

INFORMATIVE NOTE

Tirana, on 26.05.2021

Regarding the request of the High Inspector of Justice for the dismissal from office of judge K.S.

On 24.02.2021, High Inspector of Justice changed the object matter of the disciplinary investigation against magistrate K.S., Judge at the Durrës Court of Appeal. (an investigation initiated by the High Council of Justice on 17.01.2018). At the conclusion of the investigation, High Inspector of Justice identified disciplinary violations related to the commission of a crime, pursuant to Article 140, paragraph 2, letter “b” of the Constitution and Article 104, paragraph 3 of Law No. 96/2016.

K.S. was found guilty of the criminal offense “Passive corruption of a judge, prosecutor and other officials of the justice bodies”, pursuant to Article 319/ç of the Criminal Code, by Decision No. 69, dated 29.10.2019 of the Tirana First Instance Court for Serious Crimes, upheld by Special Court of Appeal of Corruption and Organized Crime by Decision No. 19, dated 21.09.2020. He has been suspended from duty since Decision No. 23, dated 09.02.2018 of the High Council of Justice. Meanwhile, on 18.01.2021, K.S. submitted a request to resign from office and termination of the status as a magistrate. However, pursuant to Article 134, paragraph 1, letter “ç” of Law No. 96/2016, resignation does not constitute grounds for closing the disciplinary investigation. For this reason, the High Judicial Council, by Decision No. 69, dated 01.03.2021, suspended the consideration of the resignation until the completion of the disciplinary investigation. Consequently, K.S. continues to hold the status of magistrate and remains subject to the disciplinary investigation.

In relation to the facts proven in this disciplinary investigation process, as well as accepted by the court, it results that:

- The magistrate undertook active actions through direct benefit, actions which were assessed as containing elements of the criminal offense provided for by Article 319/ç of the Criminal Code, committed during the exercise of his duty, with direct intent and with the purpose of obtaining an unlawful benefit from them, by favoring one of the litigating parties through the issuance of a civil court decision in his favor.
- The actions of magistrate K.S. have impaired the regular activity of the justice bodies through the irregular actions of external persons, but also through the actions of the justice officials themselves.
- These actions have undermined the trust of the litigating parties and the public in the justice bodies and their respect for the law, as well as seriously discredited the position and image of the magistrate.
- When the disciplinary violation is identified with the commission of a crime, for which the magistrate has been convicted by a final court decision, it entails the dismissal from

office of the magistrate, as a measure of an exclusionary nature from the judicial system, with a permanent character, which does not lapse.

Consequently, High Inspector of Justice has requested to the High Judicial Council to administer the evidence submitted in this disciplinary proceeding, accept the request of the High Inspector of Justice for the initiation of disciplinary proceedings and impose upon magistrate K.S. the disciplinary measure of “dismissal from office”.