



მინდა ვენდო
სანამართლომ!



კოალიცია

დამოუკიდებელი და გამჭვირვალე
მართლმსაჯულებისთვის

The Coalition Reacts to the Election of Shota Kadagidze as an Independent Inspector

On July 27, the High Council of Justice elected Shota Kadagidze as an Independent Inspector. In 2017-2021, Mr. Kadagidze held the position of a member of the Council.¹ His candidacy for Independent Inspector was unanimously supported by the eleven Council members present at the session (including three recently elected non-judge members).² Thirty-two people registered for the Independent Inspector selection competition, and nine candidates³ moved forward to the interview stage,⁴ including two former non-judge members of the Council: Shota Kadagidze and Zaza Kharebava.

The need to elect an Independent Inspector was put on the agenda after Zurab Aznaurashvili addressed the Council with a personal statement requesting his early resignation at the June 16 meeting.⁵ Shortly afterward, Mr. Aznaurashvili took the position of the Deputy Chairman of the Common Courts Department. This case is a continuation of the already established practice of premature termination of the office by important officials in the justice system and the appointment of the same

individuals to managerial positions.⁶ In such cases, the real reasons for leaving/changing the position remain unknown to the public.

The Independent Inspector should play an important role in the process of disciplining judges. The Inspector decides whether to initiate disciplinary proceedings against a judge and gathers relevant evidence. Therefore, it is critically important that the person elected to this position enjoys a high professional reputation and is free from both external and internal influences. When corporatism is one of the main challenges of the justice system, the election of a former member of the Council as an Inspector once again shows that the influential group appoints to the key positions individuals who carry their interests and are loyal to the “clan.”

The inadequacy of legislative guarantees ensuring the Inspector institutional independence has been recognized as a problem for years. Several challenges are associated with the Inspector selection procedure. According to the law,⁷ an absolute majority of votes of the members of the High Council of Justice is sufficient for the selection of an Independent Inspector. As a result, the Inspector can be elected if supported only by judge members. The rule established by the Council for the selection of the Inspector is problematic because it does not uphold the major principles (objectivity, transparency, prohibition of discrimination) and procedures (selection criteria, the purpose, and regulation of interviews, the issues to be

clarified through interviews, candidate assessment and corresponding justification)⁸ of any competitive process.

This time, as previously, the selection of an Independent Inspector was carried out in a non-transparent manner. The Council closed the interviews to the public. The Council has not published the names and biographies of candidates on its website. In the absence of adequate independence guarantees, an Inspector selected through a non-transparent process will not be able to build trust in the disciplining process.⁹ The independence of an Inspector is directly linked to the effectiveness of disciplinary proceedings, which, in practice, are not active and lag in time.

The appointment of a person loyal to the []A as an Independent Inspector through non-transparent procedures threatens trust in the disciplining process and creates risks of interference with the independence of individual judges. As a result, fairness and impartiality of justice are obstructed.

1 The term of office of the member of the High Council of Justice has expired, the website of the High Council of Justice, March 23, 2021, available at: <https://shorturl.at/vE456> (Accessed: 28.07.2023)

2 Monitoring of the session of the High Council of Justice on July 27.

3 Only five candidates showed up for the interview: Ana Murachashvili Oniani, Levan Nemsadze, Beka Patsatsia, Shota Kadagidze, and Zaza Kharebava.

4 Nino Dokadze, Nino Elikashvili, Zaza Taktakishvili, Ana Murachashvili Oniani, Levan Nemsadze, Beka Patsatsia, Shota Kadagidze, Zaza Kharebava, Megi Jgharkava.

5 The Council elected Zurab Aznaurashvili as an Independent Inspector in 2020, his term of office was to expire in 2025.

6 [] Coalition Responds to the XXXI Conference of Judges A [] The Coalition for Independent and Transparent Judiciary, 25 October 2022, available at: http://coalition.ge/index.php?article_id=275&clang=1. (Accessed: 28.07.2023).

7 The Law on Common Courts of Georgia, Article 51, Paragraph 2.

8 High Council of Justice Rules of Procedure, Article 272.

9 High Council of Justice Monitoring Report #9, Nino Nozadze, Georgian Young Lawyers [] Association, Tbilisi, 2021, p. 28, available on the Georgian Young Lawyers [] Association website.