



Prot. No. 397/1

Tirana, 06/12/2024

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

Case Number **DC-P-VLO-1-08**

Assessee **ERANDA *** LAZE**

RECOMMENDATION TO FILE AN APPEAL

According to

Article B, par. 3, point c of the Constitution of the Republic of Albania (hereinafter “Constitution”), Annex “Transitional Qualification Assessment”, and Article 65, par. 2 of Law No. 84/2016 “On the transitional re-evaluation of judges and prosecutors in the Republic of Albania” (hereinafter “Vetting Law” or VL).

I. Introduction

The assessee Eranda Laze, currently serving as a prosecutor at the Tirana District Court, has undergone the re-evaluation process by the Independent Qualification Commission (hereinafter referred to as "IQC") in accordance with Article 179/b, par. 3 of the Constitution and the provisions of the Vetting Law.

The IQC conducted its investigation based on three criteria: assets, background, and proficiency. After reviewing reports from auxiliary bodies and considering evidence obtained through the investigation process and submitted by the assessee, the IQC's Adjudication Panel concluded the investigation. They then notified the assessee of their findings, shifted the burden of proof on certain issues, and requested explanations.

The hearing was held on 06.11.2024, and following deliberation as per Article 55, paragraph 5 of the Vetting Law, the Adjudication Panel, with a majority vote, decided to confirm the assessee in duty pursuant to Article 59 Vetting Law. The decision was announced on 08.11.2024.

The undersigned International Observers (hereinafter the "IOs"), having reviewed the case file and the decision recommend the Public Commissioners to file an appeal against the IQC majority decision.

In view of the IOs the evaluation of evidence, the reasoning and the jurisprudence quoted by the IQC in support its decision are incorrect and, as a result, a different outcome should have been reached by the panel that would have led to the dismissal of the assessee.

II. Grounds for recommendation

It is the IOs' opinion that several issues were not properly assessed by the IQC majority decision and that the assessee failed to adequately address the burden of proof regarding certain findings resulting from the investigation.

The IOs believe that a proper assessment of the evidence presented in the case, along with correct application of the relevant legal framework, would provide grounds for the AC to modify the IQC's decision pursuant to article 66, para. 1.c of the Vetting Law.

Thus, the IOs request a judicial review of the entire case, particularly focusing on the following issues:

1. Assets assessment

The IOs challenge the conclusions of the panel regarding the whole assets assessment and in particular those related to the financial incapacity in the amount of ALL -1,640,670.

- On the financial capacity to purchase the two apartments of 181.2 m², located in Tirana, in 2009 in Tirana (first instalment)

In the results of the investigation, the assessee was confronted with a negative balance of ALL -6,830,100 for the purchase of this asset. Specifically, it appeared that the spouse of the assessee did not have the financial capacity to save the values declared in the initial

declaration of assets of 2008, namely the bank deposit in the amount of 10,000 EUR, the cash savings in the amount of EUR 30,000, respectively to afford with legal funds the purchase of the appartement in Vlora in 2008.

In the majority decision it was considered that: “ *The related person, the spouse of the re-evaluation subject, enjoys the status of a related person from * .09.2008, date on which they began living together after entering into a legal marriage. It is proven that the subject and the spouse began living together precisely at this time,, and therefore does not create any legal obligation for the subject to prove the legal source of the income generated by the spouse, for the period before the marriage, before * .09.2008....*

In the financial analysis carried out by the Commission, the methodology followed focuses on the calculation of the income and expenses of the related person and his family members from work abroad for the period 1998-2004, income in the form of savings which pass the test provided for in Article D, point 3 of the Constitution, and which are in the amount of 74,632 euros. The difference found in the results of the investigation came as a result of the deduction of the value of two immovable properties created before the marriage with the subject of the revaluation and the analysis of only the income of the related person for the period 2004-2008.

As above, the Panel considers that, given that this income was declared as income generated before the marriage with the reevaluation subject and given that the investigation did not result in this income being generated by committing illegal acts or that there were any suspicions that it was income to which the reevaluation subject may have contributed, it considers that the income declared by the related person in the 2008 PD is income that should be included in the financial analysis.”¹

We consider the above legal qualification erroneous and in contradiction with the object of asset assessment as per the VL in light also of the factual circumstances of the case.

