

HUMAN RIGHTS CENTER

# The Big Eviction

---

## Violations of Property Rights in Georgia

HRIDC

February, 2008

The Human Rights Centre (HRIDC) is a non-governmental human rights organization, without any political or religious affiliations. The purpose of HRIDC is to increase respect for human rights and fundamental freedoms in Georgia, as well as to contribute to the democratic development of the country

HRIDC implements projects to ensure compliance with human rights laws and standards. We cooperate with international organizations and local organizations which also share our view that respect for human rights is a precondition for sustaining democracy and peace in Georgia.

Contact Details: Human Rights Centre (HRIDC)

3a Kazbegi Ave., Entrance 2, 4th Floor, Apt. 22.

Tbilisi, 0160 Georgia

Tel: (+995 32) 37 69 50, (+995 32) 45 45 33;

Fax: (+995 32) 37 69 50;

Email: [hride@hride.org](mailto:hride@hride.org)

Web-Site: [www.hride.org](http://www.hride.org)

On-line magazine: [www.humanrights.ge](http://www.humanrights.ge)

Prepared by: Nestan Londaridze

Edited by: Wieteke Daniëls

The HRIDC wants to express its special gratitude to CORDAID, the Norwegian Helsinki Committee, and the National Endowment for Democracy (NED) for their support to the Human Rights Monitoring Program.

# *Violations of the Right to Property and Forced Evictions*

## **Introduction**

This report covers the period between 2003 and 2007 and exposes the situation about the protection of the right to property in Georgia. The report reveals cases in which property rights were breached.

After the Rose Revolution in 2003 the protection of private property has become one of the most serious problems in Georgia; hundreds of private properties were demolished and assigned to the state. The number of cases in which private owners “granted their properties” to the state without reimbursement has increased. As a result of the so-called wave of demolition we received numerous “granted’ entities, ruins and a larger number of unemployed people.

Since 2003, several violations of property rights have been observed in Georgia. Initially, the granting or seizure of property was more frequent but later it was followed by demolition.

Large-scaled dismantling of the estates was based on the ideology of the revolutionary government. They feel those buildings damaged the façade of the city; however most citizens whose properties were dismantled had all the necessary documents to prove their legal ownership of the entities. Despite that, the owners were neither compensated nor offered alternative space.

The right to property is protected by the Georgian Constitution both for physical and legal persons. Although the Georgian Constitution envisages and protects the right to property, the government continuously reviews the legality of ownership. The bodies, which should guarantee the inviolability of property, breach that fundamental right. Thus, the private owners are damaged and the inviolability of property is not guaranteed.

## **Legislation**

Set of normative documents were enacted regarding the protection of private property. The right to property is one of the most protected and guaranteed rights in Georgian legislation.

According to the Georgian Constitution:

- 1) *The property and the right to inherit shall be recognized and guaranteed. The abrogation of the universal right to property, of the right to acquire alienate and inherit property shall be impermissible.*
- 2) *The restriction of the rights to property and inheritance shall be permissible for the purpose of the pressing social need in the cases determined by law and in accordance with a procedure established by law.*
- 3) *Deprivation of the property for the purpose of the pressing social need shall be permissible in the circumstances as expressly determined by law, under a court decision or in case of the urgent necessity determined by Organic Law and only with appropriate compensation.<sup>1</sup>*

As for the definition of the urgent necessity, it is regulated by the Georgian Organic Law on Deprivation of Property in the Case of a Pressing Social Need. According to the law, the urgent need is ecological or a natural disaster, epidemics, epizootic threats to human life and health, state or public security.<sup>2</sup>

**According to Georgian legislation, the restriction of the right to property is permissible only in case of social need and pressing necessity and only with appropriate compensation.**

The decision on depriving the property shall be made by the Georgian president, any authoritative body of the executive government, governmental body of the autonomous republic or self-governmental institution in accordance with the location of the private property.

---

<sup>1</sup> see Georgian Constitution, Article 21.

<sup>2</sup> see Georgian Organic Law on the Deprivation of the Property in the Case of Social Need, Article 2.

The price of the entity shall be estimated according to the market price by the authorized governmental body. The price of the property shall be given to the owner before the property is seized.<sup>3</sup>

### **It is Impermissible to Demand the Legal Owner to Return the Object of Property**

The deconstruction of buildings contradicts legislation; a detailed definition is provided in the Georgian Law on State Supervision of Architectural and Construction Activities.<sup>4</sup> The State Supervision of Architectural and Construction Activities has the right to enact a resolution on full or partial dismantlement of the buildings that are not constructed according to regulations as well as fining the owners; however, it is necessary to comply with certain norms. More precisely:

- In case of a violation committed during architectural and construction activities, the participants shall receive the recommendations on improving the violations of the demands in normative documents, regulations and construction norms. In the case of eliminating the violations the contractor shall not be fined;
- When the deadline pointed out in the recommendation is violated, the State Supervision of Architectural and Construction Activities inspects the violator and draws up a report on the fact. The report provides information whether the contractor had complied with the recommendations on improving the violations.
- If the violation is not eliminated the Inspectorate makes a decision on fining the violator. The decision may be appealed against with the superior of the state inspection or a court. At the same time, the execution of the decision shall be suspended until the body or court makes a decision.

### **International Obligations**

The norms that protect individuals from deprivation of property are guaranteed by many international documents; among them the Universal Declaration of Human Rights and the

---

<sup>3</sup> Ibid, Article 4.

<sup>4</sup> see Law on State Inspection of Architectural and Construction Activities, Article 4.

European Convention for the Protection of Human Rights and Fundamental Freedoms are the most important.

“The legislation of Georgia shall correspond to universally recognized principles and rules of international law. An international treaty or agreement of Georgia, unless it contradicts the Georgian Constitution, shall take precedence over domestic normative acts.”<sup>5</sup>

Article 17 of the Universal Declaration of Human Rights states;

- 1) *Everyone has the right to own property alone as well as in association with others;*
- 2) *No one shall be arbitrarily deprived of his property.*<sup>6</sup>

The right to property is guaranteed by the International Covenant on Economical, Social and Cultural Rights as well as the International Covenant on Civil and Political Rights.

The first paragraph of article 1 of Protocol I to the European Convention for the Protection of Human Rights and Fundamental Freedoms states:

*Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.*<sup>7</sup>

## **Cases on Infringement of the Right to Property in Georgia**<sup>8</sup>

---

<sup>5</sup> see Georgian Constitution.

<sup>6</sup> see Universal Declaration of Human Rights, article 17.

<sup>7</sup> see Protocol I to the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 1.

<sup>8</sup> For a detailed discussion on the infringement of the right to property of Imedi TV as a result of the November events see the part of this report called: Assessment of the November events in the light of Georgia's international obligations - Obligation to respect the right to property and the Imedi Case.

### **Tabukashvili Street # 50<sup>9</sup>**

26 Families residing in Tabukashvili Street # 50 (Tbilisi) deal with arbitrary deprivation of property.

Based on the case materials, a building plans of the residential building were agreed upon with the Main Architect of Tbilisi based on Resolution # 292 dated by June 3 1998. On December 31 1998 the Inspection of Architectural and Construction Activities issued permission # 297 on launching the construction. Later, the project was amended and the changes were approved by resolution # 133 of the Main Architect, dated by May 8 2001.

The residents of the building remained homeless. Although they can produce all necessary documents to prove the legality of the construction, their property was deconstructed without any notification to the owners.

The deconstruction of the residential building started on July 20 2007. Representatives from the Supervision Service Department of Tbilisi City Hall appeared at the Tabukashvili Street # 50 unexpectedly and started dismantling activities. The residents had not been informed about their intention. The windows were smashed but people were not allowed to leave the building. Those residents who were outside were not let inside either.

Although people asked the dismantlers to let them go in their flats and take their furniture and possessions out, nobody allowed them in. Several people were injured during arguments with policemen.

Tbilisi City Hall claims that the construction rules were breached and the building was not steady enough. However, the building had survived the earthquake without any cracks. Another reason for deconstruction is low quality construction material; however later the building turned out so sturdy, that it was too difficult to dismantle.

In order to build a thirteen-storied building, a contractor needs several years, many construction materials, money, time and energy. Dismantling of the building takes some expenses too and the

---

<sup>9</sup> see Human Rights in Georgia, Georgian Public Defender's Report. First half of 2006; [www.humanrights.ge](http://www.humanrights.ge).

process of deconstruction goes on in Tbilisi when a lot of people are homeless or live in extremely poor conditions. The priority for our government has become the deconstruction of already built houses instead of starting new constructions.

#### **“Orkidea Ltd” “Merry Time Ltd”<sup>10</sup>**

Another deconstruction that took place near the metro station “Gotsiridze” is also a case of infringing the right to private property. They deconstructed two buildings - café-bar “Orkidea Ltd” situated on the right exit of the metro station and the double-storied building of “Merry Time Ltd” on the left exit of the station. Orkidea Ltd was dismantled on January 27 2007 and the other property was deconstructed on January 30.

The owners of the properties had learned about the deconstruction three days before and no documents were delivered to them. Nearly one hundred people were destroying the buildings. They surrounded the building and set fire inside in order to force people out and then destroyed the building.

The café-bar was working with full equipment inside at the moment of deconstruction. The owner had leased the space in accordance with the law.

