



ALBANIAN AUTHORITY ON ACCESS TO INFORMATION
ON THE FORMER STATE SECURITY SERVICE

GUIDE

ON THE RIGHTS OF FAMILIES
OF MISSING PERSONS
FROM THE COMMUNIST ERA



GUIDE

ON THE RIGHTS OF FAMILIES OF MISSING PERSONS FROM THE COMMUNIST ERA

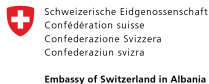


TABLE OF CONTENTS

ACRONYMS	5
FOREWORDS	7
I. INTRODUCTION	9
1.1 Historical perspective	9
1.2 Institutions established by the Albanian Government since the 1990s, and their responsibilities focusing on the rights of victims and victims' families from the communist era	11
II. Responsible Institutions for missing persons and their role ..	14
2.1 Institutions and their role on the issue of the missing persons	14
2.2 Other institutions involved in the process and their responsibilities	17
III. Civil society and its role in the remembrance of the missing persons	19
IV. International Instutions engaged in the process	22
4.1 International Commission on Missing Persons	22
4.2 Other Partners	24
V. Practical Information	26
5.1. What is the definition of a missing person from the communist era?	26
5.2 Who can report a missing person?	27
5.3 If a missing person is found, where should this be reported?	27

VI. Current legal framework on missing persons from the communist era	30
6.1 The rights of families deriving from international legal instruments. International legal instruments to address the issue of enforced disappearances and the rights of families	30
6.2 Duties of states pursuant to international legislation	31
VII. The rights of families of the missing persons pursuant to domestic legislation	36
7.1 Which rights derive from the Law on Compensation of Formerly Politically Persecuted Persons?	36
VIII. Is there a clear process in Albania to find, recover and identify the remains of missing persons?	47
8.1 Does Albania have a duty to investigate disappearance cases from the communist regime?	48
8.2 Is there any provision that impedes investigations by prosecutors of disappearance cases from the communist era?	48
8.3 Which principles should be applied to address the issue of people going missing in Albania?	49

ACRONYMS

AIDSSH	The Authority for Information on Former State Security Documents
EU	European Union
CAT	UN Committee against Torture
ECHR	European Convention on Human Rights
ICMP	International Commission on Missing Persons
ISKK	Institute for the Study of Communist Crimes and Consequences
IIPP	Institute for the Integration of the Political Persecuted
KIDPP	Committee of Former Politically Convicted and Persecuted
UNO	United Nations Organization
OSCE	Organization for Security and Co-operation in Europe
WGEID	UN Working Group on Enforced or Involuntary Disappearances

FOREWORD

The publication of this Guide, the first of its kind in Albania, was made possible through EU and Swiss funding of a project implemented by ICMP and the The Authority for Information on Former State Security Documents (Authority) “Raising public awareness on transitional and conciliatory justice: Addressing the issue of missing persons from the communist era,” The project aims to raise awareness in Albanian society about communist crimes and their grave consequences for the Albanian people. To this end, specific places of remembrance, such as prisons and internment camps, where prisoners were often locked up solely because of association with relatives or friends, should be made visible to Albanian society. Places where the objects provide tangible evidence of the dark past, as well as environments where thousands of individuals lost their lives, should be the subject of appropriate remembrance.

The overall objective of this project is to increase the participation of civil society groups and family members of missing persons, especially women, in transitional and reconciliation justice processes in Albania. At the same time, through the project, ICMP in cooperation with AIDSSH will work to increase the knowledge of state institutions (government, prosecutors’ offices and others dealing with the issue of missing persons) regarding their legal obligations and the human rights of missing persons’ families.

This Guide, which will help the families of missing or forcibly executed persons from the communist period (1944-1991) to better recognise their rights and exercise them effectively, has been produced by the Authority for Access to Information in Former State Security Files.

ICMP has also contributed to the drafting of the Guide, through recommendations on content and structure, based on similar models in the region.

AIDSSH President

GENITANA SULA

1

INTRODUCTION

1.1 Historical perspective

Article 1 of the International Convention for the Protection of All Persons from Enforced Disappearance¹, stipulates that:

1. *No one shall be subjected to enforced disappearance.*
2. *No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for enforced disappearance.*

Post-World War II Albania, under the communist regime until 1990, became one of the countries with the most brutal dictatorial system in Europe, where opponents of the regime were imprisoned and interned; many of them were killed, often arbitrarily, without a court decision or the knowledge of their relatives, causing deep wounds in Albanian society.

¹ Law No.9802 of 13 September 2007 “On the ratification of the UN international Convention on the Protection of All Persons from Enforced Disappearance”

In 1944-1991, more than 6,000 people were executed in Albania with or without a court order (mostly by shooting or hanging) and their bodies were almost never returned to their families for burial. According to the Institute for the Study of the Crimes and Consequences of Communism (ISKK) in Albania, 5,577 men and 450 women were sentenced to death and killed. There are also numerous reports that political prisoners died in prisons or labor camps due to torture or other causes such as suicide. Even in these cases the bodies were not returned to the families, because the bodies of the convicted, even the dead remained at the disposal of the communist state throughout the duration of the punishment².

Confronting the past is not only a legal obligation: it is also a moral obligation for every element in society and it is a precondition for social peace. Clarifying the fate of missing persons will bring justice for all their family members. Although legal and institutional steps have been taken since 1991 to guarantee that victims of communism and their families are able to exercise their rights, much remains to be done. It is still a great challenge to find, identify and recover the bodies of the missing from the communist era. Until now, only a few have been discovered and identified through ad hoc efforts carried out by families of the missing.

So, in 2018 the Government of Albania and ICMP signed a Cooperation Agreement on finding missing persons from the communist era in Albania (29 November 1944 to 2 July 1991). The Agreement defines the rules of cooperation for finding and identifying missing persons and coordinating the work of state institutions.

² Historical exhibition “Death Sentences and the Missing” Bunkart, accessed on 4 April 2021.

Following these efforts, in July 2020 amendments to Law no. 45/2015 On the Right to Information in Former State Security Documents of the People's Socialist Republic of Albania were approved. Under the amendments, the Authority cooperates with central and local state institutions in the process of recovering and identifying the human remains of those who went missing or were executed under communism. Cooperation includes measures to protect and preserve in the most appropriate way burial sites that have already been identified, as well as those that are yet to be identified.

1.2 Institutions established by the Albanian Government since the 1990s, and their responsibilities focusing on the rights of victims and victims' families from the communist era

After democracy was established it was necessary to set up a central state institution to organize compensation and rehabilitation for all persons who had been unjustly accused for political reasons under the communist regime. The objective was to ensure that former politically persecuted people received priority and were provided with material and moral assistance, and completely integrated in democratic society. Institutions existed for a limited period of time and had the task of implementing the laws adopted by the Albanian Parliament and the Decisions of the Council of Ministers, on protecting the civil rights of the victims' families as a basis for restoring a free and democratic society.

The Committee of Former Political Convicts and Persecuted functioned from January 1993 to December 1994. During this time the government and parliament approved:

- Law No. 7748 of 29 July 1993 On the Status of Former Convicts and Politically Persecuted by the Communist System, as amended³, and
- Decision of the Council of Ministers no. 184 of 4 May 1994 On granting of Property Compensation to former Convicts and Politically Persecuted by the Communist System⁴.

