



Nino

KADAGIDZE

Judge of Tbilisi Court of Appeals

CANDIDATE'S PROFESSIONAL /
ACADEMIC PERFORMANCE AND
IDENTIFIED TRAITS / BEHAVIOR

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In 1994–2000 Nino Kadagidze held various positions at the Ministry of Justice of Georgia. In 2000 she was appointed as a judge of the Chamber of Administrative Cases of Tbilisi District Court. In 2002–2012 she was a judge of the Supreme Court of Georgia. Since June 17, 2013, Nino Kadagidze has been a Judge of the Chamber of Administrative Cases of Tbilisi Court of Appeals.

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CANDIDATE'S PROFESSIONAL / ACADEMIC PERFORMANCE AND IDENTIFIED TRAITS / BEHAVIOR

1. DECISIONS, DISSENTING OPINIONS, COURT SUBMISSIONS

1.1. LEGALLY INTERESTING OF PRECEDENTIAL DECISIONS

Legal issues: Dismissal of a civil servant from state service on the grounds of political discrimination and his/her compulsion to resign on the basis of own request to terminate employment.¹

Facts: In 2014, I.K. disseminated on TV audio-video recording shot by him(her), in which the head of Tbilisi Municipality City Hall Supervisory City Service and his/her deputy were asking to resign voluntarily because he/she was a member of another team; otherwise, as they explained, there were many methods of dismissal of a person from work. I.K. explained in TV interview: **“It is all very well-organized. The Vice Mayor of the city Mr. M. is in charge of it and there are numerous facts to prove this, even the fact that employees of the State Security Service are attending these facts of coercion.”**

Internal Audit and Monitoring service of Tbilisi Municipality City Hall conducted an investigation on the fact of possible disciplinary misconduct and concluded:

Whereas under the supervision of Tbilisi Vice Mayor A.M., I.K. made statements on TV about facts of pressure on employees without presenting any evidence, the Service considered that his(her) action had destroyed the reputation of Vice-Mayor of Tbilisi A.M. I.K. with his(her) deliberate statement about substantively wrong fact, also had a negative impact on the reputation of Tbilisi City Hall and **along with the undue performance of the requirements of general behavior rules, behaved disgracefully aimed at discrediting of the official and the institution.** The aforementioned reasoning was based on I.K.'s² dismissal order from state service.

Decision:

Tbilisi City Court partially satisfied the plaintiff's claim and assigned Tbilisi City Hall to issue a new act after thorough examination of the issue. However, the same court did not find the applicant's dismissal to be discrimination on political grounds. Unlike the first instance, the composition of the Chamber of Administrative Cases of the Court of Appeals (hereinafter “the Chamber”), where Nino Kadagidze participated together with candidate Shota Getsadze, established discrimination on political grounds against the plaintiff and assigned the defendant to be reinstated at work. The judge focused on a number of important legal issues:

¹ Judgment of the Administrative Chamber of Tbilisi Court of Appeals of March 24, 2016 (N38/1907-15)

² At the time of dismissal, I.K. held the position of the head of Krtsanisi District Inspection Division of Tbilisi Municipal Supervision Department.

- **Disclosure of discrimination on political grounds in state service committed by the officials of Tbilisi City Hall, as unlawful grounds for dismissal**

The Chamber noted that the allegations made by the official against him(her) on discrimination on political grounds and pressure could not be regarded as an unworthy act and therefore as gross violation.

- **Discrimination on political grounds in state service and coercion to resign at own request**

In discussing discrimination on political grounds, the Chamber has focused on statements and research by local NGOs. The research and statements concerned the high rate of dismissal of employees from Tbilisi City Hall on political grounds and resignation of employees of the City Hall at own request. The Chamber also touched upon the statements of senior political officials and senior officials of Tbilisi City Hall; in particular, it drew attention to a public statement by the Mayor of Tbilisi, David Narmania, that **“it can be said that their (i.e. City Hall’s) ranks have been cleared of members of the United National Movement.”** By joint analysis of the plaintiff’s record and this information, the Chamber notes in its decision:

- **“The Chamber of Appeals firmly believes that I. K. was really treated differently, pressured to resign at own request.”**

The Chamber also clarified that the plaintiff is undoubtedly entitled to have political views, political proclivities towards any political team; its restriction in labor rights in terms of existence/exercise of such a right affects the right of the plaintiff to a political opinion or the right to make choice protected by the Convention and the national legislation.

The Chamber also affirms that **employees who did not have political proclivities towards the former ruling party, did not face any problems.**

Note: It is noteworthy that, unlike the first instance, after making a decision on annulment of the dismissal act, the Chamber assigned Tbilisi City Hall not to issue a new act, but to directly reinstate the plaintiff. Mostly the court uses a similar approach in cases where the action of the administrative body grossly contradicts the law (in this case it is discriminatory) and the court itself decides on the outcome of the dispute.

