



**International Monitoring Operation**

*Project for the Support to the Process of Temporary  
Re-evaluation of Judges and Prosecutors in Albania*

Prot. No. 594/1

Tirana, 08 November 2023

To the

**Public Commissioners**

Bulevardi "Dëshmorët e Kombit", No. 5

Tirana

Albania

Case Number: **DC-P/TIR/1/20**

Assessee: **Suela \*\*\* Salavaçi**

**RECOMMENDATION TO FILE AN APPEAL**

according to

the Constitution of the Republic of Albania, Annex "Transitional Qualification  
Assessment", Article B, paragraph 3, letter c.

## Introduction

The Assessee Suela \*\*\* Salavaci holds the office of public prosecutor at the District Prosecution Office of Tirana. She is therefore assessed *ex officio* pursuant to Article 179/b, paragraph 3 of the Constitution of the Republic of Albania.

The Re-evaluation process was carried out by the Independent Qualification Commission (“IQC”) based on three criteria: assets, background and proficiency. At the end of the administrative investigation, the IQC notified the Assessee of its findings, shifting the burden of proof on a set of issues related to the asset assessment and the proficiency assessment.

The hearing took place on 26 September 2023 and following the deliberation as per Article 55, paragraph 5 of Law 84/2016 (“Vetting Law”), the Adjudication Panel decided to confirm the Assessee in duty pursuant to Article 59 Vetting Law.

The decision was announced publicly on 28 September 2023.

## Grounds for the recommendation

1. During her career the Assessee accumulated significant immovable and movable assets.

Reference is made, *inter alia*:

- to the apartment in Rruga \*\*\* \*\*\* (Tirana);
- to the apartment in \*\*\* ;
- to the pecuniary gifts received by her daughters.

The Assessee was also the co-holder of a bank deposit for a total value of 67.000 USD (although she alleged not to be the owner of the deposited money) and 10.000 EUR cash at home.

Furthermore, just shortly after the submission of the vetting declaration, the Assessee was donated by her parents the villa in Rruga \*\*\*\* \*\* where the whole family previously used to live.

The total value of the above assets (excluding the bank accounts) amounts to more than ALL 25.800.000.

On top of the above, the Assessee inherited around 5.000.000 ALL from her late father.

The Assessee explained during the investigation that such assets were created through the financial contribution of her parents. In the vetting and periodic declarations, the sources of income were normally described with the generic standard clause *“Family income, income from rent agreements, proceeds from sale of immovable properties, income from her brother in Italy, etc.”*

The IQC at the end of the investigation reached the preliminary conclusion that the Assessee and her parents lacked in significant amount lawful sources for the creation of these assets and burdened her to prove the contrary (although eventually it was decided to confirm her in duty).

2. The International Observers note that the parents’ alleged financial contributions to the Assessee were surprisingly steady, frequent and significant. Such claim – which basically implies that she lived at their expenses throughout her life - must be weighed with the greatest care, also considering that no donations were ever made by the parents to the Assessee’s brother during the same timeframe.



The International Observers therefore urge the Public Commissioners to independently and stringently assess whether the parents' sources of income existed, were lawful and were transferred to the Assessee.

3. The IOs further note that, even admitting the existence and lawfulness of the sources of income as claimed by the Assessee, these would not suffice to justify her assets, and her financial analysis would still be characterized by significant monetary shortcomings.

In fact:

- in March 2012 the Assessee signed an off-plan contract for the acquisition of an apartment in \*\*\* . The total price according to the vetting declaration was 72,000 EUR. Although the contract was in the Assessee's name, she declared that – as usual – the full price had been thoroughly paid by her parents.

However, she was unable to prove the existence of lawful sources for the last instalment, paid in March 2012.

The correlative financial shortcoming of 1,941,369 ALL must, therefore, be debited to the Assessee, who owned the asset<sup>1</sup>.

- The Independent Qualification Commission, without sufficient evidentiary backup, in the final decision deviated from the standards set forth by law

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<sup>1</sup> Such had been the conclusion reached by the IQC in the financial analysis attached to the results of investigation notified to the assessee.

However, this negative balance for the year 2012 was eventually mitigated by the IQC in the final decision, through the removal of the passive budget items related to the increase in bank deposits and to the payment of loan instalments, which had been previously included in the year 2012. The IQC final decision also removed the increase in bank deposits in the financial analysis of the year 2014.

This was without explanation, and it is striking that the same logic of elimination of the bank increases from the expenses was not applied to the financial analysis of the previous and following years.

9049/2003 (“HIDAACI law”) when considering the end-of-year savings declared by the Assessee in the PADs. This resulted in an unjustified advantage for the Assessee.

