

# CENTER POINT GROUP - GEORGIA'S BIGGEST CONSTRUCTION SCANDAL



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# Center Point Group – Georgia’s Biggest Construction Scandal

December 2012



This report is prepared under the auspices of Judicial Independence and Legal Empowerment Project. The project is funded by the United States Agency for International Development (USAID) and implemented by the East-West Management Institute (EWMI). The contents are the responsibility of Transparency International Georgia and do not necessarily reflect the views of USAID, the United States Government or EWMI.

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## **Acknowledgements**

This study would not be possible without generous assistance of Giorgi Mgeladze, a local journalist who conducted comprehensive research on the Center Point Group's case and provided TI Georgia with valuable materials concerning this case. TI Georgia would also like to extend its gratitude to another journalist Ani Lukhava who kindly shared her documentary and the copies of relevant Center Point Group contracts with us. Finally, we would like to say huge thank you to the Center Point Group's customers who were always eager to talk to us and discuss important details of their individual cases.

## Executive summary

The Center Point Group is a large conglomeration of 70 different companies involved in the biggest construction scandal in Georgia. It was founded by the former senior members of the Georgian Parliament, Vakhtang Rcheulishvili and Rusudan Kervalishvili, who are also the owners of companies being part of the Group. By using a sophisticated Ponzi scheme<sup>1</sup> the Center Point Group enticed thousands of customers to buy yet unbuilt apartments while mishandling USD 310 million paid by the customers for the construction of these apartments. As a result, nearly 6,200 families (around 30,000 individuals) have lost their money and their apartments most of which remain unbuilt or unfinished.

The affected customers lodged dozens of complaints to the Court requiring the annulment of the contracts concluded with Center Point Group, registration of ownership over unfinished apartments, return of the money paid or adequate compensation. The Court has obliged the responsible companies to finish the construction of houses for their customers or compensate them adequately however it has deferred the execution of these decisions acknowledging the solvency crisis of those companies. At the same time, the status and connections in the former ruling party of the United National Movement (UNM) solidified by the lavish campaign donations to this party raise concerns that these UNM connections helped the founders of Center Point Group avoid personal liability for the damages inflicted on their customers.

With this study Transparency International Georgia (TI Georgia) aims to document and analyze the entire process starting from the establishment of Center Point Group and its enticement of customers to the solvency crisis and the ensuing Court cases. The main objective is to reveal real reasons behind the Center Point Group's failure to deliver new houses to its customers, role of the government in these processes, current situation and available legal mechanisms for the affected customers to restore their rights.

TI Georgia's findings are mainly based on vast data provided by local journalists working closely on the Center Point Group's case. This includes copies of the relevant contracts, letters, and Court decisions, also, interview records with a number of affected customers<sup>2</sup>, their attorneys and legal experts as well as with the founders of Center Point Group and Dexus. In addition, TI Georgia cites numerous articles, reports and video materials published on the case in local media outlets.

Key findings of this study are:

- The founders of Center Point Group are former senior public officials, Vakhtang Rcheulishvili and Rusudan Kervalishvili, who applied a vast Ponzi scheme to use construction investments of nearly 6,200 families for personal gains.

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<sup>1</sup> As defined by the US Federal Bureau of Investigation (FBI) "Ponzi" schemes promise high financial returns or dividends not available through traditional investments. Instead of investing the funds of victims, however, the con artist pays "dividends" to initial investors using the funds of subsequent investors. The scheme generally falls apart when the operator flees with all of the proceeds or when a sufficient number of new investors cannot be found to allow the continued payment of "dividends." The Ponzi scheme is named after Charles Ponzi who in the early 1900s promised his investors a 50 percent return on their investment in postal coupons. For a while Ponzi was able to pay back his initial investors, however, his scheme collapsed when he was unable to pay later investors.

<http://www.fbi.gov/scams-safety/fraud/fraud#pyramid>, (last consulted on 7 December 2012)

<sup>2</sup> The names, ID numbers and contact details of some customers of Center Point Group have been concealed to protect their identity.

- Specifically, after being unable to construct houses for the initial investors the Center Point Group started using the funds of subsequent investors to pay for the ever-increasing deficit. However, this scheme collapsed when the Group became unable to meet its obligations to the subsequent investors but also failed to find new investors to allow the continued use of their funds.
- Dexus, a company hired by the Center Point Group to better manage its assets and suspended projects after the solvency crisis, has imposed substantially worse conditions on its customers by asking them to pay burdensome taxes and additional costs for their houses.
- In addition, Dexus became involved in an illicit deal through which the founders of the Center Point Group claimed a valuable property that was supposed to be used to the benefits of the affected customers.
- The Prosecutor's Office did not start the investigation of the Center Point Group's case despite strong evidence and high public interest suggesting the opposite.
- While deciding on civil claims Tbilisi City Court prioritized the interests of the Center Point Group companies over those of their customers by deferring the execution of its decisions on compensation.

## Introduction

Housing construction is a profitable business given the people's unwavering demand to own dwelling that provides more security, independence and privacy. This in turn creates stiff competition among the housebuilding companies to attract a large number of buyers to invest in their construction projects. However, buying houses that do not yet exist is highly risky if their construction is dependent on good will of the people that are prone to scam and fraud practices to their own benefits. The situation is even more precarious when these people are senior public officials who use their status, wealth and connections to avoid personal liability for the wrongdoings committed.

In Georgia which has a population of approximately 4.5 million<sup>3</sup> the construction sector saw a major growth spurt in the beginning of 2000s when the country had slowly begun to recover from the consequences of early 1990's conflicts. The construction companies which quickly increased in number started offering people living in dilapidated or small houses to invest in new modern houses. Some of these construction projects foresaw the building of massive residential complexes with a capacity to accommodate several thousand people as well as numerous trade centers and entertainment facilities.

Of the construction companies active at that time the Center Point Group soon became an outstanding leader occupying one-third of Georgia's construction market. The Center Point Group was established in 1999 by close relatives who served as senior members of the Georgian Parliament during the presidencies of Eduard Shevardnadze and Mikheil Saakashvili.<sup>4</sup> Specifically, Vakhtang Rcheulishvili was a Parliamentarian for two terms from 1995-2004 while also serving as the Deputy Chairperson of the Parliament during his second term.<sup>5</sup> Rusudan Kervalishvili was also the Deputy Chairperson of the Parliament in 2008-2012 from the ruling United National Movement party.<sup>6</sup> Kervalishvili is a sister to Vakhtang Rcheulishvili's wife Maia Rcheulishvili who is the third major owner of the Center Point Group. The status and connections of these people among the former ruling elites helped Center Point Group entice many local customers to invest in their construction projects which gained the company sizable profits over the years. For example, between 2005 and 2007 the Center Point Group boasted an impressive portfolio of some of Georgia's largest housing development projects which were widely advertised in the local media.<sup>7</sup>

In 2008, however, the Center Point Group's financial woes surfaced and the company started to suffer big losses which stalled many of its ongoing projects. In majority of cases, the construction works halted halfway through or did not start at all. As a result, nearly 6,200 families were left without promised apartments or reimbursement despite most of them paying the full or half price for these apartments in advance (USD 310 million in total).<sup>8</sup>

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<sup>3</sup> National Statistics Office of Georgia, Key Indicators, as of 1 January 2012, <http://www.geostat.ge/index.php?action=0&lang=eng> (last consulted on 7 December 2012)

<sup>4</sup> Giorgi Mgeladze, "A Pyramid of the Chosen", Studio Monitor, 8 February 2011, [http://www.youtube.com/watch?v=OSoRdwCxK\\_g](http://www.youtube.com/watch?v=OSoRdwCxK_g) (last consulted on 7 December 2012)

<sup>5</sup> Parliament of Georgia 1999-2004, [http://www.parliament.ge/index.php?option=com\\_content&view=article&id=677:parliament-of-georgia-1999-2004&catid=58:previous-parliaments-of-georgia&Itemid=145&lang=en](http://www.parliament.ge/index.php?option=com_content&view=article&id=677:parliament-of-georgia-1999-2004&catid=58:previous-parliaments-of-georgia&Itemid=145&lang=en) (last consulted on 7 December 2012)

