



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

Prot. No. 333/1

Tirana, 08/10/2024

To the
Public Commissioners
Bulevardi “Dëshmorët e Kombit”, Nr. 6
Tirana
Albania

Case Number **DC-VLO-1-10**

Assessee **Aurel Zarka**

RECOMMENDATION TO FILE AN APPEAL

According to

the Constitution of the Republic of Albania, Annex ‘Transitional Qualification Assessment’,
Article B, paragraph 3, letter c and Article 65, paragraph 2 of the Law no. 84/2016 “On the
transitional re-evaluation of judges and prosecutors in the Republic of Albania” (Vetting Law)

1. Introduction

The assessee Aurel Zarka holds the office of prosecutor in the Prosecutor's Office at the Court of First Instance in Vlora. He is 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 based on three criteria: assets, background, and proficiency. Upon administering the reports of the auxiliary bodies, thorough investigation of the case, administering evidence obtained through the investigation process and submitted by the assessee, the Independent Qualification Commission (hereinafter: IQC) Adjudication Panel closed the investigation on 07 June 2024 and notified the assessee the findings with passing the burden of proof.

The assessee of the reassessment after notification of his right to submit additional claims/explanations or receive new evidence related to the results of the investigation mainly conducted by the Commission, exercised the right to submit new submissions and evidence, which presented them officially to the Commission on 20 June 2024.

The trial panel, after considering and analyzing the explanations presented and supporting evidence on the results of the investigation, decided to invite Mr. Aurel Zarka to the hearing, in accordance with Article 55 of Law no. 84/2016.

The assessee was notified of the hearing, which took place on 27 June 2024.

Following the deliberation as per Article 55, paragraph 5 of the Vetting Law, the Adjudication Panel decided to confirm the assessee in duty pursuant to Article 59, paragraph 1, Vetting Law, and the decision was announced publicly on 28 June 2024.

Following the announcement of the decision of the IQC, on 30 July 2024, the Special Prosecution against Corruption and Organized Crime (hereinafter: SPAK) in its Press Release announced the following: *The SPAK, based on the verifications carried out mainly, has registered criminal proceedings no. * , dated * .02.2024, for criminal offenses "Exercising illegal influence against persons exercising public functions", "Active corruption of the judge, prosecutor and other justice officials", "Passive corruption of judges, prosecutors and other functionaries of the justice bodies", "Disclosure of secret acts or data" and "Narcotics trafficking", provided for by Articles 245/1, 319, 319/ç, 295/a paragraph (3) and 283/a of the Penal Code.*

(...) Assigning the person under investigation A.Z. (in the capacity of prosecutor) of the security measure "arrest in prison" provided for by Article 238 of the Criminal Code, suspected of criminal

offenses: (i) "Exercising illegal influence on persons exercising public functions", performed three times, performed in cooperation twice, provided for by Articles 245/1, (2) and 25 of the Criminal Code (amendments to Law No. 43/2021); (ii) "Active corruption of the judge, prosecutor and other justice officials", committed in cooperation, provided by Article 319 and 25 of the Criminal Code; (iii) "Passive corruption of judges, prosecutors and other functionaries of the justice bodies", provided by Article 319/ç of the Criminal Code.

Pursuant to Art. Ç par. 4 phrase 2 of the Annex of the Constitution, the International Monitoring Operation (hereinafter: IMO) requested the SPAK to provide acts from the file of the penal proceeding, including the *request of the SPAK and the decision of the Special Court.*

The SPAK sent the requested documents to IMO on 03 September 2024.

After receiving the requested documents from SPAK, IMO sent an official request to the Special Court against Corruption and Organized Crime (hereinafter: Special Court) to obtain all relevant decisions and materials regarding the criminal case against the assessee, which were received by IMO.

The IQC published its written decision on 7 of October 2024.

The International Observers, having reviewed the case file, the results of the public hearing and all the gathered information mentioned above, deem that a review of the case by the Special Appeal Chamber (hereinafter: AC) is necessary for the reasons explained hereinafter.

The International Observers (IOs) recommend to the Public Commissioners (PCs) to file an appeal against the decision no. 779 dated 28 June 2024 of the Independent Qualification Commission (IQC) in the case of the assessee Aurel Zarka, DC-P-VLO-1-10 case number, by which he was confirmed in duty.

2. Grounds for the recommendation

Due to new circumstances which have been presented in the official press release of SPAK received in an official letter no. *** Prot., dated ** September 2024 by IMO, the SPAK requested the Special Court to establish the pretrial detention measure against Aurel Zarka, the assessee is suspected of criminal offenses: (i) "Exercising illegal influence on persons exercising public functions", performed three times, performed in cooperation twice, provided for by Articles 245/1, (2) and 25 of the Criminal Code (amendments to Law No. 43/2021); (ii) "Active corruption of the judge, prosecutor and other justice officials", committed in cooperation, provided by Article

319 and 25 of the Criminal Code; (iii)"Passive corruption of judges, prosecutors and other functionaries of the justice bodies", provided by Article 319/ç of the Criminal Code.

The decision of the Special Court against Corruption and Organized Crime in Albania on the pre-trial measure against Aurel Zarka, Act no. * , dated **July 2024, established the pretrial detention measure against the assessee.

The IMO requested information from the Special Court in an official letter about the status of the decision, if the assessee has appealed against the decision of * July 2024.

According to official letter no. ** /* Prot. dated **September 2024 of the Special Court, the assessee did not appeal against the decision of * July 2024.

3. General conclusion

The International Observers recommend the Public Commissioners to file an appeal against the Independent Qualification Commission decision confirming the assessee in office.

The recommendation of the International Observers is based on the above-mentioned press release and the decision of the Special Court, Act no. **, dated * July 2024.

The International Observers remind the Public Commissioners to treat the decision and the information of it according to the order of the Special Court stipulated in its decision.

The International Observers invite the Public Commissioners to read and review the requested and received documents from SPAK and the Special Court at the premises of IMO.

The appeal would enable the Special Appeal Chamber to conduct a thorough investigation of the assessee, his asset assessment as well as the background and proficiency evaluations of the assessee, which would ensure that indeed he has the public trust, the restoring of which is the main aim of the vetting process and the institutions implementing it.

Respectfully submitted,



International Observer

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