As for “Merry Time Ltd” the owners learned about the possible deconstruction by chance. The victims claim that they were going to sell the property and learned about the deconstruction from the purchaser. Afterwards, they applied to the Supervision Department and demanded the normative protocol of the court decision. The Supervision Department could not produce them the protocol. The case materials were accompanied by all necessary legal documents: an extract from the Public Registry on the Ownership of the Estate, permission for the construction and the license for exploitation of the property.

Nevertheless, the building was surrounded; a bulldozer approached the café-bar and demolished it.

An audit estimated 240 000 lari as a price for the property that was illegally deconstructed.

---

<sup>10</sup> see <http://www.humanrights.ge/index.php?a=article&id=1525&lang=en>.



According to the Georgian Civil Code the presumption of the validity and completeness of the registration at the Public Registry is guaranteed until it is not abolished by the court.<sup>11</sup> No one shall be deprived of property without issuing the corresponding administrative protocol; deconstruction implemented based only on oral warning is illegal.

#### **“Nia Ltd”<sup>12</sup>**

On January 17 2006, the trading company “Nia Ltd”, located at Dadiani Street #2, was deconstructed. The dismantling works were carried out by a bulldozer which approached the building and demolished it. The company had two shareholders. Before 1997 the owners had leased the land and then they privatized it. The owners had registered the property with the Public Registry.

There is a resolution on confirmation of the project and the protocol on exploiting the building.

Nevertheless, representatives of the Supervision Department of Tbilisi City Hall met the owners and warned them about the decision on deconstruction. However, they did not explain the reason for their intentions; neither did they produce any official documentation.

According to the Human Rights Centre the Georgian Public Defender applied to the Tbilisi Supervision Department of Tbilisi City Hall regarding the case and received a response on January 22 that stated that the Supervision Department had not launched an investigation into the situation yet. Consequently, they had not made any decision on the deconstruction. However, the Public Defender had sent the letter to City Hall after the building had already been deconstructed. The trading centre was dismantled on January 17.

#### **Irina Nergadze’s Case<sup>13</sup>**

Irina Nergadze’s right to property was also infringed.

---

<sup>11</sup> see Georgian Civil Code, Article 312.

<sup>12</sup> see [www.humanrights.ge](http://www.humanrights.ge).

<sup>13</sup> see Human Rights in Georgia, Report Statement of Georgian Public Defender, first half of 2006 and <http://www.humanrights.ge/index.php?a=article&id=1526&lang=en>.

In December of 2005 “Shushis Sakhli” (glass house), owned by Irina Nergadze, was deconstructed in the Vake District in Tbilisi.

Irina Nergadze, based on the resolution of the Public Registry, together with the state, owned the building situated above the underground passage on Ilia Chavchavadze Ave. # 34. Only 230 sq. meters out of the total space of the building was owned by I. Nergadze.

Initially, Nergadze was leasing the space. Afterwards she applied to the Tbilisi Municipality to assign the 160 sq. meters of the land to her (without the right to sell it) to reconstruct the pavilion near the underground passage in order to open the trade centre there. Her request was satisfied by the Tbilisi Municipality Cabinet’s Resolution dated June 29 1998; based on that resolution Irina Nergadze received 160 sq. meters of land. The resolution of the Main Architect of Tbilisi, dated November 17 1998, states that the total space of the building was 230 sq. meters which significantly exceeded the space estimated by the Vice-Mayor’s resolution. Besides that, according to the building plan, the building should have been one-storied, while the draft project of the building, confirmed by the Main Architect on November 11, 1998, represented a doubled-storied building.

Based on the Georgian Law on Declaring Non-Agricultural Land Owned by Physical or Legal Persons a Private Property the Vake-Saburtalo District Court found Irina Nergadze to be the owner of the 230 sq. meters and co-owner of the 182 sq. meters of land together with the state. The property was registered at the Public Registry with this status.

Despite the violations made during the construction, nobody had the right to destroy Irina Nergadze’s property. Infringing the right to private property, which disregards the court decision, is impermissible since the right to property is guaranteed by the Georgian Constitution.

#### **Khimshiashvili Street # 94<sup>14</sup>**

Anzor Baramidze purchased a flat from a Russian frontier officer in March of 1991. The house was legally registered to the new owner. Batumi City Hall (formerly known as the executive committee) issued a warrant on the ownership of the flat. In 1996, the Russian army assigned

---

<sup>14</sup> see [www.humanrights.ge](http://www.humanrights.ge).

their flats to the state. The flat in Khimshiashvili Street # 94 was not on the list of 49 flats assigned by Russian soldiers because it was not registered to the military unit.

Anzor Baramidze was evicted from his flat, however the Border Police Department has not offered any alternative accommodation or compensation for the flat.

### **“Sonny Centre” and Book-Shop “Saunje”<sup>15</sup>**

The Sonny Centre was situated on the ground floor of the Georgian Ministry of Justice. The Sonny Centre and the Ministry had signed an agreement based on which the centre legally owned the occupied space until 2015. Nevertheless, the Financial Police raided the Sonny Centre and closed it. The reason for the raid was un-taxed equipment in the shop. Soon after, the centre was allowed to continue working, however they had to leave the place and move to another space in the near future. The Ministry of Economic Development offered them the space of the shop “Saunje” in exchange for their space.

The shop “Saunje” had been selling stationary and books for dozens of years. Shota Beridze, the director of “Saunje” said that they had all the legal documentation proving their ownership of the space. Despite that, the Ministry of Economic Development illegally raided the shop; cut the water supply for shop-personnel and forced them to leave the space immediately. The shop was already sold. Mzia Kakabadze, the former owner of the “Sonny Centre” and café “Rustaveli”, had purchased it. She assigned her property to the state as a “present”.

### **Cession under Force<sup>16</sup>**

For the last few years there have been many cases where property was handed over to the state as a present. Several people, after being arrested, assigned their properties to the state after which they were released. Despite a large number of “presents” former property-owners prefer not to talk about it openly.

### **Hotel “Abastumani” and Resort “Aghobili”**

---

<sup>15</sup> see <http://www.humanrights.ge/index.php?a=article&id=1444&lang=en>.

<sup>16</sup> see [www.humanrights.ge](http://www.humanrights.ge).

Anton Merabishvili, the former governor of the Abastumani District, and businessman Genadi Endeladze owned hotel “Abastumani” and resort “Aghobili”. These properties were seized from the owners and assigned to the state.

The Adigeni District State Property Registration and Privatization Department within the Ministry of Economic Development signed a contract on assigning the property to the state. The Notary Protocol was drawn up on October 30 2006. Based on the cession agreement, resort “Aghobili” and hotel “Abastumani” were assigned to the state.

The administrative building of the Health-Resort Union, which was transformed into a hotel, was purchased by Genadi Endeladze in February of 1999 for 4 800 lari. The estimated price for the resort “Aghobili” with its estate and surrounding land was 38 700 USD.

#### **“Acho” Ltd<sup>17</sup>**

Residents of the regions also started to assign their properties to the state.

Gela Bezhashvili, the director of the “Acho Ltd”, who is the head of the Social Aid Department of the Signaghi District Administrative Board, stated in his conversation with the Human Rights Centre that he was ordered to cede his property to the state as a present. He owned a market, an equipped space and a small shop in Signaghi. Bezhashvili was summoned to the Signaghi Tax Inspection where he was ordered to assign the property to the Ministry of Economic Development.

According to the information of the Kakheti branch of the Human Rights Centre, many other businessmen shared the fate of Bezhashvili. Baadur Milashvili, Omar Tsakiashvili and Eliko Berulashvili also assigned their houses to the state.

The Human Rights Centre reported that the parliamentary opposition got a hold of the list which proves the cession of a certain amount of property to the state. Although the list does not represent a complete picture of the situation, the texts of the cession agreements signed between

---

<sup>17</sup> see <http://www.humanrights.ge/index.php?a=article&id=1422&lang=en>.

the Ministry of Economic Development and individuals or companies are the same. For example: “Mr. Lasha Shakaia, director of Natvris Khe Ltd, and Revaz Lortkipanidze, a representative of the Ministry of Economic Development, applied to me. Lasha Shakaia stated that he wished to transfer the real estate of “Natvris Khe Ltd” (201,8 sq. meters of cellar, 224,34 sq. meters of entresol, 574,65 sq. meters of accommodation on the first and second floors) to the Georgian Ministry of Economic Development as a present; Revaz Lortkipanidze stated that in the name of the Ministry he wished to accept the property for free...”

The Conservative Party can produce several materials proving similar deals for numerous properties. More precisely:

- Deal #1) Natvris Khe Ltd: real estate of 869.500 lari in Rike, Tbilisi (30-10-2006);
- Deal #2) Valter Shakaia: property of 260 850 lari in Rike, Tbilisi (30-10-2006);
- Deal #3) Vladimer Abashmadze and Besik Zhghenti: property of 867 750 lari, in Rike, Tbilisi (06-11- 2006);
- Deal #4) Georgian Sport Society “Martve” (07-11-2006);
- Deal #5) property of 1 388 400 lari on Ts. Dadiani Street;
- Deal #6) Manana Gabechava: property of 433 750 lari in Rike, Tbilisi (10-11-2006);
- Deal #7) Nani Kalatozishvili: property of 277 536 lari in Rike, Tbilisi (16-11-2006);
- Deal #8) Gogita Ltd: property of 867 300 lari on Abano Street, Tbilisi (20-11-2006);
- Deal #9) Irakli Ltd: property of 867 000 lari on Grishashvili Street, Tbilisi;
- Deal #10) Davit Janiashvili: property of 520 000 lari on Chavchavadze Ave., Tbilisi.