In this case, when making a decision on this case, the opinion of the Chamber on the acute and emergency situation in the functioning of the state service is also interesting and worth noticing:

- **“Obviously, there are acute problems in the functioning of the state Public Service of Georgia, which are caused by failure to realize the nature and tasks of the state service, ignoring the supremacy standard of the law, considering state service as the arena for personal and party interests, means of employment of party workers or activists, complete disrespect of human rights and freedoms, unawareness of personal responsibility by public servants, low professional qualification, which, ultimately, prevent the formation of the constitutional state.**

The Chamber also explains the impact of the acute situation in the functioning of the state service on the moral standing of public servants and the threats of qualified performance of managerial activities:

- **“All these [problems in the functioning of the state service] cause employees’ (and not only) hopelessness, diminish their job motivation, and make them feel that every political change in the country jeopardizes their**

jobs, and therefore their activities are directed not at efficient implementation of official work-related rights and duties, but rather not to be dismissed and in such circumstances, in most cases, there is no use talking about official and human principles, qualified implementation of the management activities. “

In the same case, the Chamber made some interesting legal explanations:

The Chamber explains the function of administrative justice

- “In such circumstances the main function of administrative justice is very important – to carry out the judicial control over the management activities, establish proper legal standards for those who carry out these activities, within the framework of this control, bring activities of the administrative body within the boundaries and force it to conduct its further activities in this way. This decision of the Chamber of Appeals serves this very purpose.”

The Chamber’s explanation of the role of the state in preventing discrimination

- “States are under a negative obligation to equally treat persons who are in equal position and conditions and therefore its role, obligation and responsibility is immensely important in conducting effective discrimination prevention measures.”

The Chamber’s explanation with regard to essence of a democratic, rule of law state

- “In a democratic, rule of law state that Georgia is building, there is no legitimate aim of treating a person with different political views in a different way. Since there is no legitimate aim, there is no proportion between the different treatment and the nonexistent goal. In view of the foregoing, it is impossible to put different treatment on political grounds within the framework of the jurisdiction/discretion of the State.”

Note: In Tbilisi Court of Appeals this case was reviewed by the Administrative Chamber composed of three judges. Among them there were two candidates for the Supreme Court, Shota Getsadze and Nino Kadagidze. There is no dissenting opinion on the case. Accordingly, all three judges share and agree with the reasoning in the decision. Therefore, due to its importance, this decision is presented in the portfolios of both Shota Getsadze and Nino Kadagidze.

Legal issue: City planning issues; public interest in property rights.³

Facts: A person was requesting permission from LEPL Architecture Service of Tbilisi to build a multifunctional trading center on a plot of land owned by him(her) near Isani metro station. The Architecture Service did not meet the request. The basis for refusal to grant permission indicated that the project site was a green area and that any construction on it was prohibited. In addition, the area was located in a public business zone, adjacent to the metro station, crowded with commercial and trading areas, where the emergence of an additional facility would overload the area even more. Tbilisi City Court annulled the refusal of Architecture Service to issue the permit and assigned it to issue a new act after re-examining the issue. However, the Chamber of Administrative Cases of Tbilisi Court of Appeals (hereinafter “the Chamber”), chaired by candidate Nino

³ Decision of the Chamber of Administrative Cases of Tbilisi Court of Appeals of May 18, 2016 on case №38/1655-15

Kadagidze, annulled the first-instance decision. The Chamber has focused its attention on several important legal issues.

Decision:

The Chamber explains:

- “The Court of Appeals [...] considers that property is the basis for human existence, the cornerstone of a social and fair state, although it states that the right to property is not unlimited, it has social burden, in which conditions conflict between private and public interest often arises, when it is necessary to maintain a reasonable balance. The decision of the European Court indicates to the need to maintain this balance [Sporing and Lonroth v. Sweden], which at the same time imposes on the state (the relevant authority) broad discretion with regard to urban policy.”

The Chamber took into account the specifics of the territorial location of the property and stated:

- “The place is very crowded and there are a lot of trading facilities, the plot of land with a small slope is within the pedestrian roads, the plot of land has no access roads, so the road section intended for pedestrians and those traveling by subway should be loaded during construction, which in the view of the Court of Appeals, is unjustified not only in terms of additional loading of the section, but also in terms of the safety of pedestrians. In addition, it is noteworthy that in accordance with the capital development plan, the project site represents a green area.”

In the light of the foregoing, the Chamber concludes that the balance was maintained, on the one hand, between restricting property rights and, on the other, maintaining the appearance of the city, properly conducting the development process and protecting the interests of the citizens.

Legal issue: Specific nature of the obligation to reimburse damage inflicted by the state

Facts: A.L. filed a lawsuit in Tbilisi City Court against the defendant –Tbilisi City Hall Amenities Service. According to the plaintiff, on July 16, 2005, he/she was driving in his/her) vehicle Mercedes-Benz in the direction of Tbilisi-Mtskheta, when, at 12th kilometer David Aghmashenebeli Alley, due to absence of the warning sign of damage to the cover of the roadway, a car accident occurred and the plaintiff’s car was damaged. The plaintiff claimed reimbursement of damage. Tbilisi City Court and Court of Appeals rejected the plaintiff’s claim, stating that they don’t see any fault of City Service in harming the plaintiff. Unlike the lower instance, the Administrative and Other Cases Chamber of the Supreme Court of Georgia (hereinafter the “Chamber”), with the participation of candidate Nino Kadagidze, annulled the decision of Court of Appeal and returned it for re-examination.

