



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



Prot. No. 338/  
1

Tirana, 16/10/2024

To the  
**Public Commissioners**  
Bulevardi "Dëshmorët e Kombit", Nr. 6  
Tirana  
Albania

Case Number            **DC-P/VLO/1/09**

Assessee                **Flora Çela**

**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 Flora Çela is a prosecutor with the First Instance Court Prosecution Office of the General Jurisdiction of Vlora. Her qualifications to remain in office were assessed by the Independent Qualifications Commission (“IQC”) pursuant to Article 179/b, paragraph 3 of the Constitution of the Republic of Albania.

The IQC conducted an investigation, held a public hearing with the assessee present, and then issued their interim vetting decision on October 17, 2023. In that decision, the IQC panel unanimously decided to suspend from office Prosecutor Çela and to mandate her participation in a training program at the School of Magistrates.

Thereafter, Prosecutor Çela successfully completed the School of Magistrates training program. On September 23, 2024, the IQC announced its final decision no. 802, approving Prosecutor Çela to continue in office as a prosecutor.

Unfortunately, at the time of the IQC investigation and decision-making, the IQC had only a partial copy of the file of one of the cases on which the assessee had been asked to provide explanations. The IO following the case subsequently requested an official copy of the case file from the Vlora District Prosecutorial office and the First Instance Court of the Vlora Judicial District. The case file documentation was received by the IMO on January 12, 2024.

The IO reviewed the case file, the results of the public hearing, and the two IQC decisions. Based upon this record, we deem that the evidence administered during the investigation justifies a review of the case by the Appeals Chamber. Specifically, the undersigned International Observers find that the IQC decision to confirm Prosecutor Çela to continue in office is unwarranted, given the numerous professional deficiencies demonstrated by the assessee.

## **Grounds for the recommendation**

Prosecutor Çela should be dismissed from office due to professional deficiencies in several cases which could not be remedied through attendance at the School of Magistrates. Dismissal is warranted because a review of her work reveals an insufficiency of knowledge, skill, judgment, and aptitude. Moreover, this pattern of work is so weak that it endangers and violates the rights of citizens.

See Constitution of Albania, Annex, Article E (5); Law No. 84/2016, “On the Transitional Re-Evaluation of Judges and Prosecutors in the Republic of Albania”, Articles 58, 60, and 61. Additionally, dismissal is appropriate because there is no basis to believe that the curriculum of the School of Magistrates could be capable of addressing such professional deficiencies.

An in-depth review of the assessee’s handling of one case in particular demonstrates numerous investigatory deficiencies and a lack of professional capacities.

## Facts of the Case

A major police operation was carried out in Vlora on July \*\*, 2017. The police successfully seized four Kalashnikov firearms, and 15.6 tons of cannabis sativa that were packaged and ready for shipment, as well as cannabis plants still in the ground. Nine persons were arrested, including two police officers and a village official. Prosecutor Çela was assigned to the case.

On July \*\*, 2017, assessee Flora Çela registered the proceedings for the crimes of “Production and Sale of Narcotics” (Criminal Code Article 283) and “Manufacture and Illegal Possession of Firearms, Ammunition, Weapons, and Explosives” (Criminal Code Art. 278). These crimes were attributed to three suspects: \*\*, \*\*, and \*\*. The criminal charges focused on 10 tons of marijuana which were found in an abandoned house. The house belonged to a person not living in Albania. Significantly, the house was located *immediately next* to the house where \*\* lived. Both \*\* and \*\* have established ties to narcotics offenses.

\*\* and \*\* were arrested at the scene of the crime. \*\* was not apprehended at the crime scene nor at his place of work, the \*\*\* beach bar located in Vlora.

Three days after the initial arrest, on July \*, 2017, the police found over 670 kg of *additional* cannabis sativa located in a hut near the property of \*\* and \*\*.

On September \*, 2017, the Vlora Police Department submitted an official referral to the Prosecution Office of Vlora since their initial financial assessment on \*\*, \*\*, and \*\* showed unjustified assets. The police reported that \*\* is registered as being involved in criminal activity of trafficking of narcotics since 2015, and \*\* has had such involvement since 1999. The police report analyzed the assets of the “\*” family, including the beach bar, and concluded that there was insufficient legitimate income to justify those assets.

As a further indication of the scope of both the contraband crimes and the significant police response, during the operation of the July \*, 2017, 5 *additional tons* of cannabis were also seized in another abandoned building. This was next to the house of suspect \*\*, under circumstances similar to that of \*\* and \*\*.

The case of \*\* was investigated separately from the case of the others. From the media articles available it appears that \*\* was released from custody by a decision of the First Instance Court. This decision was later reversed by the Court of Appeal of Vlora, however suspect \*\* could not be found after his release.

