

High Inspector of Justice

NEWSLETTER

No.10

November 2021



NO JUDICIAL INDEPENDENCE WITHOUT DEMOCRACY AS WELL AS NO DEMOCRACY WITHOUT JUDICIAL INDEPENDENCE

On 10 November 2021, High Inspector of Justice, Mr. Artur Metani, Chairperson of the Constitutional Court, Ms. Vitore Tusha, Deputy Chairperson of the Albanian High Court, Mr. Sokol Sadushi, Chairperson of the High Judicial Council Ms. Naureda Llagami, Chairman of the High Prosecutorial Council Mr. Gent Ibrahim, Prosecutor General, Mr. Olsian Çela, People's Advocate, Ms. Erinda Ballanca and the Director of the School of Magistrates Mr. Arben Rakipi paid a working visit to the European Court of Human Rights in Strasbourg and to the German Federal Constitutional Court, as part of a dialogue program for senior representatives of the justice system in Albania, organized by the Konrad

Adenhauer Foundation.

High Inspector Artur Metani delivered his speech on "Independence and Impartiality of Judges", seen generally and from the point of view of investigation and disciplinary proceedings, during a special session with the elected judges of the European Court of Human Rights. Referring to the most important consequence of the magistrates' independence principle which is the irresponsibility for decisions given according to their conviction, the High Inspector of Justice said that there should be several ways to hold magistrates accountable, including their removal from duties in case of violations which justify this action.

"This is because independence is not a privilege, but a responsibility. In this



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INSPEKTORI I LARTË
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During the conference

"There are two real components in the independence of the judiciary: the impartiality and the independence of the judge and the court. The principle of impartiality implies the absence of prejudice by judges related to the case at hand as well as their not acting in such a way as to undermine the interests of one of the parties. A court must be impartial not only formally but also expressly. Not only does the right to be tried before a competent, independent and impartial tribunal established by law require that justice be done, but it also requires that it shall be seen to be done.

The respect for the principle of impartiality must be verified by applying the subjective test, which deals with verifying the conviction or personal interest of a judge in a certain case and the objective test, which examines whether or not the judge has provided sufficient procedural guarantees in order to exclude any doubt (Kyprianou v. Cyprus; Micallef v. Malta; Piersack v. Belgium; Grieves v. the United Kingdom; Auschildt v. Denmark)", said Mr. Metani.

case, there must be an ongoing process of balancing independence and accountability. These processes must be characterized by action and counter-reaction at the same time. The more powers the judiciary possesses, the higher the demands for accountability must be. The independence of the judiciary cannot be guaranteed if there is no will on the part of a society or political system to create a spirit of stability and democracy. The independence of the judiciary ultimately requires a non-authoritarian context and mentality. The conclusion that ‘there is no judicial independence without democracy and there is no democracy without judicial independence’ may be disappointing at first glance, but this conclusion clearly argues that democracy and the rule of law are linked together,” said High Inspector Metani.

The independence of the judiciary, measures to reduce the number of cases in the courts and cases of ECHR case law regarding Albania were discussed between the senior Albanian delegation and judges of the ECHR, Mr. Georges Ravarani, section president, Judge elected in respect of Luxembourg, Mr. Georgios Serghides, Deputy President of the Section, Judge elected in respect of Cyprus, Mr. Dmitry Dedov, Judge elected in respect of the Russian Federation, Mrs. María Elósegui, Judge elected in respect of Spain, Mr. Darian Pavli, Judge elected in respect of Albania, Mrs. Anja Seibert-Fohr, Judge elected in respect of Germany, Mr. Peeter Roosma, Judge elected in respect of Estonia Andreas Zünd, Judge elected in respect of Switzerland and Mr. Frédéric Krenc, Judge elected in respect of Belgium.

SPEECH BY HIGH INSPECTOR OF JUSTICE ARTHUR METANI ON “INDEPENDENCE AND IMPARTIALITY OF JUDGES” AT EUROPIAN COURT OF HUMAN RIGHTS



My discussion in front of this panel of distinguished participants aims at mentioning in advance some theses in order to be thought-provoking and why not generate a debate; theses which in my view are conceptual and systemic on a number of issues related to independence, impartiality as well as the accountability of magistrates.

The independence of judges and tribunals is one of the basic principles of a democratic state. Independence is a prerequisite for the rule of law. As such, the independence of the judiciary upholds the rule of law and it is crucial to the functioning of democracy and the respect for human rights.

While countries in process of transition from authoritarianism

to democracy have to face an aggressive “influence” of the executive or legislature on the judiciary, seeking and applying the necessary mechanisms to protect the independence of the judiciary remains a challenge even for the countries with developed democracy.

There is an important tendency to ensure the independence of the judiciary through formal guarantees and fixed procedures. Even though it is important to acknowledge that the judicial systems in different countries have evolved differently or have had different consolidation paths, the functions they perform, the way these functions are exercised, the structural organizations, as well as a number of concepts, which have to do with “substantial independence” or “structural independence”, are joint issues and challenges for all countries. However, it is debatable whether a uniform international standard should be applied.

There are a number of international legal acts that aim to guarantee the independence of the judiciary, such as Article 14 of the International Covenant on Civil and Political Rights, Article 6 of the European Convention on Human Rights, Article 8 of the American Convention on Human Rights, Article 26 of the African Charter on Human and Peoples’ Rights, as well as a number of soft laws, of a recommendatory nature or opinions.



These principles or rights are legally binding on the State party to participate in such acts of an international character. However, states tend to adapt and change the way they are implemented. This has nothing to do with denying the validity of these principles or rights, but with emphasizing the fact that the way they are applied in a given country coincides with the historical, social, political or legal context of that country.