The Institute for the Integration of Former Political Persecuted was established in December 1997 under the Ministry of Health and Social Welfare and has the task of taking all measures and following up on all issues related to the integration of former politically persecuted by the communist regime.

The IIPP elaborates and addresses basic issues related to the former politically persecuted, in cooperation with national associations of former victims, which have branches all over Albania. The most important law on which the activity of this institution is based is the Law No. 9831 of 12 November 2007, On the Compensation of Former Political Convicts of the Communist Regime, as amended⁵. The purpose of this law is to ensure that the Albanian State provides financial compensation to former political prisoners of the communist regime who survived, **for the families of those who were executed** and persons deported to or interned in camps, as a commitment of the democratic state to punish totalitarian crimes and guarantee victims a better life.

³ Law No. 7748 of 29 July 1993 <https://qbz.gov.al/eli/ligj/1993/07/29/7748>

⁴ DCM 148, May 1994 https://qbz.gov.al/share/6F_hJNt8TNWiv4pbMd318A

⁵ Law No. 9831 of 12 November 2007 <https://qbz.gov.al/share/zKsTh5JaTv2Fy2tM-cOAx-w>

The Authority for Information on Former State Security Documents was established in 2015 immediately after the adoption of Law no. 45 of 30 April 2015 On the Right to Information in Former State Security Documents of the People's Socialist Republic of Albania, as amended⁶ (hereinafter referred to as “**Law 45/2015**”), which is the basic law related to the organisation and functioning of this institution. AIDSSH is a public legal entity, independent, responsible for the implementation of this law, regarding the collection, administration, processing and use of former State Security documents and information in them.

With the latest legal amendments, in July 2020, of Law 45/2015, the mandate of the Authority was extended to include cooperation with central and local state institutions for the process of identifying and recovering the human remains of those who were executed or who missing under the communist regime, as well as to take adequate measures to protect and preserve sites that have already been identified or that will be identified as burial sites.

⁶ Law no. 45 of 30 April 2015 <https://qbz.gov.al/share/hOmphM9RTvidcs13OuCIuw>

2

RESPONSIBLE INSTITUTIONS FOR MISSING PERSONS AND THEIR ROLE

2.1 Institutions and their role regarding the issue of missing persons

The State Police, whose activity is focused on the prevention, detection and investigation of criminal offenses, in accordance with the Law on State Police, and the Criminal Procedure Code, must take appropriate investigative action in relation to missing persons cases. Its duty to cooperate in this process derives from Law no.83/2018 On the ratification of the cooperation agreement between the Council of Ministers of the Republic of Albania and the International Commission on Missing Persons (ICMP)⁷ (referred to as **Law 83/2018**), where the State Police is considered as one of the main institutions responsible for implementing the agreement.

⁷ Law no.83/2018 <https://qbz.gov.al/share/xu9-kVfST62KEQcCbAgaPA>

The Prosecutor's Office is the criminal prosecution institution. Some of the legal provisions in force which concern the obligation of the Prosecutor's Office to engage in this process are described as follows:

The exhumation and forensic examination of human remains are an essential component of accountability, determining the cause and manner of a missing person's death in a human rights framework. The CPC of Albania obliges the Prosecutor's Office to review preliminary investigations and the activity of the judicial police and carry out any investigative action that it deems necessary (Article 24), which includes ordering the exhumation of human remains to enable examination by the prosecutor in the presence of a forensic doctor (Article 200). Pursuant to the CPC, the only institutions competent to conduct an excavation in line with rule-of-law standards are the Regional Prosecutor's Offices⁸.

The Constitution of the Republic of Albania⁹, Article 148, paragraphs 1, 2 and 3, provides the following:

1. *The Prosecutor's Office exercises criminal prosecution and represents the charge in court on behalf of the state. The Prosecutor's Office also performs other duties set by law.*
2. *The Prosecutor's Office is an independent body, which shall ensure the coordination and supervision of its own actions while respecting the internal independence of prosecutors to investigate and prosecute in accordance with the law.*
3. *The Prosecutor's Office is organized and functions within the judiciary system.*

⁸ ICMP report Missing Persons from the Communist era: A needs Assessment: <https://www.icmp.int/wp-content/uploads/2021/03/icmp-gr-wb-152-6-alb-W-doc-albania-missing-persons-from-the-communist-era-a-needs-assesment.pdf>

⁹ Constitution of the Republic of Albania <https://qbz.gov.al/share/JiLN1sTiQu6JD0B-WHggXjA>

The Criminal Procedure Code of the Republic of Albania¹⁰, as amended, Article 1, *Obligations of the criminal procedural legislation*, stipulates that:

1. Criminal procedure legislation must guarantee fair, equal and due legal proceedings, in order to protect the freedoms and lawful rights and interests of citizens, to contribute to the strengthening of the legal order and implementation of the Constitution and State legislation.

Chapter II, Article 24 – Prosecutor – Functions of the prosecutor, stipulates that:

- 1. The prosecutor exercises the criminal prosecution and represents the charge in the trial on behalf of the State, conducts and controls the preliminary investigations and the judicial police activity and personally conducts any investigatory action he deems necessary.*

Article 2 of Law 83/2018 should also be highlighted. It stipulates that *Other institutions involved in the implementation of this agreement, such as national, central and local authorities and others pursuant to the related legislation into force in the Republic of Albania, include the General Directorate of Archives, the General Prosecutor’s Office, the Institute of Forensic Medicine, the Ministry of Health and Social Protection, the Ministry of Justice and any other institution whose cooperation shall be required to meet this agreement.”*

Article 3 of Law 83/2018, Responsibilities of the Albanian Authorities, among others stipulates that: *Albanian authorities shall:... Respect native legislation in for the investigation cases of missing persons ...*

¹⁰ Criminal Procedure Code https://qbz.gov.al/share/hATwC6ANSsup7K_Q8NYNBw

Courts are the responsible justice institutions: when hearing criminal cases, on the basis of facts and evidence submitted by the Prosecution, they determine the culpability of the perpetrators of a criminal offense.

2.2 Other institutions involved in the process and their responsibilities

The Authority for Information on Former State Security Documents, with the latest amendments to its basic law On the right to access information in former State Security documents of the RPSSH/PSPRA has taken on a new, coordinating role, with all other state institutions for the process of finding, identifying and recovering the bodies of the missing from the communist era.

Article 22/1 of Law 45/2015 - Cooperation for the identification and recovery of the bodies of the missing and executed, as well as measures for the preservation of burial sites (added by law no. 114/2020, dated 29 July 2020) provides that:

- 1. The Authority cooperates with central and local state institutions for the process of identification and recovery of the bodies of the missing or executed during communism, and takes measures adequately to protect and preserve the places that are currently or will later be identified as burial sites.*
- 2. The rules of cooperation between the Authority and central and local institutions for the identification and recovery of the missing from the communist era are provided in bilateral or multilateral agreements concluded for this purpose.*
- 3. The responsible authorities and the manner of protection and preservation of the identified or suspected burial sites are determined by Decision of the Council of Ministers.*

Given this new role, the Authority received a large number of requests, addressed by relatives of victims who were killed or disappeared during the communist era, requesting the engagement of this institution in the search for missing relatives.

Local self-government agencies - Municipalities, being responsible for any activity on the territory where they exercise their functions, are also involved in the process of finding, identifying and recovering the bodies of the missing, through their administrative actions¹¹.

