

INFORMATION NOTE

Tirana, 19 March 2024

Regarding the request of the High Inspector of Justice for disciplinary proceedings with the measure of “Dismissal from Office” against magistrate A.D.

The High Inspector of Justice has completed the disciplinary investigation based on a complaint filed by a citizen with the High Judicial Council in 2019 and subsequently referred to the HIJ as the competent authority. The complaint concerned the conditional release granted by magistrate A.D., a judge at the Gjirokastrë District Court, to a repeat offender, in violation of the law. Conditional release was the subject of the first thematic inspection initiated by the HIJ shortly after it began operating, in February 2020, concerning the examination of requests for conditional release for the period 01.01.2017 - 01.01.2020. The inspection also covered the Gjirokastrë District Court, where Judge A.D. served. As part of the inspection, the decisions granting requests for conditional release issued by A.D. during this period were obtained and reviewed.

The disciplinary investigation conducted, which also included an analysis of 11 decisions rendered by the judge during the period 2017–2020, established that:

- The magistrate who is the subject of the disciplinary investigation took actions and/or failed to take actions that resulted in violations of Article 64 of the Criminal Code, Article 477 of the Code of Criminal Procedure, and Article 75 of Law No. 81/2020 “On the Rights and Treatment of Convicts and Pre-Trial Detainees,” as amended.
- The magistrate failed to obtain decisive evidence necessary for the resolution of the case, thereby demonstrating bias in the adjudication of the matter. This was reflected in the issuance of decisions concerning three convicted applicants, with the purpose of unlawfully granting them conditional release and unlawfully reducing their sentences, through the incorrect application of substantive and procedural law. This resulted in an unjustified benefit, which constitutes the direct consequence of the disciplinary violation.
- The magistrate failed to comply with mandatory legal provisions establishing objective and subjective criteria for granting conditional release in a lawful manner, as well as clear criteria concerning the reduction of sentences. The magistrate’s professional experience in office was sufficient to enable him to correctly interpret and apply these provisions.
- The magistrate’s actions and/or omissions were carried out directly and deliberately.
- The magistrate’s conduct had consequences for the administration of justice, undermining the prestige of the judicial office and public confidence in the justice system. The erroneous standards reflected in these judicial decisions could also be applied by other magistrates and could serve as a precedent for other convicted persons who pose a very high level of social danger to seek conditional release contrary to the applicable legal provisions, without the correct application of substantive and procedural law. Similar circumstances had previously occurred in cases involving convicted persons posing a high level of social danger.

The High Inspector of Justice considers that the actions and/or omissions undertaken by magistrate A.D. constitute a “Very Serious Disciplinary Violation”, which discredits the position and standing of a judge in the exercise of his duties. Accordingly, the HIJ proposes that the High Judicial Council impose the disciplinary measure of “*Dismissal from Office*”, as provided for under Article 111 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, paragraph 1, subparagraph “dh”, and Article 102, paragraph 2, subparagraph “a” of the same Law.