In this context, even the European Court of Human Rights (ECHR) through its jurisprudence has left room for member states to evaluate how to organize the judiciary as long as this form of organization and functioning provides formal guarantees that protect magistrates from interference in litigation (*Belilos v. Switzerland*; *Campbell and Fell v. The United Kingdom*; *Sramek v. Austria*; *Ninn-Hansen v. Denmark*; *Philippines v. San Marino*). Although the notion of separation of powers has become increasingly important in the jurisprudence of the ECHR, the norms of the Convention as well as the jurisprudence of the ECHR do not oblige states to conform to strict notions of a theoretical constitutional nature, regarding the chosen way or interaction between organs of power. The question is whether or not they have met the requirements of the Convention, according to the autonomous interpretation of the notions of Article 6 of the ECHR (*Henryk Urban and Ryszard Urban v. Poland*, § 46).

In order to make a more thorough examination of the issues of independence we should refer to and consider the judgments of the European Court of Human Rights in *Campbell and Fell v UK* and *Incal v Turkey*, or *Findlay v.*

United Kingdom, in which the Court have sanctioned “independence” claims which include: (i) the appointment of judges; (ii) the duration of their term of office; (iii) the existence of guarantees against outside pressures, (iv) whether the body presents an appearance of independence.

At the same time, the ECHR through its jurisprudence has elaborated a number of issues which are related to the criteria of the tribunal impartiality, within a due process of law, according to the requirements of Article 6 of the ECHR.

“There are two real components in the independence of the judiciary: the impartiality and the independence of the judge and the tribunal. The principle of impartiality implies the absence of prejudice by judges related to the case at hand as well as their not acting in such a way as to undermine the interests of one of the parties. A court must be impartial not only formally but also expressly. Not only does the right to be tried before a competent, independent and impartial tribunal established by law require that justice be done, but it also requires that it shall be seen to be done. The respect for the principle of impartiality must be verified by applying the subjective test, which deals with verifying the conviction or personal interest of a judge in a certain case and the objective test, which examines whether or not the judge has provided sufficient procedural guarantees in order to exclude any doubt (*Kyprianou v. Cyprus*; *Micallef v. Malta*; *Piersack v. Belgium*; *Grievés v. the United Kingdom*; *Hauschildt v. Denmark*)”.

The most important consequence of the magistrates’

independence principle is the irresponsibility for the decisions given according to their conviction, based on law. However, the consequence of the power and trust that society gives to magistrates is such that there must be several ways to hold them accountable, including their removal from duties in case of violations which justify this action. It must be acknowledged that increasing the competence and independence of magistrates must be accompanied by an effective accountability system.

To this end, it is necessary for the governing bodies of the judiciary to have an active approach to the accountability system of magistrates by applying new approaches, which consist in the combined application of the standards of their responsibility and liability. When referring to the concept of “responsibility of magistrates”, we must take into account the fact that this concept is different from that of their “liability”, concepts which together constitute the “accountability” system of magistrates.

The accountability system of magistrates should not be abused by other bodies of power, in order to control and violate judicial independence. The accountability system should be guided primarily by the notion of responsibility of magistrates, as a preventive mechanism that ensures the building of an independent and impartial judicial system.

This should be achieved through the application of policies or measures which aim at: (i) recruitment or selection of magistrates based on the merit selection system; (ii) their professional qualifications; (iii) not removing from office; (iv) substantial independence; (v) structural and financial independence; (v) immunity and physical integrity; (vi) the exercise of control by the higher courts based on the principles of the internal independence of magistrates, as well as the exercise of an informal control through international jurisprudence or legal doctrine.

If these remedies are not effective, then in exceptional cases as well as depending on certain circumstances, measures on their criminal, civil or disciplinary liability may be applied within a regular legal process.

This is because independence is not a privilege, but a responsibility. In this case, there must be an ongoing process of balancing independence and accountability. These processes must be characterized by action and counter-reaction at the same time. The more powers the judiciary possesses, the higher the demands for accountability must be. The accountability process is in itself a relationship (give an

account) between individuals. In this context, a magistrate should not only be responsible for respecting legal norms, but he should also be responsible towards people, society and state authorities. Thus, directly affecting the public perception and trust in the justice system.

Public trust is not an indefinite notion, but it finds support in the core values and standards of ethics and rules of conduct of magistrates. If magistrates do not fully fulfill their role in administering and ensuring justice in society there is a risk of losing public trust in the justice system. Public trust and respect for the judiciary are guarantees of democracy and stability in a democratic society.

The citizens’ level of trust of in the judiciary is a very important element for the justice system. In order to build credibility, we must ensure a culture of accountability in the justice system. In a democracy, justice is given in the name of the citizens. Public trust is essential to the rule of law, and this legitimacy requires the commitment of magistrates to maintain that trust. In this context, it is worth noting that the independence of the judiciary should not be seen as a privilege of magistrates, but as a right of citizens.

The level of trust of citizens in the judiciary is an important indicator to assess how the justice system and the rule of law work in a country. At the same time, public trust serves as an important indicator of the balance that must exist between the independence and accountability of the judiciary. When the public trust is low, it shows that the independence of magistrates has prevailed over the accountability system, whereas when the public trust is high, this is a clear indication of the existence of a fair balance between independence and accountability.

However, at the end of my speech I must emphasize that guaranteeing the independence of the judiciary requires time and constant efforts. Establishing the institutions is an aspect of the rule of law and its success definitely depends on the political will, mentality and the stage of development of a country’s society.