For example, in the case of locating a burial site (identifying the remains of one or more missing persons), the Mayor may need to authorize the exhumation and, if possible, support the process with other necessary measures.

The remains may be exhumed before a certain period to transport to another grave by order of a judge or prosecutor, in accordance with the relevant provisions of the Criminal Procedure Code or with the preliminary authorization of the relevant Mayor of local government¹².

Institute of Forensic Medicine, settled by Decision of the Council of Ministers no. 680 of 02.9.2020¹³, has an important role in the process of identification of the remains of the missing, to the extent that they have the task of taking samples and applying forensic expertise, and providing an accurate conclusion regarding the time, and conditions/ circumstances of the victim's murder, as well as other data such as age, gender, body size, and, in the case of DNA analysis, the exact identity of the victim.

¹¹ Law No.9220, datd 15 April 2004 On the administration of funeral services (as amended by Law no. 80/2014 of 17 July 2014). Article 17/4 and Article 18: Link: <https://www.vendime.al/43324/>

¹² Ibid Article 18/1

¹³ DCM no. 680 2020 <https://qbz.gov.al/share/Gy3Las1YTqm2HGAgDkEocQ>

3

CIVIL SOCIETY AND ITS ROLE IN REMEMBRANCE OF THE MISSING

In the first months of 1991, along with political pluralism and the establishment of multiple parties, different groups in various social categories were formed. A group of supporters of former political prisoners founded the Association of Former Convicts and Political Persecuted of Albania, which brought together the descendants of political prisoners, former political prisoners, and those who had been interned or deported for political reasons. Years later, another association, the Anti-Communist Association of the Former Democratic Political Persecuted, was founded.

In the meantime, former prisoners and politically persecuted became disoriented and did not know how to proceed. Under these conditions, the need for the former politically prisoners to establish their own association became clear. Court approval was secured under the simple name, the Association of Former Political Prisoners of Albania. This independent, non-governmental and non-profit association brought together former political prisoners and their families in order to work together for their fundamental rights and authentic integration in society.

The Association of Former Political Prisoners of Albania took the legal initiative and prepared the first draft law on the compensation of the heirs of political prisoners, former prisoners and those who were interned for political reasons. This draft was partially amended by the government and enacted as Law 9831, on 13 December 2007¹⁴.

Immediately after these associations, several others were founded, including the Descendants of the Politically Executed, the Deportation-Internment Association, and the Association of former “Kulaks”. The Nationwide Association for the Integration of the Politically Persecuted of Albania was also established. This association later split in two: one group retaining the original name, while the other group became the Nationwide Union for the Integration of the Politically Persecuted.

Currently, some of these associations are almost inactive, but initially they had an active role in promoting and protecting the rights of victims of communism – those who were imprisoned, persecuted, exiled, or executed by the communist regime.

There are also Family Associations, which are non-governmental civil society organizations that come together to represent the interests of the families of missing persons. They are informal support networks for the affected individuals and they lobby the state authorities to carry out their duty to investigate missing persons cases, and to locate, exhume and identify missing persons. Many of them are also involved in Remembrance Day activities. Through their activities they aim to honor the victims, including the missing, and also to encourage social debate about dealing with the past, impunity and accountability.

¹⁴<https://www.ballikombetar.info/mbi-gjendjen-e-shoqatave-te-te-perndjekurve-politike/>

The Anti-Communist Association of the Politically Persecuted, and the Non-Governmental Organizations on Dictatorship Remembrance have expressed the intention to expand their activities explicitly to address the issue of missing persons. They particularly want to be involved in memorial activities and the exchange of data with state authorities in order to establish accurate records on missing persons for historical and practical purposes¹⁵.

¹⁵ ICMP report: Missing Persons from the Communist era: A needs Assesment: <https://www.icmp.int/wp-content/uploads/2021/03/icmp-gr-wb-152-6-alb-W-doc-albania-missing-persons-from-the-communist-era-a-needs-assesment.pdf>

4

INTERNATIONAL INSTITUTIONS ENGAGED IN THE PROCESS

4.1 The International Commission on Missing Persons

The International Commission on Missing Persons (ICMP) works with governments, civil society organizations, justice institutions, international organizations and others around the world to address the issue of people missing as a result of armed conflict, *human rights abuses*, disasters, organized crime, irregular migration and other causes. As the only international organization exclusively tasked with addressing this issue, ICMP is actively engaged in the development of civil society institutions and capacities, the promotion of legislation, the promotion of social and political advocacy, and the development and provision of technical expertise to find and identify the missing.

ICMP works with governments to develop their institutional capacity to address effectively and impartially the issue of missing persons¹⁶.

¹⁶ <https://www.icmp.int/about-us/>

ICMP helps governments create legislation to protect the rights of missing persons' families and works with civil society organizations to empower them to advocate for their rights. It assists the justice process by ensuring that governments adhere to a rule-of-law approach toward investigating the missing persons. ICMP directly assists the work of governments in the field. It maintains a unique, specialized Online Inquiry Center (OIC) and Identification Data Management System (iDMS) that manages all data related to the missing persons process. ICMP also provides training and education programs for a wide range of individuals, including government authorities, prosecutors and judges, NGOs, missing persons' families, and forensics¹⁷.

ICMP was first contacted by the Albanian government in 2010. The government's cooperation with ICMP was formalized in 2018 with the approval of Law no. 83/2018 *On the ratification of the cooperation agreement between the Council of Ministers of the Republic of Albania and the International Commission on Missing Persons (ICMP)*. This agreement aims to intensify efforts to find missing persons under communism in Albania between 29 November 1944 and 2 July 1991, defining in particular the terms of cooperation related to finding and identifying missing persons and coordinating the work of competent institutions.

In 2019, with the financial support of the EU, ICMP was able to identify two of 13 bodies of missing persons found in the mass grave at Dajti.

Currently, ICMP in close cooperation with AIDSSH, is continuing its efforts to locate and identify other bodies of the missing from the communist era.

¹⁷ Ibid

4.2 Other Partners

The UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) is a mechanism established by the UN to examine questions related to the forced or involuntary disappearance of persons, based on resolution 20 (XXXVI) of 29 February 1980. The latest resolution, A / HRC / RES / 45/3, which renewed the mandate of the Working Group, was approved by the Council of Human Rights in October 2020.

One of the main duties of the UNWGEID is to assist families in determining the fate or whereabouts of their family members who are reported missing. In a humanitarian capacity, the Working Group serves as a channel of communication between family members of victims of enforced disappearance and other sources who report cases of disappearance, and interested Governments.

To this end, the Group receives, evaluates and transmits to Governments reports of enforced disappearances submitted by relatives of missing persons or human rights organizations acting on their behalf. The Working Group urges governments to conduct investigations and inform the Working Group of the outcomes. The Working Group deals with these requests for information on a periodic basis. These cases remain open in the Working Group database until the person's fate or whereabouts are settled.

The 2016 UNWGEID report on Albania states that: *The Working Group encourages Albania to adopt provisions that explicitly state **that enforced disappearance is a continuing crime to which amnesties and immunities cannot be applied, so that the framework of criminal law for the prevention, investigation and punishment of enforced disappearance shall be complete. It is important that domestic legislation be interpreted and enforced in accordance with international law. It is a disappointment that criminal law has not been put in practice. The Working Group***

*also regrets that, despite the large number of persons forcibly disappeared by the authoritarian regime prior to its end in the early 1990s, **no cases of enforced disappearances have been judged in Albanian courts***¹⁸.

