



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

Published on 14 September 2026

THIRD SECTION

Application no. 41508/22
Elizabeta IMERAJ
against Albania
lodged on 26 August 2022
communicated on 3 September 2026

STATEMENT OF FACTS

1. The applicant, Ms Elizabeta Imeraj, is an Albanian national, who was born in 1979 and lives in Tirana. She is represented before the Court by Mr G. Thuan Dit Dieudonné, a lawyer practising in Strasbourg, as well as by Mr S. Stavros and Mr T. Dalacouras, lawyers practising in Athens, Strasbourg and Rodopi, Greece.

2. The facts of the case, as submitted by the applicant, may be summarised as follows.

3. The case concerns the transitional vetting of the applicant by the Independent Qualification Commission (“the IQC”) and the Special Appeal Chamber (“the SAC”; for a description of the vetting process see *Xhoxhaj v. Albania*, no. 15227/19, 9 February 2021).

4. The applicant had worked as a prosecutor since 2004. On 1 August 2018 she was seconded from the Serious Crimes Prosecution Office in Tirana to the post of head of the Prosecution Office at the Tirana District Court, and on 26 March 2021 appointed for a three-year period to that latter post.

5. In the proceedings before the IQC an international observer of the International Monitoring Operation (“IMO”), Mr T.J., submitted written findings and opinions, which were unfavourable to the applicant. He allegedly made oral submissions at the IQC’s public hearing, stating that the

applicant was not fit for office and should be dismissed. He was allegedly present at the IQC’s deliberations.

6. On 1 April 2021 the IQC found for the applicant and confirmed her in office. On 21 June 2021 the IMO, essentially relying on Mr T.J.’s findings, submitted a recommendation to the Public Commissioner to file an appeal against the IQC’s decision. On 5 July 2021 the Public Commissioner lodged his appeal based on the IMO’s recommendation. An international observer assigned to the case on appeal, Mr T.P., submitted another “finding” unfavourable to the applicant, based on the IMO’s previous submissions.

7. The SAC held a public hearing in the presence of the applicant, her lawyer, the Public Commissioner and the international observer. It carried out the assessment of all three vetting criteria, examining the IMO’s submissions along with all other evidence.

8. In his written submissions before the SAC dated 20 April 2022 the applicant’s lawyer, relying on *Kress v. France* ([GC], no. 39594/98, ECHR 2001-VI) and *Martinie v. France* ([GC], no. 58675/00, ECHR 2006-VI), argued that IMO observers should not be present at the SAC’s deliberations, as they had publicly expressed their adverse opinion on the applicant’s case. He noted the significant powers of the international observers in the vetting process, such as submitting findings and documents, gathering evidence, providing legal opinions and holding the power to initiate disciplinary proceedings against members of the vetting bodies. Their presence at the deliberations of the SAC would therefore be in violation of the applicant’s right to a fair trial by an independent and impartial tribunal. He concluded that the international observers should not physically or by any technological means participate in the deliberation process by the SAC.

9. The SAC dismissed the applicant’s arguments, stating that they could not apply to the vetting proceedings as the IMO observers were not experts or parties and the IMO’s role, as established at the constitutional level, was to monitor and supervise the vetting process, which was of a transitory and extraordinary nature, aimed at restoring public trust in the justice system and was based on the principles of due process, enshrined in the Constitution and international norms and applied directly by domestic courts, including the SAC. Any member of the vetting bodies could initiate disciplinary proceedings against their peers. It emphasised that the applicant had been made aware of all IMO’s “findings” and recommendations and had presented her position to the SAC, thereby exercising her right to equality of arms. The international observers’ “findings” constituted evidence which was subject to judicial review; they could be rejected as a result of a comprehensive examination of all the evidence in a reasoned judgment. The SAC carried out an independent assessment of facts and law, free of any influence by the international observers.

10. On 27 April 2022 the SAC held that the applicant had undermined public trust in the justice system and should be dismissed from office (section 61(5) of the Vetting Act).