The independence of the judiciary cannot be guaranteed if there is no will on the part of a society or political system to create a spirit of stability and democracy. The independence of the judiciary definitely requires a non-authoritarian context and mentality. The conclusion that “There is no judicial independence without democracy and no democracy without

judicial independence” may be disappointing at first glance, but this conclusion clearly argues that democracy and the rule of law are inextricably linked. The independence of the judiciary can be accompanied by structural, institutional and legal changes, yet it can only succeed when the society of a country has faith in the legitimacy of the judiciary and shows a real commitment to this standard. Although international actors can play a supporting role in this development process, they cannot make up for a country’s lack of domestic initiative.

The way the independence of the judiciary is guaranteed depends on the judicial culture of a country which reflects its particular historical experiences in relation to political or social circumstances. Special measures that have been adopted or adapted in a particular country in order to ensure the independence of the judiciary, which may relate to the recruitment and career of magistrates, their tenure, their immunity, their salaries, their disciplinary, civil or criminal liability,

their substantial or structural independence, training or physical security, are not necessarily an indicator of guaranteeing the standard of independence of the judiciary, as these measures can be applied and yield different results depending on the legal, political and social context of each country.

The process of ensuring the independence and impartiality of the magistrates is a dynamic and constantly evolving process. Guaranteeing this independence requires an ongoing need to respond to the challenges of identifying new security mechanisms for this standard. Every model on the establishment and application of the judicial independence standard is different and should be understood as a result of different historical developments in a certain country. This goal is achieved through a process of change, which must respond to public demands and new challenges through the gradual modification of a country’s traditions.

Thank you!

HIGH INSPECTOR OF JUSTICE COMPLETED HIS VISIT TO SEVERAL EUROPEAN JUSTICE INSTITUTIONS



High Inspector of Justice Artur Metani and the chairpersons of the main institutions of the justice system in Albania, completed a working visit to the highest institutions of justice in Germany as well as to the European Court of Human Rights in Strasbourg, with a view to looking closely at the German and ECHR justice systems.

During their visit at the Federal Constitutional Court in Karlsruhe, the senior Albanian delegation met with the Vice President of this Court, Prof. Dr. Doris König and the federal constitutional judge Dr. Sibylle Kessal-Wulf and discussed the function of the Federal Constitutional Court in a democratic state governed by the rule of law.



During his visit at the European Court of Human Rights in Strasbourg, in a special session with the members of this Court, the High Inspector of Justice delivered a speech on “Independence and Impartiality of Judges”, seen generally and from the point of view of investigation and disciplinary proceedings. High Inspector Artur Metani underlined that there is no judicial independence without democracy and there is no democracy without judicial independence, as democracy and the rule of law are inextricably linked.

Justice reform in Albania was the focus of the conversation during the meeting with the Member of Bundestag but also Member of the Committee on Legal Affairs and the Committee on European Affairs Dr. Volker Ulrich. Speaking about the work of justice institutions, Mr. Metani said that justice reform cannot succeed without the democratization of Albanian society. And the best way for this is the integration of Albania into the European Union.

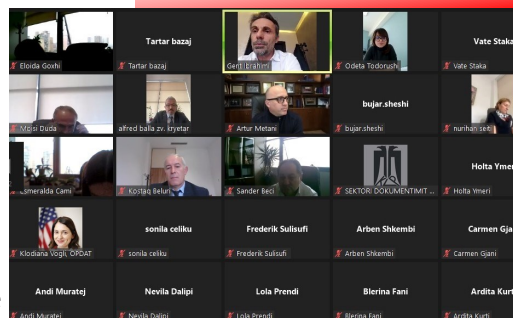
This visit of the senior delegation of the Albanian justice institutions chairpeople, including the High Inspector of Justice, Mr. Artur Metani, Chairperson of the Constitutional Court, Ms. Vitore Tusha, Deputy Chairperson of the Albanian High Court, Mr. Sokol Sadushi, Chairperson of the High Judicial Council Ms. Naureda Llagami, Chairman of the High Prosecutorial Council Mr. Gent Ibrahim, Prosecutor General, Mr. Olsian Çela, People’s Advocate, Ms. Erinda Ballanca and the Director of the School of Magistrates Mr. Arben Rakipi was organized by the Konrad Adenauer Foundation.



HPC ACCEPTS THE REQUEST OF THE HIGH INSPECTOR OF JUSTICE FOR DISCIPLINARY PROCEEDING AGAINST MAGISTRATE O.T.

The High Prosecutorial Council accepted the proposal of High Inspector of Justice Artur Metani to impose the disciplinary measure “Public reprimand” against the magistrate O.T., prosecutor in the Prosecution Office attached to the Judicial District Court of Korça. After the indication provided by the investigative show “Stop”, on TV Klan, as well as based on the data obtained from the verification performed, the High Inspector of Justice began the disciplinary investigation. The investigative show broadcast the case of the murder of an 18-year-old boy and the claim of his family members that the prosecutor has dragged out the case. From the disciplinary investigation conducted by the High Inspector of Justice, it was found that the magistrate has

unjustifiably delayed the actions and procedural acts related to the case by not taking appropriate actions in notifying the victim’s relatives about the rights recognized by law, and has unexplainably delayed sending the case to court. This delay was made beyond the reasonable time, a period of over 6 months, which is provided as a disciplinary violation (Article 102 paragraph 1 letter “d” of Law no. 96/2016). The actions and omissions of the magistrate have brought consequences for the administration of justice, the violation of the prosecutor’s prestige, and have undermined public trust in justice.



PEOPLE’S ADVOCATE PRAISED HIGH INSPECTOR OF JUSTICE ROLE

On 19 November, the High Inspector of Justice met with People’s Advocate Ms. Erinda Ballanca. During their working meeting the two senior leaders talked about the cooperation between the two institutions, regarding the citizens’ complaints against judges and prosecutors.