*The Albanian government provided its comments on the report in July 2017*¹⁹.

¹⁸ Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Albania, made public in July 2017, pg. 6

¹⁹ Albania answers 1710726 (refworld.org)

5

PRACTICAL INFORMATION

5.1. What is the definition of a missing person from the communist era?

In Albania there is no specific law on disappeared persons from the communist era that determines who will be considered a missing person under communism.

*Pursuant to **Law no. 114/2020** On some amendments and additions to Law no. 45 of 30 April 2015 On the Right to Information in the Former Security Documents of the State of the People's Socialist Republic of Albania, for the first time is given the following definition:*

*Within the scope of this law, '**Missing Person**' is a person arrested, imprisoned, abducted or deprived of liberty in any other form by agents of the state or by other persons or groups of persons with the authorization, support or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the missing person, which place such a person outside the protection of the law.*

5.2 Who can report a missing person?

1. The family member of the missing person has the right to report this, referring to Law no. 45/2015, as amended. Based on Article 22 of this law, the order of priority is this: a) spouses; b) children; c) children of children, when the persons provided for in letters “a” and “b” have died or have been declared missing; ç) parents, when the persons provided for in letters “a”, “b” and “c” have died or have been declared missing; d) brothers and sisters, when the persons provided for in letters “a”, “b”, “c” and “ç” have died or have been declared missing; and dh) children of brothers and sisters, when the persons of the above ranks have died or have been declared missing.

2. Responsible state authorities such as the State Police, AIDSSH, and the IPP, according to their field of activity regulated by law or bylaws.

5.3 If a missing person is found, where should this be reported?

The request can be addressed to:

- **The Authority for Information on Former State Security Documents:** e-mail: info@autoritetidosjeve.gov.al
- **The Institute for the Integration of the Politically Persecuted:** Address: Rr. “George W. Bush”, 2-storey villa no. 7, Tirana. E-mail: info@ishperndjekurit.gov.al

- **You can also report to the ICMP Online Inquiry Center:**

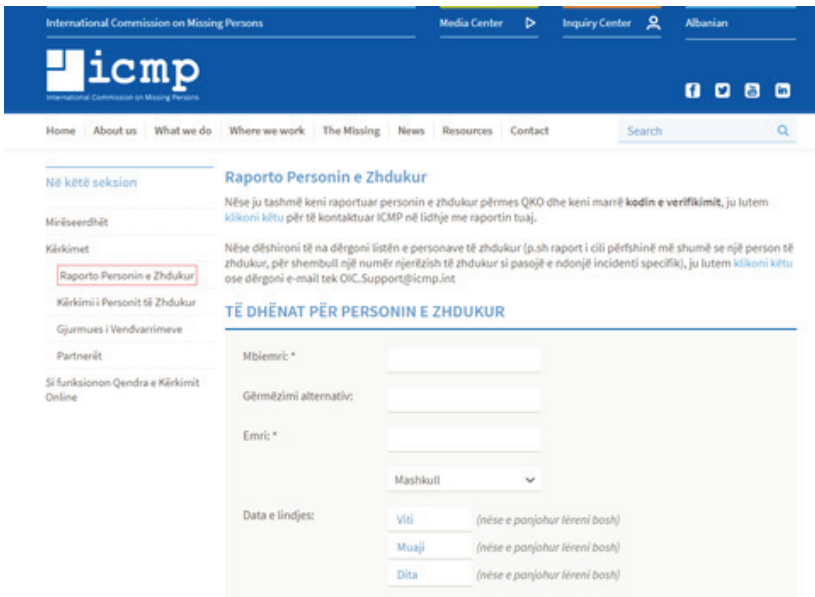


Image 1. Reporting Missing Persons on the official ICMP website.

The ICMP Online Inquiry Center (OIC) is a tool for providing or retrieving information about a missing person. It is an online resource that can be used by the families of missing persons.

Developed on the basis of ICMP’s long experience in assisting the families of missing persons, the OIC is a place where concrete and useful information is collected and stored which can be used when necessary in the search for missing persons. In the “Inquiry” section you can submit a report on the missing person giving details, for example, name, date of birth, place where the person was last seen. If you have additional information about the person you can submit that too. ICMP will share this information with others only if you agree.

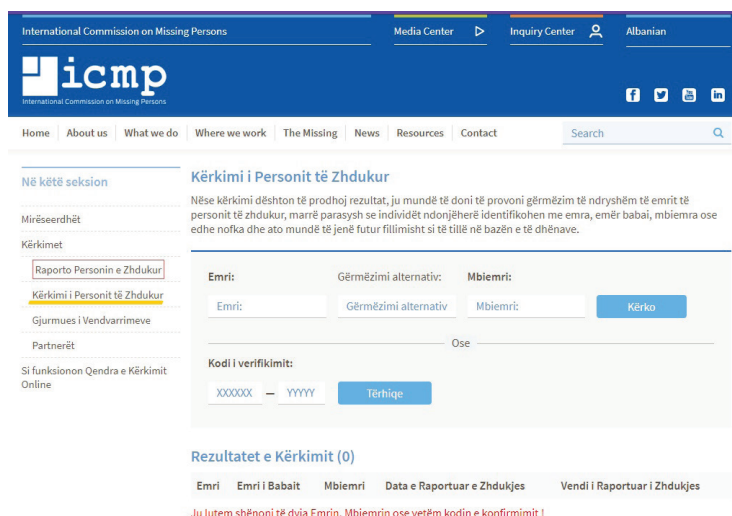
In the section “Inquiries” you can do three different things:

1. You can report a missing person by providing details such as name, date of birth, place where the missing person was last seen;
2. You can provide additional information about a missing person who is already registered in the OIC; and
3. You can check the case status of the missing person to see if your relative’s DNA matches.²⁰

- The UN Working Group on Enforced or Involuntary Disappearances.

This organisation accepts cases from all around the world. It is not necessary to exhaust domestic judicial remedies before submitting a case to the Group. Cases of disappearance can be reported by relatives of the missing, or by organizations acting on their behalf.

The form to be filled in can be found at the link below: http://www.ohchr.org/Documents/issues/Disappearances/Communication_form_E.doc. After filling in the form, it will be sent via e-mail.



The image shows a screenshot of the International Commission on Missing Persons (ICMP) website. The page is in Albanian and features a search form for missing persons. The header includes the ICMP logo and navigation links for Media Center, Inquiry Center, and Albanian. The main content area is titled "Kërkimi i Personit të Zhdukur" (Search for Missing Person) and contains a form with fields for Name (Emri), Alternative Name (Gërmëzimi alternativ), and MBIEMRI. Below these fields is a "Kërko" (Search) button. There is also a section for "Kodi i verifikimit" (Verification code) with a "Tëriqje" (Refresh) button. The page also includes a sidebar with navigation options like "Raporto Personin e Zhdukur" and "Gjurmues i Vendvarrimeve".

Image 2. Inquiry of the missing person in the official webpage of ICMP.

²⁰ ICMP Online Inquiry Center <https://oic.icmp.int/index.php?w=intro&l=al>

6

CURRENT LEGAL FRAMEWORK ON MISSING PERSONS FROM THE COMMUNIST ERA

6.1 The rights of the families deriving from the International Legal Instruments. International legal instruments to address the issue of enforced disappearances and the rights of families

When the Parliament of the Republic of Albania ratifies international treaties and agreements, they become part of the national legislation immediately after their publication in the Official Gazette.