First, the apartment in Vlora that was purchased in April 2008 and considered as an apartment purchased before marriage, is an asset that was used by the assessee before marriage and during duty. In fact, as confirmed by the assessee herself this asset was used by her for almost one year before the purchase and without compensation.

The assessee had ties of interest with the spouse to be, before their legal marriage. It resulted from the investigation and confirmed by the assessee that they have traveled together several times and the expenses on those trips were covered by him on these occasions². It has also resulted from the investigation that the assessee had access to the bank account of the spouse, even before the marriage, specifically to account no. *** in *** Bank, in the capacity of a joint holder.³

¹ Please see page 14-15 of the IQC Decision

² Please refer to Standard Questionnaire date * .01.2021, reply to question no.13

³ Parag. 7.2 page 21 of ROI, based on information from ***Bank (Former ***) no. *** prot., date * .9.2024.

All the above clearly shows, in our perspective, that they functioned as a joint entity even before their legal marriage.⁴

The asset in question is an object of the Vetting Declaration, which the assessee declared in the said declaration to be the apartment she lives in. In this view, in line with Articles 30, 32(4) and 33(5) of Law no. 84/2016, pursuant to Article 52 of Law no. 84/2016 the assessee had the burden to prove the sources used to fund this asset, however the lawfulness and capacity to purchase this asset was not proved.

Regarding the payment of the last instalment of EUR 11,284.

The undersigned IOs share a different position about the moment this last installment for the purchase of the apartments in Tirana was paid.

The assessee attached to the Vetting Declaration the Off-the-plan/Sales Contract rep. no. ***, col. no. ***, dated */12/2009, signed between the representative of the entity "****" shpk, and the commissioning party, Mr ****. According to this contract, the commissioning party will be considered as owner of the said apartment after paying the amount of 81,284 EUR in instalments as follows: the first instalment on the day of contract signing/today, in the amount of 40,000 EUR. The second instalment in the amount of 30,000 EUR will be paid on the day of disbursement of the loan for which he applied. The last instalment in the amount of the remainder of the price will be paid at hand-over of the finished apartment.

It resulted from the investigation carried out that there are two payment slips pertaining to the purchase of this property⁵ : 1. Payment slip no. *** dated **.12.2009 for the payment of the amount of EUR 40,000 with the description of the apartment installment paid by **** in favor of the company "****" shpk. 2. Payment slip dated *.01.2014, paid by **** the amount of EUR 11,284 with the description "For purchase of apartment, building in Tirana, in favor of the company "****" shpk.

Moreover, in the periodical declaration of 2010, under the liabilities section, the assessee stated that she paid EUR 40,000 + EUR 30,000 for two residential apartments, so a total amount of 70.000 EUR. If the value paid based on the allegations of the assessee was indeed 80.000 EUR it remains inexplicable why in 2010 this value was not declared as such.

The IOs consider the replacement of the payment of the last installment from the year 2014 (as reflected in the results of investigation) and its partial inclusion in the year 2010 and 2013 as not substantiated by the factual evidence. Not only in the PD of 2010 the total amount declared by the assessee is of an amount of 70.000 EUR (so clearly only the two

⁴ Please refer to the AC decision no.5/2023, paragraph 16.19 " From this point of view, even though the objective of the Commission seems to have been only to shed light on this situation, the Chamber believes that even though the reported data does not prove their earlier cohabitation, it leads to the logical presumption that the joint interests of the future spouses had started even before their legal marriage."

⁵ Please refer to the documentation administered in the HIDAACI case file, page 34, payment slip with serial no. *** dated *.1.2014

first instalments were declared) but also the existence in 2014 a Payment Slip further corroborates the fact that the remaining amount of 11.284 EUR was paid latter on.

- On the financial analysis

The assessee resulted in the results of investigation with a minus of -10.336.555 while in the decision of IQC this minus is of ALL -1,640,670.