<sup>6</sup> Parliament of Georgia 2008-2012, [http://www.parliament.ge/index.php?option=com\\_content&view=article&id=1889%3Amembers-of-parliament-2008-2012&catid=58%3Aprevious-parliaments-of-georgia&Itemid=145&lang=en](http://www.parliament.ge/index.php?option=com_content&view=article&id=1889%3Amembers-of-parliament-2008-2012&catid=58%3Aprevious-parliaments-of-georgia&Itemid=145&lang=en) (last consulted on 7 December 2012)

<sup>7</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>8</sup> Ani Lukhava, "Business in Georgian Way", Media and Democracy Development Center, 22 August 2012, available here: [http://www.youtube.com/watch?v=dgFvNCXvy\\_M](http://www.youtube.com/watch?v=dgFvNCXvy_M) (last consulted on 7 December 2012)

To solve the problem, in September 2010, the Center Point Group handed over the management of all its assets and suspended projects to a newly established company called Dexus and pledged to deliver on its obligations through the latter within the next three years.<sup>9</sup>

Yet, Dexus has worsened the initial conditions for its customers by only committing to fund the construction of buildings with bare walls, hence leaving it to the customers to cover expensive finishing costs through their own investments. Furthermore, Dexus has requested its customers to pay a Value Added Tax (VAT), 18 percent of the total cost of each apartment, in order to register ownership over the finished apartments.<sup>10</sup>

Dozens of affected families lodged claims to the Court requiring the annulment of the contracts concluded with the Center Point Group companies, registration of ownership over unfinished apartments, return of the money paid or adequate compensation for the losses suffered. They also require Dexus to fulfill the terms of the original contracts without deteriorating them. The Court has partly addressed these claims by obliging the responsible Center Point Group companies to finish the construction of houses for their customers or compensate them adequately. However, the Court has also acknowledged the financial problems of those companies and deferred the execution of its decisions to the detriment of the claimants.<sup>11</sup>

This study aims to find what really contributed to the Center Point Group's failure to deliver new houses to its customers, what has been the role of the government in this process, what is the current situation and what are the available legal mechanisms for the affected customers to restore their rights.

## Center Point Group's vast Ponzi scheme

The Center Point Group is a conglomeration of 55 Limited Liability Companies (LLC) and 15 individual partnerships (see graph) owned by the three well-known people in Georgia: Vakhtang Rcheulishvili, Maia Rchuelishvili, and Rusudan Kervalishvili.<sup>12</sup> They used their names to promote Center Point Group in the local media and attract large investments in their construction business. According to trendy commercials that were widely circulated between 2005 and 2007 the Center Point Group was going to build numerous houses all over Georgia with low costs and high quality.<sup>13</sup> Incidentally, these commercials that featured popular Georgian actors were created by Sanguko films studio, a company owned by Guram Rcheulishvili who is a son of Vakhtang and Maia Rcheulishvilis.<sup>14</sup>

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<sup>9</sup> 1st Channel of Georgian Public Broadcaster, "Dexus has taken over the management of Center Point Group's assets", 10 September 2010, <http://1tv.ge/news-view/17892> (last consulted on 7 December 2012)

<sup>10</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>11</sup> Lukhava, "Business in Georgian Way", op cit

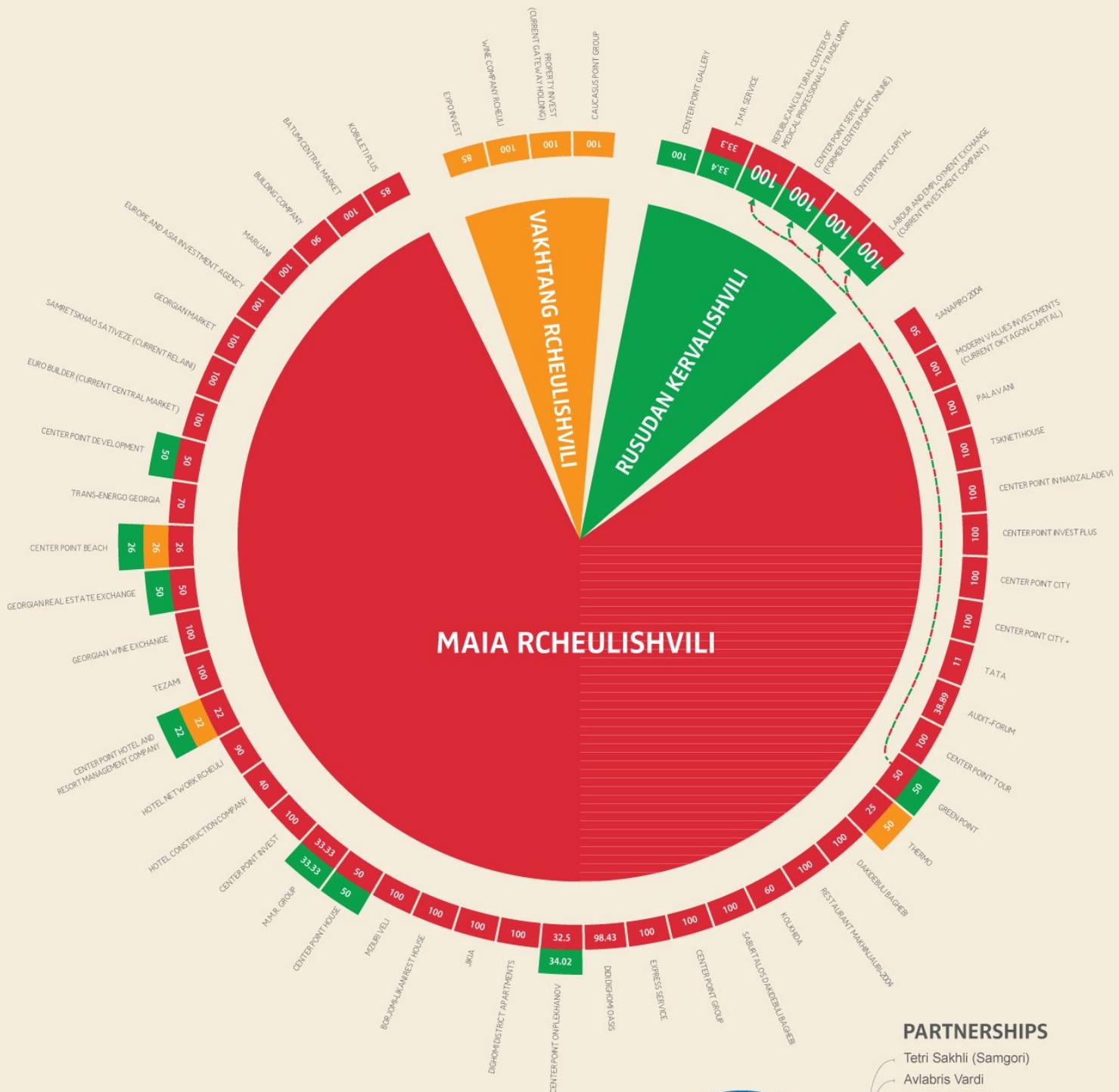
<sup>12</sup> A contract concluded between Center Point Group and LLC Dexus on handing the management of the former's assets to the latter, 7 September 2010, pp. 15-19 <https://docs.google.com/open?id=0BynT3KIbODUjblp2OXV0VVIPQTg>

<sup>13</sup> Studio Sanguko, Center Point Group commercial, available here: [http://www.youtube.com/watch?v=lfKCbEbvY\\_U](http://www.youtube.com/watch?v=lfKCbEbvY_U) (last consulted on 7 December 2012)

<sup>14</sup> LLC Movie Studio Sanguko (ID#-204483282), public registry data, 7 June 2010, available here: [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=68246&app\\_id=78215](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=68246&app_id=78215) (last consulted on 7 December 2012)

# CENTER POINT GROUP - 55 COMPANIES AND 15 PARTNERSHIPS

AS OF SEPTEMBER 2010



## SHARES IN COMPANIES:

- Maia Rcheulishvili
- Rusudan kervalishvili
- Vakhtang Rcheulishvili

Figures show the percentage of shares owned in the companies

Source: National Public Registry ([www.napr.gov.ge](http://www.napr.gov.ge))



