



MEDIA STATEMENT

FOR IMMEDIATE RELEASE

27 July 2026

JOHNSON'S DEPARTURE FROM IDAC MUST NOT INTERRUPT ACCOUNTABILITY OR INSTITUTIONAL REFORM

The Council for the Advancement of the South African Constitution (CASAC) notes that President Cyril Ramaphosa has agreed to the request from Investigating Directorate Against Corruption (IDAC) head, Advocate Andrea Johnson, to vacate office with immediate effect. Johnson's request came as she was expected on Monday to continue her evidence before the Madlanga Commission of Inquiry concerning serious allegations and questions relating to the conduct of IDAC and its personnel.

CASAC does not prejudge the findings that the Commission may ultimately make. The allegations remain to be properly tested, and Johnson's departure from office cannot be treated as resolving the matters currently before the Commission.

CASAC is concerned about the potential disruption to IDAC's important work in investigating and, where appropriate, instituting criminal proceedings in serious, high-profile and complex corruption, commercial and financial-crime cases. Its effectiveness cannot be allowed to depend on any single office-holder.

Any acting appointment that the Minister of Justice would announce after consultations with the National Director of Public Prosecutions, Andy Mothibi, should be made promptly and through a process that inspires confidence in the appointee's competence, integrity and independence. It should also be accompanied by a comprehensive institutional handover and the preservation of all documents, communications, evidence and other records relevant to IDAC's work. However, it should not become an indefinite substitute for the appointment of a permanent head.

The appointment of Johnson's permanent successor is an opportunity for government to show its commitment to prosecutorial independence. CASAC calls on the President, who ultimately makes the appointment, to establish an independent advisory panel to oversee the selection of the next permanent head of IDAC. The process should be guided by published criteria, include an open call for nominations and applications, permit appropriate public scrutiny of shortlisted candidates and culminate in a reasoned recommendation. The President should publicly explain the basis on which the successful candidate is selected.

Such a process can be adopted under the existing legislation and need not await statutory amendment. It would not remove the President's present legal power to make the appointment, but would ensure that the exercise of that power is informed by an independent, credible and transparent assessment of the candidates.

Such a process, however, is not a substitute for lasting legislative reform. CASAC reiterates its call for the NPA Act to be amended to establish transparent, merit-based and independently administered processes for the appointment of the senior leadership of the prosecuting authority. Appropriate safeguards should apply to the appointment of the NDPP, Deputy National Directors, Directors of Public Prosecutions and the heads of Investigating Directorates.

While transparent appointment processes cannot, on their own, guarantee good performance, they do provide an objective basis on which candidates can be assessed, appointments defended and appointing authorities held accountable. They also reduce the risk that the leadership of the prosecuting authority will be perceived as dependent on political discretion.

The immediate accountability questions arising from Johnson's evidence before the Madlanga Commission and the longer-term need for appointment reform must not be conflated. Both require attention. Her departure must not be allowed to curtail scrutiny of past conduct, while the resulting vacancy must not be filled through another opaque process.

IDAC is too important to the fight against corruption to be destabilised by a leadership vacuum or insulated from proper accountability. The response to the present situation must demonstrate that South Africa's prosecutorial institutions are governed by law, transparency and institutional integrity – and that they are stronger than any individual office-holder.

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