We consider the following changes to the financial analysis to be incorrect:

- For the year 2008, from a minus of 4.541.402 mill ALL, the decision concludes in a positive balance of 385.898 ALL

As elaborated above we consider that the financial analysis should have included the asset created by the husband four months before the legal marriage, used by the assessee for one year before purchase, an asset object of the Vetting Declaration. The assessee did not prove the financial capacity of the spouse to create this asset as well as the cash savings and bank deposit (used as source for the purchase of the apartment in Tirana in 2009), all declared in the PV of 2008.

- For the year 2010, from a negative balance of 2.553.889 mill ALL the decision concludes with a positive balance of 486,686 ALL

As analyzed above, we consider the inclusion of the payment of the third instalment for the appartements in Tirana in 2010 as incorrect and in contradiction with the assessee own declarations in PD of 2010 and the factual evidence.

We also consider unsubstantiated the non-inclusion of the negative balance of 2.9 mill ALL created by the withdrawals done in the joint account of the spouses during 2010.

From the reading of the periodic statements, it appears that in DIPP 2008 the assessee declared cash savings in the amount of ALL 500,000. In 2009, he declared 200,000 ALL as cash savings. In total, the savings accumulated until 31.12.2009 are in the amount of 700,000 ALL. These savings together with the income of 2010 until the moment of making the payment were used as a source of creation for the vehicle, declared by the husband of the assessee in DIPP of year 2010 as source of income for the purchase of the vehicle. **So, they can't be used as well as source for the payment of the last installment of the apartment.**

Furthermore, the amount deposited in only one day on **.03.2010 in this account amount to EUR 12,249 and does not correspond to the cash accumulated as per end of 2009 year (declared in DIPP of year 2009).⁶

From the documents and explanations provided we consider the lawful sources for the creation of this credited amount unproven, and the explanation provided regarding the destination of their use⁷ as not credible.

⁶ See paragraph on: "Regarding the payment of 10 thousand euros and banking transactions at ***Bank" page 19-20 of the IQC Decision.

⁷ Refer to the submission of the assessee on the forgery of signature

- For the year 2014, we reiterate that the last instalment for the purchase of the apartment in Tirana should be included in this financial year for the reasons detailed above.

In consideration of the above elements, the IOs deem that the information and documentation gathered through the administrative investigation forms the belief that the assessee lacks lawful sources to justify hers and her spouses' assets. Hence, the IQC should have reached a different conclusion in consideration of the elements and evidence adduced, in line with what has been presented in this Recommendation.

- Donation of 500 m2 land in *** Vlorë.

The IQC majority decision has concluded on this issue that: *"the agricultural land subject to analysis comes because of a donation deed, compiled with the free will of the persons due to both the relationship with the related person and the legal assistance that the latter has provided. The investigation proved that this property does not come because of a service contract for which the related person would have the obligation to pay tax obligations."*⁸

Contrary to the majority decision we disagree with the statement that the investigation proved that this asset was not the result of a service contract. The assessee was asked about the reason of this donation during the investigative process, and she stated that her husband had known for a long time *** *** *** first, and later his two brothers. She explained that her husband, a Defense Lawyer, offered them legal consultancy with the process of registration of parcels of farmland in the village *** , which they had inherited from their grandfather. The assessee was asked again to provide further details on the type of legal assistance given⁹ but no conclusive and concrete reply was provided.

It remains unproven and it was not investigated if there were any Court proceedings in which the spouse of the assessee participated, if he took care in registering the properties himself in the IPRO of Vlora, if he assisted with the procedures in the Agency for Compensation and Restitution of Property or if his assistance was purely intellectual by advising on the steps to undertake in order to register the property in cause.

Based on the available documents and explanations it is the IOs opinion that further investigations needed to be undertaken to dispel any possible doubt that this donation contract could indeed be a compensation for the service offered by the spouse of the assessee to the above-mentioned family, for which no invoice was issued and for which no payment of the relevant tax obligations was done.

We consider that further investigation and analysis need to be undertaken to reach a conclusive and informed decision on this asset.

- Illegal construction in legalization process in *** in ownership of the father-in-law

On this asset the IQC panel has concluded the following: *"The Commission, in analyzing the evidence and facts administered during the investigation, considers that no indications or evidence resulted in relation to the subject re-evaluation process"*¹⁰

It has resulted from the investigation that citizen *** *** (father-in-law of the assessee) and citizen *** *** are applicants in the legalization process of an

⁸ See reasoning in page 21-21 IQC Decision

⁹ Please refer to questionnaires no. 2 and 3 as well as to the transcript of the hearing session, questions addressed by the IO on this issue.