To this aim, the International Observers note that the end-of-year savings declared by the Assessee in the relevant box of the periodic annual declarations must be considered pursuant to the rule established in the HIDAACI law, according to which in the periodic declaration the declarant discloses additions or reductions of cash savings. Therefore, the calculation proposed by the IQC in the results of the administrative investigation was, in this regard, correct and should not have been altered in the decision. The claim of the Assessee that in the PADs of the years 2008-2016 she was not declaring *additions* to her cash savings, but merely the end-of-year *balance* of savings (aggregated in cash and in the bank) does not stand, because:

- The rule of Article 7 paragraph 1 of law 9049/2003 is clear in stating that the changes in savings (i.e. the additions or reductions) must be declared, and not the overall pecuniary balance at the end of the year.
- In order to justify a deviation from such legal standard, the Assessee should have provided strong evidence to corroborate her claim.
- In the present case, not only is there no such corroboration, but - on the contrary - the case file contains elements which point in the opposite direction. In fact:
  - When declaring the cash savings in the relevant box of the 2013 PAD, the Assessee described them as “Savings from *yearly* income”.



- Her bank statements show that on several occasions the end-of-year balance of the liquidities held in bank accounts alone was higher than the amount declared in the corresponding PADs. This is logically incompatible with the claim that in the PADs she was declaring the *overall* money balance, even more so considering that the PADs (in her own words) refer to the aggregate of banking savings and cash at home.
- The Independent Qualification Commission in its final decision failed to apply the evidentiary standards elaborated by the Special Appeal Chamber<sup>2</sup> for the calculation of travel expenses, thus reaching a more favorable result for the Assessee. Reference is made to the international travel tickets and holiday packages allegedly donated to her by friends. It does not appear that such gifts/preferential treatments were ever declared in the PADs.

Therefore, if we consider the cash savings declarations over the years as they should be by law, the financial analysis remains characterized by notable negative balances in the years 2007 (402.507 ALL), 2012 (1.279.460 ALL), 2014 (573.477 ALL) and 2015 (357.700 ALL), to which the minus corresponding to the instalment of the apartment in \*\*\* should be added (1.941.369 ALL). These figures might even be increased, depending on the modalities of calculation of the travels to Barcelona (2013) and USA (2014).

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<sup>2</sup> SAC decisions no. 11/2019 (RJ), \*\*\* \*\*\*, para. 27.7 ff. The International Observers note that, even applying the very favorable standards elaborated by the Assessee, the overall cost of the 9 travels/holidays donated to the Assessee by her acquaintances ( \*\*\*, \*\*, \*\*\* and others) would amount roughly to 5000 EUR.

The International Observers also note that accepting repeatedly significant gifts from third parties falls short of the ethical standards which, under national and international standards, would be expected from a public prosecutor. Reference is made to the CoE 'Budapest Guidelines on Ethics and Conduct for Public Prosecutors', 2005, and the International Association of Prosecutors (IAP) 'Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors', 1999.

Thus, even accepting that the Assessee's and her parent's monetary shortcomings should be compensated (when possible) with reciprocal surpluses, the financial analysis would still result in an overall negative outcome of 3.794.306 ALL<sup>3</sup>

4. The International Observers note that the financial situation would remain problematic even if the financial analysis should be conducted according to the methodology proposed by the Assessee (i.e. accepting that the declarations of cash in the PADs were referred to the overall cash balance). In this case, the overall minus would amount to 2,523,336 ALL, since the minus of 1,941,369 ALL from the third instalment for the apartment in \*\*\* should be added to the Assessee's minus of 581,967 ALL (as calculated by the Independent Qualification Commission after the hearing).

5. With regard to the proficiency assessment, the International Observers reckon that the decision of the IQC does not provide satisfactory analysis of the issues on which the burden of proof was shifted to the Assessee.

6. The above circumstances, in light of the standards applied by the Special Appeal Chamber in other cases where the financial shortcomings were even lower, justify an appeal from the Public Commissioner and the review of the case by the Special Appeal Chamber. In light of the foregoing, the International Observers

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<sup>3</sup> In particular, it seems that only in the years 2007 and 2015 the negative balance identified in the financial analysis of the Assessee could be compensated by corresponding positive balances in the financial analysis of her parents. On the other side, the negative balance identified in the financial analysis of the Assessee in the years 2012 (1.279.460 ALL) and 2014 (573.477 ALL) couldn't be compensated by the parents.

## RECOMMEND

that the Public Commissioners appeal the decision of the Independent Qualification Commission of 28 September 2023 which confirmed the assessee Suela \*\*\* Salavaci in duty.

Tirana,

International Observer

International Observer



International Observer