The Chamber focused on the following important circumstance:

- “In public-legal relations there is an obligation to reimburse damages even without any guilt. Thus, the arguments of the Court of Appeals is incorrect, since without guilt, without gross negligence, the State should be obliged to reimburse damage, because it should be assessed whether the administrative authority had taken preventive measures, in particular displaying warning signs to avoid traffic accidents.”⁴

⁴ Judgment of the Chamber of Administrative and Other Categories of the Supreme Court of Georgia of January 15, 2008 on case N860-822(3-07)

1.2. POSITION EXPRESSED WITH REGARD TO GROUPS / MINORITIES

Legal issue: Domestic violence and violence against women. Obligations of the court when reviewing domestic violence cases.⁵

Facts: Tbilisi Court of Appeals considered the first-instance appeal of an alleged abuser of his wife and child. The case concerned examination of the lawfulness of the court's approval of the restraining order. The Chamber of Administrative Cases of Tbilisi Court of Appeals (hereinafter "the Chamber"), with the participation of candidate Nino Kadagidze, did not satisfy the position of the author of the claim and upheld the restraining order. The Chamber has focused on several important legal issues.

The Chamber explained:

- "In examining the lawfulness of the issuance of a protective order, the Court of Appeals is obliged to determine whether the case materials and the parties' explanations provide sufficient grounds to suspect that in the event of an unhindered development of events, the rights and interests of the victim are likely to be adversely affected."

The Chamber also explained that the complainant had failed to dispose of the fact of his domestic violence.

Note: The case is significant in that the judge focused on the continuing nature of the violence and the role of the court to recognize in its decisions further violation of the right of the victim and interests protected by the law. Legal issue: Domestic violence and violence against women. Psychological violence.⁶

Facts: A person appealed to the Court of Appeals to annul the decision of Tbilisi City Court. The City Court has previously confirmed a warrant issued by the police for psychological violence against the person and forbade the abuser from approaching the woman victim. The abuser considered that the court made unlawful decision because it relied solely on the verbal testimony of the victim. However, the appellant considered that he would be threatened by the victim with provocations, as they both lived in the same street, and the court restricted him from approaching the victim's house without defining distance, which, in the applicant's view, increased the risk of provocation. The Chamber of Administrative Cases of Tbilisi Court of Appeals, chaired by Nino Kadagidze, accepted the author's position and abolished the restraining order. The Court has focused on several important circumstances.

The court explained:

- "Psychological violence is a form of violence that is designed to cause the victim to lose faith in himself or herself, doubt his or her intellectual capacity, lose or doubt the ability to adequately perceive reality. The main signs of psychological violence are mockery, cynical or derogatory remarks, threats, isolation, intimidation, public abuse of the victim, or acts that reduce one's self-esteem and deprive a person of self-confidence."

⁵ Judgment of the Chamber of Administrative Cases of Tbilisi Court of Appeals of July 14, 2016 on case N3-δ-1293-16

⁶ Judgment of the Chamber of Administrative Cases of Tbilisi Court of Appeals of November 4, 2016 on case N3δ/2030-16

In the present case, however, the candidate saw no signs of such violence. The candidate assessed the developments only as a common family conflict and stated in the judgment:



- **“The Court of Appeals considers that the relationship of the parties derives from a family dispute, is based on mutual personal accusations, which creates a conflict situation between the parties, however, this attitude cannot be qualified by the court as psychological violence, i.e. formation of the type of relationship, which causes emotional pain in the victim.”**

Note: The Chamber’s decision indicates that when issuing a warrant the police relied on and submitted correspondence, records and other evidence to the court. However, the same judgment does not describe what verbal communication was between the victim and the alleged abuser. This makes it difficult for the objective observer to assess what the candidate considered to be a conflict stemming from family relationships and did not consider as psychological violence.

1.3. HIGH-PROFILE CASES

Legal issue: The legality of cancellation of audio recordings of minutes of the meeting of the Interagency Election Issues Commission established by the Ministry of Justice of Georgia.⁷

Facts: The United National Movement filed a lawsuit with Tbilisi City Court, demanding that the court declare destroying electronic information-audio recordings of the meetings of the Interagency Commission for Free and Fair Elections at the Ministry of Justice as an illegal action. The Interagency Commission was set up at the Ministry of Justice on June 15, 2014 for the election of local self-government representative and executive bodies. The records were kept at the same Ministry. Tbilisi City Court dismissed the lawsuit of the United National Movement. The Ministry indicated that the audio recording was of a one-off nature and was used only for drawing up a written protocol, and then was immediately destroyed. However, the Ministry complained that it was not legally required to keep the aforementioned audio recordings. The Chamber of Administrative Cases of Tbilisi Court of Appeals (hereinafter “the Chamber”), chaired by Candidate Nino Kadagidze, upheld the first-instance judgment. The Chamber has focused on several important legal issues.

