FAQs

Most frequently asked questions on the International Monitoring Operation (IMO)

Information on the structure and functioning of the IMO

**What is the IMO?**

It is a monitoring operation that is being established to oversee the process of vetting the members of the judiciary in Albania. The IMO has no executive functions affecting the actual re-evaluation of judges and prosecutors in Albania, this is carried out by the domestic vetting organs.

**Why is the IMO being deployed to Albania?**

The justice reform package adopted in 2016 aimed at restoring public trust and confidence in the judiciary. As part of the reform, specific provisions were foreseen to re-evaluate current judges, prosecutors and legal advisors/assistants (vetting process) on the basis of integrity, ethical background and professional competence. The involvement of the international community in this process is constitutionally foreseen - it was considered crucial for the credibility of the process by the Albanian legislator.

**What are the domestic vetting organs that decide on the re-evaluation of judges and prosecutors in Albania?**

The domestic vetting organs are:

- Four Independent Qualification Commissions (IQC)s composed of three members, which will carry out the entire re-evaluation process
- One Specialised Qualification Chamber (SQC) composed of seven judges, which will serve as appeal instance for the decisions taken by the IQCs
- Two Public Commissioners
On what specific legal bases is the IMO deployed to Albania? Did the international community autonomously decided to deploy the IMO to Albania?

No, the deployment of the IMO is foreseen in Article B of the Annex to the Constitution of Albania, which provides the scheme for the so-called "Transitional Qualification Assessment".

On the 18 January 2017, the authorities of Albania submitted a formal request for the deployment of the IMO to the European Commission services, specifically inviting the IMO to begin operations.

Why is the IMO under the coordination of the European Commission? What is the role of the United States?

The Constitution of Albania, as amended in July 2016, provides that the IMO, led by the European Commission, is established to oversee the temporary re-evaluation of judges and prosecutors ('vetting') in the country.

The Constitution of Albania also foresees that the IMO includes partners in the framework of the European integration process and Euro-Atlantic cooperation. That is why the European Commission and the United States of America have agreed to cooperate very closely in the framework of the IMO.

Senior experts from the judiciaries of EU member states and the U.S. are supporting the activities of the IMO.

What are the main tasks of the IMO?

The IMO is entrusted with monitoring the vetting process, from the establishment of the vetting organs until the completion of the whole re-evaluation exercise. Its deployment to Albania is therefore relevant in two distinguished but consequential phases.

- Firstly, the IMO oversees the process for the formation of the vetting organs. The IMO provides a recommendation on the qualification and selection of candidates to staff the Independent Qualification Commissions, the Specialised Qualification Chamber and the two posts of Public Commissioners. This recommendation will be submitted, through the Ombudsperson Office, to the attention of the Assembly. This task is carried out with the assistance of four short-term observers (three senior judges/prosecutor from EU Member States judiciaries and one from the U.S. Department of Justice). Following the IMO recommendation, the Assembly is ultimately responsible to appoint all members to the vetting organs.

- Secondly, once the vetting bodies are established, the IMO deploys international observers to monitor the actual carrying out of the vetting process, through a long-term operation that will last until all relevant members of the judiciary in Albania, as prescribed by law, undergo this transitional qualification assessment.

How long will the vetting last? How long will the IMO be in Albania for?

The IMO will oversee the vetting process throughout. The mandate of the domestic vetting organs is enshrined in the amended constitution of Albania at art 179b. A precise duration of the vetting process cannot be defined at this stage. The maximum time is set by the legislation, but it is in
everybody’s interest, for the sake of improving the judicial system in Albania, that the process is completed in reasonable time.

Who is the Chair of the IMO?

The IMO is led by the European Commission. Its management board is chaired by the Director for the Western Balkans at the European Commission’s Directorate-General for Neighbourhood and Enlargement Negotiations.

Who is sitting in the management board of the IMO?

The IMO management board is composed of representatives from the European Commission and representatives of the US government (including both the Department of State and the Department of Justice). The European Commission services ensure the IMO Board permanent secretariat.

When and where is the IMO management board gathering?

Formal sessions are organised periodically, when relevant in Tirana.

Will the IMO management board be making executive decisions in relation to the vetting process?

No, neither the IMO management board, nor the observers deployed in the framework of the IMO take any executive decision whatsoever.

In accordance with the constitution, the IMO is mandated to monitor the vetting process throughout. The IMO has no final decision making powers in relation to the vetting, in the interest of preserving local ownership and sovereignty.

Does the IMO have to ratify the decisions on the vetting that will result from the activities of the domestic vetting bodies?

