

Exclusive: The 77 pages of the action by which the chiefs of the National Anticorruption Directorate, Laura Kovesi and Marius Iacob, were sued for serious disciplinary offences. The pretext of Kovesi that the recording when she used to order case files with ministers would have been falsified, was dismantled by the Judicial Inspection: “As regards the alteration alleged by the investigated person, this one was not confirmed as juxtaposition or connection of expertise... the defense will be denied as it is not grounded by evidence” (The action)

Lumeajustitiei.ro presents you for the first time the disciplinary action by which Laura Codruta Kovesi (photo) was sued together with her deputy, Marius Iacob, for serious disciplinary offences related to the working session with Section II of the National Anticorruption Directorate, when the chief of this prosecution office was recorded while she was ordering case files with prime ministers and ministers, using a language that horrified the entire nation. Unfortunately for the entire Romania, Kovesi claims that she has no reason to resign and puts everything on the falsification of the recordings involving her during the working session of Section II of the National Anticorruption Directorate dated 30 March 2017 and on the fact that “the attacks on justice have begun”. As if she or the National Anticorruption Directorate (it is the same) were the Justice! We publish below the justification of Kovesi related to the fact that she was sued for disciplinary offence “for the first time” and the motivation of the **Judicial Inspection** related to interceptions and the deeds for which the chiefs of the National Anticorruption Directorate were sued, mentioning that the entire disciplinary action can be read in.pdf file at the end of the article.

Kovesi claims that the interceptions involving her would have been falsified. The Inspection contradicts her

According to Agerpres, the chief of the National Anticorruption Directorate, Laura Kovesi, declared the following as at 29 January 2018:

1 <https://www.luju.ro/dezvaluiri/cazuri-patologice/kovesi-lasa-ne-exclusiv-cele-77-pagini-ale-actiunii-prin-care-sefii-dna-laura-kovesi-si-marius-iacob-au-fost-trimisi-in-judecata-pentru-grave-abateri-disciplinare-pretextul-lui-kovesi-ca-inregistrarea-cand-ordona-dosare-cu-ministri-ar-fi-fost-falsificata>

"I have been working within the prosecution office for more than 22 years and during all these 22 years I have never been charged with disciplinary investigation or disciplinary action. Quite incidentally, last year, when the attacks on justice began, when the Judicial Inspection gave a press release in which it supported the modifications to the Justice Laws proposed at the time by the Minister of Justice, many intimations ex officio of the Judicial Inspection started quite incidentally. I think there are more than 15 or 16. Therefore, it is very difficult to comment. But what I can say for sure is that, during this disciplinary investigation, targeting a recording that was distributed to the public in June last year, a report of findings and a forensic expertise were issued that established that the recording is not the original one and that the recording has undergone tampering. All my colleagues who attended the meeting were heard. I will make my defense within the Section for prosecutors and we will see what happens with these disciplinary actions" (...) During the 22 years of prosecutor's office, I have never been accused that I had a non-corresponding behavior in my relationships with the colleagues. I held thousands of meetings as chief of the institutions, I attended the meetings as prosecutor having executive position. I have never been accused of that. Only now, quite incidentally, when these attacks exist, when this assault on justice exists, I was accused that I would have used an empathic tone within the meeting ",

(...) It is very difficult for me to anticipate how long this judgement will last. The case is a very simple one, the evidence is very clear and obvious. I am going to defend myself in front of the Prosecutor's Section, as I did when the inspection carried out by the Judicial Inspection took place. I do not consider that I have to resign for something I have not made. From the very first time when that recording was spread, I have said that it is not an original recording, that it was tampered, that juxtapositions were made, that I have never made certain statements, that certain words do not make part of my vocabulary whether I am at work or at home, aspects that were also confirmed by the expertise and by the statements of my colleagues who attended the meeting".