The Chamber explained, based on the General Administrative Code of Georgia:

- **“Regardless of what kind of information is required to be considered public information, it must be an official document.”**

Note: Pursuant to paragraph “1” of part one of Article 2 of the General Administrative Code of Georgia, public information is an official document (including drawing, model, plan, chart, photograph, electronic information, video and audio recordings), i.e. maintained in public institutions, as well as information received, processed, created or sent by public institutions or public servants in relation to official duties, as well as information proactively published by a public agency.

The Chamber further stated:

⁷ Ruling of the Chamber of Administrative Cases of Tbilisi Court of Appeals of April 20, 2016 on case №3-ბ-908-15

- The impugned information (audio recordings of the Commission sessions) was not included in the official document as it did not meet the requirements⁸ set for the official document, that is, those which would have enabled the document to be identified with the document author institution (name of the document author institution; code of the document author institution; text title; document type code; document date; signature, etc.);

The Statute of the Inter-Agency Commission for Free and Fair Elections, approved by the Order №17 of the Minister of Justice of Georgia, dated April 03, 2014, did not stipulate the obligation of drawing up electronic protocol and the statute reflected that the statute reflected the rule of registration of paper protocol of the Commission meeting.

Based on these arguments, the Chamber concluded:

- **“The very fact that audio recording of the meeting was prepared does not assign the audio recordings the status of an official document, as long as these recordings do not satisfy any of the above requirements of the law for the official document. Accordingly, their destruction cannot be qualified as destruction of public information and cannot be regarded as an unlawful act of an administrative authority.”**

Note: It is strange and ambiguous for the Chamber to have such a formalistic interpretation of public information and narrowing it to the official documents only; especially in the light of the above-mentioned legislative provision envisages audio recording in the official public document. This decision of the Chamber is particularly vague, for example, in light of the decision of the Supreme Court of Georgia of September 15, 2017. The Supreme Court of Georgia then explained that **“information sent and received by official e-mail in connection with official activities, especially if it relates to urgent public procurement, is public information, which should be available to any person.”**⁹ If correspondence through official e-mail shall be deemed by the Common Courts an official document for the purposes of availability of public information, it is more vague, why cannot audio recordings of the Committee meetings (especially on such important issues, as elections) be regarded as a public, official document.

1.4. APPLYING THE PRACTICE OF THE SUPREME / CONSTITUTIONAL AND INTERNATIONAL / REGIONAL COURTS

Legal issue: The right to physical and mental health¹⁰

Facts: Non-entrepreneurial (non-commercial) legal entity “O.C” (hereinafter referred to as the plaintiff”), in the period of April–October 2013, in the framework of the State Program, provided palliative care for incurable patients¹¹. The total expenses incurred by it on medical care, constituted total of GEL 336 501. LEPL Social Service Agency reimbursed to the plaintiff part of costs, GEL 119 460. The agency refused to reimburse the remainder of the claim, claiming that the plaintiff’s costs were unlawful. They included the cost incurred in

⁸ Article 12 of the “Unified Rules of Procedure” approved by Order No. 414 of July 1, 1999 of the President of Georgia

⁹ Judgment of the Chamber of Administrative Cases of the Supreme Court of Georgia of September 14, 2017 on case Nbs-286-284(k-17).

¹⁰ Judgment of the Chamber of Administrative Cases of Tbilisi Court of Appeals of September 06, 2016 on case №33/62-16

¹¹ Palliative care – medical services that do not radically improve the patient’s condition, do not change an unreliable prognosis and are intended to temporarily alleviate the patient’s condition.

violation of established 6-month term-GEL 122 034. The plaintiff stated that, despite violation of the term, the costs incurred by it were justified because:



- **“As a result of the expiration of the average life expectancy of 6 months, the condition of the patients required palliative care even more than when they were enrolled in the program.”**

Tbilisi City Court satisfied the plaintiff’s claim under this section and assigned the Agency to reimburse the cost incurred with six months’ violation. The Chamber of Administrative Cases of Tbilisi Court of Appeals (hereinafter “the Chamber”), composed of three judges, including candidate Nino Kadagidze, agreed with the arguments submitted by the first-instance and plaintiff and upheld the judgment. The Chamber clarified several important legal issues based on international acts.

