

14 Session of Committee on Enforced Disappearances CED

Consideration Report of Albania

Opening Statement of Mrs. Artemis Dralo

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Head of Delegation

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Madame/ Mr. Chair,

**Honourables members of the Committee on Enforced Disappearances
CED,**

Ladies and gentlemen,

At the outset, I would like to extend the appreciation of Albania's Government on the activity of **the Committee on Enforced Disappearances to date.**

We consider of importance its mission for strengthening the promotion and protection of human rights and to ensure no impunity for enforced disappearances. Enforced disappearance remains one of the worst human rights violation, therefore is also a crime under international law that often results in impunity.

On behalf of the Government of Albania,

I would like to assure you of our best considerations, for your work in protecting the rights of all persons from enforced disappearances. Your engagement as experts in this honourable Committee is very important for effective

implementation of the International Convention for the Protection of all Persons from Enforced Disappearances.

We consider the reporting process, the constructive dialogue with the Committee and the Committee recommendations, as a tool to ensure compliance with international obligations, and as well, as an opportunity to present the situation of human rights for the purpose of adopting necessary legal provisions and implementation of the Convention. I would like to mention that before coming here to discuss with distinguished experts of the Committee, the Parliamentary Commission on Legal and human rights, organised a public hearing with the representatives of institutions on the implementation of this Convention. The involvement of the Parliament is very important and useful to undertake concrete legal initiatives, to improve the legal and policy framework on human rights, and monitoring the implementation of the human rights conventions.

The Republic of Albania has acceded and ratified, all the United Nations human rights conventions, as well in the framework of the Council of Europe with the aim of setting the human rights standards in accordance with the requirements and recommendations of those international instruments.

As a member of Human Rights Council for the last three years 2015-2017, Albania has contributed actively in the deliberations of this important body and its resolutions by joining the global action to ensure the promotion and protection of human rights. The rise of violent extremism and non-state armed groups, perpetrating atrocities worldwide, continues to be one of the most pressing challenges and our response against extremism, radicalisation that leads to terrorism, should bring concrete results. Albania reaffirms its commitment against these continuing violations of human rights.

Honourables members of Committee

Albania as a party of the International Convention for the Protection of all Persons from Enforced Disappearances, since 2007, is committed to improve the legal framework for the promotion and protection of human rights, including the prohibition of enforced disappearances.

The Constitution of the Republic of Albania and domestic legal framework stipulates indispensable safeguards for each citizen so that they could enjoy its rights and freedoms. This marks a significant juridical and institutional development on human rights.

The Constitution contains provisions on the protection of life,

- equality before the law and non-discrimination,
- fundamental rights and freedoms,
- the prohibition of torture,
- punishment or cruel behaviour,
- inhuman or degrading treatment,
- political, economic and social rights.

The Albanian institutions are committed to improve and implement the legal and institutional framework, as well as establishing and strengthening the institutional mechanisms to ensure the protection of human rights.

In view of the human rights protection, a large number of independent institutions operate, such as The Constitutional Court, the courts of all levels, the General Prosecution, the Ombudsman, the Commissioner for the Protection against Discrimination, etc.

Albania is undertaking concrete steps to implement the justice reform, steps that have a direct impact on strengthening the rule of law,

The judiciary system, with the impact on human rights,

The consolidation of democracy, with concrete impact on the daily live of people.

During the reporting period, a series of measures are taken to improve the legal framework, in accordance with the obligations under the Convention.

To this end, it is crucial to guarantee the right of victims to know the truth about the circumstances of an enforced disappearance and the right of freedom to seek, receive and impart information to this end, the right of victims to justice, and the measures taken by the State, to investigate cases, and bring perpetrators to justice;

the right to an effective remedy, including reparation and compensation; preservation of memory and the guarantee of non-repetition, including measures aimed at preventing further recurrence of enforced disappearances.

I would mention the provision of enforced disappearance as a criminal offence, in the Criminal Code adopted by the law no.144/2013.

The criminal legislation of our country has included as its part the criminal proceeding and fight against "Enforced disappearance", by defining it, as a criminal offense other than torture, deprivation of liberty, and other similar offenses, with amendments in Criminal Code adopted in 2013.

Enforced disappearance is provided as a crime against humanity, and with the specific sanctions. The Criminal Code stipulates the criminal responsibility of the superior, and the aggravating.

The provision "of enforced disappearance" in the Criminal Code, as a specific criminal offense, with the penal sanctions, and other legal provisions on the unlawful deprivation of freedom, abduction, holding a person hostage, torture, penalty or cruel, inhuman or derogatory treatment, constitute an appropriate legal framework to prevent such acts and ensure no impunity for enforced disappearance by the state.

