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Georgia in Global Integrity's Report 2011

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The Global Integrity Report is the product of months of on-the-ground reporting and data gathering. "In addition to our core team, we collaborate with a global network of more than 1,300 in-country contributors and partners who take our technologies, tools, and information to where they are most useful - the local level", - reads Global Integrity's press release.

A new report (<http://www.globalintegrity.org/report>) covers 31 countries and Georgia is one of them. "Reporter's notebook" represents story about corruption in authority circles of Georgia.

David vs. Goliath, or Traditional Land Rules vs. Political Influence

By Nana Naskidashvili

It is difficult for 78-year-old Khabuk Chartolani to talk about the land he lost in Mestia, the mountain resort in the Republic of Georgia, where his family has owned 7,200 square meters of grassland for almost a century. But in spring 2010 the Georgian Parliament Member from Mestia, Kandid Kvitsiani, built the Hatsvali Hotel on it.

When Chartolani heard there was a construction in process on his land, he headed there only to find tractors and other cars working. He tried to stand against the building process, all in vain. The building process continued.

Khabuk Chartolani's son, Fridon Chartolani, says his family used to feed cows with the grass from that land. After the hotel was built, and with no other place to get the grass, the Chartolanis had to sell a few of their cows.

Chartolani's attempts to register his family's land were unsuccessful until June 2011, when the Public Registry registered it under his name. According to him, later in August a government official told him he needed to sign one more document as part of the registration.

When in September 2011 a transfer of money was made to his bank account, Chartolani assumed the funds were an attempt by Kvitsiani to buy him out of the land, and he has kept the money intact.

But that same month Chartolani's land changed hands, and it is now listed as state property. Chartolani only learned of the state property listing in December 2011, when asked by this reporter about the change.

"It is not registered in our name? How?" he said.

Shown documents signed by him, selling the land, he said he was never told that a sale was at stake and that he was signing registration documents. He said he signed without reading all the documents.

People in many mountainous regions of Georgia own property by traditional rules of inheritance (oral agreements), and their plots have never been formally registered. A 2011 Transparency International report noted that, as interest in these lands grow, artificial barriers set up by state agencies have hindered registration. "Land plots in possession of the local population are being massively dissected and decimated due to various construction works," the Transparency International report found.

The person who registered Chartolani's land on behalf of the state is the same person who transferred money to the Chartolani's bank account, Zauri Afshinashvili. According to the land registry's documents, he is a representative of the Ministry of Regional Development and Infrastructure of Georgia.

Several attempts were made to obtain comments from a ministry representative, but the Roads Department of Georgia refused to arrange an interview with Afshinashvili. In response to written questions, the Department said in a letter: "The amount of money that was defined by the deed of purchase was transferred in August 2011 to the bank account appointed by Khabuk Chartolani. The Roads Department of Georgia has not received any claim and complaint from citizen Khabuk Chartolani during the five months after money transfer. Therefore your pretension about the subject is unclear for the Roads Department of Georgia".

No response was given to questions about violations reported on the property.

The Hatsvali Hotel is now fully functional and officially registered under the name of Kvitsiani's

son. In a telephone conversation, Kvitsiani denied the existence of a hotel, saying that no complex was built there.

Despite the denial, there are official registry documents and photos certifying the existence of Hatsvali Hotel, which seems to be operating as usual. Its contact person happily informs callers of the different prices of hotel rooms.

When asked how he obtained permission to use the land for the hotel, Kvitsiani hung up the phone.

In 2011, a company in which Kvitsiani has a share received 6,393,800 laris (US\$3,900,000) from the government for building the road leading up to the hotel.

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Kvitsiani's Business Booms, Wins Government Contracts

In the entrance of the Mestia Municipality Council, an inviting advertisement of the town includes a photo of the Hatsvali Hotel. The governor, Shmagi Nakani, who has to pass by the advertisement every day, said he is unaware of Chartolani's case.

"The government has nothing to do with the problems of that land," he said. "The negotiations have been held between private persons."

The Georgian government spends millions of laris from the national budget and from international donors on the rehabilitation of the Svaneti region, where Mestia is located. It hopes to make it attractive for tourism. President Mikheil Saakashvili promotes Mestia with his frequent visits, which usually are widely covered by TV stations.

From the windows of the municipal offices, the dusty center of the town can be seen. It is under reconstruction. Big trucks with navy blue stickers bear the name of the construction company doing the work - Enguri 2006. Kvitsiani, a member of the ruling political party - Unified National Movement for Victorious Georgia (Ertiani Natsionaluri Mozraoba Gamarjvebuli Saqartvelostvis) - owns 50 percent of the shares of Enguri 2006.