Mr. Metani expressed his pleasure at the cooperation with the People’s Advocate Institution and he also expressed his will to strengthen this cooperation related to the respective duties assigned by law, by paying special attention to balancing the principles of public interest for the administration of justice, respect for people’s rights, the principle of legality, impartiality and the right to a fair trial, as well as the principle of separation of powers.

People’s Advocate Ms. Ballanca praised the High Inspector of Justice role in ensuring the correct implementation of the law by all actors in the justice system. She also praised the transparency of communication with citizens and the public on the HIJ work as well as the effectiveness in handling a significant number of complaints against magistrates, despite the infrastructural difficulties and



human resources. “The need for new institutions of the justice system to have adequate capacities to successfully exercise their duties has been part of the recommendations of the People’s Advocate in the annual reports submitted to the Assembly,” said Ms. Ballanca. The High Inspector of Justice and the People’s Advocate shared the view that restoring public trust in justice should be a priority of every institution in the country.

HIGH INSPECTOR OF JUSTICE ARTUR METANI MET WITH COUNTERPARTS FROM THE JUSTICE INSPECTORATES OF ROMANIA, PORTUGAL AND FRANCE

High Inspector of Justice Artur Metani received an official visit from the counterparts from the Justice Inspectorates of Romania, Portugal and France, members of the European Network for Justice Inspection, supported by the Council of Europe SEJ III project, whose focus is to support the new justice institutions in Albania established as part of the justice reform.

Inspection as a new practice, was the focus of this meeting with Judge Lucian Netejoru, Chief Inspector of the Judicial Inspection of Romania, Inspector Judge Luis Jardim from Inspectorate of Justice at the Judicial High Council of Portugal and Inspector Martine Bardet from Inspectorate-General of the Judicial Services of France.

Mr. Metani said that HIJ is a new institution, which despite the lack of human resources, is trying to build an experience with best inspection practices. Therefore the communication and cooperation with European counterpart institutions is very important. "The HIJ philosophy, said Mr. Metani, is that inspection seeks the right balance between the public interest in the magistrates work and the independence of judges and prosecutors. This philosophy of the institution work derives from the best debates with personalities in the field of justice as well as our foreign colleagues. "

Mr. Netejoru, Mr. Jardim and Ms. Bardet made a presentation of the inspection models in the respective countries and expressed their willingness to share experiences with the High Inspector of Justice Office.

The Chief Inspector of the Judicial Inspection of Romania, Judge Lucian Netejoru, said that even for Romania, which has a completely independent model of inspection, this is a new experience launched in 2012, and for this reason the communication with counterparts from other countries is necessary.

After this meeting the three guests, accompanied by the High



Inspector of Justice, paid a working visit to Vlora Judicial District Court.

In the next two days the delegation will have meetings in the Albanian Parliament (November 23rd) and in the HJC and HPC premises as well as the School of Magistrates (November 24th).

An important part of this official visit is the two-day training which will take place at Tirana Hotel with inspectors and assistant inspectors of the High Inspector of Justice Office in which Magistrate inspectors from France, Italy and Romania will talk about the best practices of judicial inspections by the European Justice Inspectorates.

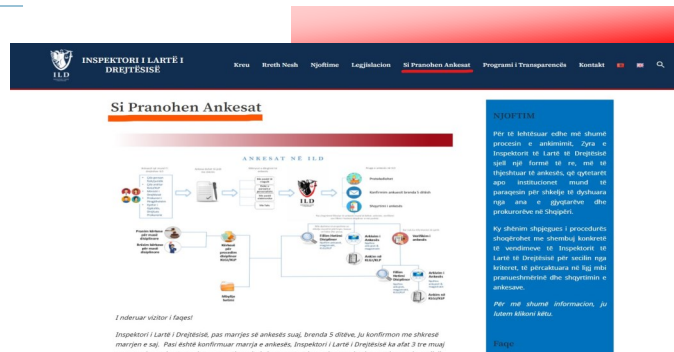


COMPLAINT PROCESS AT HIJ

The Office of the High Inspector of Justice continues with intensive work to confirm the complaints carried and those administered since February 1, 2020, when it was established as an institution.

To facilitate this process for interested persons, HIJ has published on the official website a special complaint form, which:

- can be completed directly and submitted online;
- can be downloaded, completed and sent by email to info@ild.al or by mail at the address Boulevard "Dëshmorët e Kombit", Building no.13, Tirana.
- It can also be completed by presenting at the Office of the High Inspector of Justice, if necessary, to ask for assistance of



the team of the Complaints Office.

Upon receipt of the complaint, the High Inspector of Justice within 5 days confirms in writing its receipt.

The criteria for the admissibility of the complaint are published on the official website of HIJ www.ild.al, in the section "How to receive complaints".

“The main commitment of the High Inspector of Justice Office is that judicial functions in the Republic of Albania must be performed independently, impartially and with integrity through a system of responsibility and accountability.”

STATISTICS

During **November**, the Office of High Inspector of Justice received **98 complaints** made by citizens and institutions. The standard confirmation of receiving complaints has been made and they have been distributed according to the signature of the responsible inspector.

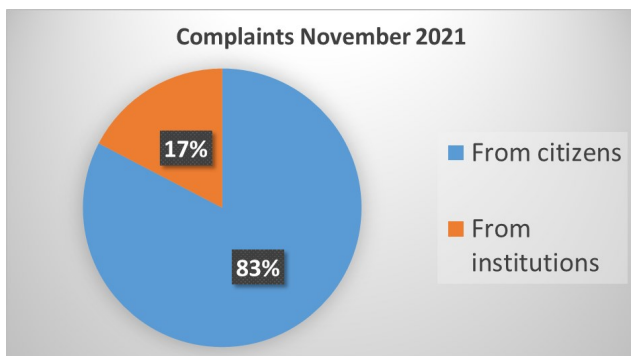
This total figure resulted in:

81 complaints filed by citizens.