Albania has already ratified all the major international and regional human rights treaties and other important ones, including the International Convention on Civil and Political Rights, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the four Geneva Conventions of 1949 and their Additional Protocols, the Rome Statute of the International Criminal Court, the European Convention for the Protection of Human Rights and Fundamental Freedoms, and the European Convention for the Prevention of Torture and Inhuman

or Degrading Treatment or Punishment. Albania is party to the International Convention for the Protection of All Persons from Enforced Disappearance.²¹

Enforced disappearance is a crime under international law and constitutes a violation of many human rights, including:

- *the right to liberty and security of person,*
- *the right to recognition as a person before the law,*
- *the right not to be subjected to torture or to enforced disappearances, treatment or cruel, inhuman or degrading treatment or punishment,*
- *the right to a fair trial,*
- *and the right to life.*

Enforced disappearance also violates the economic, social and cultural rights of the missing person and his or her family.

When carried out as part of a widespread or systematic attack directed against any civilian population, enforced disappearance is considered a crime against humanity.

Enforced disappearance is a continuing crime and lasts until the fate and whereabouts of the victim are established with certainty.

Even if it is determined that the missing person was in fact subjected to extrajudicial execution, for example, through the discovery of human remains and the identification of personal belongings, as long as the whereabouts of that person are not determined, or the remains have not been found and identified, this is a case of enforced disappearance.

²¹ Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Albania, published in 2017, page 5.

6.2 Duties of states pursuant to the international legislation?²²

States have an obligation to take appropriate measures to investigate cases of enforced disappearance, determine the fate and whereabouts of victims, and identify and prosecute those responsible.

If the human remains of the victims are discovered, there is an obligation for the state to investigate and determine the cause and manner of death, to identify and prosecute the perpetrators of the crimes and to provide appropriate compensation to the families of the victims. States have an obligation to inform the families of missing persons about the fate and whereabouts of their relatives, the circumstances of the disappearance and the progress of the investigation, as well as its conclusions.

- *UN International Convention for the Protection of All Persons from Enforced Disappearance, ratified by the Republic of Albania by Law no. 9802 of 13 September 2007*

Article 4 of this Convention²³ stipulates that: *Each State Party shall take the necessary measures to ensure that enforced disappearance constitutes a criminal offense under its criminal law.*

Article 5, stipulates that: *The widespread or systematic practice of enforced disappearance constitutes a crime against humanity as defined in applicable international law and shall attract the consequences provided for under such applicable international law.*

Article 6, stipulates that: *Each State Party shall take the necessary measures to hold criminally responsible at least:*

²² Missing persons and victims of enforced disappearance in Europe, published by the Council of Europe, March 2016, pg.17&18.

²³ Law no. 9802 of 13 September 2007 https://qbz.gov.al/share/U_Se1U_WR0uAIU-18frae6w

a) *Any person who commits, orders, solicits or induces the commission of, attempts to commit, is an accomplice to or participates in an enforced disappearance;*

b) *A superior who:*

(i) *Knew, or consciously disregarded information which clearly indicated, that subordinates under his or her effective authority and control were committing or about to commit a crime of enforced disappearance;*

(ii) *Exercised effective responsibility for and control over activities which were concerned with the crime of enforced disappearance; and*

(iii) *Failed to take all necessary and reasonable measures within his or her power to prevent or repress the commission of an enforced disappearance or to submit the matter to the competent authorities for investigation and prosecution;*

No order or instruction from any public authority, civilian, military or other, may be invoked to justify an offence of enforced disappearance.

The implementation of this Convention in Albania is monitored by the WGEID

➤ *UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*

Article 2 of this Convention stipulates that: *1. Each State Party shall take effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory under its jurisdiction. 2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of*

torture. 3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 4 stipulates that: 1. *Each State Party shall ensure that all acts of torture are offences under its criminal law.* The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. *Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.*

Article 14 clearly states that: 1. *Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.*

The Committee against Torture (CAT), in its 2012 report on Article 14 of the Convention, states that: *The Committee considers that the term “redress” in Article 14 includes the concepts of “effective compensation” and “rehabilitation”. The comprehensive remediation concept includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence and refers to the full range of measures required to remedy violations under the Convention.*

➤ *European Convention for the Protection of Human Rights and Fundamental Freedoms”;*²⁴

All member states of the Council of Europe, including Albania, have signed the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

²⁴ Law No.8137, dated 31 July 1996 On the ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The court usually analyses cases of enforced disappearance in relation to Articles 2 (right to life), 3 (prohibition of torture), 5 (right to liberty and security) and 13 (right to an effective remedy) of the ECHR; The latter is read in conjunction with Articles 2 and 3. In all cases of enforced disappearance adjudicated so far the Court has found a violation of Article 5 of the Convention. However, given its extremely serious nature and specificities, enforced disappearance cannot be understood only as an aggravated form of arbitrary detention; it entails the violation of other human rights as well. In the case of violation of Articles 2 and 3 of the Convention with regard to the missing person, the Court assesses whether the offence encompasses only the substantive aspect of the provisions, or also the procedural one, which requires states to carry out an effective investigation into the alleged crime.

Such an investigation must be launched *ex officio* and certain particular features of an effective investigation, such as independence and impartiality, adequacy, promptness and public scrutiny, must be met whatever form that investigation takes. In particular, the victims or their relatives must be involved in the procedure to the extent necessary to safeguard their interests.²⁵

The Court has also affirmed that the procedural obligation deriving from Article 2 of the ECHR is separate and autonomous from the fundamental obligations and can be considered “detached”, thus forcing states to also investigate when the disappearance or death of the victim occurred before the entry into force of the ECHR in the specific State. **The procedural obligation continues for as long as measures can reasonably be expected to clarify the circumstances of the violation and establish liability.**²⁶

²⁵ Missing persons and victims of enforced disappearance in Europe, published by Council of Europe, March 2016, pg.38.

²⁶ *ibid*, pg.39.

7

THE RIGHTS OF THE FAMILIES OF THE MISSING PERSONS PURSUANT TO DOMESTIC LEGISLATION

7.1 Which rights derive from the Law on Compensation of Formerly Politically Persecuted Persons?²⁷

a. The right to financial compensation

The Law on Compensation of Formerly Politically Persecuted Persons was adopted by the Albanian parliament on 15 July 2004 with 70 votes in favor, two against and one abstention. According to the law, formerly politically persecuted Albanians were to be compensated over a 10 to 15-year period, through monthly payments varying in amount depending on the type of persecution and consequences. This law and some bylaws for its implementation provided compensation for the following categories: those who were sentenced to prison; those who were sentenced to death by court decision; extrajudicial killings; isolation in investigation offices; hospitalization in medical institutions; exile. Subsequently, pursuant to this law, the Council of Ministers issued Decision No. 933, dated 17 November

²⁷ https://www.drejtesia.gov.al/wp-content/uploads/2017/11/Ligj_per_demshperblim-in_e_ish_te_denuarve_politike_te_regjimit_komunist-1.pdf

2010 On determining the administrative procedures for reviewing claims and financial compensation for the families of victims arbitrarily and extrajudicially convicted, for political reasons, from 30 November 1944 to 1 October 1991.²⁸

A needs assessment as per *Law No. 9831, dated 12 November 2007 On Compensation of Formerly Politically Persecuted Persons* states that:

*Compensation is reported as limited to persons in possession of documentation verifying their (or their family members') status as politically persecuted persons. This leaves many families of victims of enforced disappearance outside the scope of the law.*²⁹

Article 6

The amount of compensation for prisoners, internees or political deportees

The amount of compensation for prisoners, internees or political deportees shall be as follows:

- a) any political convict, for each day of the sentence served, in prison, psychiatric hospital, prison hospital, isolation in the investigation room, from 30 November 1944 to 1 October 1991, shall be compensated financially, according to the criteria of this law, in the amount of 2,000 (two thousand) ALL per day;*
- b) for persons who have suffered internment in a camp surrounded by barbed wire until 1954, the amount of compensation shall be 1,000 (one thousand) ALL per day;*

²⁸ Official Gazette no.167, date of publication in the Official Gazette: 15.12.2010, link: <https://qbz.gov.al/share/zGoS900qTpCtFTwt-6eOVg>.