- Tetri Sakhli (Samgori)
- Avlabris Vardi
- Tabukashvili-88
- Sative 2000
- Lublina
- Bakuriani
- Grmaghele
- Akhali Digomi (Venice)
- Tavisuplebis Moedani 4
- Rcheulishvili 2000
- Tskneti 2004
- Pushkini
- Robakidze 7
- Guramishvili 2005
- Khipshidze 34

A consistent advertising on major national TV channels was quite efficient and resulted in many people referring to Center Point Group to buy apartments in the yet unbuilt buildings. Often these people did not know that the contract to buy the apartment was to be concluded with one of the Center Point Group companies in charge of the construction and not with the Group as a whole. This in practice has meant that in case of any breach of the contract the individual construction companies would have the legal liability to compensate their customers and not the Center Point Group and its founders. Most of the customers paid the full price for their apartments which the construction companies pledged to finish in two or three year's time.<sup>15</sup>

Soon it turned out, however, that the customers' upfront investments were not enough to cover the costs of building materials and complete the construction works in the promised time. As a remedy, the Center Point Group launched a new series of TV commercials featuring larger scale housing projects as well as auctions and prizes for potential buyers.<sup>16</sup> A new flow of investments was expected to pay for both the existing and future constructions. Yet, the companies failed to handle a multitude of projects in the short span of time and to compensate for the ever increasing deficit.<sup>17</sup> A vicious circle of new commercials and new unfulfilled obligations was created which further exhausted already worn-out funds of the construction companies while also suspending the supply of investors who became distrustful of the Center Point Group's promises.

As a result, by the end of 2010, the Center Point Group had 30 construction projects suspended and 6,158 families left without apartments or reimbursement of the money paid for these apartments in advance.<sup>18</sup>

Guram Zarnadze is one of the victims. In 2005, he learned that Center Point Group was putting unbuilt houses on 29 Khosharauli Street in Tbilisi for sale through instalment payments and decided to cash in. Zarnadze had paid USD 43,000 for an apartment with 105 square meters three years before the date when its construction was to be finished under the contract (February 2008). However, LLC Center Point City, a company in charge of construction works on 29 Khosharauli Street, has reneged on its obligation to provide Zarnadze with the new apartment after leaving the construction site unfinished.<sup>19</sup>

Another person suffering heavy losses from the Center Point Group is Darejan Barbakadze. In November 2006, she paid USD 36,000 through installments for an apartment on Guramishvili Avenue in Tbilisi. After two years, seeing that there was no progress in the construction of this apartment Barbakadze asked the responsible company called Ghmaghele to give her alternative dwelling elsewhere. While promising to provide her with the larger apartment in another under construction site on Gelovani Avenue Ghmaghele made Barbakadze pay additional USD 29,000 on top of the sum she had already paid. Yet, like in the previous case the construction works were also suspended on Gelovani Avenue leaving Barbakadze empty-handed.<sup>20</sup>

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<sup>15</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>16</sup> Studio Sanguko, Center Point Group commercial, available here:  
[http://www.myvideo.ge/?video\\_id=377057](http://www.myvideo.ge/?video_id=377057) (last consulted on 7 December 2012)

<sup>17</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>18</sup> Dexus Management Company, Center Point Group Rehabilitation Project, 17 December 2010  
<https://docs.google.com/open?id=0BynT3KlbODUjX25sUmxwQTNTcnc>

<sup>19</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>20</sup> Ibid

The Center Point Group's founders named three main reasons leading to the failure of their companies to build houses for the customers: Georgia-Russia war of August 2008, global economic recession and the ensuing increase of commodity prices, as well as poor internal management.<sup>21</sup>

## Dexus worsens conditions for its customers

On 10 September 2010, Maia and Vakhtang Rcheulishvilis publicly announced that Center Point Group would not be able to recover from the severe financial crisis without outside interference. Therefore, they assigned a new company called Dexus to take over the management of all Center Point Group companies and construction projects.<sup>22</sup>

Dexus was established on 23 August 2010, just two weeks before the Rcheulishvilis' aforementioned announcement. According to the official registration documents, the company whose starting capital was only GEL 100 had three founders: Giorgi Kananashvili, Irakli Kilauridze and Ivane Tsaguria.<sup>23</sup> On its website, Dexus boasts of employing highly skilled managers with sound experience of working for well-known real estate companies in Georgia.<sup>24</sup>

Under the contract signed between Center Point Group and Dexus on 7 September 2010 the latter undertook to finish all suspended construction projects within the next three years.<sup>25</sup> At the same time, the Dexus founder and Director Giorgi Kananashvili assured that the company had already secured necessary investments to accomplish this task and would only need to sign new contracts with the customers.<sup>26</sup> This statement was further strengthened by a number of media reports according to which Dexus over the past five years had attracted investments into Georgia in the amount of USD 350 million, including from such donors as World Bank\* and European Bank for Reconstruction and Development (EBRD).<sup>27</sup>

On 17 December 2010, Dexus presented a rehabilitation plan to finish the Center Point Group's all suspended projects. In the plan, Dexus identified five main reasons contributing to the Center Point Group's failure to meet its contractual obligations to the customers: disintegrated management system, poor planning, inflated project costs, pre-sale of unlicensed buildings, and not foreseeing the costs of VAT.<sup>28</sup>

Dexus has pledged to improve these problems and started offering new contracts to the affected customers. However, while committing to finish all suspended projects in 2013 Dexus has substantially

\* On 13 December 2012, this information was verified with the World Bank who denied the fact that Dexus had received investments from the Bank.

21 Ibid

22 1st Channel, "Dexus has taken over the management of Center Point Group's assets", op cit.

23 Dexus public registry data, [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_scandoc\\_by\\_id&scandoc\\_id=110447&app\\_id=108261](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_scandoc_by_id&scandoc_id=110447&app_id=108261) (last consulted on 7 December 2012)

24 Dexus Development, The Team, <http://dexus.ge/?site-id=6> (last consulted on 7 December 2012)

25 A contract between Center Point Group and LLC Dexus, op cit, p. 9, <https://docs.google.com/open?id=0BynT3KlbODUjY1U1aUtuNHVmME0>

26 1st Channel, "Dexus has taken over the management of Center Point Group's assets", op cit.

27 Sopho Chikhladze, "Dexus has officially taken over Center Point's assets", Newspaper 24 Hours, 11 September 2010, <http://24saati.ge/index.php/category/news/2010-09-11/9360.html> (last consulted on 7 December 2012)

28 Dexus, 2010 rehabilitation plan, op cit.

deteriorated the terms of the initial contracts that the customers had concluded with the Center Point Group companies.

Under the initial contracts, the customers were to receive compensation if the construction companies failed to provide them with the finished apartments within the six months after the completion date set by the contract. The compensation for each delayed month would be 0.2 percent of the sum paid by the individual customer at that specific point in time. The company, however, would be exempted from paying the compensation after its amount would reach 10 percent of the total cost of the apartment concerned.<sup>29</sup> By the time Dexus took over the management of Center Point Group's assets the construction companies of the latter had accumulated a large amount of debts to their customers. Dexus refused to pay these debts, but instead asked its customers to make additional payments in the form of VAT which is 18% of the total cost of each apartment in question.<sup>30</sup> This in practice means that Guram Zarnadze, for instance, who paid USD 43,000 for his apartment on 29 Khosharauli Street will now have to pay USD 4,000 as a VAT, while the total VAT costs for the Khosharauli project are estimated at USD 5.9 million.<sup>31</sup> The Dexus Director Kananashvili told his customers that the responsible company LLC Center Point City should have included VAT costs in the initial contracts and should have saved the necessary funds from the customers' upfront investments. While suspecting that LLC Center Point City misused those funds Kananashvili made it clear that Dexus would not pay for the deficit.<sup>32</sup>