17 complaints filed by institutions and organizations.

38 phone calls with citizens, who asked information about the stage of their complaints or asked for assistance in how to complete the Form of the Complaint, **17 meetings** with citizens.

The High Inspector of Justice Office has performed the standard confirmation



process of receiving complaints for all the new complaints submitted during November, 2021. Complaints against judges and prosecutors are referred to the inspectors and they are at different stages of

the process such as the initial consideration, verification and the archiving together with relevant decisions.

COMPLAINT SECTOR

The HIJ Complaint Sector is responsible for guaranteeing the right of citizens to information and transparency to the public. This Sector monitors the complaints traceability in the system and provides answers to complainants on their complaint stage. As part of the transparency program, in order to increase the communication with the interested citizens, the High Inspector of Justice Office in addition to the official address and the official Web, has made available the telephone number +355 4 2217217.



Having met with counterparts from the European Inspectorate of Justice, Chief Inspector of the Judicial Inspection of Romania, Judge Lucian Netejoru, Magistrate Inspector Luis Jardim from Inspectorate of Justice at the Judicial High Council of Portugal and Magistrate Inspector Martine Bardet from the General Inspectorate of Justice in France, High Inspector of Justice Artur Metani answered the questions of journalist Anila Hoxha, Top Channel, questions which were also about the nature of citizens' complaints to HIJ.

"The most numerous complaints filed are the ones regarding the length of court proceedings, injustices that citizens think have been done by courts, judges or even prosecutors in assessing the judgments in their cases, civil or criminal ones", said Mr. Metani. He also added that "We will focus on responding in the shortest time possible to all citizens' complaints, but it certainly depends on our human resources as well."

Asked about the biggest challenge the High Inspector of Justice is currently facing in his work, Mr. Metani underlined that the HIJ work itself aims at guaranteeing magistrates' independence as a guarantee for the citizens' rights.

"I think that challenges in terms of human resources, legal infrastructure and so on are things that will find solutions at one point or another. What is important for the High Inspector of Justice and for the citizens in general is to set the best standards related to the balance I referred to at the beginning. Finding a balance between the public interest in the administration of justice and the independence of judges, which is not only independence that belongs to judges but also a right that belongs to citizens. The more independent the judge is, the more guaranteed the citizen's rights are. And this is what we must achieve", said Mr. Metani.

Chief Inspector of the Judicial Inspection of Romania, Judge

METANI: THE MORE INDEPENDENT THE JUDGE IS THE MORE GUARANTEED THE CITIZEN RIGHTS ARE

Lucian Netejoru also answered the questions of the journalist Anila Hoxha.

Transcript of the interview:

Anila Hoxha, Top Channel: I would like to address the gentleman from Romania since they have the total independence and the model that they are offering to Albania in this training.

Chief Inspector of the Judicial Inspection of Romania Lucian Netejoru: *Hello, it is a pleasure to meet you in Albania. I am very happy to have been invited here by our Albanian colleagues and of course with the support of the Council of Europe.*

Anila Hoxha, Top Channel: You are a strong institution in your country and of course totally independent, which has led to having higher results in controlling the system. What advice would you give to Albania, now that you have brought in inspectors who will train their Albanian colleagues?

Chief Inspector of the Judicial Inspection of Romania Lucian Netejoru: *Romania's Judicial Inspection is an independent body. What I mean is an institution like the Supreme Court, the School of Magistrates and the Romanian Parliament. Our experience is not long either, -only since 2012-, but we became completely independent after some organizational changes in 2018. However, we are really independent in terms of disciplinary investigations, verifications and inspections related to thematic and general ones. We are committed to sharing all our experience with the Albanian colleagues so that they can improve their work and strengthen their capacities, administrative capacities, because their work is in its infancy and in our view it is necessary they learn to be independent. I am very confident that Albanian colleagues will learn what it means to be independent and will have the benefits of being independent. Firstly for the judicial system itself and then for the citizens. Although our target is the justice system, public trust is also important. This is because citizens are the first to claim justice and also the first to suffer the bad behaviour of judges or services in the courts.*

Anila Hoxha, Top Channel: Mr. Metani a short question. During the functioning of your institution, practically new, you have achieved, and have a very positive experience, in terms of tracing mishandled cases that remain in prosecutor's offices or even in the judiciary. However, isn't it about time inspectors learned to become independent and also we had a review of the legal framework, so that you are totally independent and under the model of your colleague?

High Inspector of Justice Artur Metani: First of all, let me thank my colleagues who have come from Romania, France and Portugal in the framework of a visit organized by the Council of Europe to assist the better functioning of High Inspector of Justice Institution. The High Inspector of Justice Office is a new office and of course the competencies are new, they require a new mentality so that things can become functional and the best models coming from developed democracies are the best way to build this new mentality and apply it in Albania as well. Regarding the further independence of the institutions, I think that we have the constitutional and legal framework which organizes the functioning of the High Inspector of Justice Office. It is still early to discuss such things because we are in the process of consolidating our first practices and at the moment this is our priority, to be also discussed with our colleagues. Let's see how things go, how this new mentality and this new philosophy is created by finding the right balance between the public interest in the administration of justice and the independence of judges and prosecutors. This is what we aim to achieve and what we will discuss with colleagues today and in the future.

