in the face of high tensions between the two states is suspicious to say the least and requires further attention.

Charges and Evidences

Charges as described above include spying for a foreign country. According to the Ministry of Interior, Maisaia was transmitting information on *“military and economic situation in Georgia, as well as about replacements in the Georgian government and about armament purchased by Georgia”*.¹⁴

According to the prosecutor, he was regularly sending the data to Russian military concerning movement of Georgian troops and armament during the August war.

The information according to official prosecution was transmitted by emails in the form of short reports. These reports served as one of main evidences against Maisaia. In total there are 13 reports, all of them considered to contain secret information. As Maisaia claims, they were laying on the table unsealed when he entered the room for interrogations. As he states, they do belong to him but asserts that some paragraphs have been added.

Three of these were published on the official website of the MIA. They contain no valuable information. According to the investigative journalist, Lia Toklikishvili one of the main charges against Vakhtang Maisaia was his report dated October 9th in which he informs Ioseb Dolezhali concerning the damage inflicted to Russian armored column by the Georgian mass fire artillery. The report indicates 500 destroyed or damaged armored vehicles on the road from Roki tunnel connecting South and North Ossetia, to Tskhinvali. Destruction of 500 armored vehicles sounds suspicious to say the least.

The expert, Kakhaber Katsitadze further elaborates the issue of controversial facts in his report. Katsitadze's report reads that as the average length of the Russian tank is 10 meters and the distance between them during movement in mountainous area, according to Russian army regulations should be 20 meters, the length of the military column should have been 15 kilometers which is impossible taking the distance from the tunnel to Tskhinvali in to

¹⁴ <http://civil.ge/eng/article.php?id=20858&search=maisaia>

consideration. Moreover, a complete destruction of such column would require a major firepower. For comparison, German forces lost 450 tanks and armored vehicles during the biggest tank battle in history at Kursk during the WWII.

Other reports according to Katsitadze, wrongly list military aircraft, in particular air to ground attacks carried out by Tu-21 bombers, which do not exist at all; also mention Russian military unit “Escadron” as an infantry unit, which is also wrong as such unit does not exist in Russian army at all.

Even if pieces of information in reports were credible, the issue would still be the number of media sources, including TV channels, also broadcasting the same information publicly and nobody accusing them of same crimes. For instance, the TV station Rustavi 2 was reporting names of places where reservists were being mobilized. These locations were bombed later. Why the responsibility of the TV station was not investigated? Such selective application of law, especially over such a sensitive criminal case, puts a huge question mark over the protection of the universality of law in Georgia in general.

Court Hearings

Court hearings were no any less controversial. The whole trial was declared secret and even the decision was not made public. This is a violation of criminal code which states that even in case of the closed hearing, the decision must be public.¹⁵ The decision to hold a closed trial was justified by the fact that secret information had to be unveiled at the hearing.¹⁶ However, the attorney states that all so called secret materials presented were in fact easily obtainable from the internet or other media sources and included no valuable data.

¹⁵part 7 of the article 16 of the Georgian Criminal Procedure Code

¹⁶<http://humanrights.ge/index.php?a=news&id=7018&lang=en>

The official prosecution failed to provide a single comprehensive evidence. On January 22, the notebook which was sealed on the day of Maisaia's arrest in the presence of his wife, was presented unsealed at the hearing. As the lawyer Natia Korkotadze recalls, "*the defense side requested to decline it as evidence. However, one hour after the trial incredible fact happened: we were called from the court and requested to return back to the court. Having arrived at the place, we found out that judge Zviad Esebua decided to seal the proofs on the place in order to protect them.*"¹⁷ According to the Georgian legislation any evidence that is sealed should be done so with the presence of at least two witnesses. The evidence can be unsealed only in presence of same witnesses.¹⁸ Vakhtang Maisaia's wife, Elene Magradze states that she was not invited to attend the procedure.