Georgia law allows officials to have shares in companies, and those companies are allowed to compete for government contracts. "But no one checks whether PMs (members of Parliament) are really just shareholders or run the companies themselves," said Erekle Urushadze, senior analyst and program manager at the nongovernmental organization Transparency International Georgia (TIG).

Enguri 2006 won all six bids in which it participated in 2011, sometimes as the only bidder.

For the Svaneti rehabilitation project alone during 2010-2011, Enguri 2006 received about 41,530,000 laris (US\$25,956,000).

The company has received work without tenders under special decrees in 2010.

In 2010, Enguri 2006 received 8,440,000 laris (US\$5,275,000) for building an aerodrome and runway in Mestia.

After a 2011 legal reform, regular tenders are published online by the State Procurement Agency, but this agency has no relation to government decrees, which the government uses to directly grant contracts to a company or person without listing them online.

According to Georgian law, decrees that aren't declared secret must be made public, but in 2010 the government released another decree, No. 418, and the Chancellery of the Government didn't publish it. Furthermore, it refused to provide a copy of the decree to the nongovernmental organization Green Alternative, which requested it twice. No evidence (oral or written) proving that the decree is secret has been presented to the NGO.

Green Alternative is currently suing the Chancellery, demanding access to the decrees. Asked about the case, the legal department of the Chancellery said they won't make any comments on the subject until the court hearings are over.

An inside source, however, managed to get a copy of a few pages of decree No. 418. "Three million laris (US\$1,875,000) should be given to Mestia's Municipality for the town's development and rehabilitation," the document reads.

With this money, Mestia's local government decided to build a ski lift on one of the mountains and a road toward it.

According to Mestia's governor, the work was given without tender to companies chosen by the government. Again Enguri 2006 was among those lucky few.

Kvitsiani said there is an explanation why Enguri 2006 was chosen so many times to conduct the work in the region he represents in Parliament.

"You know, this is Mestia. Other companies shirk to work here because it is not profitable," Kvitsiani said. "There was no road, and transport was breaking. It was expensive to work here. That's why the government had to use this '2006' (Enguri 2006)."

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Big Donors to the Ruling Party

Government contracts in Georgia are immersed in a larger context of political contributions and corporations where authorities own shares.

During the local self-government election campaign in 2010, Enguri 2006 made donations of 100,000 laris (US\$62,500) to the ruling national party, the maximum donation allowed under Georgian law. But it's worth noting that most of the companies that have worked on Mestia's projects also have given the maximum donation to the parties. Zimo gave the ruling party 100,000 laris; Mtkvari gave 100,000 laris; and Arqepolisi gave 100,000 laris.

In fact, 400 companies with contracts in different areas of the country donated various amounts to the ruling party in the election campaign in 2010, according to records from Georgia's Central Election Commission.

"Another interesting trend is that the ruling party's campaign financing has been from seven times (during 2010 local elections) to 26 times (during the 2008 presidential elections) larger than the total funding of all other election contestants," Transparency International Georgia TIG (Saertashoriso Gamchirvaloba Saqartvelo) wrote in its Political Party Finance Report 2011. "With a few exceptions, opposition parties have received donations from only physical persons, while businesses have been providing funding for the campaign of the ruling party and its candidates."

"It is not a violation of the law to donate to political parties," said Ekaterine Bokuchava, a lawyer at TIG. "But the problem is that most businessmen in Georgia have the opportunity to lead their business normally only if they support the ruling national party and transfer money to it."

In the last days of December 2011, a new political finance law was passed, but the International Society for Fair Elections and Democracy (ISFED), TI and other groups are urging the president to veto it, as it would decrease electoral competitiveness. The legislation, among other things, bans corporate donations to political parties, a measure that would impact four opposition parties aligned with billionaire Bidzina Ivanishvili.

Besides Enguri 2006, there are other companies where authorities have shares. One of them is LTD "Acharganateba." Batumi City Council member from the ruling party, Tamaz Tofuridze, owns a 52 percent share of this company. His son is its director. According to Georgian law, a City Council member is not forbidden to have a business, and such a person is not even called an official. Simultaneously, City Council members can participate in the ruling process of the local government, despite the creation of potential conflicts of interest as it would allow them to approve or lobby for projects that would benefit their business.

If City Hall decides to build a road, it must apply to the City Council for the approval of the plan. If the City Council will not give an approval, the road won't be built. The City Council itself, independently from City Hall, can also make its own decisions and suggest the idea to City Hall. In terms of granting and signing contracts, the City Council can only sign contracts for minor things, such as paper, boxes for keeping documents, etc.

LTD "Acharganateba" participated in 15 tenders in 2010 in that local government and won 14 of them.

