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THE GODDESS IS PLAYING PETTY GAMES – Desperate that the Section for the Investigation of Crimes in the Justice System is making progress with the investigation, Laura Kovesi wants to block Gheorghe Stan at any cost, so as to leave the case in the hands of Lazar and his subordinates. In a shocking turn of events, the completion of the investigation in the Kovesi case could be sabotaged from the top of the General Prosecutors’ Office, the party targeted by the case

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Many rushed to mock Laura Kovesi's action to recuse the head of the Section for the Investigation of Crimes in the Justice System, even though he is not the prosecutor instrumenting the case in which the **former chief prosecutor of the DNA is under criminal investigation for accepting a bribe, abuse of office and false testimony**. A logical reaction, if we take into consideration the provisions of the Criminal Procedure Code, on the matter of recusal. In reality, Laura Kovesi's action is far-reaching, and could bring the entire case to a deadlock, as described below.

Laura Kovesi (seen in photo) announced on Friday, February 15th 2019, that she has filed a petition for the recusal of prosecutor Adina Florea from the Section for the Investigation of Crimes in the Justice System, who is currently investigating her case, as well as for the recusal of the head of this institution, Gheorghe Stan. As publicized in the media, Adina Florea's recusal was dismissed, the only one remaining under discussion being the recusal of Gheorghe Stan. **Normally, it should have been analyzed by Romania's Attorney General, Augustin Lazar, but since he is involved in Kovesi's case – in which the criminal pursuit was extended for aiding and abetting and false statements, for grounds pertaining to the lies of PICCJ in a press release, which, according to the prosecutors' internal regulations, was endorsed by Lazar, according to which, it was conducting an investigation into the extradition of Nicolae Popa – it shall be resolved by one of Lazar's deputies, most likely by the first deputy chief of PICCJ Laura Oprean.** Certainly, it is possible for Lazar not to abstain and render a resolution on the matter. Logically and legally, the petition for recusal should be dismissed, since Gheorghe Stan is not the case prosecutor. However, since anything goes in Romania, we wouldn't be surprised if Kovesi were to be indulged, and Stan were to be recused. What will happen, however, after such an event?

Invalidation of the bill of indictment, almost certain

And at this point, in our opinion, we get to the true purpose of the recusal petition. **Basically, once the recusal petition is accepted, Gheorghe Stan will no longer be able to take any action in Kovesi's case, and will no longer be able to confirm a potential bill of indictment. Because the bill of indictment for Kovesi, issued by Adina Florea, should be confirmed by Stan, Adina Florea's superior – who is now deputy head of the section. Whereas, with Gheorghe Stan recused, the bill of indictment shall go to the next superior prosecutor in line, none other than Augustin Lazar.**

If, in the meantime, the criminal investigation is commenced in personam against him, and he is even indicted for aiding and abetting and false statements for the aforementioned press release, it is easily understood that Augustin Lazar will be incompatible, and will no longer be able to endorse the bill of indictment. One of his deputies will receive this task, most likely first deputy chief Laura Oprean. In the end, if Lazar will have no involvement in the case, he will evidently be the one to confirm the bill of indictment.

In any case, with Lazar as the one to confirm the bill of indictment or first deputy chief Laura Oprean, there is a high possibility that Laura Kovesi's indictment will be blocked. Specifically, that the bill of indictment issued in the name of the former DNA chief prosecutor will be invalidated. And consequently, Laura Kovesi would be free of indictment. This, we believe, is the plan hiding behind the petition for recusal filed by Kovesi regarding prosecutor Gheorghe Stan.

What is certain is that the entire case goes to show, once again, why it is imperative to transform the Section for the Investigation of Crimes in the Justice System into a Directorate, so as to benefit from the necessary independence. That is why Minister Tudorel Toader should take under serious advisement the option of issuing an emergency ordinance to this effect, especially since it is an idea which he admitted to be considering.

The recusal petition cannot be admitted, de jure

Finally, let us examine the provisions of the Criminal Procedure Code regarding the recusal of magistrates. You will observe why the recusal of Gheorghe Stan is inadmissible. **Art. 67 of the Criminal Procedure Code stipulates, as clearly as possible, that the recusal is formulated solely against the prosecutor who is actively involved in the case, whereas Gheorghe Stan is not. Moreover, art. 67 of the Criminal Procedure Code stipulates that the recusal of the prosecutor called to decide on a recusal is inadmissible, which is exactly what Kovesi did when recusing Stan, who in his turn was to decide on the recusal petition of Adina Florea.**

Art 67 of the Criminal Procedure Code:

„Recusal

(1) In case the incompatible individual did not submit a statement of abstention, the parties, i.e. the main case subjects or the prosecutors can formulate a recusal petition, as soon as they become aware of the incompatibility.

(2) The recusal petition is formulated only against the person who is part of the criminal investigative body, the prosecutor or the judge conducting legal activities in the case. It is inadmissible to recuse the judge or the prosecutor called to decide on the recusal.

(3) The provisions of paragraph (2) apply accordingly in the case of recusing the assistant magistrate and the clerk.

(4) The recusal petition is formulated verbally or in writing, by demonstrating, for each individual separately, the invoked incompatibility and the de facto grounds which are known at the time of formulating the petition. The recusal petition that is formulated verbally is registered in minutes, or, as the case may be, a meeting report.

(5) Failure to comply with the terms provisioned in paragraphs (2)-(4) or formulating a recusal petition against the same person, for the same incompatibility case based on the same de facto grounds invoked in a prior recusal petition, which was dismissed, entails the inadmissibility of the recusal petition. The inadmissibility is ascertained by the prosecutor or the panel whom the recusal petition was brought before.

(6) The justice of the peace, the preliminary investigating judge or the panel before whom the recusal was formulated, with the participation of the recused judge, renders a decision on the preventive measures”.

[* Read here the Romanian version of the article](#)