

INFORMATIVE NOTE

Tirana, 11 April 2024

Regarding the request of the High Inspector of Justice for disciplinary proceedings seeking the measure of “Confidential Reprimand” against Magistrate Sh.M.

The disciplinary investigation against magistrate Sh.M., a prosecutor at the Prosecutor’s Office attached to the Court of First Instance of General Jurisdiction of Shkodër, was initiated at the initiative of the complainant, the Prosecutor General, following a complaint submitted by an employee of the Shkodër Prosecutor’s Office concerning a serious violation by the magistrate of the rules of solemnity and the rules of conduct in relations with the parties. The investigation concerned the identification, during December 2020, of several facts relating to violations of the rules of conduct toward the administrative staff of the Prosecutor’s Office attached to the Shkodër Court of First Instance.

The disciplinary investigation conducted by the High Inspector of Justice established that:

- The magistrate violated the rules of conduct toward the administrative staff of the Prosecutor’s Office, specifically the complainant who had filed the complaint with that institution, in breach of the principle of respect for ethical rules and professional conduct. These identified violations are not related to her professional activity and may be relevant only for the purposes of assessing her ethical and professional conduct; however, they are of such a nature that the magistrate should bear disciplinary responsibility.
- It is established that, although the actions and conduct of magistrate Sh.M. were intentional, the consequences of the violation were mitigated and ultimately eliminated by the fact that the respective disciplinary and legal proceedings were “Dismissed” and “Not Initiated,” thereby causing no legal consequences for the parties. Subsequently, the relations between the parties were normalized.
- The conduct of prosecutors in a professional context is of paramount importance. With reference to the Bangalore Principles, even a violation of ethical principles, whether in the workplace or outside it, may constitute grounds for undermining public confidence in the justice system.
- The fundamental purpose of a disciplinary measure is to protect the public interest by establishing the magistrate’s disciplinary responsibility. The measure also serves two preventive purposes: specific prevention, in the sense that the magistrate should not commit further disciplinary violations in the future; and general prevention, in the sense that other magistrates understand that inappropriate conduct should not be engaged in, as it is punishable by a disciplinary measure.

The disciplinary investigation concludes that the violations committed by magistrate Sh.M. are of a minor nature, considering, among other factors, the absence of any actual consequences. Accordingly, the High Inspector of Justice proposes that the High Prosecutorial Council impose the disciplinary measure of a “*Confidential Reprimand*” for the disciplinary violation provided for under Article 102, paragraph 2, letter “dh”, of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania,” as amended.