Madame/ Mr. Chair,

Members of the Committee,

The Constitution, the Criminal Procedure Code, the Law "On State Police"

have defined and guaranteed the legal rights of persons deprived of their liberty. Albania State Police consider the respect and protection of human rights as one of the main priorities for the realization of which its structures are engaged in the fulfillment of the legal obligations deriving from the conventions on human rights.

We inform the Commission that we have no case of "Enforced Disappearance" for the reporting period

(through arrest, detention, abduction or any other form of deprivation of liberty of the person, public officials or persons acting with their authorization, support or approval).

The Standard Procedures "Treatment and Security of Arrested/Detained Persons in State Police Facilities, identification and resolution of their requests/complaints", approved by Order no. 1102, 07.11.2017 of the General Director of State Police, provide the rights and obligations of arrested/detained persons, as well as the right of foreign nationals.

In Albania we have **no secret premises for** escorting or accompanying persons (Albanian citizens, aliens or stateless persons) who are detained or arrested by the judicial police service as suspected or co-perpetrators of the offense of "Enforced disappearance", but also for other offenses.

They are held and treated in the premises of the public institutions legally recognized. Persons arrested/detained until the consideration and issuing of the security measure by the court, they are held in the premises of the security rooms of State Police.

These premises have been officially recognized by the **General Prosecutor's Office and Judicial District Prosecutor's Office**, the Ombudsman, civil society organizations that protect human rights and in particular those deprived of their liberty.

The premises of the security rooms of the State Police have been and remain the subject of inspections and visits of the Ombudsman, civil society organizations that protect human rights, the prosecution authority as the investigating authority, as well as many other organizations, for the protection of human rights.

The State Police, in accordance with the Standard Procedure "*Technical Rules of Police Accompaniment* ", has produced and put in place special registers for the data entry and reflection of data on persons who are accompanied, arrested and detained in security rooms, who are pro-active in the police body and are administered by the staff responsible for handling these persons.

Based on the Law "On the State Police" it is created an Electronic Registry (ADAM systems). This register is used for entry of data for accompanied, arrested and detained persons, which function in all local police since 2010. These data are registered and saved for these persons starting from the moment of deprivation of liberty, the actions performed in the security rooms, the health service being offered, the meetings with the lawyer, the meetings and the visits made by the representative the Ombudsman or NGO-s, the security measure assigned by the court and transferring it to the prison.

Albanian legislation and bylaws have defined and guaranteed the right to recognize to the person from the very beginning of the deprivation of liberty with his / her rights. It was drafted a written paper in a form of a statement with the rights of arrested/detained persons, which is given to the person at the moment of arrest/detention, which, after being recognized, is signed in two copies.

The General Directorate of Albanian State Police through the administrative acts, produces and continuously monitors all structures and employees of the

State Police to fulfill their duty in accordance with the law, not to use physical force pursuant to the legal conditions and procedures, the prohibition categorically to the exercise of physical/psychological violence or other physical ill-treatment, to persons to obtain data, information and statements relating to the commission or not of various criminal offenses.

Pursuant to the requirements of the Law "On State Police", all the police personnel is obliged to annually trained. The curricula drawn up by the Security Academy for the recognition of the legal and sub-legal acts, that sanction and guarantee the fundamental human rights and in particular, the rights of that category of persons deprived of liberty, including right of choice and defense with a lawyer.

There have been carried out 55 trainings/workshops with 891 police employees, participants from the State Police (2015-2018) regarding the respect of human rights of accompanied, detained persons in police premises.

The legislation on the State Police, is improved, and there is a progress in changing the mentality of police officers by implementing community policing, updating the police troupe, increasing the number of female police officers, with the goal that by 2020 they should be 19% of the police staff;

we also consider very important the evaluation process (**vetting process**), which has already initiated to be implemented. Although, we are aware that there is still work to be done, especially in terms of improving the infrastructure of buildings and equipment, which, despite the investments made by the State Budget and donors, should offer better working conditions for staff of ASP , but also for persons deprived of their liberty.

Distinguished members of the Committee

The principles for the treatment of persons with limited freedom in prisons are based on the Constitution of the Republic of Albania, the law “On the Rights and Treatment of Prisoners”, as amended, with emphasis on guaranteeing and respecting fundamental rights, rehabilitation and social reintegration of prisoners, and security in prisons.