²⁹ Albania, Missing Persons from the Communist Era: needs assessment", ICMP, August 2020, pg.6.

c) *for other interned or deported persons, a pension scheme is foreseen, which shall be regulated by a decision of the Council of Ministers.*

The recompense defined in the above paragraph also belongs to the convict's family members, in equal parts, when he is not alive. The right of family members to seek compensation is a personal non-property right.

From the amount that the political convict benefits from this law, shall be deducted the amount of compensation that he has benefited from previous laws.

Article 7

The amount of compensation for the families of those sentenced to capital punishment.

Relatives of victims, shot or executed with an unjust political punishment, for their suffering and persecution, shall receive equal financial recompense, in total, in the amount of eight years of imprisonment. The right of family members to seek compensation is a personal non-property right.

The Law on Compensation of Former Political Prisoners, dated 12 December 2007, as amended in 2009 and most recently in 2014, sets forth the conditions for obtaining financial compensation for victims of political persecution under the communist regime, who were subject to unjust penalties, such as imprisonment or compulsory medical measures. The law provides compensation for the families of the victims. In Article 1 it stipulates that: "Compensation of the victims, killed or executed during the period 30 November 1944 until 1 October 1991 is given only for the families defined according to this law."

Article 2 of this law stipulates that: *The purpose of this law is that the Albanian state provides financial compensation to the formerly politically prisoners of the communist regime, who survived, for the families of executed victims and persons interned or deported to camps, as a commitment of the democratic state in punishing the crimes of the communist totalitarian regime and guaranteeing them a better life.*

Financial compensation, according to this law, does not exclude other measures, simultaneous or subsequent, legal or administrative, for the benefit of the persecuted and political prisoners, which serve to reinstate justice and social dignity to this group or to create favorable conditions for their social reintegration.

- **Who are the beneficiaries under this law?**

Regarding family members who receive compensation by law, this is clearly defined in Article 8: *1. For the purposes of this law, notwithstanding other legal arrangements “family members” mean: the ancestor, spouse, descendants, brothers and sisters of the formerly politically imprisoned, and the child/children of siblings. 2. Family members of the first instance, according to the Civil Code, exclude other family members.*

- **Where should a request for financial compensation, together with relevant documents, be directed?**

A written request for financial compensation on unjust criminal punishment suffered should be submitted to the Ministry of Justice. The request form is given in annex “A”, which is attached to this law.³⁰

³⁰ To download the form, follow the link: https://www.drejtesia.gov.al/wp-content/uploads/2017/11/Ligj_per_demshperblimin_e_ish_te_denuarve_politike_te_regjimit_ko

7.2 What rights are enshrined in Law No. 7514, dated 30 September 1991, On the innocence, amnesty and rehabilitation of the formerly convicted and politically persecuted, as amended³¹, and Law No. 7748, dated 29 July 1993 on the status of the formerly convicted and politically persecuted under communism, as amended? ³²

The right to reparation - provided by law no. 7514/1991 as amended, guarantees:

- Financial and non-material reparation of the politically persecuted: in particular, the politically persecuted have been amnestied and a series of measures seek to compensate for the damage suffered, such as recognition of time spent in prison or internment for pension purposes and allowing them to return to their places of residence, as well as making available training related to employment programs. Moreover, these laws make available compensation for their economic losses due to political persecution.³³
- **Article 1:** All persons convicted of agitation and propaganda against the state, of fleeing, of sabotage, of creating or participating in political organizations, of refusing to report crimes against the state, those who have been convicted of defamation and insults against the highest organs of the state and the Party, for violation of Decree no. 7459 of 22 January 1991 On Respecting and Protection of Monuments

munist-1.pdf

³¹ No. 7514, dated 30 September 1991 <https://qbz.gov.al/share/zGoS900qTpCtFT-wt-6eOVg>

³² Law No. 7748, dated 29.7.1993 on the status of formerly convicted and politically persecuted by the communism”, as amended: link: <https://qbz.gov.al/share/-q2o6IVk-T3qDuncdy-RCEQ>

³³ “Albania, Missing Persons from the Communist Era: needs assesment”, ICMP, August 2020, pg.6.

Related to National History and State Symbols, as well as for violation of Decree no.7408 of 31 July 1990 On Meetings, Gatherings and Manifestations of Citizens in Public Places, shall be acquitted and considered unsentenced in terms of moral, political, social and economic effects.

- Article 5:

- a) The time of serving the sentence of deprivation of liberty and internment as additional criminal punishment is recognized as valid for the effect of seniority at work or service. Seniority at work for the time of serving the sentence is also known to persons who were unemployed before the start of criminal prosecution. For the purpose of calculating the pension, convicted persons have the right to choose the average monthly salary received during three consecutive years within the last ten years of employment, before or after criminal proceedings, or the salary received by the employee, who has worked under the same working conditions as the convicted person while serving the sentence. When this choice cannot be made for various reasons, they shall be given the average pension.

For the purpose of the pension, the time of serving the sentence of imprisonment shall be recognized as twice as much.

- b) The honorary titles and decorations that have been taken back from them by a court decision or by a decree of the President of the People's Assembly shall be given back to them.
- c) Make sure of their return to the residencies where they used to live before the criminal prosecution or internment, ensure them precedence in work opportunities according to their profession in or outside the country, as well as in housing.

- ç) Reinstate the right to study in high schools to those who have been deprived of this right, due to their or their relatives' criminal proceedings and as soon as possible provide them with education inside or outside the country.
- ç/1) Former political prisoners, for the duration of their stay in prison, or in labor camps and former internees for political motives until 31 December 1954, internees in the internment camps of Radostinë, Levan, Kuç until 31 December 1958, and internees in the internment camp of Zverneç until 31 December 1961, as well as internees in Kurbnesh of Mirdita until 31 December 1966, shall be given compensation according to rules that will be defined in special legal provisions in accordance with international criteria, as well as the difference of the pension throughout the entitlement. The children of former political prisoners who continue their studies regardless of age, shall have the right to receive the pension.
- d) They shall be compensated for damages caused and shall be given a certain reparation to meet living conditions, according to rules that will be established by special legal provisions in accordance with international criteria. The right to reinstate or compensate confiscated assets shall be recognized.
- d/1) Compensation for the time spent in prison or in labor camps as well as the difference in pension shall be given to the families of former political prisoners who are no longer alive and former internees for political reasons until 31 December 1954, to internees of internment camps of Radostina, Levan, Kuç until 31 December 1958 and internees in the internment camp of Zverneç until 31 December 1967.

