



Factsheet and background briefing on the Rustavi 2 court case

6 November 2015

Recent developments

On 4 August 2015, Kibar Khalvashi, a former co-owner of Georgia's Rustavi 2 television station between 2004-2006, filed a lawsuit against the current owners of the company alleging that he was unlawfully deprived of his shares in the company.¹

In anticipation of the verdict and further to a request from the defence on 26 October, the Constitutional Court decided on 2 November to suspend the civil procedure clause allowing immediate enforcement of an ownership verdict. This implies that the ownership of the channel cannot be altered until all legal measures have been exhausted and the private dispute is settled in line with the rule of law.

The Tbilisi City Court ruled on 3 November in favor of Kibar Khalvashi, the plaintiff. The Constitutional Court's decision implies that ownership will however remain with the defendant until all legal measures have been exhausted. Lawyers for the defendant have said they will appeal the verdict.

Following the verdict, the plaintiff introduced a request that the court order the removal of the current CEO and chief financial officer of Rustavi 2 pending the enforcement of verdict on the grounds that they may undertake financial decisions which could impair the functioning of the business, affect its liquidity and, ultimately, prevent the execution of the final legal ruling. Tbilisi City Court ruled on 5 November to appoint Revaz Sakevarishvili, a former chief executive of Tbilisi-based Imedi TV, and Davit Dvali, co-owner of Rustavi 2 TV up until 2004 as temporary managers of Rustavi 2 TV. The judge's decision specifies that "failure to appoint temporary management might to a certain extent - or even substantially - affect the format of [Rustavi2] activities" and "create a serious threat for the media to lose its main role and function – protection of public interest".

The court-appointed interim managers Revaz Sakevarishvili and Davit Dvali on 6 November issued a statement saying that: "taking into consideration the heated reaction in the public related to the Rustavi 2 court judgement of 5 November, we want to emphasise that we are journalists and media managers. Our main aim is to ensure that the public feel confidence in our suitability as interim managers of Rustavi 2."²

They also said that, since the defence has 5 days to appeal their appointment, they will not exercise their new functions until such a time as a final court decision is issued. In the meantime, they

¹ <http://civil.ge/eng/article.php?id=28484>

² http://pia.ge/show_news.php?id=53320&lang=geo

suggested that the current owner of the channel, Mr. Karamanashvili, should put forward an interim manager to take over the functions of the CEO and ensure the continued smooth operations of the broadcaster.³

On 6 November, Kibar Khalvashi, Davit Dvali and Jarji Akimidze (one of the founders and former owners of Rustavi 2) held a joint press conference where they confirmed a previous agreement whereby Khalvashi would restore shares to the two other former owners should his ownership claim be confirmed by the final court of appeal. They confirmed their joint commitment to the clear financial and editorial independence of the channel, and warned against any attempts from any party to influence the work of the media.⁴

Background

Between 2004 and November 2012, the ownership of Rustavi 2 changed hands multiple times, leading to multiple competing ongoing claims on the broadcaster. Two independent reports from Transparency International (TI) Georgia provide additional background on the very complicated history of Rustavi 2's ownership, which the court is examining:

- 1) In 2013, TI Georgia published "The TV Station of Victorious People: The Story of Rustavi 2". TI Georgia created a report on the Rustavi 2's ownership history, which found that "Between 2004 and 2012, Rustavi 2 changed owners approximately 20 times, often in controversial deals that had a political flavor, involving people with close links to [then] president Mikheil Saakashvili and to officials of the United National Movement-led government."⁵
- 2) Also in 2013, TI Georgia, in cooperation with journalist Paul Rimple, published a report entitled "Who Owned Georgia" focusing on a complicated advertising market schemes by which government control was exercised over the media from 2003-2012.⁶

To break this trend of the Georgian Government playing a role in the ownership of Rustavi 2, the Government continues to stress that it is for the courts to decide on the ownership of Rustavi 2.⁷

The Government has also repeatedly warned against a politicization of the judicial process, in response to defence and opposition party claims of lack of impartiality of the judge and pressure on the defendants (the Georgian Chief Prosecutor on 21 October opened an investigation into allegations of blackmail made by the Head of Rustavi 2⁸). In response to calls from the opposition for intervention on the grounds that a verdict in favour of the plaintiff would limit media pluralism in Georgia, the government recalled that Georgia has a very diverse and strong media environment, as evidenced by Georgia's rise in international media rankings over recent years.⁹ The legal and institutional environment in Georgia promotes media pluralism, and there are no restrictions on media owned and/or financed by political parties.

