

DECISION- EXTRACT

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

The complainant has filed a complaint with the High Inspector of Justice in which there were made no allegations related to the activity of magistrates, but related to the head of the regime of a detention center with the termination of his family meetings as well as his isolation in the 41 Bis regime, in the detention center where the complainant is serving his sentence given by the court. Also through this complaint, he raises the claim that he has been treated unfairly because he has no contact with incriminated people either inside or outside the prison, and he is not involved in any criminal activity.

Referring to the conditions of admissibility of the complaint, it results that it 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 it contains the generalities of the complainant and his address, as well as describing the circumstances of the fact that are claimed to have occurred.

As for the allegations of the complainant, it is assessed that they are not subject to the activity of the High Inspector of Justice, as there are no claims for activities exercised by magistrates, this referred to Article 147 / d of the Constitution of the Republic of Albania as well as article 194 of law no. 115/2016 "On the Bodies of Governance of the Justice System ", as amended, and consequently the complaint does not meet the criterion of admissibility referred to article 120, paragraph 1 of law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania ", and for this reason the complaint must be archived pursuant to Article 121 paragraph 2 letter "a" of this law.

For these reasons,

Based on article 120 paragraph 1, article 121 paragraph 2 / 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 no. 115/2016 " On the Bodies of Governance of the Justice System " as amended,

DECIDED

1. Archiving the complainant's complaint, registered with the High Inspector of Justice, against the activity of the detention center.
2. Forwarding a copy of the complaint for review to the Ministry of Justice.
3. 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 within five days after receiving it.
4. The complainant may file an appeal against this decision, to the High Judicial Council, and High Prosecutorial Council within one week from the receipt of this decision.

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"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 criterion 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 jurisdiction, 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 authority 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 these reasons,

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. To 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. The complainant may file an appeal against this decision to the High Judicial Council, within one week from the receipt of this decision.

DECISION- EXTRACT

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

The complainant filed a complaint with the High Inspector of Justice, alleging that a citizen who works as a notary, in cooperation with another citizen who is a co-owner of several apartments with the complainant, have made their own sale, mentioning the complainant in the sales contract, but without these contracts being signed by the complainant himself. For these reasons, a report was made to the nearby Prosecutor's Office of the Judicial District Court, which registered it as a criminal proceeding and finally pressed charges against the notary at the competent court. This issue was tried by the Judge of the Judicial District Court, against whom the complainant alleges a delay trial without justified reasons, and requires the verification of the case and disciplinary measures according to the nature of the violation. Also regarding the work of the District Prosecutor's Office, the complainant raises the concern that even though the notary is the defendant of this case, he continues his work and no preventive measures has been taken against him by the Prosecution.

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 is presented as described 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 it contains the name, surname, court and the Prosecution Office in which magistrates exercise their function.

Regarding the allegations of the complainant on the lack of imposing any restrictive security measure on the citizen with the profession of notary, against whom criminal proceedings have been registered by the Prosecution, these allegations are not subject to the control of the High Inspector of Justice, as the latter cannot intervene in the assessment of the facts of the criminal case as this is an attribute of the prosecution body, especially when the case is on trial.

As for the allegations regarding the delay of the trial without justified reasons by the Judge, based on Article 399/2, paragraph 1, letter "d" of the Code of Criminal Procedure, the reasonable time limit of the first instance criminal trial for crimes completion, is two years. The moment when the complainant filed his complaint there were only one year and 27 days passed, so it does not appear to have been ascertained prolongation of trial proceedings by the competent body.

Regarding the above, the complaint does not meet the criterion of admissibility referring to the alleged violation of the prosecutor and the judge, provided for in article 120/1, letter "d", "dh", of law no. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania" as amended, and therefore the complaint should be archived pursuant to article 121, paragraph 2, of this law.

For these reasons,

Based on article 120 paragraph 1, letter “d”, “dh”, 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 no. 115/2016“ On the Bodies of Governance of the Justice System ” as amended,

DECIDED

1. Archiving the complainant's complaint, registered with the High Inspector of Justice, against activity of magistrates.
2. This decision is ordered to be notified to the complainant, the judge of the Judicial District Court and the prosecutor of the Judicial District Prosecution.

The complainant may file a complaint to the High Council Judicial within one week from the receipt of this decision.