

INFORMATION NOTE

Tirana, 7 December 2023

Regarding the submission of the High Justice Inspector for disciplinary proceedings, referred by the High Judicial Council (HJC) for competence, concerning magistrate M.K.

The High Justice Inspector (HJI) has administered the disciplinary proceedings file concerning M.K., a judge at the Court of First Instance of General Jurisdiction of Durrës, which was referred to the HJI for competence by the High Judicial Council on 30 June 2023. The proceedings had been initiated by the General Directorate of Justice Affairs, pursuant to Order No. 4281/2, dated 17 July 2012, of the Minister of Justice, based on a complaint submitted by a banking entity.

Following a documentary analysis of the file for the purpose of identifying the legal elements, as well as the facts or circumstances to be addressed by the High Justice Inspector, as the responsible body to which the powers of the former bodies—such as the Inspectorate under the High Council of Justice or the Minister of Justice for conducting disciplinary investigations and/or initiating disciplinary proceedings—have been transferred, it was established that, following the conduct of the investigative process, the Minister of Justice had requested the initiation of disciplinary proceedings and had proposed that the High Council of Justice impose the disciplinary measure of “*Dismissal from office.*”

After submitting the requests for the initiation of disciplinary proceedings, the Minister of Justice requested the suspension of the disciplinary proceedings against magistrate M.K. The High Council of Justice, by decisions dated 14 February 2013 and 19 July 2013, pursuant to Article 23 of Law No. 8485, dated 12 May 1999, “Code of Administrative Procedures,” decided to suspend the Minister of Justice’s request for disciplinary proceedings against the judge.

In the assessment of the HJI, the suspension of disciplinary proceedings by the High Council of Justice constitutes a legal status that prevents the parties from further pursuing the disciplinary proceedings already initiated until the circumstance giving rise to the decision to suspend them ceases to exist. Consequently, the HJI referred to the HJC, as the body to which the former functions of the High Council of Justice have been transferred, a request to verify whether the grounds for the suspension had ceased to exist or were still in existence, as well as to adopt an interim decision concerning whether or not to resume the disciplinary proceedings against the magistrate.

On 30 November 2023, the HJC decided to revoke the decisions of the former High Council of Justice “On the suspension of the disciplinary proceedings until the completion of judicial review before higher courts” and to continue the examination of the request for disciplinary proceedings against magistrate M.K., and to forward the acts to the High Justice Inspector.

The HJI established that the alleged disciplinary violations committed by magistrate M.K. in 2009 and 2012 had become time barred. Due to the expiry of the statutory limitation period, the

disciplinary body no longer had the right to investigate or impose a disciplinary measure, pursuant to the principle of legal certainty.

For this reason, the HJI requested that the HJC close the disciplinary proceedings against M.K. on the grounds that the alleged violations were time-barred.