Following the verdict, PM Garibashvili made the following statement on 3 November:

³ <http://www.interpressnews.ge/ge/politika/353189-qrusthavi-2q-is-droebithi-mmarthvelebi-telekompaniashi-misvlas-mas-shemdeg-apireben-rac-saqalago-sasamarthlos-shesabamisi-ganchineba-gasachivrebis-yvela-etaps-gaivlis.html>

⁴ <http://civil.ge/eng/article.php?id=28752>

⁵ <http://www.transparency.ge/en/blog/tv-station-%E2%80%98victorious-people-story-rustavi-2>

⁶ <http://www.transparency.ge/en/post/report/book-presentation-who-owned-georgia-2003-2012>

⁷ Statement of 26 October: PM Garibashvili comments on Rustavi 2 case:

http://gov.ge/index.php?lang_id=ENG&sec_id=412&info_id=52320

⁸ <http://www.civil.ge/eng/article.php?id=28678>

⁹ Statement of 22 October: Prime Minister Garibashvili calls for de-politicization of Rustavi 2 case; reaffirms importance of political and media pluralism: http://gov.ge/index.php?lang_id=ENG&sec_id=288&info_id=52034

"This is a private ownership dispute between two parties, which has been decided upon by the court, in accordance with due process and the rule of law. We will in no way interfere with this dispute. It is up to the court to make the ultimate decision, and we all—including the government—must get used to obeying court decisions in our modern and democratic Georgia where we are implementing reforms in line with EU requirements. Whether we like it or not, we must abide by court decisions.

Whilst Rustavi 2 changed hands more than 20 times under the previous regime due to political interests, ownership of this TV station has for the first time been determined by the independent judiciary. This sets an important precedent and marks another welcome step forward for media freedom and pluralism, democracy and the rule of law in Georgia.

Our government remains committed to guaranteeing the safety and independence of all journalists in Georgia. Politicising the media is unacceptable, and every politician must abstain from this. Of course, journalists are entitled to have political affiliations, but they should be independent in their decisions. I cannot force the media to be our government's supporters because it is their constitutional right to continue their endeavours as they see fit."¹⁰

Reforms to ensure democracy and rule of law in Georgia

Since 2012, Georgia has made significant progress in improving the independence of the judiciary and ensuring freedom of media and expression. While reforms are ongoing, the Government is confident that the ownership of Rustavi 2 will be decided fairly in accordance with the law.

The Government of Georgia is committed to ensuring true independence of the judiciary from any kind of outside interference and to build public confidence in the court system.

- Two phases of legislative reforms have been carried since May 2013 and a third launched in 2015 to increase the independence of judges. Judges are free from the external interference from prosecutors or representatives of the executive branch of government.
- The institutional independence of the Prosecution Service Prosecutors has been improved: Prosecutors have been made independent from the Ministry of Justice, the political process and the coercive plea bargaining system has been ended and trials have been opened to the public and media scrutiny.

The legislative improvements have been recognised by the Venice Commission, by the European Commission's [ENP Country Progress Report for Georgia](#) (March 2015), and by PACE co-rapporteurs Boriss Cilevics and Kerstin Lundgren who, following a fact-finding visit on 12-14 October 2015, stated that the reforms to the judiciary and justice system "have had a very positive impact on the independence of the judiciary". In addition, according to the 2014-2015 World Economic Forum's "Global Competitiveness Report", in Georgia Judicial independence improved by 26 steps.

The Government of Georgia is fully committed to further improve the media environment and facilitate strengthening of media pluralism.

¹⁰ Press Release of 4 November: Prime Minister Garibashvili comments following Rustavi 2 case verdict: http://gov.ge/index.php?lang_id=ENG&sec_id=412&info_id=52319

- Legal amendments have improved the democratic composition of the Board of Public Broadcaster as well as financial transparency of television companies.
- Mandatory must-carry/must-offer principles require cable networks and satellite content providers to broadcast all television stations that carry news.

Recent reforms carried out by the Government of Georgia for providing diverse and plural media environment have fully been reflected in the recent US State Department Report on Georgia. In addition to abovementioned positive developments, the report highlights various actions taken by the Government of Georgia aiming at the expansion of the freedom of press.

These reforms have been further supported by the OSCE and welcomed by the European Commission. As a result of these reforms, Georgia continues to demonstrate progress in the field of media freedom, which can be seen in various international surveys on media environment:

- The [World Press Freedom Index 2015](#) of Reporters without Borders ranks Georgia 69th among 180 countries, while it was 84th in 2014 and 100th in 2013.
- In 2014, Georgia ranked 1st among Eastern Partnership countries by the [Media Freedom Index of Eastern Partnership](#).
- Freedom House's survey "[Freedom of the Press 2014](#)" states that "Georgia continues to have the freest and most diverse media environment in the South Caucasus" and the country "has some of the most progressive legislation in the region."
- The Freedom House report included Georgia in the "free" regarding internet freedom, and ranked the country 12th overall in the study of 60 countries worldwide.
- According to the [World Bank's Worldwide Governance Indicators](#) (WGI) project, since 2012 Georgia jumped 19 places in rule of law and 16 places in voice and accountability.