Anila Hoxha, Top Channel: As soon as you took office as the head of HIJ, you noticed and stated that you found almost 900 complaints from Albanian citizens alleging legal violations, both by judges and prosecutors. What did Albanian citizens mainly complain about and what do they still complain about?

High Inspector of Justice Artur Metani: This number has changed. Now there are 4500 complaints on average. We have tried to respond to the interest of the citizens by responding to their complaints. We have handled about 1,500 complaints despite our limited human resources. However, to focus on your question, the most numerous complaints filed are the ones regarding the length of court proceedings, injustices that citizens think have been done

by courts, judges or even prosecutors in assessing the judgments in their cases, civil or criminal ones and we will focus on responding in the shortest time possible to all citizens' complaints, but it certainly depends on our human resources as well.

Anila Hoxha, Top Channel: What is the most difficult part for the High Inspector of Justice at the moment, which you are facing and it is almost a challenge for you?

High Inspector of Justice Artur Metani: I think that challenges in terms of human resources, legal infrastructure and so on are things that will find solutions at one point or another. What is important for the High Inspector of Justice and for the citizens in general is to set the best standards related to the balance I referred to at the beginning. Finding a balance between the public interest in the administration of justice and the independence of judges, which is not only independence that belongs to judges but also a right that belongs to citizens. The more independent the judge is, the more guaranteed the citizen's rights are. And this is what we must achieve.





BEST PRACTICES OF JUSTICE INSPECTION, HIJ STAFF TRAINING

Delphine Agoguet and Sylvie Merges, from the General Inspectorate of Justice, France; Emanuela Aliverti from the Inspectorate of Justice, Italy and Nicoleta Rhfir from the Judicial Inspectorate, Romania presented two working modules, on the principles of General Inspection and the methodology of Inspection instruments, the procedures and reports.

The team of Inspectors, Assistant Inspectors and the Cabinet of the High Inspector of Justice Office completed the two-day training on “Judicial inspections, good practices by the European Inspectorates of Justice”.

In his welcoming remarks at the beginning of the training session, appreciating the organization, High Inspector of Justice Artur Metani said that the inspection today requires a new mentality and that every experience serves everyone’s work.

CEPEJ Coordinator Roland Gjoni presented the role of the SEJ III project and the purpose of the training, while the Cooperation Program Coordinator of the European Justice Inspection Network (RESIJ), Delphine Agoguet, also Inspector of the General Inspectorate of Justice in France, spoke about the professional capacities growth through the RESIJ Network and the cooperation initiated by this network with the High Inspector of Justice of Albania.

During the two day-training four magistrate inspectors,

The focus of the first training day was the classic inspection missions, the status and ethics of inspectors, the principles and methods of inspection, European and international standards of inspections.

The discussions on the second day centered on specific cases on the inspection of courts and prosecutors’ offices, the management of this process, the available instruments and the institutional support, all of which were illustrated with case studies of good practice.

This training organized by the High Inspector of Justice in cooperation with the SEJ III project of the Council of Europe launches the cooperation with the European Inspection Network through its members from European Union countries. In this case, there were experts as well as heads of Inspection institutions from Romania, Portugal and France, who paid a three-day working visit to Albania.



HIGH INSPECTOR METANI AND EUROPEAN JUSTICE INSPECTORS VISIT THE ALBANIAN PARLIAMENT

High Inspector of Justice Artur Metani and his counterpart inspectors, Mr. Lucian Netejoru, Chief Inspector of the Judicial Inspection of Romania, Ms. Martine Bardet from the General Inspectorate of Justice in France and Mr. Luis Jardim from Inspectorate of Justice at the Judicial High Council of Portugal visited the Albanian Parliament, where they met with the Deputy Speaker of the Assembly, Ms. Ermonela Felaj and the chairwoman of the Commission on Legal Affairs Ms. Klotilda Bushka. Ms. Felaj and Ms. Bushka made a presentation on justice reform and the role of the new institutions established by it. Appreciating the role of the High Inspector of Justice, the Deputy Speaker of the Assembly said: “Inspector Metani has considered his work both a professional and personal challenge because in a short period of time he has faced difficulties with a high impact and it has not been easy.”

The chairwoman of the Commission on Legal Affairs said that the Albanian Parliament supports the needs of justice institutions, including the HIJ, so that they can perform better and independently. “The fact that they report to the Assembly has nothing to do with intervention in their independence,” said Ms. Bushka. Ms. Bardet said that the General Inspectorate of Justice in France, which heads the European Network of Inspection Services, part of which are her colleagues who are visiting Albania, is ready to share the Network standards and experiences with Albania, and the two-day training conducted by four French, Italian and Romanian inspectors with the team of inspectors and assistant inspectors of the HIJ Office is the first step. Speaking about Romania’s experience, with a completely independent Judicial



Inspection, Judge Netejoru said that the mission of their inspections is to serve the judiciary to improve its activity and give a credible justice to the public.

While Judge Inspector Jardim pointed out that there are similarities between Albania and Portugal in terms of recruiting magistrate inspectors with high professional and legal qualities and praised the work done by High Inspector Metani. “The wonderful effort that Mr. Metani is making together with the other inspectors, may be misunderstood now, but in the near future time will show they were right,” said Mr. Jardim.

High Inspector of Justice Metani praised the established cooperation with the European colleagues part of the European Network of Inspection Services and the commitment of the SEJ III project of the Council of Europe, which is supporting the High Inspector of Justice Office to strengthen its professional capacity.





High Inspector of Justice Artur Metani accompanied his European counterparts, Judge Lucian Netejoru, Chief Inspector of the Judicial Inspection of Romania, Inspector Judge Luis Jardim from Inspectorate of Justice at the Judicial High Council of Portugal and Inspector

HIGH INSPECTOR METANI AND HIS EUROPEAN COUNTERPARTS PAYING A VISIT TO VLORA DISTRICT COURT

Martine Bardet from Inspectorate-General of the Judicial Services of France in a working visit to Vlora Judicial District Court.