All these cases demonstrate that an amount property worth 6.352.286 lari in total was seized from property owners in October-November of 2006.<sup>18</sup>

### **Case of Manana Macharashvili<sup>19</sup>**

A resident of Signaghi, Manana Macharashvili, stated that she was forced to sell her commercial accommodation located in Signaghi to an investor. The purchase contract was

---

<sup>18</sup> see <http://www.humanrights.ge/index.php?a=article&id=1526&lang=en>.

<sup>19</sup> see <http://www.humanrights.ge/index.php?a=article&id=2149&lang=en>.

signed at midnight. Macharashvili was taken to the Notary Bureau under physical force where law enforcement officials made her sign the sales contract.

Manana Macharashvili claims that public officials threatened her with sending the Financial Police if she would not sell it to businessman Bachana Davlianidze. The Financial Police could find some violations in the shop and consequently she would be arrested. Moreover, high ranking officials threatened her with planting drugs in her house. Despite all that, Macharashvili was against selling the shop but finally she had to sign the contract under force. Policemen visited her at home and made her sign the sales contract at midnight. Macharashvili directly told Notary Giorgi Lomashvili that she did not want to sell her property. She did not produce the necessary documents so the sale would not be able to take place and she would have prevented the injustice; but in vain.

Manana Macharashvili applied to the Kakheti branch of the Human Rights Centre for help.

The purchase was illegal because the shop was sequestered based on the December 16 2006 resolution of the Georgian Tax Department within the Ministry of Finance. Although a sequestered property is not allowed to be sold according to the law, neither the Notary Bureau nor the Signaghi Public registry faced any problems drawing up the purchase contracts or other documents.

Lawyers for the Human Rights Centre applied to the Signaghi District Prosecutor's Office regarding the infringement of the right to property and demanded the Office to start an investigation into the case. The District Prosecutor's Office sent the appeal and enclosed materials to the Georgian Prosecutor General's Office. However the fact was not investigated at all. The victimized property owners met with Elene Tevdoradze, the chairperson of the Committee on Human Rights and Civil Integration of the Georgian Parliament; though in vain.

Manana Macharashvili petitioned to Nino Burjanadze, the chairwoman of the Georgian Parliament; however she has not received a reply yet.

### **Case regarding Forty Leaseholders<sup>20</sup>**

The case of 40 leaseholders of non-residential spaces in the underground passage of Freedom Square in Tbilisi deals with the infringement of the right to private property. The injured parties applied to the Human Rights Centre for help.

On March 1 2007, a leaseholder and New-Market Ltd signed a lease contract. According to the contract, the leaseholders received non-residential space in the underground passage of Freedom Square for seven months. The leased space was to be used for commercial purposes.

The Supervision Service Department of Tbilisi City Hall agreed with the space-owner without taking notice of the interests of the leasers.

The deconstruction of commercial spaces in the underground passage started without preliminary warning; the loans were guaranteed by leased spaces at the bank but the contract was cancelled. According to paragraph VII of the contract agreement, it cannot be cancelled by one party only; however the owner violated the paragraph under pressure of the Supervision Service Department of City Hall.

### **Dispute on Land<sup>21</sup>**

Batumi City Hall sold the plot of Nevrestan Tarielashvili, resident of the village of Angisi, in the Khelvachauri District.

The ancestors of Nevrestan Tarielashvili had lived in the village of Angisi for centuries and the disputable plot had always belonged to them. In Soviet times the plot was confiscated from their family and only 3 500 sq. meters were left to them. Now this plot was confiscated again.

According to Georgian legislation the estate of the Tarielashvili's was to be transferred into the possession of the family after the collapse of the Soviet Union. But during Aslan Abashidze's

---

<sup>20</sup> see <http://www.humanrights.ge/index.php?a=article&id=1687&lang=en>.

<sup>21</sup> see <http://www.humanrights.ge/index.php?a=article&id=1780&lang=en>.

governance, as he was the head of the Autonomous Republic of Adjara, the land reform was not implemented and housing estates did not go into the possession of the population.

Nowadays, the confiscation process of the plots, which were legalized during Aslan Abashidze's governance, is underway. The list of confiscated plots was added by the Urekhi community. 350 Families lost their housing estates there, which were assigned to them in 1999-2000. These are plots where people produce vegetables and fruit for winter and have houses built.

The Tarielashvili's expect the court to resolve their problem.

### **Expecting New Internal Displacement**<sup>22</sup>

Georgian Ministry of Refugees and Accommodation was added to the list of those governmental institutions which seize private properties. The IDPs who have already experienced internal displacement from their homeland face a similar threat again. They are being expelled from the accommodations which they have occupied temporarily. IDPs might remain in the street.

IDPs from Abkhazia often apply to the Kutaisi office of the Human Rights Centre and complain about the violation of their rights. The IDP population copes with many problems; their poor living conditions are aggravated by the fear of repeated displacement.

Nearly 300 IDPs lived in hotel Kutaisi for fifteen years. In 2005 the hotel was sold for 355 000 USD at an auction. The new owner of the property is Interinvest Ltd. The purchase contract signed by the Ministry of Economic Development and the investor states that if the new owner starts the reconstruction of the hotel he must provide the IDPs residing in the hotel with alternative accommodation or compensate them. The agreement was not followed. IDPs residing in hotel Kutaisi were being forced to leave the place for six months. The offered compensation for the IDPs was 4 500 USD. The temporary inhabitants of the hotel could not accept the offer and it resulted into permanent protest demonstrations. IDPs residing in the hotel claimed that the investor had cut off the water and electricity supplies of the building as well as telephone

---

<sup>22</sup> see <http://www.humanrights.ge/index.php?a=article&id=1701&lang=en>; <http://www.humanrights.ge/index.php?a=article&id=1734&lang=en>; and <http://www.humanrights.ge/index.php?a=article&id=1786&lang=en>.



communications. Nevertheless, the IDPs were not leaving the building and appealed to the court to defend their rights.

The Kutaisi Civil Court satisfied the appeal of the IDPs on ceasing their forcible expulsion from the hotel as well as ceasing the authority of the hotel owner. Interinvest Ltd was forbidden to expel the IDPs from the place and to carry out all kind of reconstruction activities. However, the representatives of the investor tried to expel the residents of the hotel under force that ended into a severe conflict between the IDPs and local law enforcement officials. As a result, innocent people were arrested. A 70-year-old woman was sentenced to five days imprisonment. Finally, the board of Interinvest Ltd had to satisfy the demand of the IDPs and compensated them with 8 000 USD.

A similar situation arose in the Telavi-based hotel Kakheti. IDPs residing there were given five days to leave the place. Since 1992, nearly 60 IDP families lived in the hotel. The Human Rights Centre protects the rights of those IDPs. Building Company “Centre Point” purchased the hotel. Local authority offered 10 000 lari as compensation to the IDPs. It was impossible to buy a proper residential house in the district for amount offered. Nevertheless, the IDPs were evicted from the building. According to the Kakheti Office of the Human Rights Centre, several families continued living in the yard of the hotel. Most families have rented flats with the money they received as compensation. What will happen when they do not have any money left for renting accommodation is unclear.

The situation in densely populated residential areas is analogical. After an investor purchases a building where IDPs are residing in, the people are evicted from their rooms under force and they face another danger of becoming IDPs in their homeland.

### **Gumashvili Family Remained Homeless As a Result of Special Operation<sup>23</sup>**

---

<sup>23</sup> see <http://www.humanrights.ge/index.php?a=article&id=1031&lang=en>; <http://www.humanrights.ge/index.php?a=article&id=1094&lang=en>; <http://www.humanrights.ge/index.php?a=article&id=1188&lang=en>; and <http://www.humanrights.ge/index.php?a=article&id=1700&lang=en>.

On June 3 2005, Malkhaz Gumashvili was in the mountains. His brother Avtandil Gumashvili was visiting his family who was wanted by the police together with his cousin, Vakhtang Gumashvili. A special operation carried out in the house ended with the death of both wanted men.

This tragic story started ten years ago. Otar Margoshvili, a resident of the village of Duisi in the Akhmeta District abused the wife of Avtandil Gumashvili, which was witnessed by under-age children. Afterwards, Avtandil Gumashvili divorced his wife and the woman moved to Russia with her children. Blood revenge is still practiced in Pankisi Valley, so since the incident Gumashvili was looking for Margoshvili for revenge. He learned that Margoshvili was renting a flat in Telavi. During a conversation with Jibrail Khangoshvili, Gumashvili said that he wanted to kill Margoshvili, but when he saw his children he could not kill him and only wounded him in the foot. A criminal case was launched on the incident and the police declared him wanted. However, ten days after the accident Gumashvili continued to reside in his house in the village of Duisi and neighbours claimed that law enforcement officials did not visit him during that time, making the reasons for carrying out the special operation in Duisi unclear.