The Chamber explained:

- **“The right to health is a fundamental human right guaranteed by both international and national law.”**

The Chamber referred to Article 12 of the International Covenant on Economic, Social and Cultural Rights and stated:

- **“The States Parties to the Covenant recognize the right of everyone to the enjoyment of the highest standard of physical and mental health. To make full use of this right, States should take measures to create conditions that will provide everyone with medical assistance and medical care in the event of illness.”**

In addition to the above, it is also important that the candidate’s view on the right to health is presented in the judgment:

- **“As the opportunities of the state differ in quality of ensuring healthcare services to their citizens and other standards, the right to health is considered the right, which is characterized with “progressive realization”, which means that the states in the process of policy planning and implementation should maintain constantly developing, progressive trend of realizing this right.”**

Note: Noteworthy and progressive, in 2016, is the candidate’s definition of the “right to health” as a “fundamental right”. Despite the change in approaches, there is still an inhomogeneous attitude about ascribing the “right to health” to the category of “the second generation”. Although Georgia has ratified international documents recognizing and protecting the “right to health”, we cannot see in the Constitution of Georgia the obligation of the state-“to create such conditions, which ensure medical assistance and medical care for everyone in case of illness”.



2.

MISCONDUCT REVEALED IN PROFESSIONAL ACTIVITIES (DISCIPLINARY PROCEEDINGS, PROFESSIONAL ETHICS)

1. DISCIPLINARY PROCEEDINGS-EXISTING COMPLAINTS

- The disciplinary panel did not apply any disciplinary measures or penalties against the candidate. However there is one case:

In 2016, “Young Lawyers” filed a disciplinary complaint¹ with the High Council of Justice, stating:

- On March 23, 2016, Nino Kadagidze filed an appeal on security with the Court of Appeals on the case that she had already participated in on November 24, 2005 in the Supreme Court.²
- Also, the judge in the Court of Appeals unilaterally considered the case that had to be examined by a collegial composition since the subject of the dispute exceeded GEL 10,000.³

In 2016 and 2017, “Young Lawyers” twice applied to the High Council of Justice to find out about the proceedings on the disciplinary complaint, but received no response.

2. ALLEGED VIOLATION OF PROFESSIONAL ETHICS

- There was no case of alleged violation of professional ethics.

¹ Complaint on disciplinary misconduct of Diana Parcosadze, Taniel Tabatadze and Nino Kadagidze, see <http://bit.ly/2ZDrRtj>

² System against the citizen, 22:49–23:38 minutes, see. <http://bit.ly/2Thb514>

³ Ibid, 23:38–23:54 minutes.

3.

PROMOTIONS AND AWARDS/SCHOLARSHIPS GRANTED FOR PROFESSIONAL PERFORMANCE

1. PROFESSIONAL DEVELOPMENT

- In 1994–1996, Nino Kadagidze was a consultant at the Department of Forensic Expertise of the Ministry of Justice of Georgia, and in 1996–1998 she was a chief consultant. In 1998–1999 she served as Head of the International Legal Relations Division of the same Ministry, and in 1999–2000 she was Head of the International Legal Relations Department.
- In 2000, Nino Kadagidze was appointed as a judge of the Chamber of Administrative Cases of Tbilisi District Court. In 2002–2012 she was a judge of the Supreme Court of Georgia. Since June 17, 2013, Nino Kadagidze has been a Judge of the Chamber of Administrative Cases of Tbilisi Court of Appeals.

2. AWARDS / SCHOLARSHIPS

- Nino Kadagidze has not received any awards/scholarships.

4.

CONFLICT WITH LAW, CONFLICT OF INTEREST

1. CRIMINAL LIABILITY, ADMINISTRATIVE OFFENCES/PENALTIES, LITIGATIONS

- Candidate Nino Kadagidze has no record of conviction.
- No administrative penalties have been applied to Nino Kadagidze.
- Nino Kadagidze was not a party to the litigation.

2. PARTY AFFILIATION, CONFLICTS OF INTEREST WITH A MEMBER OF THE HIGH COUNCIL OF JUSTICE, LINKS WITH POLITICIANS/INFLUENTIAL PERSONS

- Judge Nino Kadagidze was not a member of any political party.
- Nino Kadagidze was on the 10-person list of the Supreme Court nominees submitted to the Parliament of Georgia by the High Council of Justice.¹

¹ „High Council of Justice nominates candidates for judges of the Supreme Court”, see <http://bit.ly/2KmwI6G>

5.

CANDIDATE'S PUBLIC ACTIVITIES / POSITION AND BEHAVIOR

1. OPINIONS OF NINO KADAGIDZE, EXPRESSED IN SOCIAL MEDIA

Nino Kadagidze is registered on social networking site „Facebook”, however, she does not express opinions publicly on her page.

Among other activities of the candidate, it is noteworthy that on social network “Facebook” she liked the post of Judge Sergo Metopishvili, a member of the High Council of Justice, which displays a video¹ and notes that “Georgia was ranked 6th out of 190 countries in terms of doing business. In this position, Georgia is ahead of

¹ The full version of the post is available – <https://drive.google.com/file/d/1>

Norway, the US and the UK.” The video is accompanied by Sergo Metopishvili’s comment, which states: “This is the best and well-reasoned response to fake-news created and disseminated by Gigauri, Verdzeuli, Saladze, Benidze and similar politicians, fake-studies, rumors and attacks!”