## Results of the Prosecution

Ultimately, only four people went to trial, with only one person being found guilty after trial. That person, \*\*, was convicted of the crime only of Cultivation of Narcotic Plants, Criminal Code Article 284. (This conviction flowed from the cannabis plants in the ground; thus, *no one was held criminally responsible for the several tons of packaged cannabis.*) Defendant \*\* was initially sentenced to a term of imprisonment of four years, which was later reduced by the appellate court to a term of two years and eight months.

### **Recommendation for Appeal**

In light of these circumstances, the undersigned International Observers recommend that the Special Appeals Chamber retrieve the prosecution files for this case and review the professional conduct of Prosecutor Çela under the auspices of the proficiency assessment.

The assessee's decision-making and actions in this one case alone were highly unprofessional for the following *fifteen* reasons.

**First**, Prosecutor Çela failed to register the case under both Criminal Code Articles 283/a "Trafficking of Narcotics" and under Article 284/a "Organizing and Leading Criminal Organizations." This failure was a significant professional mistake, in light of the solid intelligence information which led to the arrests, the quantity of narcotics recovered, the fact that the narcotics were packaged and ready for shipment, the multiple dangerous weapons confiscated, and the fact that a village official and police officers were among those arrested. All indications here were that this was not some minor possession for personal use, but, clearly, it was a major organized crime narcotics trafficking operation.

**Second**, Prosecutor Çela did not transfer the case to the Serious Crimes Prosecution Office, as she certainly should have. At the IQC hearing, the International Observer asked Prosecutor Çela to explain why she did not transfer the case to the Serious Crimes Prosecution Office. The assessee stated that the new legislation on the judicial reform had only recently passed and that prosecutors had been instructed to handle the cases locally.

However, it is notable that in April 2017, three months *before* the 16-ton seizure in this case, another prosecution office, in Përmet, referred to the Serious Crimes Prosecution Office a case in which 12 tons of cannabis were seized in very similar circumstances. Thus, it remains unclear why Çela intentionally chose not to register the offense with the Serious Crimes Prosecution Office.

It is indefensible that the biggest anti-marijuana operation undertaken in Albania which resulted in the successful seizure of a total of approximately 16 tons of cannabis sativa was broken down into four separate investigations – thereby diluting aspects of the case - and was *never referred to the specialized prosecution office which at the time was the Serious Crimes Prosecution Office*.

Despite substantial indicia to the contrary, the assessee excluded the element of organized crime which would have qualified the trafficking of narcotics. Clearly the narcotics still being grown in the ground, the recovery of multiple Kalashnikov firearms, and the 16 tons of packaged narcotics provide ample evidence of a crime being committed by a structured criminal organization, and as such the case was well within the jurisdiction of the Anti-Corruption Organized Crime Court. See Criminal Procedure Code Article 75/a. For this alone, one can conclude that Prosecutor Çela was highly incompetent, or worse, for not having processed the case at that appropriate level.

**Third**, although the police seized a digital video record (DVR) of the bar on the day of the arrest, and that video recording of the defendant's place of business could have provided evidence of the suspects's contacts and associations, the contents of the DVR were only examined on June \* , 2018, almost one year after the seizure. At that point, the DVR was empty, with no video evidence obtained.

**Fourth**, although substantial police intelligence and investigation preceded the arrest, there is no indication in the file that any of that intelligence was used in any meaningful way to connect any of the suspects or other persons to the contraband actually recovered. Moreover, the file has no reports of any of the judicial police officers working on the case besides the minutes of the questioning which happened on the day of the police operation or minutes of the modest investigative steps taken.

The file contains no acts or orders of the prosecutor Çela delegating duties to the judicial police officer to gather evidence or gather testimonies of the persons involved – contrary to the provisions of Criminal Procedure Code Articles 294/b (“Infiltration in Criminal Groups”), 304 (“Investigation Activity of the Prosecutor”), and 315 (“Recording of the Prosecutor’s Acts”).

The file contains only one report of the judicial police officers regarding analyses and results of some the investigative steps taken. This report of August \*\*, 2018, provides some information on the initial and basic investigative steps, including (i) questioning of persons that have knowledge of the criminal event, (ii) sending the samples to the laboratory to obtain fingerprints on the sacks of drugs, and (iii) administration of the photos of the crime scene.

Thus, the documentation within the file is extraordinarily deficient in that it provides no basis at all to review the scope of the investigation. This is particularly troubling in the present case where significant contraband was recovered, multiple arrests were made – including arrests of police – and only one individual was ultimately given a minor sentence.