On June 3 2005 at 8:00 AM, masked people arrived in Duisi; people gathered in front of the village council building claimed that they were riot policemen. The number of law enforcement officials was over 200; they were too aggressive. Law enforcement officials shot something at the house of Malkhaz Gumashvili where Avtandil Gumashvili was at that time and the house was set on fire. Vakhtang Gumashvili, cousin of the wanted, jumped out of the window with his hands up without a weapon, but the riot policemen killed him on the spot. The operation lasted until midday. Avtandil Gumashvili was lying in the house.

During the operation, the mother of Malkhaz Gumashvili and his under-age daughter were in the house. The little girl was seriously traumatized and she was in a bad state of health. Now she has problems with eye-sight and needs a extensive medical treatment. She often loses consciousness. Malkha Gumashvili lived in the house burnt down by the riot policemen with his mother and little daughter. His family and the whole village suffered from the death of the two people. The trouble was aggravated by the fact that their house was burnt and it cannot be restored. The

house was destroyed by the special operation carried out by the Georgian Ministry of Internal Affairs and since that time Malkhaz Gumashvili and his family have had to take shelter with their relatives.

Malkhaz Gumashvili applied to the Human Rights Centre for help. The Centre petitioned the Ministry of Internal Affairs to assist Malkhaz Gumashvili and to compensate the damage. However the Ministry did not respond to the appeal. On July 27 2006, the Human Rights Centre petitioned the Ministry of Internal Affairs again, but the reply from the Ministry stated that the Centre should apply to the General Inspection of the Ministry. The Human Rights Centre applied to the General Inspection several times, as well as to the Chancellery of the Ministry but it turned out that the petition was not delivered to the General Inspection. Neither the Chancellery of the Ministry of Internal Affairs could provide the Centre with valid information. The final reply from the Ministry of Internal Affairs stated that the discussion of the above-mentioned fact was beyond their responsibilities and the victim should apply to the court to receive compensation.

The Human Rights Centre represented Malkhaz Gumashvili, victim of the special operation, in the court proceedings.

The suit was brought to the Collegium of the Administrative Case at the Tbilisi Civil Court. The suitor demanded compensation for the damage caused by the special operation. A friendly settlement was reached according to which Gumashvili received 13 000 US dollars from the Ministry of Internal Affairs as a compensation for the material damages.

### **IDPs Will Not Be Evicted Anymore**

IDPs residing in the hotel “Kutaisi” in the centre of the city for nearly fifteen years do not face the danger of eviction anymore. Kutaisi Regional Court satisfied the motion of the IDPs’ lawyer who demanded to stop the eviction process of the people from the hotel and the owner of the hotel was seized of its power.

The hotel “Kutaisi” with 300 IDPs residing in it was sold out at the price of 355 thousand USD at the tender. Interinvest Ltd became a new owner of the hotel. The contract, signed by the

investor and the Ministry of Economics stated that if the hotel owner starts a reconstruction of the building, the owner must provide current inhabitants with alternative accommodations or they must be compensated with corresponding sum.

The contract was violated. A representative of the Interinvest was trying to force the IDPs to leave the building over the course of several months. He offered them 4,500 USD as compensation. The IDPs could not accept the offer, and they subsequently held demonstrations.

Despite the resistance, representatives of the Interinvest Ltd started reconstruction of the building. They surrounded the hotel area with the fence and stated that very soon IDPs would not be permitted to live in the hotel.

“Before the trial, they did their best to force us out of the building. Together with the hotel administration, they cut every kind of utility – water, electricity etc. We could not use the telephone, either. However, we did not give in and said continued to hold firm on our position that we would not leave the hotel for 4,500USD. Before the trial, representative of Interinvest tried to persuade us to withdraw our suit. Finally, when the court passed a verdict in our favour, the owners started to insult us,” said Lamara Mikiashvili, an IDP. She had applied to the Human Rights Centre’s Kutaisi office for help several times.

The IDPs state that after the trial, representatives of the Interinvest surrounded the hotel with a fence. However, the IDPs remained where they were.

Interinvest was prohibited to evict IDPs according to the law. Besides that, the company could not carry out repairs. “We have appealed against the purchase contract, which was drawn up illegally. There are number of violations in it, which resulted in the above-mentioned problems,” said Murman Kamadadze, a lawyer for IDPs who stated that the hotel owner could not evict the IDPs from the building on the basis of these violations.

“The Law on IDPs” defines that the government must do its best to improve the living conditions of IDPs and not worsen it. In this particular case, these people learned about their future eviction from the newspaper. One could not have imagined a worse situation,” said Kamadadze.

Administrative Bureau of the Tbilisi City Court is about to discuss the case on IDPs residing in the hotel “Kutaisi” in the nearest future. The IDPs hope that the appeals court will protect them and pass a final judgment in their favour.

### **IDPs from Kutaisi Are Not Going To Surrender**

Several months ago an argument started between IDPs from Kutaisi and local law enforcers that later turned into a serious clash. Finally innocent people were arrested. The reason for the incident was IDPs’ eviction in the hotel of “Kutaisi”. Although the court temporarily deprived the owner firm from its power on the hotel, representatives of the “Interinvest” still force the inhabitants out of the hotel.

Several days ago representatives of the “Interinvest” Ltd tried to wrap up and to reconstruct building but the IDPs resisted them.

“Last week they arrived here and categorically demanded us to leave the building within five days. We tried to explain to them that the court passed verdict in our favour. Kutaisi Civil Court prohibited the “Interinvest” to evict us; however they are not going to obey the verdict and want to make us lose temper,” said IDPs living in the hotel.

As a result of the resistance and controversy with law enforcers, Abkhaz woman Vera Salia was arrested. Seventy-year-old IDP woman was sent to five-day-imprisonment and IDPs held protest demonstration.

“We did not give in. We wanted to receive compensation in peace to resettle to one district from where nobody would ever evict us in the future. But those people want war and argument. Let us see who will win,” said Shota Milorava, chairman of the IDP Committee.

On June 10 Kutaisi Civil Court made decision to send case materials to the Administrative Chamber of the Tbilisi Civil Court.

Murman Kamadadze, lawyer for IDPs: “It is bad that the Tbilisi Civil Court has to discuss this case. Kutaisi Civil Court must discuss this argument to the end. In addition to that case materials are still in the Kutaisi Civil Court and nobody knows how long it will remain there.”

Tbilisi Civil Court will supposedly make final decision on the case in August. Thus both IDPs and representatives of the “Inerinvest” Ltd will have hot summer.

### **In the Expectation of Internal Re-Displacement**

IDPs residing in Telavi based hotel of Kakheti” were given five days to leave the building. The police warned them about it yesterday. The hotel, where nearly 60 families have lived since 1992, was purchased by Centre-Point Company. Local government offered 10 000 lari as compensation to each family from district budget. The IDPs said that they will not be able to buy any accommodation in Telavi with the money.

IDPs have applied to the Telavi Municipality and Kakheti Regional Administrative Board to find out the situation but in vain. Officials from local government did not meet them.

“As far as we know, the hotel building was sold twice. Initially Andronikashvilis purchased it for a very cheap price. Then Vakhtang Rcheulishvili, representative of Centre-Point Company, purchased it. Now certain Nino Jijeishvili represents this company. Today we learned that she has applied to the Telavi District Police and claimed that we are damaging her property and occupy the hotel illegally. We have not occupied the building forcibly. In 1992 the government lodged us in. The investor or its new owner has not met us and demanded to leave the hotel.”

“Nearly a month ago, Gaga Tsigroshvili, Telavi district Governor visited the hotel together with his companions. He threatened us to send a unit of Special Forces to the hotel unless we left the building on time. Do you know what he told us when we resisted him? “What do want at last, I do not care about you at all?” and spat at us. Despite being so much insulted, we applied to the

Administration for help but they did not meet us. The Kakheti Regional Gubernator hid from us each time we visited his office. We are not going to leave the building because we do not have to go anywhere,” said Naira Ugrekheldze, Besik Maisuradze, Murad Dadvani, etc.

“Our refusal on leaving the building is not categorical; however we cannot remain without alternative accommodation. Nobody has offered money to us officially. We have heard that they are speaking about 10 000 lari. So we started to look for flats and found out that a flat with two rooms costs 8-9 thousand USD in the suburbs of Telavi. We can buy house for 10 thousand lari in those villages of the district where there is no road and water and the territory is permanently under threat of landslide. In those villages people do not live as a rule. We cannot add anything to the money they have offered because we do not work. We receive allowances only for socially excluded people or for IDPs and it amounts to 11 lari a month. We have spent fifteen years in these terrible conditions but we have not bothered anyone. We do not want to become IDPs again,” said Demur Ghudumidze.

Enver Gagnidze resides in one room of the Hotel “Kakheti” with his wife and two children. The total space of the room is 11 sq. meters. One of his children is ill with cerebral palsy and lost eyesight short time ago. The second child goes to school. Three of his children died during Abkhazian War. Enver Gagnidze hardly escaped the death himself during the war. This year he lost allowance for his disablement and the family’s only monthly income is only 66 lari.

“This money is not enough to buy medicines for children. We are half hungry and nobody has ever assisted us. Even Abkhazians did not treat us like our government does it now. Nobody has forced us out from Sokhumi. We simply were patriots and joined Georgian people. So we became IDPs,” policemen entered the room and interrupted Enver.

“Take this warning and sign the document,” said the inspector. Enver refused to sign and we supported him As soon as policemen noticed camera, they left the place. IDPs explained law enforcers’ behaviour as follows: “Policeman Mevlud Maisuradze warns us that their people have poor nerves and we should not resist them or it might result into a serious clash. Do they know

how poor nerves we are having? We have endured so much disaster and we are like beasts,” said IDPs.

