DECISION EXTRACT

On the eligibility criterion under Article 120, point 1, letters “d” and “dh” (in relation to judicial and prosecutorial activity)

(Decision dated 19.11.2025)

The complainant has addressed the Office of the High Inspector of Justice with several complaints, in which he raises claims concerning the activities of a prosecutor and a judge, respectively, at the Prosecution Office and the First Instance Court of General Jurisdiction. The complaints have been joined for examination, as they relate to the same facts and are addressed to the same magistrates.

The complainant contests the request of the prosecution body for the confiscation of an immovable property, as well as the court's decision approving the request for confiscation. The complainant claims that the actions of the prosecution and the court's decision were taken in violation of the law. He also requests the refutation of a news item published in the media in connection with administrative penalty decision No. 11 of 2020, with the claim that this decision has not taken final form.

From the initial review of the complaints, with reference to the eligibility criteria provided for in Article 120 of the law “On the Status of Judges and Prosecutors in the Republic of Albania,” it results that the complaints have been submitted in the form specified in Article 120, point 1, letter “a” of this law, since they contain the complainant’s generalities and address, describe the factual circumstances alleged to have occurred, and contain the first and last names of the magistrates, as well as the court and the prosecution office at which these magistrates exercised their function at the time when the violation is alleged to have been committed.

From the content of the complaint and the information obtained from the Case Management System, it is established that the claims raised refer to facts that occurred within the limitation period. Consequently, the complaints meet the eligibility criterion provided for in Article 120, point 1, letter “b”, of Law No. 96/2016, as amended, as they were submitted within the 5-year limitation period.

Regarding the claims against the prosecutor, it is considered that the submission of the request for the confiscation of the property constitutes the exercise of his legal functions within the framework of criminal prosecution.

The legality of the prosecutor's actions, as well as the evaluation of the facts, evidence and applicable law, are subject to judicial review. In the specific case, the prosecutor's request was examined by the court, which accepted it.

From the preliminary review of the complaints, no legal or factual basis has been identified that would create a reasonable doubt for the initiation of a disciplinary investigation against this magistrate. As results from the verification carried out in the Case Management System of this court, a criminal request was registered with the object "confiscation of the seized assets of citizen X", submitted by the prosecutor, and at the conclusion of the trial, by decision dated 23.06.2025, the judge of the case decided to accept the request and to confiscate the seized property.

Regarding the claims raised by the complainant against the judge, that the decision was made in violation of the law, it is considered that these are claims that relate to the manner in which the judicial case was resolved and the evaluation of the evidence by the respective court.
The examination and evaluation of the parties' claims and of the evidence during a judicial process, and the interpretation of the law according to the judge's inner conviction in the adjudication of a case, are attributes of the judicial power. The High Inspector of Justice cannot substitute the courts in the exercise of their judicial function. Exceptionally, disciplinary responsibility may be exercised where there are indications of conduct by the magistrate that constitute a disciplinary violation, but in the specific case no such indications have been found.

Consequently, regarding the claims against the magistrates, the complaints do not meet the eligibility criteria set out in Article 120, point 1, letters "d" and "dh" of Law No. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania," as amended, since the preliminary review does not reveal elements that create reasonable doubt of the alleged disciplinary violations having been committed.

As regards the complaints request for the refutation of the news item published in the media, regarding the administrative penalty decision No. 11 of 2020, it is considered that this request does not fall within the scope of the activities of the High Inspector of Justice, pursuant to Article 194, point 1, of Law No. 115/2016 "On the Governance Bodies of the Justice System", as amended, and for this reason, it cannot be addressed by the High Inspector of Justice.

FOR THESE REASONS

Based on Article 120, point 1, letters "d" and "dh" and Article 121, point 2, letter "a" of Law No. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania," as amended, as well as Article 214 of Law No. 115/2016 "On the Governance Bodies of the Justice System" as amended.

DECIDED

- To archive, following the preliminary review, the joined complaints filed by the complainant and registered against the magistrates.
- Pursuant to Article 121, point 3, of Law No.96/2016, as amended, this decision shall be notified to the complainant and the respective magistrates within 5 (five) days of its receipt.
- Against this decision, the complainant may file an appeal to the High Judicial Council and the High Prosecutorial Council within 1 (one) week of receiving the decision.

This decision enters into force immediately.