Like Kananashvili, the lawyers of the affected customers also think that VAT costs should have been included in the initial contracts and that it was the responsibility of LLC Center Point City to cover these costs. Yet, these lawyers also claim that Dexus's requirement to make the customers pay for the same tax twice is in conflict with the tax legislation.<sup>33</sup>

A refusal to pay for VAT was not the only burdensome condition set by Dexus. The company also refused to undertake interior construction works, such as patching the walls, in the new buildings which was contrary to the initial Center Point Group conditions that the customers had agreed to. Kananashvili cited a logistical challenge to patch the wall space in the new buildings with a total of 2 million square meters, while adding that it would not be too expensive for the customers to do it through their own investments.<sup>34</sup> Under the existing prices on the Georgian market, patching one square meter of wall space costs GEL 5 meaning that the affected customers have to pay an additional GEL 10 million only for this type of work.<sup>35</sup>

In addition, under the new terms, Dexus will take ownership over the finished buildings' exteriors, staircases, hallways and elevators which the company can use for commercial purposes. Because of this, some customers are concerned that Dexus might impose high tariffs for such services as waste collection, exploitation of elevators and other common facilities.<sup>36</sup> Under the Georgian legislation,

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<sup>29</sup> A contract concluded between LLC Jikia and the customer L.E., 10 November 2006, p.5

<https://docs.google.com/open?id=0BynT3KlbODUjM3ExWGV2YmZ0bkE>

<sup>30</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>31</sup> Ibid

<sup>32</sup> TV Company Kavkasia, Talk Show Spektri hosting Giorgi Kananashvili, 5 November 2010

<http://www.youtube.com/watch?v=LCA3novOXxw>

<sup>33</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>34</sup> Ibid

<sup>35</sup> Interior wall patching costs, [http://mymarket.ge/product\\_info.php?type\\_id=1&set\\_ad\\_type=0&product\\_id=3213869](http://mymarket.ge/product_info.php?type_id=1&set_ad_type=0&product_id=3213869) (last consulted on 7 December 2012)

<sup>36</sup> Mgeladze, "A Pyramid of the Chosen", op cit

however, the residents of the apartment blocks should be able to jointly manage their common property through specially established condominiums while equally sharing the resulting benefits.<sup>37</sup>

Dexus warned its customers that if they failed to agree to the new terms the company would not start construction works on their sites.<sup>38</sup> In some cases, this warning and Dexus's requirements were even more severe. For instance, in 2011, one of the Dexus founders Ivane Tsaguria sent the customers of the Tabukashvili project a notification informing them about the terms of the new contracts and the consequences for not accepting these terms. Under the new contracts, besides paying a VAT the Tabukashvili customers would also have to pay USD 100 for each square meter of the apartment bought from Tabukashvili 88, a company in charge of construction works on 7 Tabukashvili Street in Tbilisi.<sup>39</sup> Tsaguria warned that the customers' failure to sign new contracts with Dexus in seven days' time would result in the annulment of the initial contracts and the sale of the unfinished apartments. Moreover, if these apartments were to be sold for below the price that the customers had paid for them Dexus would not reimburse for resulting losses.<sup>40</sup> For example, if a person paid USD 30,000 for an apartment, which might now be sold for only half of this price, he would lose the rest of the money paid (USD 15,000).<sup>41</sup> Marina Kordzadze is one of the affected persons. She paid USD 100,000 to Tabukashvili 88 for an apartment with 120 square meters to be received in December 2007. Now Kordzadze has to pay an additional USD 30,000 (USD 18,000 for VAT and USD 12,000 for 120 square meters) under the new Dexus contract which she thinks is quite unfair a burden on her.<sup>42</sup>

The customers of the Tabukashvili project appealed to the Court to demand the restoration of the original contracts with Tabukashvili 88 and to prevent Dexus from selling their apartments before the resolution of this dispute. Yet, the Court refused to meet their demands.<sup>43</sup>

On the other hand, the signing of new contracts with Dexus means that the original Center Point Group contracts become void, leaving the customers with worse terms than they had before. Furthermore, Dexus can withdraw from those contracts anytime it deems necessary, according to its agreement with the Center Point Group.<sup>44</sup>

## Dexus's management of constructions

Dexus is lagging behind in the construction of houses for its customers. For example, the company's Director pledged to finish seven of the Center Point Group's 30 unfinished projects by the end of 2010.

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<sup>37</sup> Law of Georgia on Apartment Owners' Condominiums, Chapter II, Articles 5-7, 11 July 2007

<https://docs.google.com/open?id=0BynT3KlbODUjdjVROGswQ0ZhVFU>

<sup>38</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>39</sup> Ivane Tsaguria's letter to Tabukashvili customers, 2011

<https://docs.google.com/open?id=0BynT3KlbODUjcWprTFdjWDVTTE0>

<sup>40</sup> Ibid

<sup>41</sup> TI Georgia's interview with Beka Badrishvili, a lawyer representing the interests of 30 customers of the Tabukashvili project, 21 March 2012

<sup>42</sup> TI Georgia's interview with Marina Kordzadze, 20 March 2012

<sup>43</sup> Ibid

<sup>44</sup> Mgeladze, "A Pyramid of the Chosen", op cit

Two months later, however, Kananashvili changed his initial target to five and then to three projects.<sup>45</sup> In fact, Dexus completed only two projects in 2010.<sup>46</sup>

As of December 2012, Dexus has finished the construction of eight residential complexes in Tbilisi, Batumi, Tskneti and Bakuriani<sup>47</sup> and is now constructing seven apartment blocks in Tbilisi, Likani and Bakuriani.<sup>48</sup> Yet, it seems highly unlikely that the company will be able to finish all remaining 22 construction projects in 2013 as it was announced at the presentation of 10 September 2010.<sup>49</sup>

In its rehabilitation plan, Dexus has divided Center Point Group's 30 construction sites into the three main categories: 1) seven sites where Dexus started construction works in 2010;<sup>50</sup> 2) 15 sites where Dexus would start construction works in 2011-12<sup>51</sup> and 3) eight problematic sites where Dexus is unable to determine the exact construction dates.<sup>52</sup>

It is noteworthy that a total of 716 families invested in those so called problematic sites of which Ghrmaghele and Jikia stand out for two main reasons – Center Point Group sold most of the apartments in these two sites, 254 and 179 respectively, while its companies conducted very little construction works there.<sup>53</sup> TI Georgia analyzes the situation of Ghrmaghele and Jikia in more details below.

## Ghrmaghele case

Ghrmagele is the name of an individual construction partnership which is a subsidiary of the Center Point Group. It was established on 27 April 2006 by Giorgi Gurgeniidze, Giorgi Kuparadze and Giorgi Burdiladze. The main objective was to construct a multi-storey residential complex in Tbilisi on 64 Guramishvili Avenue. The project area covered 6,300 square meters of land plot which was donated to the partnership by one of its founders Giorgi Gurgeniidze.<sup>54</sup>

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<sup>45</sup> TV Company Kavkasia, Spektri Talk Show hosting Giorgi Kananashvili, op cit

<sup>46</sup> The first project completed in 2010 was in Tbilisi district of Didi Dighomi and the second one in the high mountainous resort of Bakuriani.

<sup>47</sup> These are as follows: White Magnolia Housing Complex in Batumi, Oasis Complex (buildings #1-5) in Tbilisi (Didi Dighomi District), Chavchavadze Corner in Tbilisi (Chavchavadze and Kipshidze Streets), Khosharauli Abkhazia (building #1) in Tbilisi (Khosharauli Street), Khosharauli Cinema (block #5) in Tbilisi (Khosharauli Street), White House of Samgori in Tbilisi (Moscow Avenue), Solar Field Complex in Bakuriani, Building in Tskneti, <http://www.dexus.ge/?site-id=13&ptype=1&pcond=1&site-lang=en> (last consulted on 7 December 2012)

<sup>48</sup> These are as follows: Residential Estate Sanisle in Bakuriani, Residential Estate Likani in Likani, Commercial-Residential Complex Isnis Savane in Tbilisi, Commercial-Residential Complex UNI HOUSE in Tbilisi (29 Khosharauli Street), Commercial-Residential Complex Mioni in Tbilisi (Dighomi District, Chachava Street), Residential and Commercial Estate Marijani in Tbilisi (Vajha Pshavela Avenue), and Saakadze Complex (blocks #3-10) in Tbilisi (Saakadze Square), <http://www.dexus.ge/?site-path=project&pcond=3&site-lang=en> (last consulted on 7 December 2012)

<sup>49</sup> 1st Channel, "Dexus has taken over the management of Center Point Group's assets", op cit.

