

Ombudsman Addresses President to Pardon Ex Rustavi 2 Director Gvaramia



BY NATALIA KOCHIASHVILI

Nino Lomjaria, the Public Defender of Georgia, after studying the verdict delivered by Tbilisi City Court on May 16, 2022, by which Nika Gvaramia, former Director General of Rustavi 2 Broadcasting Company, was found guilty in two episodes of Article 220, has addressed President Salome Zourabichvili with a request to exercise her power to pardon Gvaramia. He was sentenced to over 3 years in prison for abuse of powers in May.

As a result of the examination of the verdict, the Public Defender considers that the reasoning of the court is unfounded in terms of both conviction and sentencing.

According to the verdict, Gvaramia committed a damaging act against an enterprise, Rustavi 2 TV Company, by changing the terms of the contract related to advertising sales in 2015, as a result of which the managing the TV company failed to receive more revenue.

"Clearly, not all business decisions can become the subject of state criminal assessment. The punishment of a person for a usual business decision violates the main element of the principle of legality - the principle of foreseeability of the norm.

Unfortunately, the court did not consider the cases in which a corporate violation

may give rise to a crime and directly concluded that the director not only violated the fiduciary duty but also committed an unlawful and culpable act." reads the statement.

The Public Defender reiterates that it is inadmissible to 'punish a manager for his decision when the court fails to substantiate his personal interest, fraud, sole decision, or other criminal action.'

As regarding the so-called car episode, which concerns the sale of Rustavi 2's advertising airtime for less than the market price for 3 months, the court concluded that the reason for this was the personal interest of the director to get a car for his wife from the advertising company in exchange for the above.

"Unfortunately, we do not find even a reference to fiduciary duties or corporate-legal issues regarding this episode in the verdict. The only thing the court finds is that the contract signed by the company provided for less remuneration than the market price. Without entering into the corporate content of the conclusion of the contract or the business judgment rule, it is unclear how the court could conclude, only by establishing differences between the prices, that the contract grossly harmed the interests of the company."

In addition, the court does not substan-

tiate why it used the specific form or size of sentence. The court provided only one sentence when substantiating the type of sentence (deprivation of liberty), but it did not explain why it sentenced the defendant to 3.5 years in prison or why it did not use more or less strict punishment, in accordance with the disposition of Article 220 of the Criminal Code.

"The court did not use a fine (which it used in the first episode) or house arrest (for unjustified reason), but used imprisonment in an episode, where the damage was about 100 times less than in the first episode. It should be noted that in 2017-2021, imprisonment was not used in any of the cases where defendants were convicted under the above article."

According to the Ombudswoman, the so-called money laundering episode is the only part of the judgment where the court reasoning contains references to international legal norms and it is noteworthy that the accused was acquitted in this episode.

"However, it is the second case with a political component (the first was the case of Mamuka Khazaradze and others), which includes a completely unfounded charge of money laundering, which, even according to the court, is vague and does not contain conclusive evidence." read the statement.

The Public Defender stated that charges of such gravity can cause serious reputational damage to any defendant, which is why the Prosecutor's Office should show special caution. In the end, the court avoided answering all the important legal questions.

Consequently, the verdict against Gvaramia, due to the extreme scarcity of legal reasoning, analysis and consistency, can be assessed as essentially unfounded. The judge did not assess at all in which cases the manager's decision could become criminally relevant and why this case was considered to have that dimension, despite the fact that the Public Defender had submitted the opinion of the friend of the court containing detailed legal reasoning and argumentation in the present case. In addition, when discussing factual circumstances, the judge relied on information obtained through the covert investigative action, even though it did not have the right to do so in accordance with the relevant norm. And finally, the judge did not substantiate either the type or size of the measure of imprisonment.

Gvaramia was found guilty of causing a €6.7million damage to Rustavi 2 between 2015-2019 through advertising deals, and of obtaining property using profits from the actions.

EXCHANGE RATES: US DOLLAR - 2.9604 | EURO - 3.1620 | GBP - 3.7049 | 100 RUSSIAN RUBLE - 4.8058 | SWISS FRANC - 3.0320 |

West Made Mistake in 2008 In Not Providing Georgia and Ukraine with Clear Membership Path, Former NATO Secretary-General Says

BY KHATIA BZHALAVA

Former NATO Secretary-General Anders Fogh Rasmussen said in an interview with Foreign Policy that the west made a mistake when it did not provide Ukraine and Georgia with a clear path to NATO membership in 2008.