Gaga Tsigroshvili did not make comments on the situation. “I told you over the telephone that I am not going to make any comments about it and why have you come here? I will not say anything about the complaints of nervous people,” said Tsigroshvili and banged the door.

Neither Gia Natsvlishvili, President’s Representative to Kakheti Region, wanted to speak about IDPs. His press-secretary told us that the inhabitants must leave the hotel within five days by all means, because “it is necessary for the development of Telavi Infrastructure.”

Lawyers for the Human Rights Centre (HRIDC) defend the interests of IDPs residing in the Hotel “Kakheti”. Lawyer Lia Khuroshvili said that every activity is illegal that is carried out at the expense of the rights of IDPs. “Georgian Law on Internally Displaced People, Article 5 section IV states that the issues regarding accommodation must be settled through court discussion. Besides that, until Georgian jurisdiction is restored on corresponding territories, IDPs shall not be evicted from compact residential areas unless they sign contract, or are granted with alternative accommodation in which their living conditions shall not be worsened. In this particular case there was no contract signed. According to current unofficial agreement with IDPs their living conditions will be worsened. Thus we are preparing a suit to the court and we will bring it at the end of this week,” said the lawyer.

The IDPs demand meeting with the government to find out the situation. Unless their demands are satisfied they will go on a hunger-strike in front of the Kakheti Regional Administrative Board.

### **Victims of Earthquake Remain Homeless for the Second Time (Part I)**

*In March 2007, victims of the April 25, 2002 earthquake will become homeless again. The court has decided to evict them from their current houses. They have fifteen days to leave their flats.*



Currently, the victims are residing in flats that were purchased by the Tbilisi City Hall after the earthquake. Money was allocated from the “Fund for Liquidation the Earthquake Results” that was created by donations. These people were lodged in those flats when Mikheil Saakashvili was the Chairman of the Tbilisi Municipality and Vano Zodelava was a Mayer. Now, authorities in Tbilisi claim that these people broke into the flats illegally, and are demanding that they leave the flats, which were bought for 4 000 USD years ago. The officials act under the verdict passed by the court.

The problem has originated from the lack of proper documentation such as a transfer report. However, the City Hall handed these people the keys of the new flats during an official ceremony. Maybe this was a premeditated violation and that someone is personally profiting. If we look through the documents at the court, we will observe quite clearly that these people are victims of the earthquake and the city authority purchased these flats for them from the fund.

The victims wonder how much longer they will stay homeless. They have some documents that show that the board of the fund made their documents fraudulent. Victims said that the authority wants them to leave the flats in order to sell them out again and that the authorities sold the flat, which had been already transferred to a victim’s family for the second time.

### **Case #1**

Giorgi Aleksaniani, an earthquake victim is disabled. The court concluded that he should also leave his flat. His legal heir and representative is Irma Basilahsvili. According to the documents, Aleksaniani lived in Meidani District, Samghebro # 6. Since the earthquake, it was impossible to live in their house. The conclusion of the specialists confirms the situation.

The Fund for Liquidation of the Earthquake Results was created on May 16, 2002. It was initiated by Tbilisi’s vice mayor Giorgi Sheradze. In fact, flats were purchased with the money allocated in the fund through donations.

Irma Basilashvili spoke about the situation herself: “The fund purchased the flats eventually. Officials from the fund announced on TV that every victim’s family of the earthquake could apply for a flat. So, our family did so. We submitted all the necessary documents to the fund and they confirmed that we were victims and granted us special number. At that time Zurab Gudavadze was the chairman of the fund. Meeting all demands of the fund, they asked us to find a flat for 4 000 USD in Tbilisi. I found a flat in Merve Legioni District. It is Tsulukidze lane I, B/L 14. The owner of the flat refused to sell the house for less than 4 300USD. We agreed and said that I would add 300 USD and the fund would pay 4 000USD. Everything happened according to the agreement. We were handed the key of the flat at the official ceremony at the City Hall. Zodelava attended the ceremony too and he gave me the key personally. Mikheil Saakashvili and other members of the municipality also attended the event.”

Although, the flats were transferred to the victims, no contract report was drawn and signed. The victims applied to the fund several times, but officials from the fund insisted that everything was in order and that they would receive documents on property very soon.

Basilashvili was visiting the fund twice a week: “I visited the fund several times. Each time, Akaki Gongladze, the chairman of the fund and Nana Chachua, the secretary, told her that under certain circumstances, they preferred to lodge in every victim’s family in the flats and would then sign the contract with them. However, they did not keep their promises. In January of 2003, a criminal investigation was launched on the misappropriating of funds. Consequently, the fund ceased its activities. The investigators met us and asked whether we had bribed the fund.”

In September 2003, Basilashvili applied to the fund again. She received the same answer from the fund representatives - everything was in order and demanded a document proving that her uncle was a disabled person. On May 14, she provided those documents to them. “After that, the officials from the fund told me that there were no problems. Despite that, I visited the fund three times a month. One day, I learned that I was refused to be transferred to the flat. This document is dated by May 28, thus they kept the document in secret for three months,” said Basilashvili.

## **Victims of Earthquake Remain Homeless for the Second Time (Part II)**

*The victims of earthquake, having learned they faced eviction from their houses, thought that the court would find out the reality. Consequently, they waited for the court decision. However, they applied to the parliament for help.*

One of the victims, Irma Basilashvili said that Nino Burjanadze, the chairman of the Parliament, did not reply them. Mikheil Machavariani, the deputy chairman of the Parliament, sent mediation to Akaki Gongladze, the chairman of the fund. Machavariani wrote in the mediation that the documents of the victims were in order and they should not have any problems in future.

Meanwhile, the case was being discussed at the court. The chronology of the trial decisions is too complicated. “On January 17 2005 Gongladze appealed to the Mtatsminda-Krtsanisi district Court and demanded to evict Basilashvili from her flat. On February 6, 2006 Judge Leila Arkhoshashvili satisfied the appeal and concluded that the family was to leave the flat.”

“On March 6 2006 the victim appealed against the verdict at the Appeal Court. Representatives of Gongladze did not appear at the trial. However, Judge Paata Katamadze passed verdict without accused side and abolished the conclusion about the eviction.”

“The fund appealed against the above-mentioned verdict at the Appeal Court. The judge decided to move the victim family into another flat. February 6, 2006 decision # 2/6763 of the Tbilisi City Court states the following: “Giorgi Aleksaniani must be exiled from the flat and moved into a one-room flat that will be empty by the time of eviction.”

The victim visited the flat in the Moscow Ave herself. “I arrived at the flat in this address and found out that ten people already lived there. It is a hostel in the Moscow Avenue,” said Basilashvili. The information is real and the journalist for the Human Rights Centre visited the flat herself. Akaki Gongladze confirmed the information as well. However, he added that present residents of the flat are going to be evicted and the new family will move in there.

The victim appealed the last verdict at the Supreme Court-the last instance. According to the Supreme Court's January 22, 2007 decision, the case remained unsettled, thus the conclusion of the Appeal Court remained valid.

The financial police got interested in this complicated situation too. The victims hope that the truth will be soon found out. They applied to the financial police and part of them made testimonies to them. Another part of the victims will also be interrogated in future. As for Basilashvili's case, her 15 days limit expires on February, 28 and she does not know what will happen with them on that day.

### **Case #2**

The court concluded that one more victim family of Vardo Dzavashvili should leave flat. They have to leave the flat until March 1. The victim retold the story herself:

“In 1996, our house in Nadzaladevi district burnt down. Only walls remained from it. We started to rebuild it in order to make it possible to live in it for some time, though not very comfortably. After April 25 2002 the earthquake our house was finally destroyed after a landslide. On that very evening the whole district was exiled because it was impossible to stay there. The fund granted us with a flat in the Fonichala District B/L # 20. However, I did not receive the transfer report like many other families. I have been living in this flat since December 2002. However, Gongladze claimed that I am not victim of earthquake and there are no documents on me in the fund. I wonder, if there are really no documents, how investigators found me to ask whether I had bribed anyone in the fund. Or why did they give me that flat? Where are they going to move my family to if we are evicted? There are all necessary documents in my case materials. I have to leave the flat within fifteen days and I do not know where I should go with my two children, mother-in-law and a husband?”

Dzavashvili can produce a document that proves that this family was inserted in the information bank for socially excluded families.

### **Case #3**

Mzia Nadirashvili's family is also a victim of earthquake. Her family has to leave the flat within fifteen days too. Before earthquake they lived in Ksovreli Lane #2. She has epilepsy and is a disabled person of the first group. Marina Nadirashvili, her sister, is her legal representative.

Marina Nadirashvili: "There is a conclusion about our house stating that it cannot be repaired. Since the fund could not find cheap flat for us, we decided to look for it ourselves. Finally we discovered a flat in Varketili district for 4 300 USD. The fund purchased that flat for us on February 17 in 2003 and we moved in. We have been living there since that time. Having not received any documents of property, we started to register the flat ourselves. I discovered quite by chance that Gongladze had declared certain Levan Dzidziguri's family as a legal owner of the flat on August 11. One fine day, member of Dzidziguri's family visited me and tried to break into the flat. I applied to the fund after the incident. Gongladze told me I had occupied the flat illegally and he appealed to the court against me. According to the court decision, I have to leave the flat within fifteen days."