The official prosecution was insisting that the "spy" was sending reports to Ioseb Dolezhal in Slovakia using a special coding software. The coding software as emerged however, was a simple ZIP format widely used to compress and archive files. Maisaia writes in his letter: "*There were only so called "zipped" files in my computer, a ZIP program which is widespread over the internet and is absolutely open and available. Even more comical was the fact of the Judge Esebua, explaining to the prosecutor what the ZIP program in fact was and told him that it was nothing coded or special.*" Moreover, the full versions of phone conversations between Maisaia and Dolezhal, representing one of the evidences in the case, were not presented during the hearing. Natia Korkotadze also points out inaccuracies unacceptable for the investigation of the case of such profile. Eg. Ioseb Dolezhal is referred by his nickname "Dodo" in the decision of the court. Moreover, Ian, whose surname was not known, has not been established by the investigation and he was mentioned in the case only with the first name.

¹⁷ <http://humanrights.ge/index.php?a=news&id=7426&lang=en>

¹⁸ Georgian Criminal Procedure Code – Article 77/3

Physical Abuse, Latest Developments

After being charged of espionage and sentenced to 20 years of imprisonment, the political scientist and a military expert Vakhtang Maisaia was serving his term in jail #8.

On August 17th he went on hunger strike demanding the release of political prisoners as well as removal of the ban on free printing media entry in prisons. The young opposition activist, Melor Vachnadze also went on a hunger strike with same demands.¹⁹

On 26th of August the Georgian internet media outlet, interpressnews.ge, relying on the opposition MP Dimitri Lortkipanidze, released the information about Vakhtang Maisaia being severely beaten in prison. According to interpressnews.ge the information was originally provided by Maisaia's advocate, Natia Korkotadze.²⁰ According to the lawyer, beating of her defendant is related to the hunger strike and the suit on this matter is already filed. In his latest letter from prison, Vakhtang Maisaia described his hunger strike and the subsequent beating in details.²¹

The ministry of the Penitentiary System denies the fact of beating of the prisoner and calls it an absurd²²

¹⁹ <http://new.interpressnews.ge/en/justice/19908-melor-vachnadze-and-vakhtang-maisaia-are-on-hunger-strike.html>

²⁰ <http://new.interpressnews.ge/en/justice/20077-dimitri-lortkipanidze--vakhtang-maisaia-is-hardly-beaten.html>

²¹ see Annex 2 for the full version of the letter

²² <http://www.humanrights.ge/index.php?a=news&id=8366&lang=en>

Conclusion

The report tried to emphasize all important points involving the case. The report did not intend to argue either for Maisaia's innocence or to prove his guilt. The goal was to draw a clear picture of an extremely controversial case where the conclusions can be made by the reader him/herself.

One point however is clear: it is not up to us to decide whether the person is guilty, it is up to the impartial, effective investigation and court, and facts emerging from the case of the alleged spy cast shadow on the existence of such phenomena in the post-revolutionary Georgia.

PS: According to the official version, Vakhtang Maisaia was paid for his job by his foreign "colleagues". However, funds from his bank account, where some less significant money transfers were made were not expropriated by the authorities. As Maisaia's wife, Elene Magradze says, she was explained by the investigation that the reason for not expropriating the funds was that they were not earned by spying...

Therefore, was Vakhtang Maisaia a Volunteer Spy?

Annex 1

The Full List as Provided by Vakhtang Maisaia

Aleksandre (Kakha) Lomaia, the Georgian ambassador to the UN;

Gela Bezhuashvili, a former Minister of Foreign Affairs of Georgia;

Giorgi Manjgaladze, a former Deputy Minister of Foreign Affairs;

Levan Geradze, a representative of the Abkhazian legitimate government;

Irakli Toronjadze, a Deputy Director of the Department of Foreign Affairs;

Davit Nairashvili, a General of a brigade within the National Guard;

Giorgi Gvalia, a member of the Security Council;

Tornike Turmanidze, an associate professor in Ivane Javakhishvili Tbilisi State University;

Nikoloz Rtveliashvili, a director of a department within the Ministry of Defense;