In the Republic of Albania there are 23 Institutions of Execution of Penal Decisions, whose addresses are public, as well as contact details for each institution. According to the 20th May 2018 data, the number of prisoners and pre-trial detainees is 5757 persons. Overcrowding is 6% above the official capacity of prisons, marking one of the lowest rates of overcrowding in the recent years.

The General Directorate of Prisons administers on daily basis data regarding the number of inmates and pre-trial detainees in each prison, personal data, accompanied by information on the time and amount of imprisonment/detention, imprisoned detainees, new entry to detention facilities, releases and extraditions, as well as any kind of information pertaining to the movement/transfer of prisoners. Daily information is forwarded to the Ministry of Justice.

The legal and sub-legal provisions on the organization and functioning of the prison system have foreseen that pre-trial detainees and convicted offenders should be treated with dignity, without discrimination and avoiding any form of ill-treatment as well as human rights violation.

The ratification of a number of international acts and the alignment of penitentiary legislation with the *acquis communautaire* have laid the foundations for the establishment of an open, transparent and accountable system, taking into consideration the obligations of the Albanian Government for the implementation of the Convention “On the Protection of all Persons from Enforced Disappearance”.

In this context, the administrative rules and procedures to ensure that all prisoner records are kept and administered in accordance with the General Regulation of Prisons, as well as enforcing the personal data protection, have been improved. The Card System of the Prisoners, otherwise known as the PIMS (Penitentiary Information Management System), is functional since May 2017. The main purpose of this system is to improve and computerize prisoner records and working processes in the Institutions of Execution of Penal Decisions. The system provides the opportunity to record, search and find real-time data and is equipped with several security levels for information storage and protection.

No cases of non-registration of persons deprived of their liberty in the registers of prisoners, were recorded in the prison system. Inspections are carried out by the General Directorate for verifying the completion of the legal files of prisoners. Additionally, multidisciplinary staff trainings, have been developed by the Prison Directorate in cooperation with non-governmental organizations.

The Ombudsman Institution has full competence to inspect without prior notice all the Institutions of Execution of Penal Decisions. During 2017, the Ombudsman has forwarded 68 recommendations and requests for information to the General Directorate of Prisons. The level of implementation of the recommendations is 53%, while 20% are in the process of implementation and 27% have not been implemented. Recommendations that have not been implemented mainly relate to infrastructure issues and investments, which require long-term intervention measures.

In order to inspect the implementation of the fundamental human rights principles in the penitentiary system in Albania, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on the 2-9 February 2017 carried out a monitoring visit. At the end of the monitoring visit, the CPT left 20 recommendations for the Albanian Government to improve prisoner treatment conditions. With the Order of the General Director of Prisons No. 504 dated 15.01.2018, an Action Plan for the Implementation of the Recommendations of the European Committee for the Prevention of Torture, was adopted.

14 Cooperation Agreements have been concluded with non-governmental organizations, which have a mission to protect human rights and fundamental freedoms. These organizations are allowed to conduct inspection of conditions in prisons at any time. Representatives of these organizations were allowed to visit the premises, see the relevant documentation, and get direct contact with the inmates without the presence of police officers.

Also, cooperation with non-governmental organizations has been extended in consultation of action plans and drafting of joint programs for strengthening the system of rehabilitation and enforcement of rule of law in penitentiary institutions.

Significant achievements during this period were the strengthening of the professional staff capacities and implementation of the vetting process for all prison staff, aiming at the transformation of the prison system based on the standards and approaches of the European Union countries.

From 2017 to April 2018, have been trained 1454 prison staff of different levels. Numerous, systematic and in-service programs are offered. Specifically, basic training and career development training for security service employees, social

and health care staff, enhancement of communication skills, prevention of discrimination, treatment of persons with mental health problems, implementation of protocols approved for the treatment of narcotics users, etc.

General Directorate of Prisons has cooperated with the Albanian Center for Trauma and Torture Rehabilitation for the implementation of the Program on Prevention of Torture and Violence in the Prison System, which consisted in monitoring the system according to OPCAT standards, advocating for the improvement of treatment practices human rights of persons in conflict with the law, capacity building.

On January 1, 2018 came into force the law no. 37/2017, dated 30.03.2017 "Juvenile Criminal Justice Code", which contains special legal norms related to juvenile delinquency, procedural rules regarding investigation, prosecution, litigation, execution of sentence decision criminal, rehabilitation or any other measure involving a juvenile in conflict with the law, an underage victim and / or witness of the offense, as well as rules for young people from the age group 18 to 21 years. This law constitutes a novelty and develops the standards of Albanian legislation in the protection of children's rights as a whole and juveniles in conflict with the law in particular.

