



Research Article

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Legal changes of the decision not to initiate a proceeding in the Albanian criminal procedure code, their implementation in practice

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Abstract

The Prosecutor's Office is the only constitutional body that carries out criminal prosecution, when it becomes aware of a criminal offense.¹ Within the framework of the exercise of this constitutional right, when it becomes aware of a criminal offense, it must not necessarily pursue criminal prosecution. In all cases where it verifies that at first sight, or prima facie, there are legal reasons that prevent it from pursuing criminal prosecution, such as the cases: when the fact does not constitute a criminal offense, the criminal fact does not exist, the suspect dies, there are reasons for impunity related to the offense and the author, or in all other cases provided for in the law, the prosecution takes the decision not to initiate criminal proceedings.² The prosecution takes the decision not to initiate criminal proceedings, when prima facie, it is clear that there is no criminal offense, or there are circumstances that do not allow the criminal proceedings to continue and investigative actions to be carried out. Given the nature of this decision, in which the prosecutor's office only verifies and does not carry out investigative actions, the prosecutor's decision must be quick. With the changes made to Article 291 of the Code of Criminal Procedure, the decision not to initiate criminal proceedings must be taken within 15 days from the moment of registration of the criminal report and not within 30 days as it was before the changes in 2017.

This time change seems to be in accordance with the nature of this decision, since its taking has only verification and not investigative reasons. But how has this deadline been implemented in practice? What are the consequences of not respecting this deadline, in relation to the decision made? All of these will be part of the analysis of this manuscript.

Keywords: exercise of criminal prosecution, non-initiation of criminal proceedings, 15-day deadline, verification, investigation.

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