Deputy Chairman of Vlora District Court Mr. Enkel Peza, responded to the interest of the European Inspectors on the court work, its work at half capacity- not having enough judges due to the removal of judges from the system, as well as the measures taken to assist judges in office to cope with the high number of cases.

High Inspector of Justice Artur Metani said that was a problem for other courts as well, yet the work continued even in such conditions of work overload.

AN ANALYTICAL EVALUATION OF THE JUSTICE INSTITUTIONS PROGRESS WILL MAKE THE PAST ACCESSIBLE AND THE FUTURE CLEAR



During a working visit to Brussels, the High Inspector of Justice Artur Metani participated in the event “Good Governance and Resilience of Justice Sector Reform in the Western Balkans”, which was also attended by the Minister of Justice of Northern Macedonia, Bojan Maričić. The event was implemented in the framework of the challenges that the two countries face while waiting to open accession negotiations for membership in the European Union. The event was organized by the Cooperation and Development Institute (CDI) and the Center for European Policy Studies (CEPS) located in Brussels, with the support of the Kingdom of the

Netherlands and the online participation of civil society organizations.

Presenting the experience of Albania during his speech “Insights and Lessons Learned from the Office of High Inspector of Justice”, Mr. Metani said, among other things, that justice reform in Albania is one of the deepest legal and institutional reforms compared to other Western Balkan countries. Justice reform has entered a very important phase of its implementation. The institutions of the justice system have been set up and they are fully committed to delivering concrete results in their work. Albania can be considered the leader of this process and its experience can help during the process of planning, implementing and monitoring institutional reforms in other countries of the Western Balkans.

During the presentation of the monitoring report of the new justice institutions in Albania, the co-authors, the Director of Research at CDI Ardian Haçkaj and the CDI expert Fjoralba Caka, praised the importance of the new justice bodies’ organization and functioning through a legitimate process. This process is an important factor for the organization and functioning of the new justice institutions in the most sustainable way, according to the principle of good governance, as well as in relation to the



expectations of the Albanian citizens and international partners.

The co-authors of the report highlighted the importance of internal processes, which should be followed by the new justice institutions in terms of effectiveness, accountability, or transparency of their activity. These processes should serve to ensure citizens' access, as well as restoring public trust in the justice system.

Ms. Caka said: "Statistics from the High Inspector of Justice Office clearly show that citizens are willing to trust and cooperate with the institutions. Active communication between citizens and the HIJ Office, as well as the number of complaints, are indicators of the application of good models of transparency and the existence of their trust in the activity of institutions."

During the session moderated by Director of Research at CEPS Steven Blockmans, High Inspector of Justice Artur Metani emphasized in particular that: *First of all*, the justice reform in Albania has been going on for a few years now. However, we still don't have a good photography of the performance of the new justice institutions so as to come to a joint conclusion on the "good performance" or "poor performance" of the new institutions. This process must be realized through a well-defined methodology based on quantitative or qualitative indicators.

Secondly, the justice reform in Albania has been very deep and to be honest also traumatic for Albanian society. This does not mean that it was not worthy. On the contrary, it was the best thing that ever happened to our country. However, we have to appreciate this sacrifice that the Albanian society made by supporting it. Personally speaking, – and I do not share the opinion of my colleagues in this table, – I have no doubt that the reform will become a success regardless of the time it needs to be implemented. Of course, no one, nor the EU itself, expects the reform to succeed in the next two or

three years. The reform will be effective at least a decade later, and the evaluating process of the justice reform should be a process with rules being well-defined in advance.

Thirdly, in order to have a successful justice reform, we should not separate it from other dimensions or the development of society. We need to democratize all Albanian society and the best way to do it is through the integration process. It can't be achieved only through online meetings or training. Face to face meetings, exchanging experiences as well as work culture and practices of the EU are also important. Therefore, I follow the idea that probably the stages to the European Union are long, but we can follow the other path, as Ardian called it "the institutional connectivity". The more contacts the institutions in Albania have with their counterparts or other partners in EU countries and their structures, the better it will be for the reform itself as well as the development of the country.

The second intervention of the High Inspector of Justice Artur Metani.

Mr. Metani: "Justice reform in Albania is probably one of the reforms that received the greatest public support, not only for the 140 votes in the assembly, in full unanimity of all deputies, but also with the support of the Albanian society, which felt the need for change and justice reform, and that hope, that feeling is still present in the Albanian society. However, it is being substituted by frustration, due to delays in setting up our institutions and due to the reform problems and the normal effects, it has produced.

But I would also like to emphasize the need that we should be present through the publication of our activities, transparent about our work, but also- and I insist on the fact that the EU methodology should be based on clear indicators because people need to know how the institutions in Albania are working and how their work is perceived in the EU. That is why I insist that this process should be evaluated step by step, giving credit to the process and also creating new standards for the future, in order to raise the hopes of the society and to meet its expectations."

During his visit to Brussels, the High Inspector of Justice held a working meeting with COWEB, where there was a fruitful and intensive exchange of views on good governance and the resilience of the new justice institutions.