11. On 19 July 2022 its judgment was served on the applicant.

RELEVANT LEGAL FRAMEWORK

I. ANNEX TO THE CONSTITUTION

12. Article B of the Annex to the Constitution, which is devoted to the transitional re-evaluation of judges and prosecutors, governs the establishment of an International Monitoring Operation (“IMO”), led by the European Commission, to support, monitor and supervise the re-evaluation process. The IMO will appoint international observers after giving notice to the Government. International observers will have the right to (i) give recommendations to Parliament on the qualification and selection of candidates for the position of members of the vetting bodies or the position of Public Commissioner, (ii) make findings and give opinions on matters being considered by the vetting bodies, (iii) make recommendations to the Public Commissioner to file an appeal against the IQC’s decision and (iv) access and obtain all information needed to monitor the re-evaluation proceedings in their entirety. They may also ask the vetting bodies to obtain new evidence or may submit new evidence for their consideration.

13. Under Article F § 4 of the Annex to the Constitution, before the SAC an international observer enjoys “the same rights” as before the IQC.

II. THE TRANSITIONAL RE-EVALUATION OF JUDGES AND PROSECUTORS ACT (LAW NO. 84/2016 – “THE VETTING ACT”)

14. Under section 55(5) of the Vetting Act, the presence of an international observer is required at the IQC’s deliberations held behind closed doors. The international observer may append a dissenting opinion to the IQC’s decision.

15. A panel composed of three international observers may recommend that the Public Commissioner file an appeal against the IQC’s decision (section 65(2)).

16. Under section 49(10), international observers may file with the vetting bodies “findings”, which have the procedural value of an expert opinion and can be either admitted or rejected by way of a reasoned decision. A written opinion given by an international observer may affect the decision-making process, but it has no evidentiary value.

17. The international observers may institute disciplinary proceedings against members of the vetting bodies, including the Public Commissioners (section 17).

III. REGULATIONS OF THE SPECIAL APPEAL CHAMBER

18. Under section 23(1) and (2) of the Regulations, before the SAC's deliberations a complete copy of the case file and the judge rapporteur's report are made available to the international observers. The SAC's deliberations and voting are confidential and conducted in accordance with the provisions of section 55 of the Vetting Act (see paragraph 14 above).

19. The judge rapporteur of the case and the international observer hold meetings whenever either of them deems it necessary (section 20(3)). The international observer assigned to the case may attend meetings of the SAC's members with economic and legal advisors regarding written reports prepared by the latter under the rapporteur's guidance (section 20(4)). Following the oral deliberation, a reasoned draft judgment is distributed to the SAC members for comments and proposals before a final draft is submitted for their approval; those drafts are made available to the international observer (section 24(4)).

COMPLAINT

The applicant complains under Article 6 § 1 of the Convention that the presence of an IMO international observer at the SAC's deliberations was in breach of her right to a fair trial by an independent and impartial tribunal.

QUESTIONS TO THE PARTIES

1. Was any IMO member present at the in-camera deliberations (*në dhomë këshillimi*) of the SAC on the applicant's case? If so:
2. What was the legal basis, at the material time, for the participation/presence and the role of IMO observers in internal SAC's deliberations? Did they merely attend or actively participate in the SAC's deliberations?
3. Did IMO observers publicly express their views on the applicant's case prior to the SAC's deliberations via "findings", "opinions" or in other forms? If so, were those views unfavourable to the applicant?
4. Was it open to IMO members to introduce new factual "findings", "opinions" or legal arguments during the internal SAC deliberations, which had not been raised during the adversarial procedure before the SAC?
5. Was the presence of any IMO member at the SAC's deliberations in the applicant's case in compliance with Article 6 § 1 of the Convention (see *Kress v. France* [GC], no. 39594/98, §§ 77-87, ECHR 2001-VI, and *Martinie v. France* [GC], no. 58675/00, §§ 53-55, ECHR 2006-VI)?
6. The Government are invited to provide a copy of the records of the SAC's deliberations and any additional documents or memoranda governing the role of IMO members within vetting proceedings at the relevant time.