<sup>50</sup> These are as follows: White Magnolia Housing Complex in Batumi, Oasis Complex in Tbilisi (Didi Dighomi District), Chavchavadze Corner in Tbilisi (Chavchavadze and Kipshidze Streets), Abkhazia Building in Tbilisi (Khosharauli street), Housing Complex in Tbilisi (Robakidze Street), Solar Field Complex in Bakuriani, Housing Complex in Tbilisi (Lubliana Street)

<sup>51</sup> These are as follows: Sative, Saakadze, Avlabari Rose, Tskneti, Marijani, Venice, White House in Samgori, Kipshidze, Khosharauli, Mioni in Dighomi, Krtsanisi, Bakuriani, Likani, Bagrationi in Batumi, Lubliana Shopping Center

<sup>52</sup> These are as follows: Ghrmagele, Ninoshvili, Hanging Gardens, Jikia, Gori, Kobuleti, Nadzaladevi, Pushkini

<sup>53</sup> Dexus, 2010 rehabilitation plan, op cit.

<sup>54</sup> Notary Act (# 1-1180) on the Establishment of Partnership Ghrmaghele, 27 April 2006

<https://docs.google.com/open?id=0BynT3KlbODUjUm1SaTZCemR0enc>

Ghrmaghele was supposed to start construction works on 64 Guramishvili Avenue in 2006 and finish them by the end of 2008. However, there are only two shell floors constructed on that site as of December 2012 (See photos #1, #2).<sup>55</sup>

Photo #1

Photo #2



In September 2010, the management rights of Ghrmaghele, like those of other Center Point Group's companies, were transferred to Dexus. The latter included Ghrmaghele in its list of problematic projects and presented the plan of its rehabilitation on 20 January 2011.<sup>56</sup> According to this plan, the total costs of Ghrmaghele project amount to USD 5.65 million of which more than half (USD 3.28) needs to be covered by the customers through the payment of USD 199.87 for each square meter of the apartment. In addition, the customers will need to pay a VAT which is the main stumbling block in their relations with Dexus.<sup>57</sup> The Ghrmaghele customers are refusing to accept this offer. They think it is unfair to pay this much in addition to the funds already paid to and squandered by Ghrmaghele.<sup>58</sup>

Nana Vashadze is one of the affected customers. After contacting Center Point Group to buy the apartment on 64 Guramishvili Avenue, on 15 March 2006, she received a letter of guarantee from LLC Center Point Real Estate owned by Rusudan Kervalishvili, Guram Rcheulishvili and Konstantine Dzidzishvil.<sup>59</sup> The letter said that Vashadze would receive an apartment with 56.6 square meters for USD 400 per one square meter.<sup>60</sup> In case of the failure to provide her with the finished apartment LLC

<sup>55</sup> A contract concluded between Nana Vashadze and the Director of Ghrmaghele Giorgi Gurgenidze, 18 May 2006 <https://docs.google.com/open?id=0BynT3KlbODUjb21kTUFiY1hoVVU>

<sup>56</sup> Ghrmaghele Rehabilitation Project, Dexus Management Company, 20 January 2011. <https://docs.google.com/open?id=0BynT3KlbODUjLUt0X04tZUU5UU0>

<sup>57</sup> Ibid

<sup>58</sup> TI Georgia's interview with the customers of Ghrmaghele project, 20 March 2012

<sup>59</sup> LLC Center Point Real Estate registration documents, public registry data, 22 October 2010, Identification Code: 204408630, [https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get\\_output\\_by\\_id&scandoc\\_id=127852&app\\_id=144705](https://enreg.reestri.gov.ge/main.php?c=mortgage&m=get_output_by_id&scandoc_id=127852&app_id=144705) (last consulted on 15 November 2012)

<sup>60</sup> A letter of guarantee signed by the Director of LLC Center Point Real Estate, 15 March 2006 <https://docs.google.com/open?id=0BynT3KlbODUjTktjCdq1VklOb28>

Center Point Real Estate pledged to return her the money paid.<sup>61</sup> While accepting the deal Vashadze, on the same day, paid USD 3,000 as a first installment.<sup>62</sup>

Two months later, on 18 May 2006, Nana Vashadze signed an actual contract with Giorgi Gurgenedze, Director of Ghrmaghele. Under the contract, the cost of Vashadze's apartment was set at USD 27,352 of which USD 3,000 had already been paid in advance. The remaining USD 24,352 was to be paid in eleven instalments starting from 15 June 2006 to 15 December 2008 (USD 2,000 per each quarter of the year).<sup>63</sup> According to Vashadze, she had fully paid this sum in due time at the expense of selling her house in Rustavi but received nothing in return.<sup>64</sup>

On 16 April 2010, Nana Vashadze concluded a new contract with Ghrmaghele under which she would receive an apartment in the second quarter of 2012. The apartment would be fully finished meeting the following criteria: concrete block walls patched with cement mortar, plastic and glass windows and balcony doors, iron-made entrance door, and properly installed gas, water, sewage and ventilation pipes as well as electricity and communication cables. In addition, Ghrmaghele pledged to finish the construction of the building's exteriors and supporting structures, including installation of fully functioning elevators and electricity cables in the hallways. Like before, Guram Rcheulishvili, General Director of LLC Center Point Real Estate, acted as the guarantor of this contract and signed the document along with Giorgi Gurgenedze and Nana Vashadze.<sup>65</sup> However, there was no progress in the construction process even after the signing of this contract, once again demonstrating the failure of the Center Point Group and its subsidiaries to meet their basic obligations to the customers.

To find out reasons behind delays in the construction process, on 11 January 2012, Nana Vashadze along with the five other affected customers sent a letter to the Dexus Director Giorgi Kananashvili. In the letter, the customers inquired about total costs of Ghrmaghele construction project, amount of works completed and funds spent. They also wanted to know how many apartments were sold on 64 Guramishvili Avenue, how many people asked for their money to be returned or for alternative living spaces to be provided elsewhere and whether any property of Ghrmaghele was frozen or mortgaged by the Court.<sup>66</sup> In a brief letter, Giorgi Kananashvili responded that Dexus was in no position to provide answers to these questions.<sup>67</sup>

Contrary to this response, however, the customers of Ghrmaghele project managed to access a spreadsheet showing important data on their project: total costs of pre-sold living spaces on 64 Guramishvili Avenue (USD 7.86 million), names, ID numbers and contacts of 233 people who bought these living spaces and amount of funds paid to Ghrmaghele (USD 6.29 million) or still to be paid (USD 1.56 million). TI Georgia contacted a number of customers included in this list and verified that the data provided in the spreadsheet was accurate.<sup>68</sup>

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<sup>61</sup> Ibid

<sup>62</sup> A contract between Nana Vashadze and Giorgi Gurgenedze, 18 May 2006, op cit

<sup>63</sup> Ibid

<sup>64</sup> TI Georgia's interview with Nana Vashadze, 20 March 2012

<sup>65</sup> A contract concluded between Nana Vashadze and Giorgi Gurgenedze, 16 April 2010

<https://docs.google.com/open?id=0BynT3KlbODUjN2ZuRXc0UmRFWGs>

<sup>66</sup> A letter sent to Dexus Director Giorgi Kananashvili by six customers of Ghrmaghele project, 11 January 2012

<https://docs.google.com/open?id=0BynT3KlbODUjb1JoVEJIRlIndjA>

<sup>67</sup> A response letter by Dexus Director Giorgi Kananashvili, 25 January 2012

<https://docs.google.com/open?id=0BynT3KlbODUjb3JwYnBaRG5COVE>

<sup>68</sup> A spreadsheet provided to TI Georgia by the customers of Ghrmaghele construction project, 20 March 2012

<https://docs.google.com/open?id=0BynT3KlbODUjakROMnZMSUJEV2M>

Yet, TI Georgia was unable to find where the money paid by the customers went and how much of it was actually spent on the construction of an apartment block on 64 Guramishvili Avenue. As shown above, currently there are only two shell floors constructed on a 6,300 square meter land plot on 64 Guramishvili Avenue which is the only property that Ghmaghele partnership has at its disposal. On 17 November 2009, Tbilisi City Court froze this property as a penalty on Ghmaghele for failing to meet its contractual obligations to the customers.<sup>69</sup>

Dexus in its capacity as the manager of all Center Point Group's companies is most likely to know how Ghmaghele spent USD 6.29 million but it is reluctant to release this information to the public. Instead, Dexus requires the affected customers to pay an additional USD 3.28 million in order to have their houses finished.