¹⁰ See page 25 of the IQC decision

illegally built facility (declared as garage) in ***. ¹¹ In questionnaire no. 3, the assessee was requested to deliver to the Commission the application documents for legalization.

In reply to this question the assessee delivered to the Commission a signed copy of the declaration on inclusion in legalization procedures of an illegally built facility and/or the extension to a legal facility of *** *** *** and *** *** ***, dated *./10/2014, who declare that the construction was made illegally in 2008, in the village of *** Lagje *** t- ***;; a family certificate of the two declarants of the illegally built facility as well as photos of the facility.

The assessee was asked about the relationship between her father-in-law and citizen *** ***, and she replied that due to the Memory Impairment of her father-in-law she could not give a lot of details about this asset, but she could affirm that he had friendship relationship with the spouse of this citizen.

It resulted from the documents submitted by the assessee¹² that the daughter of citizen *** ***, citizen *** was under investigation by the Prosecution Office of Vlora in 2009 and later was sent to trial for criminal offences foreseen by articles 248 and Article 186/3 of the CC. The allegations for Abuse of Office and Forgery of documents were raised in relation to the registration of a plot of land in Vlora (at the time the defendant was working in the Cadaster Office of Vlora). The lawyer of this citizen was the spouse of the assessee.

In reference to TIMS data the spouse of the assessee and citizen *** *** have travelled together in the year 2011, with vehicle plate number *** through Kakavije Border on **.11.2011 (Entry and exit on the same date).

It has also resulted that on the date of signature of the Declaration on the legalization procedure the father-in-law of the assessee was not in Albania, but in Italy where he resides since the late 90es. Also, during the year 2008, year when the illegal facility was built, he has been in Albania only for a period of 18 days (Entry Albania on **.07.2008 and exit on **.08.2008). A very short amount of time to undergo the construction of the facility.

In reference to the updated photos of this facility, provided by the assessee after the results of the investigation, it can be clearly noticed that the area where this facility is built is surrounded by a fence, it compounds a considerable plot of land and an entrance. The logic behind the construction of a garage on this empty plot of land remains inexplicable.

In view of the above elements, we find the conclusion of the majority decision on this asset incomplete. We are of the opinion that there were enough elements substantiating the need to further investigate this asset, the circumstances of which showed more links with the spouse of the assessee than with her father-in-law.

¹¹ The State Cadaster Agency [SCA], with its note prot. no.***/ * dated * .01.2021, reports to the Commission that based on a check in the electronic database of declarations, the persons mentioned on the note result to be applicants in the legalization process:*** *** *** and *** *** ***; register of declarations prot. no.***, dated * .03.2014, . *** , Vlorë.

¹² Please refer to the proxy Rep ***/, Kol.***) date **.12.2009 provided by the assessee in questionnaire no* , dated * .05.2024.

b) Background and proficiency assessment

From TIMS system data it was found that the assessee traveled with the citizen *** *** and his wife on *.11.2015 and the spouse of the assessee traveled again with this citizen again on *.2.2016.

For citizen *** *** , the Prosecutor's Office at the Vlora Court of First Instance has registered the criminal proceedings with no. *** , dated * .8.2012, for the criminal offense "Cleaning the proceeds of a criminal offense or criminal activity", provided by Article 287 of the Criminal Code. For this criminal proceeding, with the decision dated **.7.2015, it was decided to dismiss the case since the referred fact is not foreseen by law as a criminal offense.

Against citizen *** *** , another criminal proceeding was register in former Serious Crimes Prosecution Office in 2018, for the criminal offense provided for by article 283 /a-2 of the Criminal Code, which was transferred to the Vlora Prosecutor's Office with no. ***/2018 for the criminal offense provided for by Article 300 of the Criminal Code.

In 2020 another criminal procedure no. *** /2020 was registered in the PO of Vlora for the criminal offense "Cleaning the proceeds of a criminal offense or criminal activity", provided by Article 287 of the Criminal Code, which at the end of the investigations was decided to request the dismissal of the criminal case to Vlora Court of First Instance.

