

DECISION- EXTRACT

"On archiving after the initial review of the submitted complaint"

The complainant has filed a complaint with the Office of the High Inspector of Justice, in which there are raised allegations against the judicial panel of a court who have made the wrong decision regarding the sentence given, due to the change of the definition of the criminal offense and the manner of committing the criminal offense, by distorting the facts in favor of obtaining a sentence as low as possible by the perpetrator. As a result of this low court sentence, the convict was early release from prison.

Referring to the conditions of admissibility provided in article 120 of Law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended, it results that the complaint was made as prescribed in article 120/1/a of this law, as it contains the generalities and the address of the complainant, it describes the circumstances and facts that are alleged to have occurred, and the name, surname and the court in which the magistrates exercise their function.

Regarding the complainant's allegations related to the decision given by the judicial panel of the court, it is noted that it is beyond the 5-year statute of limitations for the disciplinary violation, referred to Article 117 of Law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania" as amended, thus failing to meet the admissibility criteria of the complaint provided for in article 120, paragraph 1, letter "b" of this law and therefore the complaint must be archived pursuant to Article 121, paragraph 2, letter "a", of the aforementioned law.

For these reasons,

Pursuant to article 120, paragraph 1, letter "b", article 121 paragraph 2 letter "a" of Law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended, and Article 214 of Law 115/2016 "On the Governing Bodies of Justice System", as amended,

DECIDED

1. To archive the complainant's complaint, registered with the High Inspector of Justice, against the activity of magistrates.
2. To inform the complainant on the right to appeal according to article 121 paragraph 3 of law no. 96/2016 "On the status of judges and prosecutors in the Republic of Albania" as amended.
3. To inform the magistrates of the Judicial District Court pursuant to article 121 paragraph 3 of law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended.

The complainant may file an appeal to the High Judicial Council within 1 week from the receipt of this decision.

DECISION- EXTRACT

"On archiving after the initial review of the submitted complaint"

The complainant filed two complaints with the High Judicial Council, which were forwarded to the Office of the High Inspector of Justice for review. The complaints raise allegations of irregular proceedings made by the judicial body of the Judicial District Court, as well as by the judicial body of the Court of Appeals, because the decision to dismiss the lawsuit of the District Court was upheld by the Court of Appeals. The complainant also claims that the decisions given for the two court cases with different objects were as a result of incomplete investigations, of being bias in granting decisions and he also cites the fact that the court did not take into account the provisions of procedural and material law as well as the jurisprudence of the highest court.

Among other things, the complainant raises allegations of illegal actions by both the judges and the Judicial District Prosecutor's Office, as the latter has decided not to initiate criminal proceedings for a private bailiff. For these reasons the complainant is convinced that the judicial bodies of the above-mentioned courts cannot make fair decisions on matters under trial because they have violated his trust in Justice.

Given the fact that the complaints are filed by the same complainant and they are against the same magistrates about the same facts, the High Inspector of Justice approved the order to merge and review the complaints in the same act.

Referring to the conditions of admissibility provided in article 120 of Law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended, it results that the complaints were made as described in article 120/1/a of this law, as they contain the generalities and the address of the complainant, they describe the circumstances and facts that are alleged to have occurred, the name, surname and the court in which the magistrates exercise their function.

As for the non-fulfillment of the admissibility criteria both these complaints are: 1. At the time of filing the complaints with the HJC, the 5-year statute of limitations for the disciplinary violation had expired. 2- The claims against the decision-making of the courts are claims which can be resolved by appealing at the highest court. 3- Referring to the interpretation of law no. 96/2016, any procedure performed by the High Inspector of Justice, when the disciplinary investigation has not started, concludes in case the magistrate does not exercises the duty any more by decision of the competent body, which brings the archiving of the complaint.

All the allegations of the complainant against the judicial activity presented during the trial have been subject to review, evaluation and decision-making of the respective courts: both the requests for their exclusion and the procedural requirements for the progress of the trial.

The High Inspector of Justice during the exercise of his functions, among others, is also led by the principle of respecting the independence of the magistrates while performing their duty,

avoiding any kind of perception as an intervention in their competence or as an intervention to resolve a concrete issue.

Consequently, the complainant's allegations are not of a disciplinary nature pursuant to articles 101, 102, 103 and 104 of Law no. 96/2016 “On the Status of Judges and Prosecutors in the Republic of Albania”. In these circumstances, the complaints do not meet the admissibility criteria provided in article 120, paragraph 1, letter “b”, “ç”, “d”, “dh”, of law no. 96/2016 “On the Status of Judges and Prosecutors in the Republic of Albania ”as amended; in the complaints there are no reasonable doubts which justify the initiation of disciplinary investigation against them for any concrete disciplinary violation, therefore the complaint must be archived pursuant to article 121, paragraph 2, letter “a”, of this law.

For this reason,

Pursuant to article 120, paragraph 1, letter “b”, “ç”, “d”, “dh”, of Law no. 96/2016 “On the Status of Judges and Prosecutors in the Republic of Albania” as amended and article 214 of Law 115/2016 “On the Governing Bodies of Justice System”, as amended,

DECIDED

1. Archive the complainant's complaint, registered with the High Inspector of Justice, against the activity of magistrates.
2. Pursuant to article 121 paragraph 3 of law no. 96/2016 “On the Status of Judges and Prosecutors in the Republic of Albania”, as amended, this decision shall be notified to the complainant and magistrates within five days after receiving it.
3. Against this decision, the complainant may file an appeal to the High Judicial Council, and the High Prosecutorial Council within 1 week from the receipt of this decision.

DECISION- EXTRACT

"On archiving after the initial review of the submitted complaint"

The complainant has filed a complaint with the High Inspector of Justice, alleging a decision-making of a judge at the time she was exercising her duty at a court, in a case with litigants V.D. He claims that the judge should not have judged or challenged Council of Ministers Decree no. 9179/ 2004, as well as the decisions of the highest courts, because the citizen had rightfully won, while the judge penalized her by rejecting the request and charging her the court costs. Referring the complaint, it was found that although the time of the judge's decision is not cited, the judge was appointed as a judge in a higher court in October 2013, the complaint is relevant to the activity of the judge before 2013. This fact is also related to the allegations of the complainant against her in Ministry of Justice since 2011. Consequently, it turns out that the allegations of this activity are beyond the 5 year statute of limitations. This referred to article 117 of law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended.

Referring to the conditions of admissibility, it results that the complaint was made as prescribed in article 120/1/letter "a", of Law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended, as it contains the generalities and the address of the complainant, and it describes the circumstances and facts that are alleged to have occurred.

Regarding the above, the complaint does not meet the criteria of its admissibility provided for in Article 120 paragraph 1 letter "b" and article 117 of law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended and therefore the complaint must be archived pursuant to Article 121, paragraph 2, letter "a", of the aforementioned law.

For these reasons,

Pursuant to article 120, paragraph 1, letter "b", and article 121, paragraph 2, letter "a", of Law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania" as amended and article 214 of Law 115/2016 "On the Governing Bodies of Justice System", as amended,

DECIDED

1. To archive the complainant's complaint, registered with the High Inspector of Justice, against the decision-making of a Judge at the time she was exercising her duty.
2. It is ordered that this decision shall be notified to the complainant and the judge.

The complainant may file an appeal to the High Judicial Council within 1 week from the receipt of this decision.