Nodar Kharshiladze, a director of a department within the Ministry of Defense;

Tornike Sharashenidze, an expert on political and military issues;

Levan Tsutskiridze, a former rector of the Georgian Institute of Public Affairs (GIPA) and an expert on military and political issues; and

Zviad Mikhanashvili, Tornike Parulava, Tato Janashia, Davit Nardaia, Kote Elizbarashvili,

Kakha Chikovani, Nikoloz Khundzagishvili, Omar Bedoidze, Sergo Abashidze, Beka

Aladashvili, Kakha and Lasha Dzebisashvili – Ministry of Defense

Zurab Kipiani, Gela Kvashalava, Zviad Chkhaidze, Andro Gotsiridze, Irakli Batkuashvili,

Beso Oboladze.

The rest are the representatives of international missions accredited in Georgia:

Robert Kenety, deputy head of the US mission to Georgia;

Ian Lent and Rob Fuler, diplomats of the mission of Great Britain;

Adina and Ibrahim, members of the OSCE mission; and

Bodgan Udriste, a member of the OSCE mission. Michael Simson – British diplomat, John

Anton – US embassy

Annex 2

The Last Letter by Vakhtang Maisaia, Related to Hunger Strike and Physical Abuse

To Public Defender of Georgia

George Tugushi

The request of Tbilisi #8 jail prisoner

Vakhtang Maisaia

Request

Reportedly, since August 18th of this year I've been on a hunger strike with the purpose of liberation of prisoners arrested on political and religious grounds and meeting the representatives of international organizations and diplomatic corpus. Today is the ninth day of my hunger strike. On August 24th of this year I asked for my transfer to a separate cell to continue the hunger strike. This request resulted in the repressive measures taken by the prison administration representatives asking me to stop the protest rally. My inmate was sent to punishment cell for groundless reason and I was left in the cell. I protested asking to put me in the same punishment cell with him and if they decide to leave me in the separate cell, to provide the basic necessities. All this was happening in the "8th" (if I'm not mistaken) hall of the fourth floor, next to the so-called "Commanders' room" in the first regime prison building. The representative of the prison administration security service, Viktor (presumable last name is Kacheishvili) punched me with all his might that resulted in hitting the wall. Meanwhile, he was cursing saying to go in the cell. When I told him, that this was inhuman treatment, he grabbed me in the neck and drove me to the corner. After I liberated myself, since I had asphyxia, he hit me in the nose twice that resulted in flooding blood. He continued insulting. Suddenly he rushed to me and three times kicked me in the belly. I, the former sambist, could use protective methods – once with left hand, another time with the

left leg (supposedly there are signs of breaking). I was taken in cell, back of my head was hurting really bad, I had nausea (I vomited twice since that) and dizziness. Doctors gave me some pain relievers, but it didn't help much. On the same day, I submitted a request concerning this fact under the name of the prison director, the copies were written under your and my lawyer's Natia Korkotadze's names. I tried to do it through my attorney Ms. Ketino Vardanashvili on August 26. Unfortunately, they were not delivered by the prison administration. So, I was forced to address you with a separate request in the presence of lawyer. These copies are preserved in my cell (of course, if the prison administration has not expropriated them, that already has occurred with my private notebook on June 30th of this year. My cell is on the II regime building, 91st cell). After this incident, the facts of oppression by the representatives of security service of prison has occurred, again from Viktor, that I will be disappeared and they will carry out worse physical assault against me and the incident will be registered as the fact of self-mutilation, as if I was in the state of fit hitting the window and breaking my nose and they would add on the sentence term. Therefore, the real life danger exists. Please, take this case under your personal control. For now, the treatment by the prison officials in the cell where I continue my hunger strike is normal, but every day I'm expecting execution.

According to above mentioned, I'm asking for one of your representative's visit tomorrow to report the cell conditions of me and Mr. Melor Vachnadze in their capacities.

Respectfully

Convict: /V.Maisaia/

26.08.2010

This request has been written by me. It is correct and I am signing again.

V. Maisaia