The Judicial Inspection denied the defense of Kovesi

As regards the defense of Kovesi related to the so called falsification of the recordings published in mass media about how she used to order case files, the disciplinary action exercised within the case file 4759/IJ/912/DIP/217 on 9 January 2018 (resolution signed by the judicial inspectors Gina Margirescu and Mihaela Hitruc, endorsed by the Manager Adriana Pampu and confirmed for the deputy chief inspector of the Judicial Inspection by the prosecutor Gheorghe Stan) shows: "...following the analysis of the entire evidence submitted, it results, beyond any reasonable doubt, that within the working session dated 30 March 2017, the chief prosecutor of the **National Anticorruption Directorate** made some affirmations meant to prejudice the professional honor or probity and the authority of justice. The circumstance that part of the prosecutors heard do not remember these affirmations or that they appreciate that they have not been offending does not supersede either the certainty of these affirmations or the fact that, obviously, they were meant as such by their author, or that this one had not the representation of their character, or that these ones were considered usual language, so that no feeling of self-censorship appeared.

As regards the alteration of their content, alleged in defense by the investigated person, this was not confirmed as juxtaposition or connection by the technical and scientific report or by the forensic expertise, therefore the defense will be denied because it is not grounded by evidence.

The language used is alien to the framework of an official legal language of a magistrate and outside the standards regarding the exercise of the management position of a structure within the Public Minister (...)

The language used (putting aside the expressions not recognized by the prosecutors heard, namely 'pickle', 'screw it', 'grab', 'keep your ass on the files') can be ascertained by any equidistant and reasonable observer as being a language that does not suit to a magistrate, being an aggressive language, even licentious and meant to displease or revolt the public opinion, and on the other hand it comprises tendencies of intervention in the activity of some prosecutor magistrates related to criminal cases pending investigation...”

Please find attached the dispositions of the disciplinary action with the classification and brief description of the disciplinary offences:

(...)

“WE HEREBY DISPOSE

To admit partially the intimations ex officio, of the Minister of Justice and of the petitioners Marin Nicolae, Moraru Iorga Mihaela and Tulus Doru Florin, by exercising disciplinary actions against:

a) – the chief prosecutor of the directorate Laura Codruta Kovesi within the National Anticorruption Directorate, for having committed the disciplinary offences disposed by:

- art. 99 letter a) Law 303/2004, consisting in the fact that during the working session of the prosecutors within the Section for fighting against offences assimilated to corruption offences on 30 March 2017, at the office of the National Anticorruption Directorate, she had manifestations, during the exercise of the prosecutor’s tasks of the National Anticorruption Directorate, meant to prejudice the professional honor and probity of the magistrates prosecutors within this section, as well as the authority of justice, circumstances identified in the audio recordings distributed in mass media on 18 June 2017.

Specifically, the chief prosecutor of the National Anticorruption Directorate expressed in terms of fighting against the negative effects on the entity’s image and credibility, generated by the Decision of the Constitutional Court of Romania 68/2017, by which they have ascertained the existence of a conflict between the state powers generated by the actions of the National Anticorruption Directorate, by the urgent investigation of some cases “with ministers”, having media impact, expressed the disagreement related to the legal, final and generally binding Decision of the Constitutional Court of Romania 68/2017, used inadequate expressions against the Constitutional Court and against a judge of the Constitutional Court, inducing the idea within the public opinion that one of the criteria depending on which the settlement of case files is prioritized by the management of the National Anticorruption Directorate is the media impact thereof and the official position of the investigated people, relativizing the effects of the decisions of the Constitutional Court (unacceptable situation for a rule of law).

The chief prosecutor of the National Anticorruption Directorate used, in order to address the colleagues present at the working session that took place on 30 March 2017, an emphatic superior and aggressive tone, inadmissible related to the minimal ethics and deontology standards of an executive magistrate, as it was detailed in the expository part of this resolution. This behavior was meant to generate among the public opinion, following the fact that it was made known to the public, an indignation feeling and a legitimate doubt related to the fulfillment by the management of the National Anticorruption Directorate of the supremacy principle of the Constitution and of the laws, as well as of the prosecutor’s equity. Thus, an obvious prejudice was made against professional honor and probity of the prosecutors within the National

Anticorruption Directorate and the authority of the institution itself, resulting in the prejudice of the credibility of the deeds fulfilled by the prosecutors during the pending judicial procedures. The prestige of the Constitutional Court was also prejudiced, by the affirmations related to the non-recognition of the legal, final and generally binding character of its decisions (disposed by art. 147 par. 4 of the Constitution of Romania) and by those related to the person of one of the constitutional judges, former chief prosecutor of the National Anticorruption Directorate.