**Fifth**, Çela was extraordinarily lenient in requesting the precautionary measure of “obligation to report to the judicial police officer” for the defendants. This precautionary measure was professionally insufficient and inappropriate as it was grossly incompatible with the quantity of narcotics and firearms recovered by the police. This is especially so given that one of the suspects, \*.\* , had a previous conviction for a narcotics crime.

**Sixth**, the police department on December \* , 2017, provided Prosecutor Çela with a detailed analysis of the communications and locations of the numbers which were obtained by the telecommunication companies based upon the request of the Vlora Prosecution Office. Although those numbers were related and located nearby, there appears to be no analysis or follow-up by the prosecutor, ignoring the evidence indicating that an organized group

was in fact involved in the criminal activity. Moreover, there appears to be no apparent effort to contact the persons associated with the phone numbers, take their testimony, or question them in any way.

**Seventh**, Prosecutor Çela decided to question the main suspect, \*\* , only on April \* , 2019, almost two years after the “flagrante” arrest made during the seizure of the narcotics. Moreover, the document of invitation / request is not in the file contrary to Criminal Procedure Code Article 308 (“Invitation to Appear”).

**Eighth**, there is *no indication in the file that \*\* was ever actually investigated* in any meaningful way, despite his being formally registered as a suspect. Nor is he investigated for his financial assets, despite being part of the same family as the other suspects. Although there were no investigative steps taken against him, \*\* appears to have formally taken knowledge of all the contents of the investigation as his signature is present in all the documentation notifying him.

**Ninth**, there were fingerprints lifted within the house where the 10 tons of narcotics were found. However, there is no indication in the file that these prints were ever compared with the Albanian police fingerprint database, nor were they ever identified as belonging to any particular person.

**Tenth**, there was a request to retrieve fingerprints from the packaging of the narcotics, but this request is made on June \*\* 2018, an entire year after the police operation.

**Eleventh**, a request was made to administrative authorities as to the ownership and use of the plot of land where the additional 600 kg of narcotics were found, but this was done on July \* 2018, a year after the police operation.

**Twelfth**, from the file there appears to have been no investigation as to the ownership of multiple bee houses which were located on land belonging to \*\* , even though local citizens had identified \*\* as the owner of the bees. Such an investigation could have further connected \*\* to the possession and ownership of the narcotics because the bee houses were *immediately adjacent* to the hut containing the narcotics.

**Thirteenth**, statements were taken from neighbours living near the house where the police recovered the 10 tons of narcotics, but these interviews were conducted in July 2018, again a whole year after the police operation.

**Fourteenth**, the financial investigation done after the initiative of the police and FIU was grossly insufficient. Despite this important lead from the Police Department, there was no meaningful follow-up investigation done at the direction of the prosecutor’s office. The financial investigation was incomplete because it did not include all of the family members, *excluding even the main suspect, \*\* , from the financial analysis*. This deficiency in the

investigation was highly significant, especially since \*\* was registered as person under investigation for both the criminal offences of “Production and Sale of Narcotics” and “Laundering of Proceeds of Criminal Activity”. Moreover, there was no overall investigation of the “\* ” family, contrary to the provisions of law No. 10 192, dated December 3, 2009, on “Prevention and Fight against Organized Crime, Trafficking, Corruption as well as other crimes through Preventive Asset Measures.”

**Fifteenth**, at the public hearing of the Independent Qualifications Commission, Prosecutor Çela repeatedly made claims about the narcotics case that are not true. When asked about lenient precautionary measures taken as to some of the suspects in the narcotics case, she stated, *“I have arrested somewhere around ten people, that is, in that operation, all of them are convicted by me and normally they never talked about the fact that I have given more than 60 years in prison in this case, but they dealt with the fact why the prosecutor’s office released two people by placing a precautionary measure on them ....”*

Contrary to the assessee’s claims, the IMO review of the records of the case finds that *defendant \*\* . was the only person convicted*. As noted above, he was convicted of the offense of “Cultivation of Narcotic Plants” for the plants found in the ground. *Moreover, after appeal he was ultimately sentenced to a term of imprisonment of only two years and eight months*. There is no record of any cumulative sentence of more than 60 years, as the assessee stated. Significantly, when asked at the hearing about the convictions resulting from the case, Çela stated – falsely - that she did not remember everything, but that there were convictions for “Production and Sale of Narcotics” and “Abuse of Office.”

Moreover, Prosecutor Çela repeatedly made misstatements and avoided answering questions throughout the IQC hearing. For example, when asked by the International Observer whether she knows a Mr. \*\* . (mis-transcribed as \*\* ) [a Turkish citizen whose money-laundering case had been dismissed], Çela acknowledged that she did know him, but then resorted to non-responsive and evasive answers, stating that she was a very reserved person, and she simply drives from home to work and back again, and the two do not have such a relationship as to talk or greet.