Nino Kadagidze also liked the post of Sergo Metopishvili regarding the activities of several non-judge members of the High Council of Justice and their participation in the discussion of the draft law related to the Common Court:² “The meeting was held in a truly peaceful and healthy environment. However, just before the session, Janezashvili publicly announced that it was as if the judge members of the Council decided to stage another show. Ana Dolidze, directly from the meeting, informed the public on the social networking site that she supports suspending the appointment of judges! [...] The public saw it well and once again convinced that I was right to assess them as brazen people! (for example, you might remember Dolidze’s self-proclaimed statement a few days ago that “among judges who were appointed for a lifetime, there are people who should be in jail.”).

2. PUBLIC STATEMENTS BY NINO KADAGIDZE

Candidate Nino Kadagidze was one of the 10-person list, who on December 26, 2018, who was nominated by the Supreme Council of Justice of Georgia to the Parliament for election to the Supreme Court. Subsequently, after acute public feedback the candidate, along with the other judges on the list, publicly appealed to Parliament not to consider their candidacies. Specifically, the ten judges said: “Unfortunately, at the same time, there were often unethical and abusive statements made against candidates, which later turned into a campaign of unprecedented pressure on the judiciary, where there are calls for a repressive crackdown on the High Council of Justice and unacceptable judges, including, judges from this list to be excluded from the judicial system. All this directly damages judicial independence and grossly violates the principle of the rule of law. Although the High Council of Justice of Georgia has unambiguously acted within its mandate and has been strictly guided by current legislation.”³

3. RESPONSES OF NINO KADAGIDZE DURING THE INTERVIEW AT THE HIGH COUNCIL OF JUSTICE⁴



Question posed by the member of the Council LEVAN GZIRISHVILI: “What test has the Constitutional Court developed to prove discrimination of differential treatment?”

Nino Kadagidze’s response:



It uses a rational differentiation test and a complex evaluation test. It uses the rational differentiation test, where the differentiation is unambiguously obvious and unavoidable in this case, but when we deal with a more complex case, a difficult evaluation test is used..⁵

² The full version of the post is available at – <https://drive.google.com/file/d/10>

³ “10 judges appeal to the Parliament not to discuss their candidates“, <https://reginfo.ge/people/item/1>.

⁴ The interview with Nino Kadagidze at the Supreme Council of Justice was not attended by Nazi Janezashvili, a non-judge member of the Council.

⁵ It should be noted that according to the case law of the Constitutional Court of Georgia, two tests for discriminatory treatment have been established, namely, strict assessment test and rational differentiation test. The judgment 31/1/493 of the Constitutional Court of Georgia of December 27, 2010 on case “Levan Asatiani, Irakli Vacharadze, Levan Berianidze, Beka Buchashvili and Gocha Gabodze vs. the Minister of Health and Social Affairs of Georgia” states that “when differentiating by classical specific grounds, the Court uses strict assessment test and assesses the norm according to the principle of proportion (II, par. 5). In the other cases, the court will determine the need for the use of strict test according to the degree of differentiation intensity. “If the intensity of the differentiation is high, the court will apply the strict test, and in the case of a low degree of intensity, the rational differentiation test.” (II, para. 6).



Question posed by the member of the Council ANA DOLIDZE: “In your opinion, as a qualified lawyer, a former Supreme Court judge, what is hate speech?”

Nino Kadagidze’s response:



Hate speech to me is an expression that has no value. If it has no value, to me it is hate speech, if it has any value, if it can generate discussion, debate in the community, belongs to the area of high interest of the public, I would naturally consider it an integral part of freedom of expression.”



Question posed by the member of the Council ANA DOLIDZE: “I have a few questions about your professional biography. You started work at the Ministry of Justice and then you were promoted within the Ministry and it is written that you were worked at the Ministry of Justice of Georgia, Lado Chanturia was your direct supervisor. How did this happen?”

Judge Nino Kadagidze’s response:



I started work at the Ministry of Justice when I graduated from the University in just a few months, 8 or 9 months. The Minister was Tedo Ninidze. I don’t think he needs to be introduced to society. If anyone has listened to his lecture, this person will be deeply in love with him for the whole life, as he is a very educated, highly educated man, and I am very grateful to God for having worked with him. I think it is Mr. Tedo’s credit that I am here today. He had the great ability to open a new career path for a new employee. I think it’s a great feature. Then Joni Khetsurian was appointed at the Ministry of Justice for a short period of time, if I am not mistaken, for one year. Later Lado Chanturia becomes the Minister of Justice. I had to work with these three people at the Ministry of Justice. I am deeply grateful to each of them.”



Question posed by the member of the Council ANA DOLIDZE: “How did you get into the position of consultant? Was it through an agreement, or a competition and what kind of system it was?”

Judge Nino Kadagidze’s response:



The system was not clearly worded, but I came through a competition. I was interviewed by the head of the department where the vacancy was announced. The head of the department had an opportunity to recommend a particular staff member. The lowest position was a consultant at the time. At the legislative level, procedures were not clearly worded.”