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The Only Participant

The nongovernmental organization Georgia's Young Lawyers Association (GYLA) -- part of an effort by four major NGOs in Georgia known as "Protection of Property Rights in New Touristic Zones of Georgia" -- studied the tender documentation and found that in most cases LTD "Acharganateba" was the only participant and concluded that the conditions required by the official structures created administrative barriers for all competitors except LTD "Acharganateba," which perfectly matched all requirements.

"For example, one of such qualification demand was the following:

a) The tender participant should have conducted a work of the same kind and content for the last three years (each year separately 2007, 2008, 2009)", reads GYLA's report.

"If other companies will not be given a chance to do this kind of work, there will always remain this only company that will fit the tender," says Giorgi Khimshiashvili, a lawyer at GYLA's Batumi city department who studied the tenders' documentation.

"The final and important part of the tender purchase is judgment of the participants' suggestions, appraising and announcing the winner. According to the tender regulating law, a member of the tender commission is obliged to expose (its) conclusion in a written form that contains detailed information about circumstances according to which the priority was given to the winner. In none of the tender purchases we have studied (did) the commission members (write) such a conclusion. During the process of making the decision, they were making only the oral statements and were just fixing their decision in a report. That is the brutal violation of the law," reads GYLA's report.

In addition, information about tenders with large budgets should be advertised internationally. But Batumi City Hall was breaking the law and was not spreading such information. As a result,

international companies were not even given a chance to become interested in the projects. These are the reasons why LTD "Acharganateba" was the only bidder.

Asked about using oral statements instead of written explanations for the decisions, Avtandil Darchia, deputy chairman of the tender commission and deputy mayor of Batumi city at the time, said the documents "should exist" but wasn't able to verify their existence.

"It is the first time I hear about such an obligation," he said about the lack of advertising for the tenders.

"It was the tender commission's responsibility, and it should have taken control of information being published internationally. The law obliged them to do it. What an excuse is that he did not know about this?!" says Tamar Kordzaia, lawyer at GYLA.

Tamaz Tofuridze, the City Council member and a shareholder of LTD "Acharganateba," rejected any possibility of Batumi's local government adapting tenders to his company.

In 2010, the Ministry of Finance's Investigation Service in Adjara and Guria's Division started an investigation about Acharganateba and in September 2011 it sent the case to the ministry's Investigation Department. An official letter obtained for this report through a lawyer says the investigation relates to "Article 210 (of the Criminal Code of Georgia). Making, selling or using false credit card or payment bill Paragraph 1. Making false credit card or payment bill or any other tax document or property ownership certifying document and selling it or making it on a purpose of sell or use," reads the law article.

As investigation is not finished and presumption of innocence operates, so LTD is not forbidden from participation in tenders.

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The President's View

Erekle Urushadze, senior analyst and program manager at TIG, says that since the Rose Revolution in 2003 the government's work against low-level corruption has increased. But now power is concentrated within a small group of high officials, and the institutions to keep them accountable aren't strong enough.

"The gaps in the law and the lack of pluralism in the executive make the danger of corruption only too real," he said.

But the executive seems to be satisfied with the current state of affairs.

In February 2011, Guram Chakhvadze, a Parliament member from the ruling National Democratic Party (Erovnul-Demokratiuli Partia), addressed President Saakashvili during his annual report to Parliament. He told Saakashvili that elite corruption is the number one enemy of Georgia and directly blamed the government for its existence.

"The main aim of our reform was to overcome corruption and to make the state organizations which had been collecting money to work without it. This promise - Georgia without corruption - has been fulfilled," Saakashvili said.

Chartolani, who lost his land to a hotel, would disagree.

Chartolani has tried to stand up for his rights. "But I've been told I would be arrested," says Chartolani, who has been receiving special heart treatment since the land problems began. Now his relatives are being forced to accept the compensation of 3 laris (US\$1.50) per square meter that was transferred to their bank account in September 2011.

His is hardly an isolated case. The land for the hotel was similarly taken away from neighbor Edison Japaridze's family. "They even tried to make us believe that the house that was being built there belonged to the president," Japaridze said. "They also sent a relative of mine to tell me to stop fighting for my land, otherwise I would be arrested."

On a visit Japaridze made to the site where the hotel was being built, he says the workers were surprised to learn he had not authorized the work. They told Japaridze that Kvitsiani had told them that Japaridze gave permission.

"I demanded them to tell me the truth - to whom the hotel belonged," Japaridze said. One of the men there told him that the hotel belonged to Kvitsiani. "I got nearly mad when I was told that," Japaridze said. He added, "During the Soviet time the collective farm took our land away. After the collapse of the Soviet Union we got it back, and this time we are losing it forever."



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