No, all final decisions lie with the competent domestic authorities as provided by law, whether these pertain to the appointment of the members that sit in the vetting organs (through the pre-vetting phase), or to the actual vetting process. As regards the latter, both first instance decisions and possible appeals are all carried out by the vetting organs of Albania.

Does IMO have any preliminary information source that does not come from the Albanian institutions? How will be provided the information from abroad? IMO will have the access to all Albanian Institutions databases, information that have to do with wealth and the figure. These information will be taken directly or through Albanian Institutions? For
example, money that is transferred in foreign banks, business that judges and prosecutors have in other countries?

The Annex to the Constitution of Albania, Article B paragraph 3 (ç), posits that the international observers deployed in the framework of the IMO shall have immediate access to all information, people and documents that are necessary to monitor the re-evaluation. This access shall be granted at all relevant levels and in all stages. By this provision, international observers have access to information provided by institutions in Albania; when relevant, requests were submitted for the institutions of Albania to retrieve relevant information in the context of their international cooperation channels.

What happens if deadline to complete applications to the vetting institutions is eventually open again, will the IMO going to monitor procedures again? What is the position of the IMO regarding the recent decision of Parliament? Will new documents (those received within the current 7-day period) also be reviewed under the IMO monitoring before the National Ombudsman returns them to Parliament?

The IMO continues to follow closely the developments related to the nomination of the vetting institutions. The IMO reiterates that the work by the assessment committee at the Ombudsperson Office was carried out thoroughly and professionally.

Based on this positive findings and following the work by the international observers, on 3 March, the IMO handed over to the Ombudsperson a request* to transmit before the Parliament of Albania the reasoned assessment and recommendations, which was developed by the IMO within the timeframe foreseen by law.

The IMO is aware, though not officially notified, that the Parliament of Albanian has engaged with the Ombudsperson office, seeking possibilities for further checks of incomplete application dossiers. The Constitution of Albania and the law on the vetting clearly entrust the IMO to monitor the vetting process throughout. The IMO stands ready to deploy its expertise, as relevant and in line with the relevant legal framework.

*The transmission letter was duly published on the IMO web-portal at:

Is the vetting blocked if the opposition in not voting? Is there a chance for the members of the vetting institutions to be elected only after the general elections of 18 June?

Overall, the IMO remains a technical monitoring endeavour, as such, it is not up to the IMO to take stances on specific current political developments. The launch of the IMO was carried out timely and with the involvement of the necessary relevant expertise. Such readiness and commitment have to be intended as a clear message to all competent Albanian authorities and institutions, but most importantly, to all citizens throughout the country: the International Community is ready to do its share and guarantee that the vetting process is carried out in the interest of Albanian citizens at all stages. Implementation of the vetting process is crucial to the success of justice reform and to irreversibly strengthen professionalism throughout the judiciary. This is crucial to achieve the entrenchment of the rule of law in the country, but not only. The expected positive impact of justice reform also falls in the area of socio-economic stabilisation across the country. Delays would be detrimental to these processes, in addition to further delay the European
The law of Vetting provides that the Ombudsperson has one week to publish the list of the applicants who meet/do not meet the criteria and then the IMO has two weeks to issue its recommendations. Is it plausible to expect that the IMO will need this full two weeks to work on this additional documents submitted till yesterday or can we expect the process to end earlier?

The IMO International observers are currently monitoring the activities by the assessment committee of the Ombudsperson office. The latter is processing the documentation submitted by applicants who requested to complete their application dossiers, following the relevant recent decision by the Assembly of Albania. Once the Ombudsperson office publishes a revised list of candidates who meet the qualification criteria, the IMO international observers will undertake their independent review and verification. As soon as that is completed, for all relevant cases, an updated reasoned assessment and recommendations will be issued. The IMO remains committed to complete its tasks thoroughly and within the shortest possible delay. In any event, surely the updated recommendations will not be issued beyond the relevant deadlines foreseen by the legal framework (two weeks from the publication of the list).

According to the law, IMO issues recommendations on the candidates for the vetting institutions based on a reasoned assessment. Will this assessment and/or recommendations by the IMO be made public?

In accordance with Article C, paragraphs 7 and 8, of the Constitution of the Republic of Albania, the IMO international observers are requested to issue recommendations on the candidates for the vetting institutions based on a reasoned assessment. This has to be sent to the attention of the Parliament of the Republic of Albania.

These recommendations are grounded on information gathered by the IMO international observers, who throughout their monitoring exercise shall have access to all relevant data, in accordance with the Article B paragraph 3 (ç) of the Annex to the Constitution. This data has been collected directly from a number of institutions in Albania, including the Financial Intelligence Unit (FIU), the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests (HIDAACI), the Business registration office, the Tax Authority, as well as a number of relevant judicial institutions.

