

INFORMATION NOTE

Tirana, 18 September 2024

Regarding the Request of the High Justice Inspector for Disciplinary Proceedings against Magistrate A.B., Seeking the Disciplinary Measure of “Temporary Reduction of Salary by up to 40% for a Period of up to One Year”

The High Justice Inspector conducted a disciplinary investigation following a complaint submitted by V.Q. to the High Justice Inspectorate against magistrate A.B., a prosecutor at the Prosecution Office attached to the Court of First Instance of General Jurisdiction of Shkodër. The complaint concerned an alleged delay of more than three years in issuing the enforcement order for the criminal judgment in favor of the complainant.

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

- The magistrate subject to the disciplinary investigation unjustifiably delayed, for a period of three years and nine months, the issuance of a procedural act, in breach of Articles 462–466 of the Code of Criminal Procedure and Article 49/1 of Law No. 8331, dated 21 April 1998, “On the Execution of Criminal Decisions,” as amended.
- The prosecutor’s failure to act infringed upon the rights afforded to persons sentenced to imprisonment. In the present case, maintaining the individual under pre-trial detention status impaired the exercise of the rights available to a convicted person. In particular, he was unable to exercise his rights to benefit from reward leave or to submit requests for sentence reduction. Because of the failure to issue the enforcement order, citizen V.Q. applied to the court for recognition of the period during which the judgment remained unenforced as a period of pre-trial detention. Following the issuance of the enforcement order, this individual benefited from three sentence reductions.
- The disciplinary violations committed by magistrate A.B. were the result of negligence, given that the prosecutor was the officer assigned to, and responsible for, the office responsible for the enforcement of criminal decisions.
- Considering the facts established during this disciplinary investigation, it appears that the conduct of the magistrate subject to disciplinary investigation, who has more than 20 years of professional experience, may create a risk of inappropriate conduct in other similar cases as well.

The disciplinary investigation conducted by the High Inspector of Justice concluded that the actions and/or omissions of the magistrate constitute disciplinary misconduct that undermines the integrity of the magistrate and public confidence in the administration of justice. Accordingly, the High Justice Inspector proposes that the High Prosecutorial Council impose upon prosecutor A.B. the disciplinary measure of “*Temporary reduction of salary by up to 40% for a period of up to one year,*” as provided for under Article 108 of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania,” as amended, for the disciplinary violation provided for under Article 102(1)(d) of the same law.