There are a number of similar stories of victim families. All of them are nearly the same- initially the government bought the flats for victims and now they are evicting them from those flats.

### **Victims of Earthquake Remain Homeless for the Second Time (Part III)**

*The first and second parts of the journalistic investigation focused on how the victims of the earthquake were lodged in various flats and how they are now being evicted. The third part of it will attract your attention to the documents that include the case materials of the victims.*

Having spoken with the victims, I studied those documents from the case materials. These materials prove that victim's families reside in those flats legally.

#### **What is written in the documents?**

**Document 1.** Tbilisi Authority enacted the structure of the Fund for Liquidation of the April 25, 2002 Earthquake Results under the July 4, 2002 resolution # 11.03.201. Tbilisi Prime Mayer, Gia Sheradze, signed the document, which stipulated that a) the fund is established with donations; b)

money used to purchase flats for the victims of the earthquake will be apportioned from the fund; c) contracts and transfer reports will be signed between the fund and the victim's family after they move into the new flats purchased by the fund (neither contracts nor reports have been drawn up), etc.

**Document 2.** On May 22, 2003 the authorities drew up a new resolution that was designed to address the absence of documentation of 346 flats of the victims and Karbelashvili (Vice Prime Mayer) is obliged to register those flats on victim's families. However, Karbelashvili did not follow the resolution.

**Document 3.** At that time, Tbilisi Mayer Vano Zodelava and Chairman of the Tbilisi Municipality Mikheil Saakashvili, considered that those flats were registered as victim families' property.

**Document 4.** There is another document, Tbilisi Authority's December 2002 report # 24, which provides detailed information about the victims and flats that should be registered under their names.

**Document 5.** Under the Tbilisi Municipality March 18, 2005 resolution # 28, the chairman of the Municipality, Zaza Begashvili, ordered Temur Kurkhuli, a representative of the Tbilisi Authority: "To discuss the question of purchasing the temporary shelters for the victims of earthquake by the special Fund for Liquidation the Earthquake Results and prepare a contract on private property transfer with the victims. Also, the document pointed out that it is an urgent order of the Georgian President."

**Document 6.** Tbilisi Authority enacted the regulation of the property transfer under the June 5, 2003 resolution # 08.28.176.

**Document 7.** On August 9 2005, Akaki Gongladze, the chairman of the fund sent the following letter to the Tbilisi Mayer Gigi Ugulava and Prime Mayer Temur Kurkhuli: "First of all, let me express my gratitude in the name of the citizens whose flats are being registered. These flats

were transferred to them as temporary shelters because of the loss of their houses after the earthquake. Fifty-eight families have already registered their flats and this process is going on... I want to kindly remind you that some families, who live in the flats purchased by the former board of the city hall and Municipality members, have no connections with the earthquake. The court has passed judgment on these families' and is prepared to evict them from those flats. There are two ways-either these families should be evicted, or some alternative accommodations should be found for them. We do not support the first way; however, the second way of resolving the problem is beyond our competence."

**Document 9.** Tbilisi Authority's May 22 2003 resolution # 07.02.146, signed by Gia Sheradze, states the following: "The flats must be registered on victim's families for permanent residence. Deputy Prime Mayer Giorgi Karbelashvili is in charge to oversee how the resolution is implemented."

Having found no justice at the court, the victims applied to the Human Rights Centre for assistance. The centre applied to the Tbilisi City Hall and demanded to investigate the situation. On January 16, 2007, the centre received an answer from the chief of the Local Property Management City Service Department, Sergo Kavtaradze, which goes as follows: "According to our information, the fund has sent 47 cases of eviction to the court. One of these cases deals with the Dzavashvili's family, which wasn't affected by the earthquake. As for Basilashvili's and Bregvadze's families, we do not have any information about their eviction."

Lawyer for the centre, **Davit Managadze**, took effort to conduct a full and complete investigation into the matter and revealed that their demands are legal.

Davit Managadze: "Demands of these people are legal. The fund was to register flats on those families; however, they did not do that. These people really are victims of the earthquake and they were compensated with those flats. The fund should not have bought the flats for them if they had broken into those houses? The aim of establishing the fund is to satisfy the population with accommodations. The Tbilisi Authority must resolve this problem once and for all. The flats

must be registered under the names of the victim's families. Under some circumstances, the board of the fund and Tbilisi Authority will be charged for stark violations.”

### **Victims of Earthquake Remain Homeless for the Second Time (the end)**

To find out the reality, Human Rights Centre got in touch with the representatives of the Tbilisi City Hall who were in charge to make some decisions and sign documents on the case materials. One of them is Temur Kurkhuli, (that time Prime Mayer), secretary of the City Municipality.

**Journalist:** Mr. Temur, Why some problems have emerged regarding the victims of the earthquake? Initially they were lodged in those flats and now they are demanded to leave places.

**Temur Kurkhuli:** I only know that those flats were transferred to the victim families legally for permanent property. However, there are families, (I think they are only fifteen), whose cases were discussed at the court. They broke into those flats.

**Journalist:** What do you mean by “breaking into”?

**T. K:** I cannot say- they might have been lodged in by the fund too. The investigation should find out the reality. In any case, I think those people, who have occupied the accommodations, do not meet the demands of that time authority.

**Journalist:** I have examined the documents of these three families. Everything is in order, besides that there is a list signed by the officials from the city authority where these families are inserted. Why did they have to break into the flats?

**T.K:** I do not know. Gongladze was responsible for that and I do not remember details. I have not attended to this matter for a long time. I cannot tell you who these people are and if they are right.

After that we applied to Sergo Kavtaradze, the chief of the Legal Service Department of the Tbilisi City Hall. He said that until the General Inspection of the City Hall finishes the investigation of the case, nobody can evict those people from their houses.



**Sergo Kavtaradze:** “The court hearings are still going on regarding the situation and the General Inspection of the City Hall is raiding the fund. Every case is hindered by the fund until the General Inspection makes final decision.

**Journalist:** What would you say about the court decision under which these families have to leave the flats within fifteen days?

**S.K:** Until the General Inspection investigates everything properly, it will be difficult to say anything. Many new violations can be discovered in the case that might cause the holding a new trial. Nobody will evict those people before the conclusion is prepared.

**Journalist:** Did any service departments of the City Hall or your service department investigate the case? The documents show that these people did not break into their flats and they are really the victims of the earthquake.

**S.K:** Our service department has studied the case and consequently we ordered the general inspection to raid the fund.

### **Corruption or Swindle?**

According to the documents, in 2002 the fund purchased a flat in the Fonichala district 3, B/L 23, Entrance III; App. 63 for 3 800 USD from certain Teimuraz Lachashvili. Since 2004, certain Shevchenko is considered to be a co-owner of the above-mentioned flat. The Human Rights Centre found out that in 2006 the flat was sold for the second time to Gakhokidzes. However, it is strange that the Gakhokidzes bought the house from Teimuraz Lachashvili. One more interesting detail is that Lachashvili was a member of the above-mentioned fund and member of the Isani District Commission. Thus, fund member sold his flat to the fund and afterwards, through some plots the flat is still his property, however it is registered on Shevchenko and Lachashvili sold the flat for the second time.

### **Chairman of the Fund**

Finally we got in touch with Akaki Gongladze, the chairman of the fund.

**Journalist:** Mr. Akaki, how did it happen that once you lodged the victims of the earthquake in the flats and then appealed against them at the court as if they had broken into the flats?

**Akaki Gongladze:** Do you know what has happened? It is not so easy to explain because various families have various documents. If you tell me concrete names I will answer you in details. Tell me the surname.

**Journalist:** For example, Aleksaniani...

**A.G.** He is a single man who resides in two-room flat. Under the current legislation and our resolutions, we offer him a new one-room flat in the Moscow Avenue. Courts of all instances have made such conclusions regarding the family. The Supreme Court also made conclusion that Giorgi Aleksaniani must leave the flat and we will lodge him in the flat in Moscow Avenue.

**Journalist:** Mr. Akaki, that flat is already occupied, is not it?

**A. G.** Yes, but a person who lives in that flat, has no connections with the earthquake and he has no right to live there. So, nobody will force Aleksaniani out from the flat until it is possible to move them into the flat in Moscow Avenue.

**Journalist:** If this flat did not belong to Aleksaniani why did you lodge him in there?

**A.G.** Aleksaniani was a victim of the earthquake and since he is a single person, he could not be granted with the flat with more than one room.

**Journalist:** But you should know that this person is disabled and his relative is looking after him.

**A.G.** The courts should have taken that fact into consideration and not I. I have the conclusion of the Supreme Court and I can produce it if you come to my office.

**Journalist:** I also have it.

**A.G.** So, if the court has not taken the situation in consideration, I have no fault in it.

**Journalist:** As far as I know, the court did not discuss the fact because the documents on disability of the person were not produced there. The victims say that you have hidden it.

**A.G.** I cannot criticize the decision of the Supreme Court. Its decision must be followed and I am doing it. Good bye.

The respondent told some insulting words over the phone and cut the line. He did not let the journalist say the word to the end.

According to Gongladze's words, the flats were distributed according to the number of family members. The documents and the victims also prove the fact.