The affected customers sent a number of joint complaints to the law enforcement agencies seeking compensation for the losses incurred but achieved no tangible results. At the same time, Gagi Mosiashvili, a lawyer from Georgian Young Lawyers' Association (GYLA) reckons that the Prosecutor's Office should have taken interest in the case considering the existing evidence suggesting that Ghmaghele embezzled a vast amount of funds of its customers.<sup>70</sup>

## Jikia case

Another big construction site included in Dexus's list of problematic sites is Jikia. Unlike in the case of Ghmaghele, however, TI Georgia was able to find the necessary documentation on Jikia's case proving that the money paid by the customers for the construction of their apartments (GEL 6.84 million) was actually mishandled by LLC Jikia's owner Maia Rcheulishvili. As a result, 165 families have been left without promised apartments.

LLC Jikia was established on 17 July 2006 with the starting capital of just GEL 250.<sup>71</sup> On 2 March 2007, Maia Rcheulishvili donated to the company lands and buildings with 20,168 square meters (worth GEL 1.45 million) located on 7 Jikia Street.<sup>72</sup> Six months later, LLC Jikia submitted to Tbilisi City Hall a project to construct multi-apartment residential complex on that site and received a license for the project in the spring of 2008. The project area covered 20,000 square meters of which 15,000 square meters would be used for buildings and structures, including 178 private apartments and a number of commercial premises. The construction works were supposed to start on 5 March 2008 and finish in three year's time.<sup>73</sup>

LLC Jikia had started selling apartments to its customers a year before the company acquired a land plot or the license to start construction works. L.E. was one of the buyers. In November 2006, L.E.

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<sup>69</sup> Public registry data on Ghmaghele partnership, 30 March 2010

<https://docs.google.com/open?id=0BynT3KlbODUjMk1WM3NvTHR0d1E>

<sup>70</sup> TI Georgia's interview with Gagi Mosiashvili, a criminal lawyer from GYLA, 4 April 2012

<sup>71</sup> LLC Jikia's Charter, public registry data, 17 July 2006

<https://docs.google.com/open?id=0BynT3KlbODUjSE5GMDA1a2IOSU0>

<sup>72</sup> Maia Rcheulishvili's decision to contribute real property to LLC Jikia's starting capital, 2 March 2007

<https://docs.google.com/open?id=0BynT3KlbODUjTEo2RC12YzBCUzg>; Audit report on LLC Jikia's real property, 6 March 2007 <https://docs.google.com/open?id=0BynT3KlbODUjN3JiUGpINvhxM28>

<sup>73</sup> Order #5/203 of the Urban Planning Department of Tbilisi City Hall, 2008; Construction license certificate #5 203-1 signed by L. Shaburishvili, Head of Tbilisi's Right Bank License Service, 28 February 2008

signed a contract with LLC Jikia to buy an apartment with 97.28 square meters for USD 48,640. The construction of this apartment was supposed to be finished between April and December of 2009, yet, by the time there were only minor construction works conducted.<sup>74</sup> After seeing this, L.E. and other customers of the project showed their site to a number of construction engineers to estimate the value of works that LLC Jikia had done by the time. According to the engineers' estimates, LLC Jikia spent only GEL 800,000 on actual construction works on 7 Jikia Street while it was unknown where the rest of the customers' funds had gone (See photos #3, #4).<sup>75</sup>

Photo #3

Photo #4



As it turned out, Maia Rcheulishvili used a substantial amount of LLC Jikia's funds (GEL 3.28 million) to her own benefit. Specifically, on 6 January 2009, when it became obvious that the construction process on Jikia site was falling behind, Rcheulishvili withdrew GEL 1.38 million from LLC Jikia's account. A month later, under Rcheulishvili's decision, LLC Jikia bought a company called LLC Tskneti House for GEL 1.9 million. The latter was also owned by Maia Rcheulishvili meaning that she transferred funds from one of her companies to another.<sup>76</sup> In December 2009, however, Tbilisi City Court froze LLC Jikia's assets for the failure to meet its contractual obligations and forbade Maia Rcheulishvili from disposing of these assets.<sup>77</sup>

On 27 January 2011, Dexus's founder and LLC Jikia's new Director Ivane Tsaguria appealed to Tbilisi City Court with a request to start LLC Jikia's insolvency procedures. The Court addressed Tsaguria's request and appointed Irakli Gafrindashvili, who was nominated by Tsaguria himself, as LLC Jikia's insolvency custodian tasked with preparing a report on the company's existing assets and debts.<sup>78</sup> On 30 April 2011, Gafrindashvili presented to the Court a report according to which LLC Jikia had 165 verified and 23 unverified customers paying a total of GEL 6.84 million to the company. In addition, LLC Jikia had seven debtors owing a total of GEL 0.44 million. Of these seven debtors, LLC Center

<sup>74</sup> A contract between LLC Jikia and customer L.E, op.cit.

<sup>75</sup> TI Georgia's interview with the customers of Jikia project, March 2012

<sup>76</sup> A Custodian Report submitted to the judge of Tbilisi City Court Tamar Tchunashvili by LLC Jikia's insolvency custodian Irakli Gafrindashvili, 30 April 2011 <https://docs.google.com/open?id=0BynT3KlbODUjTGR0UIZQeVVYIk>

<sup>77</sup> Public registry data on LLC Jikia's frozen assets, (LLC Jikia's ID# -205166559), 12 February 2010 <https://docs.google.com/open?id=0BynT3KlbODUjU1NuV3VHaEIKd1k>

<sup>78</sup> Court Decision on starting LLC Jikia's insolvency procedures by Tbilisi City Court Judge Tamar Tchunashvili, 28 January 2011 <https://docs.google.com/open?id=0BynT3KlbODUjNkt3QVQ0ZTdPSVk>

Point City, LLC Dakidebuli Baghebi and LLC Didi Dighomi Oasis, all founded and owned by Maia Rcheulishvili, had by far the largest debts: GEL 0.17 million, GEL 0.14 million, and GEL 0.12 million, respectively.<sup>79</sup> By adding this sum to GEL 3.28 million withdrawn from LLC Jikia's account in 2009 it appears that Rcheulishvili has used a total of GEL 3.7 million of the company's funds at her own discretion, thus causing heavy losses to its customers.

At the same time, LLC Jikia was unable to use LLC Tskneti House's property, a company which it bought in 2009, to compensate its customers. Specifically, LLC Tskneti House owned a residential complex in Tskneti the construction of which was started by Center Point Group and finished by Dexus on 1 October 2011.<sup>80</sup> According to the legislation,<sup>81</sup> LLC Jikia's customers were entitled to use this complex to their own benefits.<sup>82</sup> However, Dexus secretly sold it to the Rcheulishvili family. Specifically, on 17 October 2011, LLC Tskneti House, under Ivane Tsaguria's management, sold 51 apartments in Tskneti (worth GEL 1.35 million) to a company called LLC Modern Values Investments<sup>83</sup> which is owned by Vakhtang Rcheulishvili's company LLC Property Invest.<sup>84</sup> According to LLC Tskneti House's Charter, the company's property could only be sold by the consent of its owner which in this case was the council of LLC Jikia's customers and their rehabilitation manager.<sup>85</sup> By not notifying these people about the sale of apartments in Tskneti residential complex Ivane Tsaguria had breached the law on insolvency procedures.<sup>86</sup>

After learning about this arrangement, LLC Jikia's rehabilitation manager Levan Aptsiauri sent a letter to the public registry to inform it that the sold property was owned by the Jikia customers and that Dexus's decision to sell it without their consent was in conflict with the legislation.<sup>87</sup> Yet, the public registry recognized the validity of the deal between LLC Tksneti House and LLC Modern Values Investments leaving the Jikia customers empty-handed.