Distinguished member of the Committee,

In Albania there is a considerable number of convicted persons executed, and a part of them disappeared in unknown circumstances, during the communist system. The drafting and adoption of an agreement of cooperation between the Council of Ministers of Republic of Albania and the International Commission on Missing Persons (ICMP) it is ongoing. The purpose of this agreement is to protect the rights of family members of the missing persons during the communist

period in Albania between 1944 and 1991, ensuring the location of the missing and the circumstances of their disappearance after the effective investigation, as well to find the truth.

The Authority for Information on Documents of Former State Security Service of the Republic of Albania is functioning on the basis of the law no. 45/2015. The law provides general rules for the collection of documents and information under this law, appropriate uses, access to former State Security Service documents, only up to the extent given by law. The Authority has the responsibility for collecting former State Security Service Documents, assessing, sorting, recording, maintaining and administering documents; cooperating and coordinating work with public authorities and archives; providing information on documents; as well as ensuring their scrutiny and submission to applicants; supporting scientific research throughout the historic review of the activity of the former State Security Service; informing individuals, constitutional institutions, public authorities and other stakeholders, for the purposes and procedures provided for by this law, which includes the procedures for the disappeared, as well.

Granting the right of access to information was given priority and particular attention by the legislator, upon request, to the former State Security Service Documents for dead and disappeared, as well as making available their duplicates, but by defining the legal order of persons subject to this right and their relatives, in order to clarify the destiny of the dead or disappeared, for the rehabilitation, protection of the personality rights of the dead or disappeared, in particular to clarify the accusation for co-operation with the former State Security Service when we face such cases.

The main duties of the Authority are based on the clarification of the destiny of the dead and disappeared, the place, the time of imprisonment, the execution and burial places records, the staff involved, the collection of evidence of executions and burial places, lists of victims and other intermediate data. From the practice to date, based on individual requests submitted to the Authority, which sum up a total of 483 requests, 41 or 9% of them do essentially search for the destiny of the dead or disappeared (41 as such). The number of requests submitted to the Authority asking explanations on the destiny of the disappeared has upped from 21 to 41.

This process finds a special and widespread expression, in addition to others for private persons in their right to get information from constitutional institutions, public authorities and other entities, up to the extent and for the purposes foreseen by this law for the purpose of fulfilling their functions and has a certain extend of permissible use in the framework of applicant's duties fulfilment, when the use is necessary for the given purpose.

The Authority deems that the request should be treated with priority, in case the information required is for rehabilitation, indemnity, respect of private life; or avoidance of a possible moral damage or any dismissal, because of charges for co-operation with the former State Security Service; for the purposes of investigation, criminal prosecution and crime prevention, always respecting rigorously the applicable legislation for the protection of personal data.

The law provides that the information shall be used only for the purposes for which it is specifically requested, unless otherwise provided by this law. In the framework of the international day of the disappeared, the Authority for Information on Documents of Former State Security Service of the Republic of Albania, approved the implementation of the commemoration project

“National remembrance of the enforced labour camps” and the working group for searching the archived documentation for the camp in Tepelena, as well as to set a memorial to commemorate the international day of the disappeared, 30 of August.

The project involves returning to identity **only** one of the *ruined* buildings, as a deportation camp, designing, positioning and planting of seedlings to commemorate children who have lost their lives from difficult conditions in Tepelena Camp and don't have a burial place yet. The construction of this Memorial is only the first step to transforming the entire complex into a Museum of Communist Dictatorship Forced Labour Camp.

As a matter of fact from the documentation being analysed and processed so far, it has not been possible to find any execution records, **forensic act** to certify the fact of death, burial places, maps or sketches, and far less the staff involved.

The Authority has already approved the calendar of commemorative events related mainly to executions-murdered without being judged, as well as other crimes committed by the communist dictatorship. In addition, the Authority has undertaken the initiative to turn the known execution places and the ones to be identified in the future into commemoration places.

Distinguished members of the Committee,

At the end, we underline that, there is a need for tracking mechanisms on treaty bodies recommendations, and to enable governmental institutions to see how observations and recommendations are followed by establishing clear policies and actions in place, to measure progress and fulfil duly and effectively their reporting obligations. Ministry for Europe and Foreign Affairs in cooperation with UN Agency is implementing the Project on Monitoring mechanism of international human rights conventions, started from 2016.

The recommendations to be provided by the Committee, will give us the right direction in taking legislative, administrative, and institutional measures to improve the legal framework that guarantee the prohibition of enforced disappearances and the implementation of this international human rights treaty.

Thank you