

INFORMATION NOTE

Tirana, 17.01.2023

On the request of the HIJ for disciplinary proceedings with the measure “Temporary reduction of salary by up to 40% for no more than one year” against prosecutor L.M.

High Inspector of Justice has initiated the disciplinary investigation at the initiative of the complainant (the Autocephalous Orthodox Church of Albania) against magistrate L.M., serving as a prosecutor at the Prosecution Office of the First Instance Court of Sarandë, for failure to conduct investigations and delay in investigations concerning the criminal report regarding several posts containing content that incites religious hatred.

From the legal analysis of the facts established during the disciplinary investigation against prosecutor L.M., it results that:

- The magistrate subject to the disciplinary investigation carried out actions/omissions, in violation of the criminal procedural legislation, with regard to the unjustified delay of actions and/or procedural acts beyond reasonable investigative deadlines, identified during the preliminary investigations in 10 criminal proceedings over the period 2019–2021, mainly concerning criminal offences that do not present a high degree of social dangerousness and which infringed legal relations established in the Republic of Albania that protect property, life, health, honor, and the constitutional order.
- The data from the disciplinary investigation did not reveal any situation that was beyond the control of the magistrate and that could be related to the malfunctioning of the judicial or prosecutorial system, but, in assessing the commission of the disciplinary violation concerning delays in carrying out investigative and procedural actions during the exercise of his function, consideration is also given to the workload that magistrate L.M. had as a prosecutor and as head of the prosecution office during 2020–2021.
- The conduct of the magistrate was passive. During the disciplinary investigation, he did not present any allegation or request.
- The inappropriate conduct of the magistrate subject to the disciplinary investigation does not extend only to the magistrate but creates grounds for inappropriate conduct in other similar cases as well. The incorrect standard of conduct of the prosecutor may also be followed by other magistrates, undermining the image of the prosecutor and reducing public trust in the prosecutor as a procedural figure exercising criminal prosecution.

For the foregoing, HJC was requested to accept the request of the High Inspector of Justice for the imposition of the disciplinary measure “*Temporary reduction of salary by 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, against magistrate L.M., serving as a prosecutor at the Prosecution Office of the First Instance Court of Sarandë, for the disciplinary violation provided for by Article 102, paragraph 1, letter “d” of Law no. 96/2016 “On Status”, as amended.