A lawyer Gagi Mosiashvili thinks that all existing evidence in Jikia's case is enough for the Prosecutor's Office to start criminal proceedings against Maia Rcheulishvili and Ivane Tsaguria on embezzlement and swindle charges since they both mishandled a large amount of LLC Jikia's property.<sup>88</sup>

Currently, the Jikia customers themselves are managing construction works on 7 Jikia Street and paying for it through their own investments.

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<sup>79</sup> Irakli Gafrindashvili, Custodian's Report, op cit

<sup>80</sup> Dexus, Residential Completed Projects, <http://www.dexus.ge/?site-id=13&prid=48> (last consulted on 7 December 2012)

<sup>81</sup> Law of Georgia on Insolvency Proceedings, Chapter VI, Article 44, 28 March 2007 (#-4522)

<https://docs.google.com/open?id=0BynT3KlbODUjTmE0b3Q3LURsSUU>

<sup>82</sup> TI Georgia's interview with Beka Dochviri, a civil and administrative lawyer from GYLA, 4 April 2012

<sup>83</sup> Purchase agreement between LLC Tskneti House and LLC Modern Values Investments, public registry data, 17 October 2011 <https://docs.google.com/open?id=0BynT3KlbODUjTFpVV0NmZ1NOdjA>

<sup>84</sup> Public registry data on Modern Values Investments (ID#-201946056) <https://docs.google.com/open?id=0BynT3KlbODUjMIJhRW9fR2ZHdGc> and on Property Invest (ID#-204531499) <https://docs.google.com/open?id=0BynT3KlbODUjb3FFR0tVVVJ3MVk>

<sup>85</sup> LLC Tskneti House's Charter, adopted on 31 January 2007, public registry data, Folder I <https://docs.google.com/open?id=0BynT3KlbODUjNkt3QVQ0ZTdPSVk>

<sup>86</sup> Minutes of the creditors' council approved by the Tbilisi City Court judge Tamar Tchuniashvili, 15 October 2011 <https://docs.google.com/open?id=0BynT3KlbODUjemJjTVVvMUw3NE0>

<sup>87</sup> A letter sent to the public registry by LLC Jikia's rehabilitation manager Levan Aptsiauri, 25 October 2011 <https://docs.google.com/open?id=0BynT3KlbODUjVl9zVmY3emsxdVE>

<sup>88</sup> TI Georgia's interview with Gagi Mosiashvili, a criminal lawyer from GYLA, 4 April 2012

## Authorities' reaction and current situation

In December 2011, the affected customers of Center Point Group established an NGO called Association of Affected Customers which unites up to 100 people. Their main objective is to receive finished apartments or adequate compensation therefor but also to make responsible persons liable for failing to provide these apartments. To that end, they sent dozens of letters to different government agencies, including the then Chief Prosecutor Murtaz Zodelava,<sup>89</sup> the then Minister of Justice and the General Prosecutor Zurab Adeishvili,<sup>90</sup> and a number of senior Parliamentarians both from the then ruling UNM party and the opposition parties.<sup>91</sup>

None of these letters resulted in any concrete actions from the government at that time. The customers received only one response letter from Tbilisi Prosecutor's Office saying that Center Point Group's case was a matter of civil law and had therefore no elements of criminal offense.<sup>92</sup>

However, one example from the practice of the Georgian Prosecutor's Office proves the opposite. Specifically, O.A., the founder of a construction company, was sentenced to 10 years of imprisonment for renegeing on its contractual obligation to build new houses for 27 customers who paid GEL 800,000 for this. Despite citing Georgia-Russia war of 2008 as the main reason behind his failure O.A. was charged with embezzlement which was upheld by Tbilisi City Court. In addition, O.A. was fined with GEL 4,000 and deprived of the right to conduct business. The Court also obliged him to compensate his customers for the damages. O.A. appealed this decision to the Appellate Court but the latter has left the original verdict unchanged.<sup>93</sup>

The O.A's case involves 27 affected customers and the embezzlement of GEL 800,000 while the Center Point Group's case involves 6,200 affected families and the embezzlement of millions of USD. In addition, the Center Point Group's customers have organized a dozen of protest rallies which were widely covered by the local media outlets.<sup>94</sup> Yet, the then Chief Prosecutor did not take any interest in the Center Point Group's case classifying it as a matter of civil law with no elements of criminal offense. The affected customers and their lawyers explain this negligence by the reluctance of the former UNM government to investigate a case that involved its close allies.<sup>95</sup> Lavish donations of

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<sup>89</sup> A letter sent to Georgia's then Chief Prosecutor Murtaz Zodelava by the Center Point Group's affected customers, 10 February 2011 <https://docs.google.com/open?id=0BynT3KlbODUjbWI3OGRXQmc1LVU>

<sup>90</sup> A letter sent to then Minister of Justice and General Prosecutor Zurab Adeishvili on behalf of 234 families of Grmaghele object, 2011 <https://docs.google.com/open?id=0BynT3KlbODUjdjR1b21TcWdlXc>

<sup>91</sup> A letter (#1208) sent to the Parliament by the Center Point Group's customers, 7 February 2012 <https://docs.google.com/open?id=0BynT3KlbODUjbE9KbjcwYVFWSGs>

<sup>92</sup> A response letter sent to the Center Point Group's affected customers by the Department Head of Tbilisi Prosecutor's Office N. Jghenti, 4 February 2011 <https://docs.google.com/open?id=0BynT3KlbODUjYnVvb2Z3Z1FpUDQ>

<sup>93</sup> Decisions of Tbilisi City Court and Appellate Court on the case of O.A. The O.A.'s family has not given consent to make more details of this case public. <https://docs.google.com/open?id=0BynT3KlbODUjRUFdDGI6cDFNYWc>

<sup>94</sup> Giorgi Beridze, "Affected customers of Center Point Group organized a rally at the State Chancellery", 16 July 2012, <http://www.palitratv.ge/akhali-ambebi/sazogadoeba/19508-qcentr-pointisq-mier-dazaralebulebma-kancelariasthan-aqcia-gamarthes.html> (last consulted on 7 December 2012)

<sup>95</sup> TI Georgia's interview with Marina Kordzadze and the three affected people of the Grmaghele project, 20 March 2012; TI Georgia's interview with Beka Badriashvili, a lawyer representing the interests of the customers of the Tabukashvili project, 21 March 2012

Center Point Group's owners to the UNM can serve as a good evidence to support this claim. For instance, in 2007-2008 the Center Point Group and its companies donated nearly GEL 900,000 to the UNM in the form of annual donations and election campaign donations.<sup>96</sup>

Besides requests to make the owners of Center Point Group liable for their actions the affected customers have also submitted dozens of civil claims to the Court. They require the annulment of the contracts concluded with the Center Point Group companies, registration of ownership over unfinished apartments, return of the money paid or adequate compensation for the losses. The Civil Cases Panel of Tbilisi City Court has adopted mostly favorable decisions on these claims by obliging the responsible companies within the Center Point Group to finish the construction of houses for their customers<sup>97</sup> or provide them with the adequate compensation.<sup>98</sup> Yet, the execution of these decisions has been deferred for one year or longer due to the solvency crisis of those companies.<sup>99</sup> A legal expert Irakli Tsnobiladze reckons that by deferring the execution of its decisions the Court prioritized private interests of the Center Point Group companies over those of their customers.<sup>100</sup>

If a company fails to compensate its customers after one year then all its property will be put on auction sale. However, the selling of unfinished buildings which in most cases is the only property of the responsible companies would not be enough to compensate all affected families.<sup>101</sup> Moreover, if a company has no property whatsoever it would be impossible to execute the Court's decisions on compensation. For instance, the assets of some of the Center Point Group companies have already been frozen, put on auction sale, or offered as collateral to the local banks. This in practice means that if these companies are declared insolvent the banks will be the first to take over their assets.<sup>102</sup>