Referring to the law no. 84/2016, "On the transitional re-evaluation of prosecutors and judges in the Republic of Albania", in its article 3 in point 15 it is provided that: "A person involved in organized crime is any person who has been convicted or criminally prosecuted inside and outside the territory of R.Sh. for one of the offenses provided for in point 1 of article 3 of law no. 10192, dated 3.12.2009 "On preventing and combating organized crime, trafficking and corruption through preventive measures against wealth".

Referring to criminal proceedings no. *** of 2012, it results that citizen *** *** was prosecuted for one of the criminal offenses provided for in point 1 of article 3 of law no. 10192, dated 3.12.2009 "On preventing and combating organized crime, trafficking and corruption through preventive measures against wealth", amended. Citizen *** *** , based on point 15 of article 3 of law no. 84/2016, was considered in the results of investigation as a person involved in organized crime and the assessee had the burden of proof to provide explanation and evidence to rebut this conclusion.

The majority decision of IQC concluded: "*The trial panel considers that the re-evaluation subject, Ms. Eranda Laze, has correctly completed the background declaration, regardless of her knowledge or not regarding the criminal proceedings no. ***, of 2012, for the offense of "laundering of proceeds of crime", formally, the name of citizen *** *** , does not appear as a person registered in the criminal offense register as the perpetrator of the criminal offense and, consequently, he cannot be considered an inappropriate contact within the meaning of point 1, article 3, of law no. 10192, date 3.12.2009, "On the prevention and suppression of organized crime...". On the other hand, the subject's travel*

with persons who are defended by her husband as a lawyer shows that the reevaluation subject should show increased caution regarding this fact in order to eliminate these situations, which may apparently bring problems regarding the ethics of a magistrate, despite the fact that in no case did the investigation result in the subject acting in a state of conflict of interest".¹³

The undersigned IOs share a different approach on the matter in cause. First the criminal proceeding against citizen *** was registered in the Prosecution Office of Vlora in 2012 and was investigated for the subsequent three years in the same Prosecution Office. The same prosecution office where the assessee has worked at that point in time for more than 10 years.

Less than three months after the dismissal request for this criminal proceeding the assessee travels with this citizen, in a vehicle provided by the latter. The assessee declares that she had a friendly acquaintance with the wife of citizen *****, *****. This citizen has been working as notary since 2014. They became acquainted when they traveled together, in November 2015. It remains questionable that a family trip organized for work purposes all the participating members become all acquainted during this trip without any prior knowledge of each other. It remains also questionable that the assessee and/ or her spouse were not aware of the criminal proceeding and that this issue never came up during the time they spent together or even before. The fact that the spouse of the assessee traveled again with citizen *** in 2016 and served as his lawyer in the criminal proceeding register in former Serious Crimes with no. ** /*, year 2018, for the criminal offense provided by article 283 /a-2 of the Criminal Code, are undeniable circumstances that prove a close and continues relationship of the assessee and related person with this citizen.

A second element to take into consideration is the fact that the case file of the criminal proceeding in cause was not administered, an analysis of which could have shed some light on the capacity of citizen *** in this case. The assessee claimed that the name of citizen *** is not registered in the Register of Criminal Offences of Vlora Judicial District Prosecutor's Office and to corroborate this observation, she submitted the statement prot. no. *** / of * /10/2024, issued by Vlora General Jurisdiction Court of First Instance Prosecutor's Office. The statement in cause informs that the verification was done on a computer system and that for the criminal proceeding in cause there is no name registered in the Register of Criminal Offences as a person to whom the commission of the criminal offence is attributed, arrested/detained as a defendant.

Having in consideration the duration of this criminal proceeding (three years), the provision of Article 287 of the CCP¹⁴ and the Instructions by the General Prosecutor no. 241, dated 21.11.2005, "On the registration of the notification of the criminal offense and the name of

¹³ See page 33 of The IQC decision

¹⁴ 1. *The prosecutor shall enter into the register every notice of criminal offences brought to him or received by him upon his own initiative and, simultaneously or since the moment it is found out, the name of the person to whom is attributed the criminal offence.*

the person to whom the criminal offense is attributed"¹⁵ it remains surprising that no name was ever registered in the Register of Criminal Offences for this case in any capacity.

