

INFORMATIVE NOTE

Tirana, on 16.09.2021

Regarding the request of the High Inspector of Justice for disciplinary proceedings with the measure “salary reduction of up to 40%, for up to 1 year” against judge H.S.

High Inspector of Justice has completed the disciplinary investigation against magistrate H.S., serving as a judge at the Vlora Judicial District Court, based on the case initiated against the magistrate in 2017 by the Inspectorate of the High Council of Justice and forwarded by the High Judicial Council.

Background: On 25.04.2017, the Inspectorate of the High Council of Justice initiated disciplinary proceedings against the judge of the Vlora Judicial District Court, H.S., for repeated violations of mandatory civil procedural provisions and violations of solemnity in issuing judicial decisions concerning “Issuance of an enforcement order”, based on complaints submitted by the legal entity Company “N.O.A” sh.a. and later by a bank (BKT). On 26.03.2018, the Inspectorate of the High Council of Justice decided to consolidate the investigative proceedings against the judge concerning failure to formally comply with the law and drafted the investigative report. On 12.06.2018, the High Council of Justice forwarded to the Minister of Justice the report identifying unjustified and repeated violations by the judge of mandatory civil procedural provisions in 9 cases, identified in the adjudication of requests for the issuance of enforcement orders, in order to assess the possibility of initiating disciplinary proceedings against the judge of the Vlora Judicial District Court, Mr. Hektor Sinanaj. This competence was not exercised by the Minister of Justice. The file was forwarded by the High Judicial Council to the High Inspector of Justice on 06.04.2021 and on 15.06.2021 the High Inspector of Justice decided to continue the disciplinary investigation against magistrate H.S., administering additional documents, since a number of circumstances concerning the actions or omissions of the magistrate, considered disciplinary violations, had been partially investigated by the competent body (due to the limited and divided competences among the different bodies during the transitional period).

From the disciplinary investigation conducted by High Inspector of Justice, it is proven that:

- The magistrate repeatedly misapplied procedural and substantive legislation, violations which were also established by the higher court.
- The violations concern serious non-compliance with mandatory civil procedural rules and were identified in at least six decisions under investigation. Despite the findings of the higher court, the same violation was repeated during the years 2020–2021, thereby acquiring a continuous nature.
- The violations are assessed as having been committed with direct intent, since the magistrate continuously maintained the same position, refusing to issue the enforcement order for acts granting bank loans or loans from non-bank financial institutions, when these were not notarial acts.

- The experience of 21 years as a judge implies consolidated knowledge of the law and of mandatory procedural provisions. Nevertheless, the magistrate repeatedly and continuously violated them, creating the perception of biased treatment to the detriment of the requesting party.

Consequently, his actions have affected the administration of justice, undermined the integrity of the judge and public trust in justice.

For the above, High Inspector of Justice has requested to the High Judicial Council to accept the request for the initiation of disciplinary proceedings against judge H.S. for the disciplinary violations provided for by Article 102, paragraph 2, letter “a” of Law No. 96/2016 “On Status”, as amended, and to accept the proposal for the disciplinary measure “*Temporary salary reduction of up to 40% for a period not exceeding one year*”, provided for by Article 105, paragraph 1, letter “c”, subparagraph “i” and Article 108 of Law No. 96/2016 “On Status”, as amended.