Council member, ANA DOLIDZE posed additional question to Nino Kadagidze: “Then you became the head of the division and then the judge of the District Court, or the Court predecessor to the Court of Appeals, which is a pretty serious leap. How did you get into that position?”

Judge Nino Kadagidze’s response:



I do not think it was a serious leap, but the responsibility is much different. The department head then was a rather high career position. I passed an exam, though I was not of the age required for judge, I waited for a year and a half. I was interviewed by the High Council of Justice. All three ministers were there. It was not difficult, therefore, to introduce myself. To be honest, my desire was to work in the civil category, but I found myself in the Chamber of Administrative Cases, for which I am grateful to God, because from the current point of view administrative law is much more interesting to me, even though the civil law is rooted from the Roman law.”



Question posed by the member of the Council ANA DOLIDZE: “You came directly to the Court of Appeals. Wasn’t there any question why you wanted to work directly with the Court of Appeals?”

Judge Nino Kadagidze’s response:



Do you know what is the difference between the current situation and situation of that time? At that time there were plenty of vacancies. The district needed replenishment. There was a shortage of staff. Only a few exams were passed. There was no flow of judges that would fully staff the court. There were no qualified lawyers who had passed the exam. When I was appointed, there were a lot of vacancies.“



Question posed by the member of the Council ANA DOLIDZE: “You said that you wanted to work in civil law and found yourself in the administrative Were there not vacancies in civil law? Why you did not wait for the vacancy, or why you did not return later? “

Nino Kadagidze’s response:



Somehow, I was subconsciously feeling that whatever I went through at the Ministry of Justice, this legislation was closer to me. From a professional standpoint, I thought it would be more interesting to work in civil law.“



Question posed by the member of the Council ANA DOLIDZE: “You are the person who has experience of public service outside the judicial system and then you come to court. Compare if you stayed at the Ministry, what is the difference between public law jurisprudence and being a judge?”

Judge Nino Kadagidze’s response:



In the public service your tied up by the law. Of course, even in the case of a judge, there is more freedom here. This freedom cannot be compared. In addition, you can better develop your visions. There is, in fact, a hierarchical attitude in public service. You pursue a policy that the Ministry should pursue. In the court, there is a great opportunity for people to express their views and reflect them in the document you have received. [...] You play for the team there, you act as an individual judge here.“



Council member, ANA DOLIDZE posed additional question to Nino Kadagidze: “You mentioned twice during the interview ‘Thank God’; I have a question for you, are you a believer, or you use it as a means of expression? At what point in your judicial activities do you control the system of values that brings about Orthodoxy, and how do you do it?“

Judge Nino Kadagidze’s response:



I think I am a believer. I may not have the skills that I need, but I am a believer. Perhaps the visions I have are driven by religious beliefs called true orthodoxy and whose root is forgiveness. I didn’t go into the depths, but for some time I was also interested in visions of other religions. You cannot say that I have read the Koran, but I know what visions it is based on. Buddhism is not only a religion but a philosophy. Even in those religions there are so many correct views, it is impossible to be a true orthodox and not see the values of people of other religions. I respect any religion and even people who have no belief.“



Question posed by the member of the Council IRMA GELASHVILI: “You said that you are a believer, an Orthodox Christian. If you were assigned a case of your confessor or spiritual sister, do you think that would be the basis for challenge?“

Judge Nino Kadagidze's response:

“ I will challenge and whether there will be grounds, I do not know. If I tell you that I am very close with confessor or I have spiritual sisters, I will probably deceive you. I am not in such strong faith, though I do have a confessor, I admit it and I confirm that I would not consider his case.”

To the question in this part, as to what extent she would take into account the request of the confessor, for example, to speed up review of one of the cases, Judge Nino Kadagidze responded:

“ The answer is simple. Anyone who asks speeding up, I try to put forward, and I don't know whether I should say it publicly and whether it is good or bad, I don't know, but I do it.”



Question posed by the member of the Council ANA DOLIDZE: “Can you describe your promotion from the district court to the Supreme Court.”

Judge Nino Kadagidze's response:

“ Certain criteria were defined at that time, or rather the procedure. The proposal was from Mr. Lado Chanturia. They contacted me. He talked to me about his vision and expectations from me. I talked about what my vision was. We also talked about me not having the great experience required for being a judge of the Supreme Court. I don't think that two years are enough. Today, I feel that I am more ready to take up this position. However, I believe that if I fail to become a judge of the Supreme Court, there will be no tragedy. I have passed this stage and I think I have passed through it with dignity. It will not be a great problem if I fail to go through the second stage. I offer my experience to you and to the society. However, during that time, both the administrative law and me were actually born together, and therefore I had the same experience in this field as other judges did.”



Speaking in this section, Nino Kadagidze further noted:

“ The President appointed judges at that time. The president at that time was Eduard Shevardnadze. I was appointed to the District Court by the President.”



Question posed by the member of the Council ANA DOLIDZE: „Did you have to work with Mikheil Chinchaladze?“

Nino Kadagidze's response:

“ He was the chairman of the Chamber and, therefore, I had to work with him intensively.”