July 4 2002 resolution, article VII states that the flats will be distributed according to the number of family members and not the space in the old flats. Irma Basilashvili, guardian of one of the victims, confirmed it. "4 000 lari was a fixed sum. They told me that I was to find the flat for that price. If the flats were transferred according to the number of family members, why the fund did granted one of the victim families with three-room flat of 51 sq. meters which had occupied only two rooms prior to the earthquake. Gognladze registered that flat on the family."

The limit for victims of the earthquake, whom the court blamed for having broken into the flats, will soon expire. They are waiting for the day of eviction with fear. They claim that if the eviction really takes place everything will end in terrible results. However, they hope that the General Inspection will make fair conclusion.

### **IDPs from Abkhazia Are Offered Accommodations in Tuberculosis Hospital**

Local authority in Kakheti is going to evict IDPs residing in the area of the resort house of Akhtala. Twenty nine families live in the area and the reason for their eviction is the construction of new district hospital in its place. The local authority offers the IDPs to move to the building of the hospital. In several days tuberculosis centre should be placed in one part of that hospital.

Last week, the information about future eviction of the IDPs from the Gurjaani based resort house Akhtala, was spread by the Municipality Governor. Representatives of the regional non-governmental organizations met the Governor Ramaz Kerechashvili, who stated that the municipality tries to start negotiations with IDPs in vain. They wanted the IDPs to leave the resort house.

“You might know that the question of building a regional hospital in Gurjaani is nearly settled. French investors are going to build a medical diagnostic centre in its place and some more medical institutions will be arranged there as well. We decided to use the area for future constructions that will be carried out by the Ministry of healthcare; however, the IDPs refuse to leave the place. We offered them to move to the building of the present district hospital. We also offered them that if they wished we could register those places on them, though they refuse everything. They demand compensation for eviction. We cannot compensate them all and please help us to persuade the IDPs to leave the resort house,” said the Governor at the meeting to the representatives of NGOs.

Representatives of the NGO ‘Human Rights Centre’ said in their conversation, that they appreciate the initiative of the authority to open a district hospital in Gurjaani. It is the most convenient area for the population from all Kakheti districts. However, they said that it must not be done at the expense of the IDPs.

“Under the Georgian Law on IDPs, Article 5, the IDPs must not be evicted from their shelters, unless they are offered with alternative accommodation or compensation. There is also a governmental resolution, state strategy regarding the IDPs under which living conditions of these people must not be worsened in the case of eviction. In this particular case, the building in the area of the resort-house of Akhtala is a state property and IDPs reside in it. Thus, the government should provide the IDPs with corresponding assistance. In fact, the government offers those people quite unacceptable conditions,” said Lia Khuroshvili, a lawyer for the Human Rights Centre.

Gia Natsvlishvili, a president's representative to the Kakheti Region confirms the fact that a new hospital should be built in the place where IDPs live now. "That territory is the best to build a new hospital. Resort Akhtala surrounds the building; a Georgian- French Centre is situated nearby and is a perfect place for regional hospital. Everything will be agreed upon. We will give the IDPs alternative accommodations," said Kakheti regional Governor.

Though the question is settled by the authority, IDPs are not going to leave the place. They said that they would never agree with the government to move to the building of present hospital. "What kind of conditions are they going to create for us? They are deceiving us according to their wish. How can a person live in the building of a hospital? Moreover, it is located far from the town centre. Besides that the building is too cold and it is impossible to heat it. The ceiling is nearly collapsed. The rain leaks in the building and reaches even the ground floor. The walls are damp. Rats are running around in the building because of great mess in it. In several days they are going to open a tuberculosis centre in one part of that building. The centre was removed from its old place on the basis of people's complaints, which lived around it. And we, socially excluded people, with poor health should face the danger of getting tuberculosis there?" the furious IDPs said and they are not going to leave the place until the government gives them proper alternative accommodations or compensate them. The compensation sum should be 7-10 thousand USD.

If situation is aggravated and they are forced to leave the building, IDPs threaten to hold demonstrations and start hunger strikes.

### **People Deported from Russia Are being Evicted from Shelter**

A family, deported from Russia, will remain without shelter. The Kvaratskhelias' family expects the government to keep its promise on assisting the deported family; however nobody has paid attention to them yet. Moreover, they have been deprived from the right to live in a poor cellar of one of the dormitories.

Thousands of Georgian people, who resided in Russia, had their rights violated because of complicated political relationships between Georgia and Russia. They spent some time in

isolators in the expectation of deportation. Because of severe and inhuman conditions there several Georgian people died. One of them was Manana Djabelia.

Fifty-one year old Djabelia spent several days in an isolator together with other Georgians. Although her documents were in order and she should not have been deported, she was placed in an isolator. On December 2, 2006 Djabelia died. She was buried in Tbilisi. Although her family-husband and three sons-did not have a house in Georgia, the government promised them their assistance. Meanwhile they were lodged in a small flat of 18 square meters that belonged to their aunt. Twelve people lived in that tiny room for more than five months. The aunt is an IDP from Abkhazia too. She has been living in a dormitory in 42 Vazha Pshavela Ave. with her family for fifteen years already.

The aunt said that the flat is too little to live in. They spread mattresses on the floor to sleep on. Because of the situation, the deported family decided to move to the room of former lab in the same building. However, law enforcers did not let them to. The family urges the government for help.

“You can observe how many people live in this situation here. Can a normal person live in such a flat? It is impossible to place twelve people here. We do not demand something incredible. If they do not let us move into that abandoned room, let them at least not take this room away. We have no more shelter and they should not leave twelve people in the street,” said Shakhi Kvaratskhelia.

Sons of Manana Djabelia said that their mother became a victim of harsh political relationships between two countries and they should not have problems in Georgia. “My mother became a victim of this government, Georgia and the politics of this country. She was completely healthy and never complained of anything. She was placed into an isolator because of her Georgian ethnicity. Thus, the government is obliged to give a shelter to her family,” said Gogita Kvaratskhelia.

Although, the government promised them assistance, the family is not allowed into a pulled down room either. Human Rights Centre tried to find out the fate of the family and the building at the Ministry of Economy, but nobody could answer their questions there.

The Kvaratskhelias said that they are going to apply to international and local human right organizations for help. If they are evicted from their aunt's flat, they would have to live in the street.

### **Property Rights Violated**

Unfortunately, violation of private property becomes a habit in Georgia. At present, the owners of the underground located on the Freedom Square face the danger. The owners of the market located on the mentioned place, have to free the territory till Monday, otherwise the market will be destroyed.

Some days ago, strangers visited mentioned shops, who declared, that they were the representatives of Tbilisi City Supervision Department and demanded to free the underground. About details talk leaseholders themselves.

Marina Phiralishvili, leaseholder of one of the shops in the underground: "I have been working in this shop during 8 years on the bases of lease. Agreement was signed with the private owner. We have all the confirmation documents. The leaseholder agrees on continuing working. Because, according to the agreement, we have the right to continue our job. Though, the representatives of the Supervision Department demand from us to free the place till Monday, or they will destroy our shops. Each of the leaseholders has taken the loan from the bank. With this loan we have bought the goods for the shops, but now, we have no opportunity for the realization of the goods. Where should we take these goods? Should we throw away it, or take it home? There is only one way, we have to appeal to court."

Lika Imnadze, one of the leaseholders: "I have the same problem. There are 40 leaseholders here. I have signed the agreement with the owner Rusudan Daushvili. Her representative met with me and told, that they were not going to annul the agreement, though according to him, they also

were not going to appeal to court, because, they were sure that if the government wants this place, they will take it anyway.”

Marina Litisiani: “If the municipality and government need this place, let’s take them it, but they have to give us 2-3 months to sell our goods. We have taken the loan from the bank, and if we don’t sell it, we won’t be able to cover the loan. The agreement expires at the end of September. We are not going to leave the places, where should we go? We have all the documents.”

Besides the leaving of the place, the leaseholders have another problem also. According to them, their lease does not ask them to free the place. If the leaseholders leave the place, they are afraid that they will annul the agreement, and the lease will appeal to court. As the lawyers explain, under the law, the mentioned danger really exists.

The same history has the other 37 leaseholders working in the shops. According to the received document from the public registration, they are the legal leases of the mentioned territory. According to the document, the leaseholder pays 415 GEL to private owner in a month. The lease agreement is signed between the directors of Ltd. “New Market” Rezo Mgebrishvili and leases. According to the document, it is impossible to annul the agreement from one side.

After the receiving of the mentioned information, Human Rights Centre decided to talk with the Chairman of Tbilisi City Supervision Department Lasha Makatsaria. He did not deny that those shops have to be destroyed.

Lasha Makatsaria: “The negotiations with the owners of the territory still continue. We argue about the changing of the place. Traders will not be allowed to trade in the underground. The owners do not refuse to move their shops to another place. What about the leaseholders, the agreement is signed with the territory owners, and they themselves have to negotiate with the leaseholders. They feel that our request will be executed. I cannot tell what we are going to offer to the owners, because the negotiations on this case still continue. May be we should offer leaseholders our help. We would apply to other supermarkets, to let these traders on their territory.”



As Makatsaria says, underground will be much more comfortable than today. As for the leaseholders, they say that nobody has contacted to them with the offering of help and this is a lie.

To clear, if somebody contacted to the leaseholders with the alternative proposal, Human Rights Centre talked with the Director of the Market Rezo Mgebrishvili. According to him, he only knows that, the shops have to be destroyed till Monday: “The Department of the Supervision declared that they have to take the territory. But they also say that if we do not appeal to court, may be they would find some other alternative territory for the traders.”