Furthermore, when asked why she did not send the narcotics case to the Serious Crimes Prosecution Service, she stated that the Serious Crimes Office was being shut down, “and then, the amendments to the Criminal Procedure Code were passed in 2017.” In fact, the Serious Crimes Office was in operation for an additional two years, and the passage of amendments to the CPC was irrelevant to the narcotics case at hand.

### **Additional Denunciations and Malfeasance**

In addition to Prosecutor Çela's handling of the narcotics/ Kalashnikov case, there are *numerous other cases* which seriously cast doubt on the decision-making and professionalism of Prosecutor Çela. This recommendation for appeal is based not only on the narcotics case, but the assessee's pattern of malfeasance in several cases. The International Observers believe that the Public Commissioner and the Special Appeals Chamber should review each of the allegations below in reviewing the professional capabilities of the assessee. These allegations should be closely reviewed, especially in light of Prosecutor Çela's decision-making in the narcotics case. As with the narcotics case, dismissal is warranted because the assessee did not sufficiently rebut the allegations in either her written responses or in her answers at the public hearing, and, no amount of training at the School of Magistrates could address the deficiencies in her work.

1) Mr. \*\*. and Mrs. \*\*. complained in 2017 that Çela and other prosecutors had failed to fulfill their duties. The application to dismiss the proceedings was denied by the court and the case was returned for further investigation. Despite the order from the Court, Prosecutor Çela conducted no investigation procedures until 2020. Thus, *the case was dormant for two years even after the Court of Vlora returned the case for further investigation.* Such a delay in the proceedings is indefensible, especially here where the inactions and procrastination of the assessee appear to have favored one of the parties in the land dispute.

2) Ms. \*\*. filed a criminal report about computer forgery and fraud, and Prosecutor Çela decided not to launch a criminal investigation. In 2021, Ms. \*\*. complained about the lack of investigation. Prosecutor Çela exceeded the time limit for the issuance of the decision on the non-initiation by one and one-half months.

3) Mr. \*\*. submitted a criminal report about illegal construction and vigilante justice, and he complained about Çela and other assessees. In 2018, Çela decided to terminate criminal proceedings on the charge of vigilante justice. The Vlorë Court rejected the complainant's appeal of that decision.

Then, the appellate court reversed that decision and returned the investigation back to the prosecutor's office. The appellate court specified certain tasks to be done by the prosecution. In 2021 Çela again requested the termination of the case. The investigation done after the appellate court decision took more than two years, from 2019 to 2021. In the IQC hearing, Çela claimed that the reason for the delay was that the court had not returned the acts of the file or that only photocopies of the evidence were available. One of the tasks to be done, a topographic report, was apparently only undertaken two years after the appellate decision.

This is the second instance of a coastal land dispute case in which Prosecutor Çela either closed the proceedings (and her actions were later overturned by the court), or she did not act upon the tasks ordered by the courts.



Such delay and a failure to act is part of a pattern which seriously undermines public confidence in the work of Prosecutor Çela.

4) Ms. \*\*. claimed that she was forcibly evicted from her home. She complained to SPAK about Çela and others in the Albanian justice system. SPAK sent the case to the Vlore Prosecutor's Office. In 2020, Çela apparently decided not to initiate criminal proceedings for the criminal offense of "threat." However, the Vlore Court of Appeal overturned this decision and ordered the assessee to pursue the investigation while considering the offense of "vigilante justice."

5) Mr. \*\* made a complaint in 2022. He alleges that he was the victim in an assault and home invasion case which had been dragging on for many years. He also claimed that he had been taken as a defendant unfairly as a way to put pressure on him. The IQC found that almost one year passed from the registration of the criminal proceedings to the registration of the name of the person identified as the suspect in the case, with no investigative procedures apparently being taken in this period, as there are none recorded in the documents of the case. The court on two occasions returned the case to the prosecution for further investigation.

### Conclusion

The International Observers concur that a review of the assessee's record reveals malfeasance in professionalism and decision-making that is so deficient as to warrant dismissal under Article 61(4) and 61(5) of the Vetting Law. As part of this recommendation, the IMO will provide the certified copy of the newly retrieved evidence concerning criminal proceedings no. \*\*\*/2017 and \*\*\*/2017.

In light of the foregoing, the undersigned International Observers recommend that the Public Commissioners appeal the decision no. 802-2024 of the Independent Qualification Commission, confirming Flora Çela in duty.

Respectfully submitted,



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