The member of the Council ANA DOLIDZE also posed the following question to Nino Kadagidze: “What kind of chair was Kote Kublashvili? What kind of business relationship did you have with him?“

Judge Nino Kadagidze's response:

“ He is a very wise and educated person. However, we have not had any meetings with Mr. Kote on any particular case. His style was meetings dedicated to the development of judges. We often had a meeting, about what type of teaching should be in school, etc. In his opinion, judges should have one practice. However, if we don't take into account several sessions of the Grand Chamber, we had no meetings on any particular case.”



Question posed by the member of the Council ANA DOLIDZE: “In 2013, when your term of the judge of the Supreme Court expired and you were appointed to the Court of Appeals, at this point could you say how it happened; what was the composition of the Council, etc.?”

Judge Nino Kadagidze’s response:



I have left the judiciary since December 2012. To be honest, I have completed certain stage in the court and it was possible for me to relax. However, I realized that I had a great longing to get back into this system. This profession requires a lot of hard work, but you love it and want to work with it again. I enjoyed my vacation for three or four months, but then I realized that I still wanted to be part of the judicial system. Kote Kublashvili was the Chairman of the Supreme Court at that time. I went through the interview and returned to the judicial system again.”

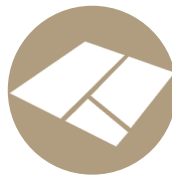
6.

FINANCIAL OBLIGATIONS AND INCOME OF THE CANDIDATE

1. REAL ESTATE



2009
APARTMENT IN TBILISI
98 700 GEL
109 SQ.M



2008
PLOT OF LAND
MTSKHETA
1 296 GEL
900 SQ.M



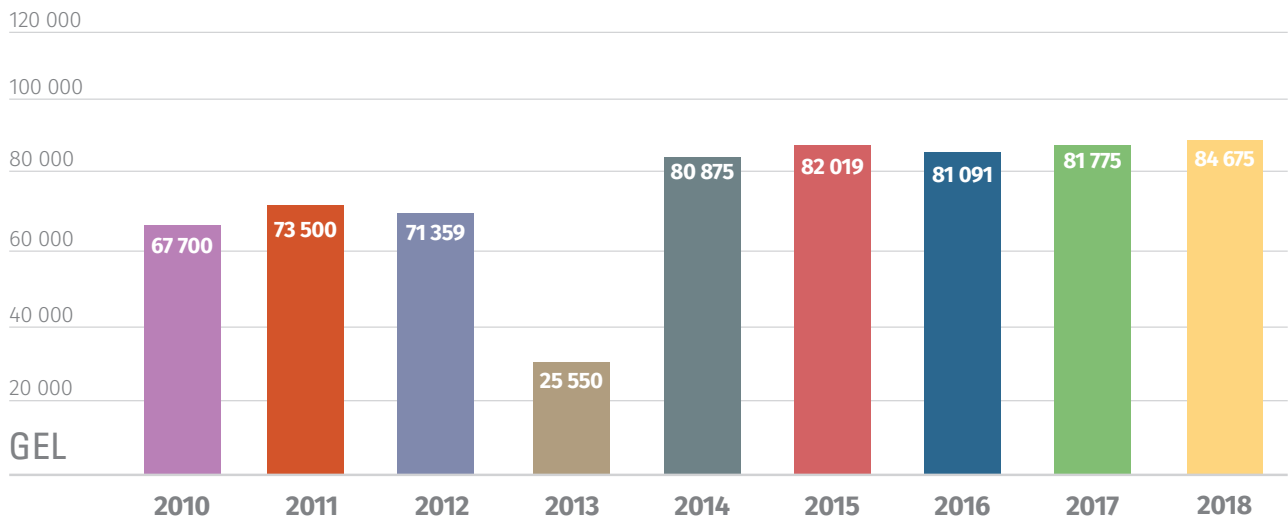
2015
CAR
“TOYOTA RAV4”
43 680 GEL

2. FINANCE

Judge Nino Kadagidze received 911,000 GEL from judicial activities in 2002–2018. She served in the Supreme Court in 2002–2012 and her salary was GEL 475,105, and since 2013 she has moved to the Court of Appeals and, through 2018, has earned GEL 435,985. She received the highest salary in her career in 2018, and it constituted 84,675 GEL.

The spouse of the judge, Irakli Antadze, worked as a logistics specialist at the Notary Chamber of Georgia in 2011–2016, where he earned GEL 109,464.

Judge Nino Kadagidze and her husband do not have any bank liabilities according to the declaration of 2019.



Judge Nino Kadagidze was a lawyer at “JSC Rustavi Gas” in 2013 and received GEL 4,000 as compensation. She served as a judge in the Supreme Court of Georgia until the end of 2012, and has served in the Court of Appeals since June 2013. No specific date has been named, though it is likely that she provided services to “JSC Rustavi Gas” for a short period of time when she was not performing the function of a judge.



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