

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



GYLA voices its position concerning the delay of Bacho Akhalaia's trial

GYLA has been monitoring court hearings on Bacho Akhalaia's case and concludes that prosecution's conduct contains signs of deliberate delay of the trial.

On the September 17th hearing, the prosecutor Revaz Nadoi had to submit his closing argument, however it was not done for his absence (it should be noted that the day before, on September 16th, the hearing on Megis Kardava's and others case was postponed on the basis of Nadoi's written application where he stated that preparation for the closing argument on Akhalaia's case was the reason of postponement). At the next hearing Revaz Nadoi, failed to appear for his worsened

health condition, however, the case still misses the relevant medical document justifying the fact.

On September 19, Ia Darjania, the prosecutor was involved in the case, who initially requested postponement of the trial for one month to get familiarized with the case, but was only given ten days. At the next hearing, on September 30 the prosecutor Darjania was not ready again and asked for a twenty days extension, though she was only given a week more. As for today's trial she motioned for self-recusal. Darjania explained in her motion that she had certain connections to Akhalaia. Just like Akhalaia's wife she was also from Abkhazia, a Georgian breakaway region and their common friends were putting psychological pressure on her both personally and through social media. Moreover, Darjania alleged that she had friendly relationships with her former colleagues Sajaia and Oniani, who were B. Akhalaia's lawyers (they, however do not confirm their friendly relationship and report that they were only former colleagues and had only business relations.) The judge granted her motion on self-recusal. Levan Adeishvili, the new prosecutor involved in the case, also requested additional time to get familiarized with the case materials. The judge set 10 days term to him.

As per Article 62(6) of the Criminal Procedure Code, self-recusal should be substantiated. The prosecutor Revaz Nadoi, however, failed to confirm that the reason for his removal from the case was poor health condition. As for Ia Darjania, she was informed in advance about participation of lawyers in Akhalaia's case, who as she alleged later appear to be her friends. Nevertheless, she did not declare self-recusal from the beginning. Furthermore, her allegations about implemented psychological pressure from common acquaintances with Akhalaia's wife are not convincing. The time of launching psychological pressure on the prosecutor is unknown, as well as why Ms. Darjania refrained from motioning on self-recusal on September 30, when she asked the court to postpone the hearing with a view to gets familiar with case materials.

Furthermore, delayed court procedure prejudices Article 6(1) of the ECHR. The Convention provides for that everyone is entitled to fair and public hearing within reasonable times. When determining violation of Article 6(1) of the European Convention, the ECtHR takes into account if delay of the hearing was reasoned by the conduct of state agencies. The court declared that state representative should refrain from unreasonable delay of the court hearing while the court would not allow it (

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). As for observance of reasonable terms, the requirements of the European Court are especially strict when delay of the proceeding causes leaving of the detained in prison ([Smirnova v. Russia](#)).