

INFORMATIVE NOTE

Tirana, 30 January 2023

Regarding the request of the High Inspector of Justice for disciplinary proceedings with the measure “Dismissal from office” against Magistrate E.K.

Magistrate E.K., serving as a prosecutor at the Prosecution Office attached to the Kukës District Court was convicted on 11 October 2022 by a final court decision and sentenced to 2 years and 4 months of imprisonment for committing the criminal offense of “Passive corruption of judges, prosecutors and other justice officials,” which constitutes a “very serious disciplinary violation.” E.K. has discredited the position and standing of a magistrate, seriously damaged the image of the justice system, and undermined public confidence in the administration of justice. After obtaining the judgment convicting Magistrate E.K., the High Inspector of Justice (HIJ) notified the High Prosecutorial Council (HPC) on 28 October 2022 of the initiation of disciplinary proceedings against him and subsequently notified it of the conclusion of the investigation on 21 December 2022.

On 2 December 2022, Magistrate E.K. submitted a request to resign from office. On 19 December 2022, the HPC decided as follows: “1. To declare the termination of the status of magistrate of E.K. on the grounds of resignation; 2. The resignation shall take effect as of 31 January 2023; ... etc.” Based on Article 64, paragraph 1, subparagraph “a”; Article 65; and Article 139, paragraph 2, of Law No. 96/2016 “On the Status of Judges and Prosecutors in the Republic of Albania,” as amended, with regard to Magistrate E.K., it was not established that the legal grounds existed that would require the termination of the investigation.

In view of the above, the HIJ decided to conclude the investigation and submit the request for disciplinary proceedings to the High Prosecutorial Council (HPC).

In a similar case, on 2 June 2021, the High Judicial Council (HJC) adopted the position that the resignation of Magistrate K.S. did not constitute grounds for the High Inspector of Justice (HIJ) to terminate the disciplinary investigation, either regarding its initiation or its continuation as disciplinary proceedings before the Council. In particular, it specified that “The Council has assessed, and continues to assess, that the termination of the status of judge by resignation cannot be declared under circumstances where it has been established that a disciplinary investigation has been initiated against the judge and a final court judgment has been rendered for the commission of a criminal offense.”

In light of the above, on 16 January 2023, the High Prosecutorial Council (HPC) scheduled a hearing concerning the disciplinary proceedings against Magistrate E.K. for 30 January 2023, thereby not considering the resignation of Magistrate E.K., who served as a prosecutor at the Prosecution Office attached to the Kukës District Court (and who had been temporarily appointed by the HPC as Head of the Prosecution Office attached to the Kukës District Court), as grounds for terminating the disciplinary proceedings without holding a hearing.

Consequently, the High Inspector of Justice (HIJ) requests that the High Prosecutorial Council (HPC): Admit and administer the evidence submitted by the HIJ in these disciplinary proceedings and grant the HIJ’s request to impose upon Magistrate E.K. the disciplinary measure of “*Dismissal from office*” for the disciplinary violations provided for under Article 148/d, paragraph 2, subparagraph “b” of the Constitution and Article 104, paragraph 3 of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania,” as amended.