The right to get back confiscated assets or to compensate the assets to the same extent with that of other expropriated as provided by special laws and decisions, shall be recognized.

- dh) Compensation for the damages caused shall also be given to the families or legal heirs of formerly politically prisoners who no longer live, ex-internees for political reasons until 31.12.1954, for internees in the internment camps of Radostina, Levan, Kuç until 31.12.1958, and the internees in the internment camp of Zvernec until 31.12.1967, as well as those who were shot dead without trial or who died without being convicted by the court.
- e) Pursuant to the legal provisions on family pensions, relatives of those shot dead and convicted without trial, of those who died in prison and of former internees for political motives until 31.12.1954, for internees in the internment camps of Radostina, Levan, Kuç until 31.12.1958 and internees in the internment camp of Zvernec until 31.12.1967 or those who died in prison without being convicted, shall be granted the pension.

The right to obtain the status of formerly persecuted/politically convicted is guaranteed by Law no. 7748/1993, which defines precisely the criteria for obtaining this status and other rights related to it.

This law is the first to define “political persecution”. Article 2 stipulates that:

Political persecution, hereinafter referred to as “persecution”, is any action or inaction committed from 8 November 1941 to 22 March 1992 by any armed formation or individual, the National Liberation Army, the State Security Service, the Police, the army or the Local Governments by order or decision of the Party,

military, state or courts of the Albanian communists, when this action or inaction has caused the loss of life, freedom, civil rights, the designation of “kulak”, “declassified”, as well as any other privation from participation in the political, economic and social life of the individual for the sake of his political or religious beliefs or attitude.

The right to compensation value is one of the rights guaranteed by the Law on the Status of the Politically Persecuted.

Property compensation of the politically persecuted, according to Article 7 of this law shall be: immediate monetary reward, life pension, salary compensation, land, premises and other forms of material profit, which shall be given without return to the persecuted person who died or to his family, in compensation of life, loss of liberty, unpaid work and suffering, with the main purpose of creating the conditions and opportunities for a speedy integration of him and his family in the normal socio-economic life of our country. The form of property compensation is determined by a special decision of the Council of Ministers.

OTHER RIGHTS - Article 12 of Law 7748/1993 stipulates that:

To all the individuals subject to Article 3 points a, b, c and d, the Government through its special legal provisions shall guarantee the creation of facilities and advantages, at their individual or joint request, in the following areas of economic, financial and social activity: a) In the field of privatization of state property; b) In the field of lending; c) In the field of construction and housing; d) In the field of tourism; e) In the field of education and qualification; f) In the field of employment inside and outside the country; g) In the field of implementation of various national and international economic and social programs; and h) In the field of health service. The deadline for completion of these priorities shall be envisaged by a special law.

Are the families of the missing entitled to free legal aid?

Free legal aid is regulated by Law no. 111/2017 and clearly defines all vulnerable categories that benefit from free legal protection. This law creates opportunities for the most vulnerable of the politically persecuted, who may be unemployed, homeless or who benefit from social protection schemes.

The law provides the right to primary and secondary legal aid. Under Article 3:

“Legal aid” is the free-of-charge legal service and the other services provided for in this law, for persons meeting the requirements of this law which are guaranteed and financed by the state;

- b) “Primary legal aid” is: i) providing of information regarding the legal system of the Republic of Albania, the normative acts in force, the rights and obligations of subjects of law and the methods of enforcing and exercising these rights both in judicial and extrajudicial proceedings, ii) the delivery of counselling, iii) the delivery of advice on the procedures of mediation and the alternative means of dispute resolutions, iv) the delivery of assistance in drafting and establishing of documentation to put in motion the state administration or for requesting secondary legal aid, v) representation before administration bodies, and vi) the delivery of all other forms of necessary legal support not constituting secondary legal aid.
- c) “Secondary legal aid” is the legal service that is offered for the compilation of the necessary legal acts for putting in motion the court, the delivery of counselling, representation and defence before the court in administrative and civil cases and in criminal cases for which is not applied the mandatory defence in accordance of the criminal procedural legislation.

Families of the missing and/or previously persecuted persons who meet any of the criteria of Article 11 below, are entitled to free legal aid.

Legal aid shall be granted to the following persons, regardless of their income and their property: a) victims of domestic violence; b) sexually abused victims and human trafficking victims, at any stage of a criminal proceeding; c) minor victims and minors in conflict with the law, at any stage of a criminal proceeding; ç) children living in social care institutions; d) children under guardianship who request to initiate a proceeding without the approval of their legal guardian or against their legal guardian; dh) persons that benefit from the payment for disability in compliance with the provisions of the law on social aid and services, including also persons that benefit from the status of blindness; e) persons undergoing involuntary treatment in mental health service institutions according to the provisions of the legislation in force on mental health; ë) persons undergoing voluntary treatment in mental health service institutions for serious mental diseases; f) persons against whom the removal or restriction of the capacity to act is requested, at any stage of this proceeding; g) persons with removed or restricted capacity to act who request to initiate a proceeding against their legal guardian, for regaining the capacity to act without the approval of the legal guardian; gj) persons who are beneficiaries of social protection programs; h) persons to whom the right has been infringed through an action or inaction that constitutes discrimination on the basis of the decision of the competent organ, according to the legislation in force for protection from discrimination.

Persons who are interested in applying for free legal aid provided by the Ministry of Justice - Directorate of Legal Aid, can visit the website [here](#)³⁴ and visit the office of Directorate.

³⁴ Free Legal Aid: <https://ndihmajuridike.gov.al/>

8

IS THERE A CLEAR PROCESS IN ALBANIA TO FIND, RECOVER AND IDENTIFY THE REMAINS OF MISSING PERSONS?

There are very few cases of recovery and identification of cases of missing persons in Albania. After the signing of the Cooperation Agreement between the Albanian Government and ICMP, in early 2019, the remains of three missing persons were found. They were part of a group that had been buried on Mount Dajti Mountain, and they were identified by comparing genetic DNA profiles.

Currently, there is no regulated process for finding, identifying and recovering mortal remains, although some efforts have been made to formalize this.

In light of the above, the following questions may raise:

8.1 Does Albania have a duty to investigate disappearance cases from the communist regime?

The obligation to conduct comprehensive and effective investigations of human rights abuses belongs to the state, regardless of who committed the violations and abuses (state or non-state actors). Failure to investigate the fate and whereabouts of missing persons effectively, including the circumstances of their disappearance, may constitute a continuing violation of fundamental human rights for missing persons and their family members.

The Statute of the International Criminal Court, which Albania signed on 18 July 1998, depositing its instrument of ratification of the Rome Statute on 31 January 2003, provides for the crime of enforced disappearance as a crime against humanity. This legal instrument sets out the obligations of States to conduct effective investigations into missing persons cases. The right to life in particular lies in the procedural guarantee that abuses will be formally investigated.

8.2 Is there any provision that impedes investigations by prosecutors of disappearance cases from the communist era?

The statute of limitations limits the maximum time during which legal proceedings, including a criminal investigation, may commence after a suspected criminal offense. In the Code of Criminal Procedure of Albania, Article 66, the statute of limitations for criminal prosecution is set at 20 years from the time of an offense for which the law stipulates a sentence of ten years' imprisonment.

