

INFORMATIVE NOTE

On the request for disciplinary proceedings with the disciplinary measure "Public reprimand", for prosecutor E.K.

High Inspector of Justice has initiated the disciplinary investigation on its own initiative and following a complaint from the Albanian Helsinki Committee and 18 civil society organizations against the magistrate E.K., with the duty of prosecutor in the Prosecution Office at the Tirana Judicial District Court, for a disciplinary violation provided for in Article 102/1 letter dh, of Law No. 96/2016 "On status", as amended. The reason for the initiation of this disciplinary investigation were the facts made public on 21.02.2020 in the media regarding suicide within the premises of Prison No. 313 of the citizen B.H., a father of 4 children. It was made present in the media that this citizen had been under the security measure of "arrest in prison" for several months for the criminal offense of "theft" of an amount of 1200 ALL, had mental health problems, and was awaiting the scheduling of the preliminary hearing.

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

- Magistrate E.K. has committed a disciplinary violation due to professional inaction: after she was made aware, during the hearing for the security measure, of the data regarding the severe mental state of B.H., she did not use them as indications to undertake further investigative actions, specifically conducting a forensic psychiatric evaluation and verifying his criminal responsibility. According to the report, this passivity constitutes non-compliance with the obligations provided by the Code of Criminal Procedure and fulfills the elements of a disciplinary violation.
- The violation is assessed to have been committed out of carelessness, in the form of negligence, not intentionally. In the assessment, the very high workload was also considered. However, due to her 27-year experience and her role as a prosecutor professionally evaluated with very good results and her exercise of the function as head of the prosecution office for several years, she had the possibility to foresee the consequences of inaction.
- The prosecutor's inaction prevented the verification of the defendant's mental state and the taking of appropriate measures. The case proceeded toward trial and B.H. remained in the institution for the execution of sentences. However, HIJ report emphasizes that the prosecutor's inaction does not result to have caused his death.
- The violation is considered to have damaged the image of justice and public trust, as the case received significant attention in the printed and visual media.

High Inspector of Justice assesses in the report that, taking into consideration among other things that such as the fact that the violation was committed out of negligence and for the first time, also the high workload, it evaluates the violation as minor and has proposed to the High Prosecutorial Council the imposition of the disciplinary measure "Public reprimand", provided by Article 105 paragraph 1 letter a and Article 107 of Law No. 96/2016 "On the Status", for the disciplinary violation provided for by Article 102, point 1, letter "dh", of Law No. 96/2016 "On status ", as amended.