

INFORMATIVE NOTE

Tirana, 16 June 2023

Regarding the request of the High Inspector of Justice for disciplinary proceedings seeking the measure of “Dismissal from Office” against Prosecutor S.H.

The High Inspector of Justice initiated disciplinary proceedings ex officio concerning the conduct of magistrate S.H., serving as a prosecutor at the Prosecutor’s Office attached to the Sarandë District Court, for the disciplinary violation provided for under Article 148/d, paragraph 2, letter “b”, of the Constitution of the Republic of Albania, as well as Article 104 of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania,” as amended.

Based on the legal analysis of the facts established during the disciplinary investigation against Prosecutor S.H., it has been determined that:

- The magistrate was found guilty by the Special Court of Appeal against Corruption and Organized Crime of committing the criminal offenses of “Passive Corruption of Judges, Prosecutors and Other Justice Officials” and “Failure to Declare or Refusal to Declare Assets and Private Interests by Elected Persons or Public Officials, or by Any Other Person Legally Obligated to Declare Them,” and was sentenced to 2 years and 4 months’ imprisonment.
- It was established that the magistrate subject to the disciplinary investigation undertook actions that were deemed to contain elements of the criminal offense provided for under Article 319/ç of the Criminal Code, committed in the exercise of his duties and with the purpose of obtaining an undue benefit from his position, by favoring a party to the proceedings through the issuance of a judicial decision. The criminal offense was committed with direct intent, even though no actual exchange of money or other benefits took place between the two parties, since it is sufficient for an agreement (pactum sceleris) to be reached in the form of a promise of reciprocal unlawful benefits, even without direct contact between the parties. It is sufficient that the senior justice official (including a judge or prosecutor) is aware of such an arrangement, and the existence of the corrupt agreement may also be established based on circumstantial evidence.
- Based on the legal analysis of the established facts, taking into consideration the nature of the disciplinary violation, namely the commission of a crime for which the magistrate was convicted by a final judgment and the fact that, in the present case, the disciplinary violation constitutes a “Very Serious Disciplinary Violation,” it is established that magistrate S.H. has seriously discredited the standing, authority, and dignity of a magistrate and undermined public confidence in the administration of justice.

In light of the foregoing, the High Prosecutorial Council is requested to accept the request of the High Inspector of Justice for the imposition of the disciplinary measure of “Dismissal from Office” on Prosecutor S.H., as provided for under Article 148/d, paragraph 2, letter “b”, of the Constitution of the Republic of Albania, and Article 111 of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania,” as amended.