The representatives of the Human Rights Centre left their contacts to the Director. He promised that he would arrange the meeting with the owners. Later, we called him, but he said that the owners refuse to talk with journalist.

The leaseholders appealed to the lawyer of Human Rights Centre Nestan Londaridze: According to lawyer, the rights of the leaseholders are violated: “On 1 March of 2007, leaseholders and Ltd. “New Market” signed a lease agreement. According to the agreement, the area of the underground located on the Freedom Square was handed to the leaseholders. Dismantling of the shops are decided, though, nobody is interested with the faith of the leaseholders. The leaseholders took the loan from the bank. We appealed to the Department of Supervision and asked to take into consideration mentioned situation and to give a month period to leaseholders to free the territory... According to the law, if the administrative organ violates the rights of the person, he/she has right to appeal to court.”

### **Khelvachauri Municipality Seized Plots of More Than One Thousand Families**

Khelvachauri Municipality concluded that plots distributed to people between the years 1999 to 2004 were illegal. Initially, the New Rights Party, the National Forum Party and the Georgian Young Lawyers Association appealed to court against the Municipality resolution on nullifying the distribution of plots. Roin Malakmadze, the chairman of the Khelvachauri Municipality, said that all the acts were cancelled that had been adopted illegally. Murad Malakmadze, a resident of

the village of Sharabidzebi, protests the Chairman's actions. "The plot was granted to me under the reform. I have built a house, started a farm on it, and now they say it is illegal. Do I have any fault in it?!"

"The municipality decision is legal but unfair," said Avtandil Beridze, a member of the Republic Party, to the Municipality Decision. He said that by abolishing the acts on granting plots to people in 1999-2004, the Municipality had violated the rights of many ordinary people.

Khelvachauri Court started the discussion of the appeal of "New Rights".

Rezo Lomadze, the head of the Khelvachauri District Organization, said that "the court allowed us to become involved in the case as a third party. Now we are collecting the signatures of the people who have become victims of the new resolution. We will monitor the case all the way to Strasbourg [ECHR]."

Davit Gamkrelidze plans restitution (new property grants to people with seized lots) if he is elected to office. Members of the Republic Party state the same in their public speeches.

National Forum sent a similar appeal to the court. Tamaz Kobuladze, the head of the regional organization, said that they have prepared an appeal in the name of residents. "We do not have any complaints about [what] New Rights [is doing]. If the court joins our appeals, we will not protest. There were too many signatures, but in order to avoid the misunderstanding of the witnesses' absence at court, we asked only five people to sign [the petition]."

"Nationals" are going to appeal to the Constitutional Court. Kakha Shartava stated that the Khelvachauri Municipality has violated two articles in preparing their resolutions. In addition, they are going to introduce the draft law to the Adjara Supreme Council. "The Adjara Supreme Council should introduce the initiative to the Georgian Parliament. They should demand the enforcement of land reform in Kobuleti and Khelvachauri. It needs the signatures of two thousand people. We will introduce the Supreme Council with the initiative in the nearest future," said Shartava.

One more organization, the Georgian Young Lawyers Association, plans to protect the rights of the Khevachauri residents.

Nikoloz Gegeshidze, member of the organization, said that Association is getting ready to protect the rights of the property-deprived people. “We have received the applications of seventy people so far. The number will probably be more.”

Chairman of the Khelvachauri Municipality, Roin Malakmadze, calls the opposition’s accusations absurd. “We have discussed the legality of the acts. Part of those acts were found to be nonsense or needed to be abolished. There are some acts that we have not cancelled. These acts dealt with old families, who received those plots legally, and families who purchased the illegally granted plots. In this case, they are the legal owners.”

Murad Malakmadze protests Malakmadze’s actions. “I had leased the land in the village of Sharabidzeebi. Then the land was registered in my name. I built a house and started a farm on it. It cost much money. Now they tell me that the land was purchased illegally. Why is it my fault?! If somebody had sold the land illegally to me, let them punish him and not me.”

Sergo Goradze, a resident of Gonio, said that he is an old settler of the district but even he was deprived of the land. “I have registered the plot in my name according to the law, though they have now seized it. The reason is that I live close to the Sea.”

What happened in Khelvachauri was discussed by Tamaz Tsintsadze, the head of the non-governmental organization, “Social Experts Union.” On December 31, 1998, the land reform was completed in Georgia. At the time, Aslan Abashidze, former head of the Adjara Supreme Council, dropped the reform in Kobuleti and Khelvachauri districts. Then in 1999-2004 the Adjara Government continued the reform illegally and registered some plots for certain families. In fact, it was illegal, and therefore the resolution of the Khelvachauri Municipality on abolishing those acts is legal. However, peasants have purchased those lands honestly.”

“On November 26, 2004, Georgian Parliament adopted a new two-chapter resolution according to which the land reform should have been finished in Adjara before December 31, 2006. Unfortunately, the reform was not finished by that time. The reason for the delay were changes to the parliament’s resolution carried out by the Adjara Government. Under the law, the land should have been granted to the families settled before 1992. Adjara Government demanded that families that settled after 2004 be included, too.

“The reason for hindering the land reform is obvious. The central government does not want to distribute plots located on the coast. The incident, which occurred on the Mount Feria, proved this. The central government is trying to seize the land. Otherwise, they should have punished the local government for delaying the reform,” said Tsintsadze.

## **Conclusion**

There are many other cases on the infringement of the right to private property. For example, 90 organizations were evicted from the building of Publishing House “Samshoblo”. The evicted organizations were television stations “Kavkasia” and “Miri”; and newspapers “Asaval-dasavali”, “Sakartvelos Respublika”, “Vecherni Tbilisi” and “Svobodnaia Gruzia”.

The Georgian Constitution guarantees the right to property but the officials who are responsible to protect the right to property breach the Georgian legislation. They seize, destroy and dismantle properties neglecting the legislation; people are threatened with imprisonment unless they assign their properties to the state. The most terrible is that those people are forced to admit that they have presented their properties to the state by own choice and as an expression of gratitude.

The Supervision Service Department of Tbilisi City Hall deliberately violates the rights of property owners and there are many other cases besides the above-mentioned facts. The Supervision Service Department deconstructs the buildings without any administrative protocol; they only give verbal warnings to the owners on rare occasions. Such deconstruction is a blatant violation of the law. The owner should receive the administrative protocol in order to enable him/her to bring suit against the protocol.

On June 22 2007, the Law on Legalization of Property was enacted. Article 7, paragraph I-a of the law gives a complete list of the properties on which judiciary or administrative discussion were going on. According to the law, the list was introduced to the Parliament. The list mentions a large number of properties and most of the buildings are located in prestigious districts of the cities in Georgia.<sup>24</sup>

The following governmental bodies have supplied the above-mentioned information:

- **Georgian Prosecutor General's Office**
- **Tbilisi City Hall**
- **Vake-Saburtalo District Administration in Tbilisi**
- **Georgian Ministry of Economic Development**
- **Georgian Ministry of Environmental Protection and Natural Resources**
- **Batumi City Hall**
- **The Ministry of Finance and Economy of the Autonomous Republic of Adjara**
- **Khelvachauri Municipality Board in the Autonomous Republic of Adjara**
- **Khelvachauri Municipality Administration in the Autonomous Republic of Adjara**
- **The Government of the Autonomous Republic of Adjara**

Reasoning from the general attitude towards private properties, it is more likely that the properties demonstrated in the above-mentioned list will be sold illegally.

Georgian president Mikheil Saakashvili announced the initiative when the presented report of the Human Rights Centre was being prepared. The initiative regulates and legalizes all kinds of property that are in legal possession of Georgian citizens.

The initiative covers the lands of private persons that are not in lawful possession, are not lawfully cultivated or are appropriated and the owner cannot provide legal documents on their possession as well as the spaces built to/on the residential buildings. (Loggias, attics, etc).<sup>25</sup>

---

<sup>24</sup> see [http://www.parliament.ge/index.php?lang\\_id=GEO&sec\\_id=435&info\\_id=16558](http://www.parliament.ge/index.php?lang_id=GEO&sec_id=435&info_id=16558).

<sup>25</sup> see Georgian Law on the Recognition of the Right to Ownership of Lands in the Possession of Private and Legal Persons.

However, it is noteworthy that the properties can legally remain in the possession of private individuals under certain conditions; that is if they were built before January 1 2007 and do not damage the architectural feature of the city, etc.

The court or administrative collegium discussions on the abolishment of the right to possession or purchase of those properties that were inserted on the above-mentioned list were dropped. The hearings were ceased and the properties remain in the possession of previous owners. However, other similar cases that were submitted to the court will not be dropped and their fate will be settled in court. The President's initiative does not discuss the rights of those property owners who already have their properties lost. The people damaged as a result of the deconstruction of their properties will neither be compensated. The Human Rights Centre is deeply concerned over the current situation.

### **Recommendations**

- **To provide absolute protection of the right to the purchase, assignment or inheritance of property;**
- **To start a large-scaled investigation on the above-mentioned cases;**
- **The state should compensate the people whose private properties were illegally confiscated;**
- **To deconstruct buildings after relevant administrative bodies deliver the administrative protocol to the property-owners which states the legality of the deconstructions.**