- art. 99 letter c) of Law 303/2004, consisting in the fact that by the email type correspondence sent in the evening of 20 June 2017 from the official email of the chief prosecutor of the National Anticorruption Directorate, to the emails of the prosecutors within the Section for fighting against offences assimilated to corruption offences, adopted an **unfair attitude, using words and expressions with obvious denigrating, insulting and defamatory content against the prosecutors within the Section**, namely “cowards”, “blabbers”, “offenders”, making the fact known that “there is already a circle of suspects”, relating to criminal case file no. 246/P/2017, breaching this way the obligation of reserve and normal behavior attached to the profession of magistrate, presented widely in the expository part of this resolution. The consequence of this breach is the **serious injury of honor, professional reputation and image of prosecutors**, recipients of the email, **as well as the prejudice of the image and credibility of the National Anticorruption Directorate** in general, by propagating the idea to the public according to which the relationship and addressing modality within this Directorate between the management and the prosecutors takes place in such a manner, incompatible to the rules governing the statute of magistrates,

- art. 99 letter m) second thesis of Law 303/2004, consisting in the fact that on 19 June 2017, considering the circumstances described in the expository part of this resolution, **it breached knowingly the provisions of art. 7, letter b) of the Internal Regulations of the National Anticorruption Directorate...** that refers to the tasks of the chief prosecutor of the National Anticorruption Directorate and disposes that this one: “follows-up the distribution of the causes or, as the case may be, distributes causes related to objective criteria such as the specialization and education of the prosecutor, the volume of activity, the complexity and efficiency in settling the causes, conflicts of interest or incompatibilities in exercising the position” by appointing, by handwriting resolution, as prosecutor of the case in case file no. 246/P/2017, pending the National Anticorruption Directorate – Anticorruption Section, of Mr. Marius Constantin Iacob, deputy chief prosecutor of the National Anticorruption Directorate, magistrate who incurs an obvious status of incompatibility, considering his presence among the participants in the working session on 30 March 2017 and the object of the aforementioned case.

Following the breach of the regulations and the appointment as investigator of a magistrate incurring an objective and obvious incompatible condition, **the principles of legality, impartiality and the fundamental rules were breached** (disposed by art. 1 par. 5, 16 par. 1 and 2, 20, 21 par. 3, 132 par. 1 of the Constitution of Romania, art. 1, 2, 4, 5, 8 of the Criminal Procedure Code) to which the criminal procedures must subordinate, in order to guarantee the right to a fair trial, according to art. 6 of the European Convention of Human Rights, **as well as the prestige and the credibility of the act of justice** whose realization was made by the National Anticorruption Directorate.

b) – the deputy chief prosecutor of the department, Marius Constantin Iacob, within the National Anticorruption Directorate, for having committed the disciplinary offences disposed by:

- art. 99, letter I) thesis I of Law 303/2004, consisting in the fact that starting with the date of the criminal file no. 246/P/2017 of the National Anticorruption Directorate – Anticorruption Section,

under the circumstances described in the expository part of this resolution, he has carried out criminal prosecution in this case, without filing the abstention request, although he obviously incurred the incompatibility disposed by art. 64, par. 1, letter f), referring to art. 65, par. 1 and art. 66 Criminal Procedure Code. This behavior has the ability to jeopardize the public trust in the impartiality of the act of justice, affecting the image of justice as public service and prejudicing the criminal prosecution carried out in case file no. 246/P/2017 of the National Anticorruption Directorate.”