Without doubting the probative value of the documents, it would have been nevertheless advisable to have administered the case file of the criminal proceeding in cause.

In any event, following the above-mentioned elements, if this contact was not deemed inappropriate under the background pillar by the majority decision of IQC, then a separate analysis should have been conducted for ethical purposes under the proficiency pillar and the overall assessment of the case.

c- Proficiency and overall assessment

The assessee was asked to provide explanations on several trips and contacts with people involved or suspected of being (or having been) involved in criminal activities. More specifically, the assessee was asked to provide an explanation on the following contacts:

- The usage of a vehicle in ownership of citizen *. *** in 2022, while the assessee was in a family trip in Italy. Against this citizen a criminal case was registered in 2020 in the Prosecution Office of Vlora for the criminal offences foreseen in articles 274 and 242 of the CC. Based on the open source's information¹⁶ and given the notoriety of the *** family, we are of the opinion that an external observer may perceive this behaviour as unsuitable for a magistrate.
- The deposit of 500 Euro in 2019, in the bank account of the spouse of the assessee for the payment of the bank loan installment by citizen *** ***. Several open sources information confirms the arrest of this citizen in 2015¹⁷ in Italy for possession of illicit substances.
- The trips that were effectuated by both spouses with *** *** on several occasions during 2019 and 2020. Against this citizen a criminal proceeding was registered in 2021 in the Prosecution Office of Vlora for the criminal offence foreseen in Article 287 of the CC.

We consider that a thorough analysis should have been conducted by IQC to assess the ethical implications of these interactions under the proficiency pillar.

¹⁵ "2.1 In cases when based about documents in the file, the prosecutor assesses that there are circumstances that do not allow the initiation of proceedings, he/she decides not to initiate proceedings, but not later than 10 days from the delivery of the report or referral of the criminal offense. During this period, a minimum of verifications is encouraged, if there is a need for such a thing, otherwise the registration of the proceeding is decided.

2.2 In special cases, when despite all the verifications performed within the deadline defined in paragraph 2.1 above, the prosecutor considers that it is necessary to carry out additional verifications on the existence of essential elements of the fact and/or elements of the criminal offense, the deadline for the verification of the criminal report and/or notification of the criminal offense, upon his/her own initiative, shall be a maximum of 30 days".

¹⁶ https://www.l-***.com/sekuestrohet-karburanti-prone-e-familjes-***.

¹⁷ https://www.***.it/2015/03/cinque-chili-di-eroina-nellarmadio-tre-etti-e-mezzo-di-marijuana-sotto-al-materasso-due-arresti/
https://www...***.it/notizie/lecce/pag/1508/

Ethics does not only apply when fulfilling judicial or prosecutorial duties. They also cover conduct in private life and extrajudicial activities. Judges and prosecutors are expected to behave with integrity, propriety, reserve and discretion, both on and off their functions.¹⁸ As regards the principle of integrity, it further refers to probity, dignity and honor within a judge and prosecutor's private and social life. It is not easy to specify the exact content of the principles, nor does such an exhaustive definition exist,¹⁹ despite relevant catalogues of examples that may exist. This is mainly due to the fact that these principles actually reflect moral standards that judges and prosecutors (*mutatis mutandis*) are expected to follow. Moral standards vary from time to time and place to place. What is recommended in such cases is to apply the reasonable, fair minded and informed person's test, i.e.:

"how a particular conduct would be perceived by reasonable, fair minded and informed members of the community, and whether that perception is likely to lessen respect for the judge or the judiciary as a whole".²⁰

The ethical analysis requires a higher standard of scrutiny as it considers not only the assessee's behaviour but also how an external observer may perceive that behaviour.

Within the re-evaluation process carried out in Albania, direct or indirect contacts with persons involved or suspected to be (or to have been) involved in criminal activities are certainly negatively affecting the public trust in the judiciary.

