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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Albania: comments by the State*

* Reproduced as received.

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Comments from Albanian institutions

I. The Assembly of the Republic of Albania.

Chapter III, Legislative and Institutional Framework, page 5:

The following comments:

In May 2016, Albania's Parliament has approved the resolution on The Evaluation of activity of "The Institute for the Studies of Communist Crimes and Consequences in Albania". The Resolution appreciates the mission of the Institute and some achievements of this institution, as follows:

The Parliament of Albania considers the Institute for the Studies of Communist Crimes and Consequences in Albania, an independent public institution, which has a significant role for the treatment of communist regime period.

The Parliament of Albania considers the research studies and awareness raising activity of the Institute for the Studies of Communist Crimes and Consequences in Albania, as a mechanism of transparency and enrichment of national history.

uring 2016 the cooperation between important scientific institutions and the institute has reached a new level, with the signing, for the first time, of an agreement with the Ministry of Education and Sports, regarding a common platform for introducing high school students with the facts and truths of the communist regime.

II. Supreme Court.

VIII.Recommendations:

The Supreme Court agrees with the content of the report describing the factual and legal situation of the issues of the forced disappearance of persons (especially during the communist regime). The report, based on the collected dates, has accurately described the situation in Albania, formulating some recommendations to be taken into consideration by the Albanian state in addressing the issue of forced disappearance.

The recommendations set out in the report by the Working Group are appropriated and their implementation in a coordinated and organized way will serve to resolve the issue of the forced disappearance of persons (especially during the communist regime). A part of these recommendations are addressed to a number of issues and fields and the best approach would be to adopt a specific legal framework (where these recommendations are reflected) which would be able to address, prevent and resolve definitively the situation of missing persons, as well as the punishment of the offenders of the disappearance (an act which has been criminalized in article 109/c of the Criminal Code). This approach has been adopted by a number of countries (such as Chile, Peru, Colombia, Uruguay, Bosnia and Herzegovina, Sri Lanka, etc.) and is recommended by the International Committee of Red Cross (Model Law on the Missing¹), although these acts address the issue of the disappearance of persons as a result of armed conflicts or internal unrest.

¹ www.icrc.org/en/document/guiding-principles-model-law-missing-model-law

However, despite the approach that will be decided by the policy-making structures, the recommendations constitute a very good resource for the identification of the problems and for defining and adopting the necessary measures from state structures to address the issue of forced disappearance of persons in accordance with international standards.

III. Authority for information on former state security documents

IV. Truth, Paragraph 42 and 45:

Pursuant to the law no. 45/2015 "On the Right of Information on the Former State Security Documents of the People's Socialist Republic of Albania" the Authority has the responsibility to collect the documents of the former State Security for purposes and according to the procedures provided by this law.

As outlined in paragraph 42, regarding the access to archives as an essential precondition to ensure the rights of victims to truth, and in relation to the paragraph 45, as reflected in the Report, the law establish the obligation of public authorities to submit the documentation at the Authority for information on former state security documents. For this purpose is approved the Decision no. 98, dated 15.02.2017 of the Council of Ministers "For the transfer procedure, under the administration of the Authority, of archival materials of the former state security, located in the Ministry of Defence, the Ministry of Internal Affairs, the State Intelligence Service and other public authorities". Pursuant to this decision, the Authority has signed cooperation agreements with the Ministry of Internal Affairs and with the General Directorate of Archives².

Also in function of the law enforcement no.45 / 2015, the Authority implement the legislation into force for classified information "State Secret" for documentation which is classified and authorized by the Prime Minister as the Authority with the original right of classification, resolving the problem of declassification of information.

The Article 22 provides the right of information of the deceased relatives or disappeared. The Authority, having in possession all the archival material needed to prove the fate of missing persons, can do more in this regard, starting with the location of their bones, data of each one of the missing that figure on the materials of the former state security.

Despite the Authority's readiness to make a real contribution to the improvement of the issues addressed in the report, amendments to the Law 45/2015 as well as additional financial resources are needed to make it possible.

IV. State of Intelligence Services

IV. Truth, Paragraph 45:

(1) Based on and for the implementation of Law 45/2015 and the Decision of CoM No. 98, dated 15.2.2017, by the request of the Authority of Information on Former State Security Documents, the office of State of Intelligence Services has started the process of submitting documents. According to the Decision of the CoM, the responsibility for

² No. Prot 154/2, dated 18.05.2017 and no. Prot 205/1, dated 05.05.2017

providing information on the Former State Security' documents have passed to the Authority and at its disposal are set up facilities until the complete transmission of the documents in the archive of the Authority.

(2) In the Republic of Albania, the rules for the declassification of classified information "State Secret" are defined by Law No. 8457, date 11.2.1999, and for its implementation, Resolution of CoM No. 124, date 15.3.2001.

V. Institute for the studies of communist crimes and its consequences

IV. Truth, Paragraph 35:

The board of the Institute for the Studies of Communist Crimes and its Consequences reviewed the report of the Working Group and fully supports the suggestions and the detailed information gathered from the Albanian Institutions except point .35.

The Institution inform that UN has given a false statement because the bodies of the 22 intellectuals were not found by any State Institutions in 2002 or 2003 but by the families of the victims in cooperation with former Member of Parliament Mr. Uran Butka and the famous anthropologist Mr. Aleskander Dhima in 1992.

The Institute also supports the fact that there is a total confusion in the laws and constitution of our country that must be reviewed and changed in order to fully investigate the enforced and involuntary disappearances.

Our communist past has been the most brutal in the eastern bloc but progress is done in this prospective. The enforced and involuntary disappearances are only one of many issues regarding justice, retribution and peace. The Institute will continue the mission to investigate and find all communist crimes and we are fully prepared to cooperate with all Institutions in Albania in Europe and in the world.

VI. The institute of former political persecuted

For the Institute one of the most important objectives is the finding the enforced or involuntary disappearances persons from the communism crimes and to restore the dignity and the respect for them and their families. The expansion of the database with the dates of persons considered lost by their families; mapping potential sites considered as mass graves; opening investigations for those mass graves that have already been identified; the further finalization of the agreement with ICMP International Commission on missing persons to ensure the immediate launch of this project in Albania, as well as the provision of annual budgets for these services, would constitute the further serious steps for the fulfilment of this goal.

The most important is to create a strategy that will include all the stakeholders and responsible institutions in respect of the human rights for the missing persons during this period of time. The good coordination and cooperation of the institutions working in this field; the legislation; and the calculation of the necessary budgets remains the main challenge for seriously addressing this issue.