Extract of the Decision

Regarding the admissibility criterion based on Article 120, point 1, letter “and “dh”
(Disciplinary breach when the investigation commences)

(Decision dated 20.07.2026)

In the complaints submitted, the complainant, the People's Advocate, states that a convict serving a prison has submitted a complaint to his institution. The individual raised concerns that the time spent in prison in another state had not been calculated as part of the period of his sentence served and that he had not benefited from a sentence reduction under Law No. 33/2024, “On the Granting of Amnesty”. In particular, the complaint concerns the failure to take into account the period during which he was held in pre-trial detention in the other state at the initial stage of the execution of his sentence.

The People's Advocate has stated that, by a final decision dated 04.02.2019, the District Court ordered the revocation of the alternative sentence imposed by the decision dated 15.07.2016 and the enforcement of the two-year prison sentence. Initially, the enforcement of the sentence had been suspended and the convicted person had been placed on probation for a period of two years, then by a court decision, the individual was also sentenced to an additional three months of imprisonment for the criminal offence of “Actions Contrary to a Court Decision”.

Following the extradition of the convicted person from the foreign state, proceedings were initiated for the consolidation of the two sentences. During these proceedings, the court requested information on the sentence-serving record and the extradition documents, including information on the period of pre-trial detention in the foreign state.

The First Instance Court of General Jurisdiction ordered the consolidation of the sentences and imposed a single sentence of two years of imprisonment. The decision stated that the enforcement of the sentence would begin on the date of the final decision ordering the consolidation of the sentences, with 11 months and 20 days of imprisonment remaining to be served.

After the complaint submitted by the convicted person to the People's Advocate and the request for information addressed to the prosecution office, the complete extradition documentation was obtained. This documentation showed that the individual had been arrested in the foreign state on 15.06.2022 and had remained in pre-trial detention there until 12.07.2023, when he was extradited to Albania. This period, amounting to 1 year, 7 months and 12 days, should have been considered when calculating the sentence, in accordance with the relevant legal provisions.

Following the examination of the extradition documents, the prosecution office found that the period spent in pre-trial detention in the foreign state should have been deducted from the total sentence. Consequently, it concluded that the individual had served his sentence before the decision on the consolidation of the sentences was issued so The People's Advocate alleged that the failure to take into account, in due time, the period spent in pre-trial detention in the foreign

state had resulted in the individual unlawfully serving his sentence for a period of 9 months and 18 days. The People's Advocate further claimed that this unlawful imprisonment had occurred because the prosecutor responsible for sentence enforcement had failed to deduct the period spent in pre-trial detention in the foreign state from the sentence.

After the preliminary examination of the complaints, the High Inspector of Justice found that they met the formal admissibility requirements, but that the available information was not sufficient to directly justify the initiation of a disciplinary investigation. For this reason, by decision dated 05.05.2025, it was decided to verify the complaints and obtain the complete documentation relating to the enforcement of the sentence and the court case file concerning the consolidation of the individual's sentences.

The preliminary examination of the complaints showed that they did not contain clear and sufficient facts and were not accompanied by evidence justifying the initiation of a disciplinary investigation. Under Article 122, paragraph 1, of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania”, as amended, the High Inspector of Justice initiates a disciplinary investigation where there are reasonable grounds to suspect that a violation may have been committed, based on the facts and evidence collected, which justify the initiation of such an investigation.

Regarding the judge’s conduct, the High Inspector of Justice found that, in the present case, there were reasonable grounds for suspicion that the obligation to provide reasons for the decision and to assess the evidence collected had not been respected, in light of Articles 112, 152, 380 and 382 of the Code of Criminal Procedure. Failure to comply with these obligations may give rise to disciplinary liability on the part of the magistrate for the disciplinary misconduct provided for in Article 102, paragraph 2, letter (c), of Law No. 96/2016, “On the Status of Judges and Prosecutors in the Republic of Albania”, as amended, which concerns the issuance of acts that are unreasoned or insufficiently reasoned in cases where the law requires them to be reasoned.

Regarding the persecutor’s conduct, the High Inspector of Justice, upon analysing the documentation and information collected during the verification process, found that the magistrate, serving as a prosecutor at the First Instance Court of General Jurisdiction, had failed, when presenting the final conclusions during the proceedings for the consolidation of sentences, to request that the period of pre-trial detention served by the convicted person in the other state be recognised and taken into account when calculating the sentence. At the same time, this fact was also not taken into account when issuing the Enforcement Order dated 22.07.2024, even though the relevant extradition documentation had been requested and obtained during the court proceedings. The period of pre-trial detention was calculated only after the request submitted by the People's Advocate.

The Inspector analysed that in these circumstances, that there were reasonable grounds to suspect that the magistrate serving as a prosecutor had failed to fulfil at the right time, the obligations relating to the supervision of the enforcement of the criminal decision and the calculation of the period of pre-trial detention, as provided for in Articles 24, 465, 469 and 504, point 4, of the Code of Criminal Procedure, as well as Article 51, point 3, of Law No. 10193/2009, "On Jurisdictional Relations with Foreign Authorities in Criminal Matters", as amended.

This assessment also considered the fact that the prosecutor ordered the release of the convicted person after finding that the period of pre-trial detention in the foreign state should have been deducted from the final sentence. Based on the above arguments, failure to comply with these obligations gives rise to disciplinary liability on the part of the magistrate for the disciplinary misconduct provided for in Article 102, point 1, letters (ç) and (dh), of Law No. 96/2016, "On the Status of Judges and Prosecutors in the Republic of Albania", as amended.

FOR THESE REASONS

According to Article 133. 138 of Law No. 96/2016 "On the Status of Judges and Prosecutors in the Republic of Albania", as amended and Article 194 and 214, point 7, letter "a" of Law 115/2016 "On the Governance Bodies of the Justice System" as amended.

DECIDED

1. The conclusion of the disciplinary investigation against the magistrate, who was serving as a prosecutor at the Prosecution Office attached to the First Instance Court of General Jurisdiction at the time of the disciplinary misconduct, for the disciplinary violations provided for in Article 102, point 1, letters (ç) and (dh), of Law No. 96/2016, "On the Status of Judges and Prosecutors in the Republic of Albania", as amended.
2. The initiation of disciplinary proceedings against the magistrate, who was serving as a prosecutor at the Prosecution Office attached to the First Instance Court of General Jurisdiction at the time of the disciplinary misconduct.
3. The proposal of the disciplinary measure provided for in Article 105, point 1, letter c, subparagraph (i), and Article 108 of Law No. 96/2016, "On the Status of Judges and Prosecutors in the Republic of Albania", as amended.
4. Notification of the magistrate of the Investigation Report and the decision of the High Inspector of Justice on the conclusion of the disciplinary investigation against her for the disciplinary violations specified above.
5. Notification of the People's Advocate, in its capacity as the complainant, of the decision of the High Inspector of Justice to conclude the disciplinary investigation in the present case against the magistrate.
6. Transmission of the Disciplinary Investigation Report, together with the investigation file, and the Decision on the Conclusion of the Disciplinary Investigation to the High Prosecutorial Council.

   This decision shall enter into force immediately

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