At the same time, due to the cunning scheme that delegated all responsibility to the individual construction companies the Court did not have the mandate to compel Vakhtang Rcheulishvili, Maia Rcheulishvili and Rusudan Kervalishvili to compensate the affected customers through their personal assets that are worth millions of dollars.<sup>103</sup>

For instance, Rusudan Kervalishvili, according to her latest asset declaration issued on 16 May 2012 when she was still acting as Deputy Chairperson of the Parliament, owns three houses and four land plots in Mtskheta, Oni, Ureki, and Batumi as well as expensive things worth GEL 650,000 in total. In addition, Kervalishvili's mother has USD 0.5 million saved on her account.<sup>104</sup> Another interesting fact is that Kervalishvili's property has increased in size since 2009 when she filled out her first asset declaration as the member of the Georgian Parliament. Specifically, she has acquired five new lands

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<sup>96</sup> Transparency International Georgia, Promoting Transparency of Party Finances, <http://transparency.ge/en/party-finance> (last consulted on 7 December 2012)

<sup>97</sup> Decision of Civil Cases Panel of Tbilisi City Court on the case (#2/7487-11): eight customers vs. LLC Didi Dighomi Oasis, 26 January 2012 <https://docs.google.com/open?id=0BynT3KlbODUjM0FOZjFXyFMcmM>

<sup>98</sup> Decision of Civil Cases Panel of Tbilisi City Court on the case (#2/7289-09): NJ vs. LLC Center Point City, 14 December 2010 <https://docs.google.com/open?id=0BynT3KlbODUjUkdadWdYS1N4Q1k>

<sup>99</sup> Decision of Civil Cases Panel of Tbilisi City Court on the case (#2/7289-10): NJ vs. LLC Center Point City, 29 November 2011 <https://docs.google.com/open?id=0BynT3KlbODUjdTIKQTZBbzVpU2M>

<sup>100</sup> Ibid

<sup>101</sup> Giorgi Mgeladze, "A Pyramid of the Chosen", op cit

<sup>102</sup> Ibid

<sup>103</sup> Ibid

<sup>104</sup> Rusudan Kervalishvili's asset declarations of 2009,10,11 and 12, available here: <http://www.declaration.gov.ge/csb/main.seam> (last consulted on 7 December 2012)

and houses in Mtskheta, Batumi and Ureki and a number of valuable things worth GEL 290,000 in total.<sup>105</sup>

On the other hand, according to Vakhtang Rcheulishvili's latest asset declaration published in 2004, he and his wife Maia Rcheulishvili owned 16 land plots and houses worth a total of GEL 2 million. They also owned a number of expensive things worth GEL 1.2 million in total.<sup>106</sup> After the termination of his parliamentary mandate Vakhtang Rcheulishvili is not anymore obliged to make his assets public. Yet, the official registry data, as of December 2012, shows that the property of his family has also increased in size since 2004. Specifically, Vakhtang, Maia and Guram Rcheulishvilis together own 25 lands and houses located in Tbilisi and the regions and spanning across several thousands of square meters.<sup>107</sup>

The Center Point Group's customers demand that the company's owners compensate them through their valuable personal assets however Rusudan Kervalishvili maintains that she and her sister's family have no other assets except for those currently managed by Dexus.<sup>108</sup>

Following the change of government in Georgia after the Parliamentary elections of October 2012 the investigation of the Center Point Group's case has become one of the priorities of the new authorities. Specifically, on 7 November 2012, the new Chief Prosecutor Archil Kbilashvili held a meeting with a number of Center Point Group's customers and promised them to set up a special investigative group to work on the case and make the offenders liable under the law.<sup>109</sup>

## Conclusions

Housing construction is a highly profitable business considering rapidly growing demand on real estate. Yet, it is susceptible to fraud and financial crime since there are large projects and chains of subcontractors involved making it difficult to understand and track money flows. These financial processes become even more complex when senior public officials with high stakes in the construction business aim to maximize personal gains at the expense of their customers. These public officials can then use their influence in the government to avoid personal liability for the damages caused as a result of their actions.

In Georgia, the Center Point Group and its three prominent founders, Vakhtang Rcheulishvili, his wife Maia Rcheulishvili and her sister Rusudan Kervalishvili, undertook to make huge profits in the construction business by luring thousands of customers to invest in a vast Ponzi scheme. Vakhtang Rcheulishvili and Rusudan Kervalishvili both served as members and Deputy Chairpersons of the Georgian Parliament in 1995-2004 and 2008-2012, respectively. Therefore, their status and

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<sup>105</sup> Ibid

<sup>106</sup> Vakhtang Rcheulishvili's asset declaration of 2004, available here: <http://www.csb.gov.ge/ge/search-declaration> (last consulted on 7 December 2012)

<sup>107</sup> Vakhtang Rcheulishvili (ID# - 01017007971), Maia Rcheulishvili (ID# - 01017003383), Guram Rcheulishvili (ID# - 01031000003), information on their personal assets can be found on the public registry's website here: <http://napr.gov.ge/?m=123> (last consulted on 7 December 2012)

<sup>108</sup> Mgeladze, "A Pyramid of the Chosen", op cit

<sup>109</sup> "A rally at the Prosecutor's Office", Channel 9, 7 November 2012, <http://www.youtube.com/watch?v=T8Lj07ikn88> (last consulted on 7 December 2012)

connections among the former ruling elites raise concerns that these connections helped them avoid personal liability for the damages inflicted on the customers.

This is how the the Center Point Group's Ponzi scheme worked in practice: with effective advertising the company enticed thousands of customers to buy apartments in yet-to-be constructed multi-storey residential complexes. In order to avert personal responsibility for the delivery of these apartments Vakhtang Rcheulishvili, Maia Rcheulishvili and Rusudan Kervalishvili established a total of 70 limited liability companies and individual partnerships in charge of concluding contracts with the customers and building houses for them. While these companies were able to start constructions on the assigned sites they were soon unable to cover increasing costs of building materials. As a remedy, the Center Point Group launched more extensive advertising with the aim to attract additional investments and pay for the initial projects through these investments. Yet, the construction companies were not able to implement multiple projects in a short period of time and to compensate for the ever increasing deficit. This in turn has further exhausted available funds but also cut the supply of potential investors who became distrustful of the Center Point Group's new lucrative offers.

As a result, there were 30 construction projects suspended and 6,158 families left without promised apartments. At the same time, a new management company Dexus hired by Center Point Group to solve the crisis has imposed unfavorable conditions on its customers by asking them to pay additional taxes and costs for their houses. In addition, Dexus has refused to undertake interior construction works in the new buildings and asked its customers to pay for these works through their own investments, contrary to the original terms of the Center Point Group contracts. Dexus also became involved an illicit deal through which the founders of the Center Point Group claimed a valuable property that was supposed to be used to the benefits of the affected customers.

The Chief Prosecutor of the former government of the United National Movement (UNM) classified the Center Point Group's case as a matter of civil law and refused to start criminal investigations against the company's owners despite strong evidence and high public interest suggesting the opposite. For its part, the Civil Cases Panel of Tbilisi City Court has deferred the execution of its decisions obliging the Center Point Group companies to compensate their customers. Because of this deferral, the affected customers now have to wait for another year or sometimes even longer to receive the long-awaited compensation for the heavy losses suffered from the Center Point Group.

The Center Point Group's case has attracted exceptionally high public interest in Georgia since it is the country's largest construction scandal involving former senior public officials, thousands of affected customers and millions of embezzled funds. Bearing this in mind, it is important that the new government takes a special interest in the case and launches an in-depth investigation into the details.

Transparency International Georgia welcomes the decision of the new Chief Prosecutor to set up a special group tasked with the investigation of the Center Point Group case. It is key to ensure that the claims of all affected customers are investigated fully, objectively, and in a reasonable time so that they are able to register ownership over their houses and receive adequate compensation for all losses suffered.