The IMO recommendations are of an advisory nature to inform the members of the ad-hoc committees in charge of selecting candidates for the vetting institutions. Selection and appointment will be made by the Albanian Parliament in accordance with the vetting law. In consideration of this, and also being mindful of that information are produced by and for the use of the institutions of Albania, it is not up to the IMO to disseminate publicly the data received, nor the outcome of the international observers' elaborations.

Can you help me with information about Public Commissioner, Heral Saraci; why did you ask from Appeal Chamber to take measures against him?

- The IMO International Observers (IOs) have submitted on 9 February to the Appellate Chamber of the vetting a motion requesting a disciplinary investigation against one Public Commissioner,
Mr Herald Saraci.

- This is a prerogative that the Vetting Law (Law no. 84/2016), gives to the International Observers in order to protect the integrity of the process.
- The motion was filed based on findings and first-hand observations by the International Observers, who are responsible to monitor the process at all stages and at all levels. These duties are provided in the Constitution of Albania, Annex on the Transitional Qualification Assessment, article B para 3(c).
- In accordance with the law, the case has been referred by the investigative judge to the ad hoc panel within the Appellate Chamber for adjudication. The public commissioner has the legally established rights to be informed, counselled and also heard during the proceeding, as by the procedure foreseen in the vetting law (Law no. 84/2016).
- The IMO expects that the review of the case will be conducted thoroughly and will take note of the outcome of the legal proceedings.

Who is funding the IMO?

The deployment of short- and long-term observers from EU Member States is fully funded by the EU's Instrument for Pre-Accession (IPA) assistance. Expertise deployed by the United States is funded by the U.S. government.

How can I contact the IMO for queries?

Please contact NEAR-IMO-INFO@ec.europa.eu

How can one provide information to the attention of the IMO?

Please refer to NEAR-IMO-INFO@ec.europa.eu

Interview published for the Albanian "Shekulli" Newspaper on 16 January 2018

1. What do you think for the judicial system of Albania?

As already stated in an end-of-year Op-Ed*, this is time for change in the judiciary of Albania. This was recently marked with the establishment of the first set of new institutions that will guarantee independent self-governing of the judiciary.

The thorough and comprehensive justice reform that is being implemented goes hand-in-hand with the vetting process. Results to date demonstrate that the courageous and forward looking choice of political parties, back in 2016, to unanimously agree on changing the Constitution and set in motion deep institutional changes to the sector, was a necessary move.
2. **Do you see any progress on the issue of Constitutional Court and other Judicial body?**

The temporary restrictions in the functioning of the Constitutional Court and other judicial bodies due to the outcome of the vetting seem necessary to build a judiciary that citizens can trust. But it is now crucial that all the authorities responsible to appoint members at the Constitutional Court exercise their duties in a timely and professional manner, so that the current institutional vacuum at the Constitutional Court can be filled shortly.

3. **Are you agree with the international conclusion for some judges that are passing the Vetting process without honesty?**

Checks and balances are foreseen throughout the vetting process. Auxiliary bodies provide information that is used for verification and protects the integrity of the process. Furthermore, if the International Observers of the IMO consider that conclusions drawn by the vetting institutions can be subject to a different interpretation, they can raise the issue to the attention of the Public Commissioners, as this has already been done in a few cases. The institution of the Public Commissioners is mandated to defend the public interest in the process. To date, the Public Commissioners have submitted several requests for appeal, so that first instance decisions by the Independent Qualification Commission can be reviewed by the Appellate Chamber. On this basis, we can say that the vetting is carried out thoroughly.

4. **How long does this process will take?**

There are clear institutional deadlines foreseen in the Constitution and in the relevant secondary legislation. However the most important thing in such important processes is that quality and thoroughness of investigation is never compromised for the sake of speeding up.

5. **Does European Union will make a decision this summer for Albanian peoples for Albanian status?**

The European Commission already issued an unconditional recommendation to open accession negotiations with Albania. EU Member States will discuss the matter at the European Council in June.

6. **Is there any serious problem that Albania need to resolve?**

In the Council Conclusions of June 2018, EU Member States have issued a clear set of observations on the progress that is expected by Albania. The vetting has to continue. The new independent judicial structures and specialised bodies have to be established. Further tangible results in the fight against corruption and organised crime need to be achieved. In addition, it remains of particular importance that Albania addresses in its electoral reform the outstanding recommendations of the Organisation
for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE-ODIHR). The Council also attaches particular importance to Albania's continued efforts in reducing the number of manifestly unfounded asylum applications. There is hence a need for all institutions, political parties and civil society at large to ensure a very close collaboration to advance on all these areas sustainably and swiftly.

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