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PERMANENT MISSION OF
THE REPUBLIC OF ALBANIA
GENEVA

Prot. 268

The Permanent Mission of the Republic of Albania to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of High Commissioner for Human Rights, and in the reference of its letter, REFERENCE: OHCHR/CED/SG/GA71, has the honour to present the information provided by the Republic of Albania regarding the International Convention for the Protection of all Persons from Enforced Disappearances.

The Permanent Mission of the Republic of Albania to the United Nations and other International Organizations in Geneva avails itself of this opportunity to renew to the HRC the assurances of its highest consideration.

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Geneva, the 20th of April 2016

The Committee on Enforced Disappearances (CED)
Secretariat at the United Nations office of the High Commissioner for Human
Rights.

GENEVA

REPUBLIC OF ALBANIA
MINISTRY OF FOREIGN AFFAIRS

Information provided by the Republic of Albania in reference to the OHCHR/CEDS/GA71

The Republic of Albania has ratified the International Convention for the Protection of All Persons from Enforced Disappearances by the law no.9802, dated 13.09.2007.

In accordance with this law, the Republic of Albania declares that pursuant to article 31, paragraph 1 of the Convention, it recognizes the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of individuals subject to its jurisdiction, claiming to be victims of a violation by Albania of provisions of this Convention.

Pursuant to article 32, the Republic of Albania declares that it recognizes the competence of the Committee to receive and consider communications, in which a State Party claims that another State Party is not fulfilling its obligations under the Convention.

In accordance with article 29 of the Convention, Albania has submitted to the Committee on Enforced Disappearances, the report on the measures taken to implement the obligations laid down by this Convention.

Albania is committed to the continuous improvement of standards for the protection, observance of human rights and fundamental freedoms. In this context, the improvement of national legislation in accordance with international obligations is a priority. Albanian Constitution, the ratified international agreements as part of domestic legal system, the laws, and normative acts of the Council of Ministers (bylaws) ensure the practical implementation of human rights in practice. Albanian legislation, which is constantly being improved and completed, constitutes as well a guarantee for the prevention of enforced disappearances reflecting the spirit of the Convention.

In Albania, the international law enjoys a privileged position in relation to domestic one and it is in this sense that the Convention prevails over domestic law. The Constitution determines the obligation of the Albanian state to implement the international law. According to Article 122 of the Constitution, any international agreement ratified by the Parliament becomes part of the domestic law after its publication in the Official Journal. Article 122 of the Constitution provides that the international law applies directly, except when it is not self-executable and its application requires the promulgation of a law. International agreements ratified by the Parliament have priority over national laws that do not comply with it. Likewise, the norms issued by the

international organizations prevail in case of conflict, over the domestic laws when the agreement is ratified by the Republic of Albania.

Based on general rules and principles on implementation of legal norms, it can be concluded that the subjects (individuals) may apply and require the application of only those articles of the Convention, the implementation of which is guaranteed by the current legislation and for which there is no need to establish internal mechanisms. Taking into account the obligations deriving from this Convention, in cases where a specific article of the Convention requires the adoption of internal legal provisions or establishment of internal mechanisms for its implementation, we underline the provision of "enforced disappearance" as a criminal offense. Based on Article 122 of the Constitution, we consider that this Convention is part of domestic legislation, but on the other side, all provision of Convention are not self-executable. In accordance of Article 122, we underline that is necessary to identify the provisions of the Convention that can be implemented by the domestic legislation, as well as those that can be implemented in practice by adopting concrete measures. From an overview of actual domestic legislation, it can be concluded that some provisions of the Convention are applied directly or indirectly in the domestic legislation.

From the entry into force of the Convention, on the territory of the Republic of Albania are not investigated or prosecuted any case of enforced disappearance.

Elements of enforced disappearance can be identified during the communist regime and according to official data are resulting 5157 persons as former convicted for political reasons, executed without a court decision, during the period from 30.11.1944 until 1.10.1991.

As a significant step toward the implementation of the Convention, the Albanian government is considering to establish the Disappeared Persons Section within Institute of Integration Former Politically Persecuted Persons, aiming at finding the disappeared persons during the period of communism.

The Republic of Albania would like to seek the assistance of Secretariat on evaluating the current national legislation vis a vis to the provisions of the Convention, as well the views or best practices on establishing the Disappeared Persons Section.