The statute of limitations cannot be invoked as a basis for not initiating an investigation into cases of missing persons from the Communist era due to the fact that the forcible disappearance of missing persons is an ongoing action. The act begins at the time

of the disappearance of the individual and extends for the entire period of time that the crime is not concluded, that is, until the state issues information regarding the fate or location of the remains of the missing person.

Given that enforced disappearance is a crime against humanity, as defined in the Statute of the International Criminal Court, it should be noted that Article 67 of the Criminal Procedure Code of Albania states that there is no statute of limitations for the prosecution of crimes against humanity.

8.3 Which principles should be applied to address the issue of people going missing in Albania?³⁵

At the Paris Peace Forum on 12 November 2018, ICMP revisited the *Declaration on the Role of the State in Addressing the Issue of Persons Missing as a Consequence of Armed Conflict and Human Rights Abuse* with a view to promoting the application of the Declaration's principles universally and in all circumstances where persons go missing or disappear, including disasters, organized crime, irregular migration and other causes. The eight Paris Principles reflect and advance an emerging global consensus on how to address the issue of persons going missing.

1. State responsibility

States bear a responsibility for ensuring lasting peace, reconciliation and social cohesion – resolving the fate of missing and disappeared persons, and protecting persons against disappearance, is an integral element in securing this objective.

³⁵ Refer to ICMP Paris Principles, link: <https://www.icmp.int/?resources=the-paris-principles>

2. Substantive rights

The right to dignity and to life, the right not to be subjected to torture or degrading treatment, the right to a family life and to privacy, and the right to recognition as a person before the law – are all invoked when a person goes missing or is a victim of enforced disappearance.

3. Capacities

Investigations are credible only if they are capable of establishing the facts – adequate capacities cannot be ensured ad hoc or through philanthropy: they require official and sustained efforts and permanent provisions.

4. Cooperation

The issue of missing persons does not respect borders: it has an international dimension – cooperation between States and with international institutions is an indispensable element in effective measures to account for the missing.

Effective investigations on the issue of the missing cannot be carried out in isolation, but require cooperation between authorities, and with international organizations, that exchange information on the missing to uphold the rights of victims. Cooperation is effective if it secures the participation and gains the trust of the families of the missing. Key human rights related to the participation of families include the rights to freedom of expression and association.

5. Procedural rights

Rights have meaning only if violations and abuses are investigated. Persons who go missing or are victims of enforced disappearance are entitled to protection under the law; relatives and others close to a missing or disappeared person have the right to an effective investigation.

6. Truth

The right to the truth means that the circumstances of disappearances are made known – including establishing cause and manner of death in cases where the missing person is deceased

7. Justice

Criminal activity is behind the vast majority of disappearances – the justice system must lead efforts to investigate disappearances and prosecute those responsible.

8. Rule of law

Rule-of-law failures are a cause and a consequence of persons going missing or disappearing – all measures to address the issue must uphold and advance the rule of law.



**APPLICATION FORM
FOR MISSING PERSONS OF THE
AUTHORITY FOR INFORMATION
ON FORMER STATE SECURITY
DOCUMENTS**

FORMULAR APLIKIMI

PËR INFORMIM TË TË AFËRMVE TË TË VDEKURVE APO TË TË ZHDUKURVE



AUTORITETI PËR INFORMIMIN MBI DOKUMENTET
E ISH-SIGURIMIT TË SHTETIT

Nëse keni pyetje, lutemi kontaktoni: E-mail: info@autoritetidosjeve.gov.al Web: www.autoritetidosjeve.gov.al	HAPËSIRË E REZERVUAR VETËM PËR PUNON- JËSIT E AUTORITETIT PËR INFORMIMIN MBI DOKUMENTET E ISH-SIGURIMIT TË SHTETIT
Shënim: Ju lutemi plotësoni me kujdes dhe qartë informacionin e kërkuar në fushat më poshtë, ME GERMA KAPITALE DHE NË NGJYRË BLU.	

SEKSIONI A: INFORMACION MBI APLIKANTIN

1. Emri <input type="text"/>	3. Mbiemri <input type="text"/>
2. Emri i babait <input type="text"/>	4. NID NR. i identifikimit personal <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
5. Gjinia Mashkull <input type="checkbox"/> Femër <input type="checkbox"/>	6. Ditëlindja <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> Data Muaj Viti
7. Vendlindja <input type="text"/>	8. Shtetësia <input type="text"/>
9. Adresa <input type="text"/>	
10. Qyteti <input type="text"/>	11. Rrethi <input type="text"/>
12. Kodi postar <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	13. E-mail <input type="text"/>
14. Nr. Tel. Celular <input type="text"/>	15. Nr. Tel. Fiks <input type="text"/>

SEKSIONI B: INFORMACION MBI TË PAGJETURIN

16. Emri 17. Mbiemri

18. Emri i babait 19. Emri i nënës

20. Gjinia Mashkull Femër 21. Ditëlindja

22. Shtetësia

23. Adresa

24. Qyteti 25. Rrethi

26. Kërkuesi paraqet kërkesë për informacion në cilësinë e të afërmit të të vdekurit apo të të zhdukurit

Të afërmit të të vdekurve apo të të zhdukurve

Tjetër

27. Arsyeja e paraqitjes së deklarimit të formularit të aplikimit

Për të qartësuar fatin e të vdekurit apo të të zhdukurit

Për rehabilitimin e të vdekurit apo të të zhdukurit

Për ruajtjen e të drejtave të personalitetit të të vdekurit apo të të zhdukurit, në veçanti sqarimi i akuzës së bashkëpunimit me ish-Sigurimin e Shtetit

Tjetër

28. Dorëzon dhe jep pëlqimin

Për intervistim

Kujtime

Dokumentacion

Të drejtën për komunikim me institucionet

29. Të dhëna për lehtësimin e identifikimit të dokumentacionit arkivor. Të përcaktohet:
- i) vendi ku ka ndodhur ngjarja;
 - ii) koha kur ka ndodhur ngjarja, data, muaji, viti; iii) procesi politik dhe dënimi;
 - iv) vendi i ekzekutimit të dënimit;
 - v) vendi i ekzekutimit të dëbim/internimit; si dhe çdo detaj apo e dhënë tjetër që lehtëson kërkimin e të dhënave t'i bashkëlidhet dokumentacionit shoqërues, nëse ka.

SEKSIONI C: DOKUMENTACIONI I PARAQITUR

- Fotokopje të kartës së identitetit
- Prokurë, kur aplikimi paraqitet nga një përfaqësues i autorizuar
- Dokument, që vërteton lidhjen familjare (dëshmi trashëgimie/certifikatë etj.)

Ky formular nuk ndalon aplikantin të vazhdojë kërkimet edhe në institucione apo burime të tjera, ku ai e sheh të arsyeshme. E drejta e kërkimit për informimin dhe vënia në dispozicion e dokumenteve sipas ligjit nr 45/2015 "Për të drejtën e informimit për dokumentet e ish-Sigurimit, të Shtetit të Republikës Popullore Socialiste të Shqipërisë" ushtrohet nga kërkuesit e individëve, duke iu drejtuar Autoritetit për Informimin mbi Dokumentet e ish-Sigurimit të Shtetit, nëpërmjet shërbimit postar ose pranë zyrës së informimit të Autoritetit

Nënshkrimi i Aplikantit

--	--	--	--	--	--	--	--	--	--

Data

Muaj

Viti