Following the same logic, we also consider problematic the approach the assessee has in accepting the coverage of her travel expenses abroad by the clients of her husband in the capacity of defence lawyer. The assessee has "benefited" during the years of the coverage of the costs of trips effectuated by the spouse for work purpose. The assessee declared herself in the standard questionnaire *"I personally have not received any gifts worth more than 500 euros, while regarding the financing of expenses for trips abroad, I must clarify that my husband practices the profession of lawyer and in some of the trips due to the work*

¹⁸ With regards to judges, see the European Court of Human Rights, following its previous case-law in *Vogt v. Germany* case (judgement of 26.09.1995, Grand Chamber, application no. 17851/91) and *Kurtulmuş v. Turkey* case (decision of 24.01.2006, application no. 65500/01), held in the *Özpinar* case (judgement of 19.10.2010, application no. 20999/04, at par. 71) that magistrates have a duty for reserve in their private life also.

¹⁹ See: The Bangalore Principles of Judicial Conduct, adopted in 2002 (available at: www.unodc.org); Opinion No 3 of the CCJE to the attention of the Committee of Ministers of the Council of Europe on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality, adopted in 2002 (available at: http://www.coe.int/t/dghl/cooperation/ccje/textes/Avis_en.asp), par. 29; ENCJ Working Group, Judicial Ethics Report 2009-2010, available at: www.encj.eu/images/stories/pdf/ethics/judicialethicsdeontologiefinal.pdf. Those principles can be applied, *mutatis mutandis*, also to prosecutors.

²⁰ UNODC, Commentary on the Bangalore Principles of Judicial Conduct, 2007, par. 102. The following par. 103 (titled as "High standards are required in both private and public life") states, even better, that: "103. A judge must maintain high standards in private as well as public life. The reason for this lies in the broad range of human experience and conduct upon which a judge may be called upon to pronounce judgment. If the judge is to condemn publicly what he or she practices privately, the judge will be seen as a hypocrite. This inevitably leads to a loss of public confidence in the judge, which may rub off on the judiciary more generally." As said, those standards can be applied *mutatis mutandis* to prosecutors as well.

carried out by him and covered by his clients, I have also travelled with my children. The business trips made to Italy by my husband were "used" for the purpose of meeting my husband's family members."

In her replies to the results of investigations the assessee has also reiterated that some of her ferry fees expenses were covered by the maritime travel agencies, respectively *** Lines and *** sh.p.k. In a declaration issued by both companies, it is stated that those trips were free of charge for the lawyer * ** as a sign of gratitude for his availability and services given to this company. The ferry tickets were also issued for her and her children.

In these circumstances it remains questionable how the assessee manages to avoid conflict of interest or at least appearance of conflicts of interest with entities or individuals who cover her travel expenses.

While acknowledging the difficult balance that needs to be established between the work of the spouse of the assessee as a criminal lawyer, exercising his profession for the majority of his cases in the same district where the assessee works as a prosecutor, and the fulfilment of the legal requirements in force for the conduct of a magistrate both within and outside of the judiciary, we believe that the assessee showed, at least, excessive carelessness in her extra judicial activity.

To maintain and enhance the confidence of the public and people's faith in the integrity of the judiciary magistrates who by nature of their work are guarantors of the rule of law must be required to meet particularly high standards of integrity in the conduct of their private matters out of the court²¹.

Based on the above, we believe that there are serious indications that the assessee's conduct contravenes the fundamental values expected of a magistrate, as stipulated in art. 3, para 5 of the Status Law and International guidelines governing the behavior of magistrates outside the judiciary.

III. Conclusions

After thorough analysis of all the facts and evidence presented during the investigation, the IOs recommend that the Public Commissioners file an appeal against the majority decision of the IQC to confirm the assessee in office. It is the IOs' conviction that a proper evaluation of all the elements listed above would likely lead to the dismissal of the assessee from office.

²¹ See *Xhoxhaj v. Albania* case (Judgment of 09.02.2021, application no. 15227-19, at par. 407) and *Dedja v. Albania* case (Decision of 14. 11.2024, application no. 32489/19, at par. 20)

In light of the foregoing, the undersigned International Observers

RECOMMEND

that the Public Commissioners appeal the decision no. 811, dated 08.11.2024 of the Independent Qualification Commission, confirming the assessee Eranda Laze in duty.

Respectfully submitted,



International Observer

International Observer

International Observer