METANI: TIME TO INCREASE EFFICIENCY AND TAKE MEASURES FOR JUSTICE REFORM TO PROVIDE RESULTS FOR WHICH IT WAS CONCEPTED

”Speech of High Inspector of Justice Artur Metani in Brussels on the topic “Getting started: Observations and lessons learned from the Office of High Inspector of Justice”



Thank you for inviting me here, and to have the chance for discussing the insights as an actor of new justice institutions. I talked about this topic and the considerations that I am going to make, are from my personal view as a lawyer but as well as a citizen who first believes in the fundamental values of the European Union and of Europe in general because that is the main purpose why the reform was made. To make the country more democratic, closer to rule of law and of course respective to your marks. And in this aspect, the reform came in that means.

A change which in the spirit of the European Union values aims at establishing a fair balance between power, democracy and the rule of law. This reform is one of the deepest and largest institutional and legal reforms in the country. The selected model and the degree of intervention in the justice system in Albania represent a unique case. New institutions have been established or reorganized and compared to other Western Balkan countries, Albania can be considered as the leader of this reform process. In this context, Albania experience with justice reform can help during the process of planning, implementing and monitoring institutional reforms in the Western Balkan countries.

Nevertheless, in this specific case, it must be taken into account the fact that the countries of the Western Balkans are at different stages of their integration processes. These countries have different legal systems and traditions as well. Although the countries’ concepts or rule of law are the same for all EU countries, it is required that the application of these standards be done in full respect for their traditions as well as their political, social or legal context. This process should be carried out through a careful analysis of the selected model and the degree of intervention in the justice system. It should be realized through a process of experience exchange to address the challenges as well as to learn from the experience of other countries.

Justice reform is in the process of being implemented in Albania. However, this process has not been easy. The complete reform of the justice system has faced several challenges while establishing and making functional the new bodies which have had a significant impact during the initial activity of the new institutions. These experiences and challenges are (i) The existence of an initial political will to approve it, but also the change of this will during the implementation of the reform; (ii) delays in setting up new institutions and selecting their staff; (iii) lack of infrastructure and human resources; (v) lack of planning and budget support; (vi) lack of magistrates because of the vetting process; (vii) lack of an inter-institutional interaction strategy; (viii) the existence of technical or administrative obstacles which prevent the institutions from fully exercising their powers; (ix) and others.

There are different factors, at the political or organizational level, which may have brought about these delays and having analyzed them in the study that was presented here by Ms Caka the conclusion that I get are (i) the conception of this reform not based on the method of “evaluative research” but according to the “problem solving” method; (ii) the existence of the political vision, values or will; (iii) the core competencies, core infrastructure, embedded knowledge, technical and

financial resources; and (iv) learning processes and the strength of partners. institutions themselves.

However, most of these obstacles have already been overcome and the new bodies are now functional. Justice reform has entered a very important phase of its implementation. The institutions of the justice reform are fully committed to creating a system that complies with European Union standards as well as to delivering concrete results of their work to the citizens of Albania. Now the challenge of our country as well as the success of the implementation of justice reform are no longer the conception and establishment of the new institutions of justice, but their full functioning based on the principle of good governance and the rule of law.

The new institutions of the justice system do not automatically function following the standards of good governance and the rule of law. The concept of the rule of law is a complex concept, and it makes the distinction between the formal existence of legal provisions and their implementation in practice. In this case, justice reform has built the capacity of the justice system, but achieving concrete results requires influence and changes in the judicial and political culture of a country.

The European Union is based on a set of joint values which include respect for human rights, democracy and the rule of law. These core values constitute a key asset for the EU and their preservation or provision is a shared responsibility for all the EU institutions as well as its member states.

The EU has played a key role in designing, financing and implementing the justice reform in Albania. The influence of the EU has served as an external stimulus to influence a process of change within our country. However, the internal change can only be made by the citizens of the country and by the institutions themselves.

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The EU, as well as other international partners, have played an important role in improving the quality of the justice system from a formal point of view, but this process must be accompanied by continuous efforts by both our state institutions and the Albanian citizens, to implement these rules and consequently achieve quality in practising the justice system. This means that in this case not only is there a need for a “passive initiative” which can be materialized through a legislative process, but also for an “active and continuous political activism” in different directions, whose goal is the same: establishing the rule of law.

The EU can bring about change and also affect the quality of justice system reform indirectly. The EU influence can also bring changes and influence the way a reform process is implemented through the strategy of democratic conditionality (according to the Copenhagen political criteria), or conditionality concerning the *acquis communautaire*. This process must be both political and meritocratic.

On the other hand, the EU through its “transformative power” by spreading democratic values to citizens and supporting political elites who believe in the work for the values of the European Union can establish a fair balance between powers, liberal democracy, and the state of law.

The EU should provide technical assistance, as it has done since 2005, even though the Euralius Mission or other forms of technical assistance. The EU can assist in the implementation of justice reform through guidance, monitoring, institutional capacity building, or a range of other activities, which would enable its implementation in practice.

The implementation of justice reform in Albania continues. Justice reform is an obligation of the Albanian state to its citizens. This is not the time to reopen the discussion on the need for justice reform, as this fact is already proven on its necessity, but it is time to increase its efficiency as well as take measures for this reform to yield results which it was conceived for.

Thank you!



HIGH INSPECTOR OF JUSTICE RECEIVES A DELEGATION OF ARMENIAN REPRESENTATIVES OF JUSTICE INSTITUTIONS

The High Inspector of Justice, Mr. Artur Metani received a delegation from Armenia, which was composed of members of the High Council of Justice, the Prosecutor General's Office, the Commission for Prevention of Corruption, the Ministry of Justice and the EU Office.

The Armenian delegation is paying a working visit to Albania to get acquainted with the implementation of justice reform and the functioning of justice institutions.

High Inspector Metani informed the members of the Armenian delegation about the functions and duties of the HIJ Office and answered their questions on the working procedures regarding complaints, investigation and disciplinary proceedings of magistrates in the country.



November 2021

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