"We made a mistake many years ago. The first mistake was back in 2008 when we had a NATO summit in Bucharest in which we decided that Ukraine and Georgia will become members of NATO but we couldn't agree on granting them a so-called membership action plan," he said.

Rasmussen noted that he had been in favor of granting the MAP to Georgia and Ukraine during the summit but "we couldn't achieve consensus within NATO." According to him, the split within NATO sent the wrong message to Putin, who attacked Georgia a few months after in August 2008. He stressed that another mistake was made in 2014 after the illegal Russian annexation of Crimea into the Russian Federation, where some sanctions were introduced, but 'they were mild sanctions'. According to Rasmussen, all that gave Putin the impression that he could, almost without any cost, continue and grab land by force.

He stressed that Ukraine must win this war, noting that if Putin succeeds in Ukraine, he would not stop.

"He will continue into Moldova, Georgia, and eventually also put pressure on the three Baltic states. That's why the Ukrainians must win, and they have the will to fight. It's our duty to give them the means to fight," he said.

Former German Chancellor Angela Merkel also touched upon the 2008 NATO summit in Bucharest, stating that she did not support Georgia and Ukraine's NATO membership action plan "because it could have been harmful".

According to Deutsche Welle, Merkel said that if Ukraine and Georgia had been granted the membership, Russian President Vladimir Putin could have caused "enormous damage in Ukraine," as it did with Georgia when Russia invaded less than six months after this declaration in Bucharest, instigating Europe's first war in the 21st century. Merkel also mentioned



► "All that gave Putin the impression that he could, almost without any cost, continue and grab land by force," former NATO Secretary-General Anders Fogh Rasmussen said.



► According to Former German Chancellor Angela Merkel, the reason why she did not support Georgia and Ukraine's NATO membership action plan in 2008 is that such a decision "could have been harmful".

systemic corruption issues in Ukraine as reasons to block their membership.

In April Ukrainian President Volodymyr Zelensky criticized Angela Merkel and the former leader of France, Nicolas Sarkozy, saying that their decisions have enabled Russia's war crimes in Ukraine. "I invite Mrs. Merkel and Mr. Sarkozy to visit Bucha, to see what the policy of 14

years of concessions to Russia has led to," Zelensky said following the war crimes committed by Russian forces in Bucha, a city in Ukraine's Kyiv region.

Later, he specified that he did not blame the West or anyone else except the Russians who committed crimes against Ukrainians, "but we have the right to talk about indecision," he added.

NEWS IN BRIEF

PREPARED BY THE MESSENGER STAFF

Person Who Attacked Republican Party Members Sentenced to Imprisonment

Irakli Khomasuridze, who attacked Republican Party members Davit Berdzenishvili and Khatuna Samnidze, was sentenced to imprisonment. The next trial will be held on July 28.

Irakli Somasuridze said at the court hearing that Berdzenishvili, the opposition and journalists were "enemies of the country."

On June 6, Khatuna Samnidze and Davit Berdzenishvili were attacked on Rustaveli Avenue. Politicians have been granted victim status.

The detainee is accused of violently persecuting Davit Berdzenishvili for political reasons.

He was charged under Article 156, Part 2, Subparagraph "a" of the Criminal Code of Georgia.

'Back Home to Europe!' - On June 20, at 20:00, a March to Be Held in Tbilisi

!! Back Home to Europe!" - With this name, the movement organized by Sirtskhvilia will be held in Tbilisi on June 20, at 20:00.

According to them, the citizens gathered at the rally will be addressed by representatives of civil society, the Ukrainian government, and the European Union. At 21:00 the protesters will march to Europe Square, where the final part of the event will be held.

"At the end of June, the European Union will announce its decision on Georgia's candidacy status.

Europe is a historical choice and aspiration of Georgians, for which all generations have sacrificed. The tangible act of our historical aspirations is the Constitution of the Democratic Republic of Georgia," the statement reads.

On June 20, at 20:00, the rally will gather in front of the Parliament and show the commitment of the Georgian people to the European choice and Western values.

THURSDAY **JUNE 9**

Day Rain
High: **30°C**

Night Thundershowers
Low: **18°C**

FRIDAY **JUNE 10**

Day Showers and thunderstorms
High: **28°C**

Night Showers
Low: **18°C**

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