

INFORMATION NOTE

Tirana, 16 September 2021

Regarding the request of the High Inspector of Justice for disciplinary proceedings, with the disciplinary measure of “reduction of salary by up to 40%, for up to 1 year,” against Judge P.F.

The High Inspector of Justice (HIIJ) has completed the disciplinary investigation against magistrate P.F., serving as a judge at the Elbasan District Court, based on the case initiated against the magistrate in 2017 by the Inspectorate of the High Council of Justice (HCJ) and subsequently transferred, at the request of the HIIJ, by the Ministry of Justice and the High Judicial Council (HJC).

Background: The disciplinary investigation against magistrate P.F. was initiated following the broadcast, on 31 January 2017, of facts on the investigative television program “STOP” on TV Klan, which seriously compromised her standing and position as a judge. It was alleged that, in exchange for a sum of money, she had undertaken to impose the minimum sentence on a detained defendant.

Subsequently, the Serious Crimes Prosecutor’s Office initiated criminal proceedings, and the security measure of “suspension from a public duty or service” was imposed against the magistrate. For this reason, the then HCI suspended her from office and suspended the disciplinary investigation until the conclusion of the criminal proceedings. Following the dismissal of the investigation by the Prosecutor’s Office, by decision dated 20 July 2017, the disciplinary investigation was reactivated concerning conduct and actions that discredited the position and standing of a judge.

The investigation also focused on the magistrate’s use of the expression “positive predisposition toward resolving the case,” which was considered inappropriate for a judge, as it created the perception of a lack of impartiality and undermined the moral standing of the judge. The investigation report was forwarded to the Minister of Justice for assessment as to whether disciplinary proceedings should be initiated; however, this competence was not exercised. The relevant documentation was subsequently forwarded to the High Inspector of Justice in December 2020.

Upon receiving the case file from the Ministry of Justice and subsequently from the High Judicial Council, the High Inspector of Justice concluded that the investigation of the magistrate had been incomplete and therefore decided to continue the investigation concerning the same disciplinary violation.

In conclusion, following an analysis of the facts, the HIIJ investigation report concludes that:

- The magistrate engaged in actions constituting improper performance of her duties, violating the rules concerning courtroom solemnity and conduct toward the parties, and engaging in ex parte communications with two individuals who presented themselves as relatives of the defendant.
- The communications were intentional and repeated and were not prompted by the persons concerned. The judge voluntarily provided information regarding the progress and anticipated outcome of the case, including the issue of sentencing, the postponement of the trial, the benefit to the defendant, and measures for replacing the prosecutor.
- These actions undermined the prestige of the judicial office and public confidence in justice, affecting the fundamental principles of impartiality and judicial integrity.

- Despite having 28 years of experience as a judge, the magistrate failed to demonstrate the care and self-restraint required by her position, thereby creating the perception of a favorable resolution of the case rather than a fair and impartial decision-making process.

In light of the foregoing, the High Inspector of Justice requests that the HJC accept the request to initiate disciplinary proceedings against magistrate P.F., serving as a judge at the Elbasan District Court, and impose the disciplinary measure of “*Temporary reduction of salary by up to 40% for a period not exceeding one year,*” as provided for under Article 105, paragraph 1, letter “c”, subparagraph “i”, and Article 108 of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania,” as amended.

As has been made known, to prevent a culture of impunity and neglect, the High Inspector of Justice is reviewing cases that were only partially addressed by the previous bodies, due to the limited and divided competences among the various institutions during the transitional period.

The HIIJ is carrying out this process through a specific methodology, according to an order of priority based on criteria such as: the date of submission, the stage of processing by the previous bodies, the type or urgency of handling the complaint, compliance with the principle of equality and objectivity, as well as the time required to examine and assess each documentary case file.