



Research Article

© 2024 Bledar Abdurrahmani and Tidita Abdurrahmani.
This is an open access article licensed under the Creative Commons
Attribution-NonCommercial 4.0 International License
(<https://creativecommons.org/licenses/by-nc/4.0/>)

Received: 17 January 2024 / Accepted: 12 April 2024 / Published: 5 May 2024

Transitional Justice in Albania: The Politics of Truth Revelation about Past Human Violations Through Access to The Secret Files and Preservation of the Collective Memory

Bledar Abdurrahmani¹

Tidita Abdurrahmani²

¹Faculty of Law and Political Science,
Aleksander Moisiu University,
Durrës, Albania

²Faculty of Technology and Business,
Beder University College,
Tirana, Albania

DOI: <https://doi.org/10.36941/jesr-2024-0064>

Abstract

During 45 years of dictatorship in Albania, many people were accused, convicted imprisoned, exiled, or persecuted for “offenses” of a political nature thereby violating basic human rights. Victims of violence, their descendants, and society as a whole have a legal right, even a moral one, to learn the truth regarding past human violations. International law, through its mechanisms, has made a valuable contribution, not only through shaping the instruments that contribute to the unveiling of the truth about communist crimes but also through fostering progress in the respective jurisdictions. Within the scope of the state’s responsibilities in unveiling the truth about communist crimes, Albania has built its model through the adaptation of a series of legal and institutional measures. The purpose of this paper is to analyze the Albanian model of truth revelation, focusing especially on the politics of preservation of the archives providing access to them, and protecting historical collective memory. The study supports the hypothesis that transitional justice remains an open process because the relevant mechanisms created to make justice and reveal the truth about the bitter past have produced incomplete and insufficient results. The paper also argues that during these 33 years of democratic developments in Albania, the legal system of information on secret service files has been only recently properly contoured and the challenge remains its implementation in practice, meanwhile, the collective memory as a form of justice for the communist crimes in Albania has not yet served its basic mission.

Keywords: transitional justice, right to the truth, communist crimes, collective memory, right to access to the secret files

1. Introduction

During the communist regimes, violence was used against many people, monstrous crimes were committed, and false evidence was forged to build accusations and justify punishments. The reason behind this is that “the communist regimes were based on a criminal ideology, on demonic principles such as the “dictatorship of the proletariat” and “the class struggle”, which legitimized the

“elimination” of people who were considered harmful to the construction of a new society and, as such, enemies of the totalitarian communist regimes.” (Res 1481/2006 para.3). According to CoE (Res 1481/2006) totalitarian communist regimes were characterized by monstrous infringement of basic liberties, individual and collective deaths and executions, passing in death camps, starvation, internment and forced removal, slave work and different types of mass torturing, mistreatment on ethnic or religious grounds, infringement of freedom of thought and articulation, infringement of freedom of press, and furthermore absence of political diverse representation (para.2). The European Parliament, (Res 2009) also explicitly acknowledged that “millions of people were extradited, detained, tormented and killed by dictatorial and tyrant systems in 20th century Europe” and simultaneously condemned all crimes against humanity and the massive human rights violations committed by totalitarian regimes” (para. G). The main reason that justified the articulation of such a radical approach, at a rather late moment, about 20 years after the fall of communism in the Eastern countries, was the concern that reality about the violations of communism had not yet been uncovered. This appears in statements found in the above-mentioned resolutions like “lack of international investigation”, “poor public awareness” and “moral appreciation and punishment by younger generations” for the communist crimes. Even nowadays, this approach is embraced by the EU (Res 2019) which keeps on accentuating the significance of revealing reality and safeguarding the memory of the appalling past, respecting the people in question, denouncing the culprits, and laying the ground for compromise in light of truth and recognition (para. H).

A question that naturally arises when dealing with the past, the communist crimes, and the gross violations of human rights is what is meant by truth and what is the interconnection between truth and justice. Truth is a central concept in the struggle for justice and is many times considered the foundation of justice. Aquinas (1981) placed the virtue of truthfulness among the virtues annexed to justice duly arguing that “truth is a part of justice, being annexed thereto as a secondary virtue to its principal” (ST II-II, q. 109, a. 3). Almost in the same vein consider this relation Teitel and Safjan. While Teitel (2000) considers the truth “as the virtue of justice”(p.10), Safjan (2007) states that “justice requires and is based on truth”, so the truth is needed so that justice can be done properly and injustice can be avoided (p.12).

Unveiling the truth about serious violations of human rights committed by a repressive regime represents the minimum threshold to restore the dignity of the victims, as the basis of fundamental rights. Justice must reach the truth, while the latter, as it happened during the communist regime, can be painful and might not produce justice in itself. Justice might instead just serve to restore the dignity of the victims and alleviate their sufferings and those of their relatives. Zalaquett (1992) asserts that although the truth cannot really in itself enforce justice, at least it contributes to” putting an end to many a continued injustice. Truth does not bring the dead back to life, but it brings them out from silence.” (p.1433). Even though laying out reality with regards to serious infringement of basic freedoms through the law doesn't make legal justice completely, it might serve the cause of moral justice, restoring human dignity that has been desecrated for decades, and dismantling the manipulations built up over decades.

The truth is of fundamental importance when coming to terms with the past after serious human rights violations. In societies in transition marked by gross common freedoms infringement, the protection of human dignity and the principle of justice require the prompt disclosure of reality, the correction of injustices, and the re-establishing of the dignity and the human rights of the victims. The truth can assist in the healing process after serious human rights violations and in restoring personal dignity after years of stigmatization. Countries in transition have attempted to bring forward simultaneously both truth and justice initiatives. The package of measures for dealing with past human rights violations cannot achieve sustainable solutions unless based on the pillars of justice, reparations, and truth. This is the reason why laying out reality about the communist wrongdoings addresses one of the cornerstones of transitional justice and the objective of these policies is to provide insight into the repression and uncover the infringement before reality concerning them is hidden away.

International law, through its mechanisms, has made a valuable contribution to the vindication and evolution of the right to the truth, not only through shaping the instruments that contribute to the unveiling of the truth about serious human violations but also through fostering progress in the respective jurisdictions. While international law has been posing normative pressures on domestic jurisdictions to unveil the truth about the past atrocities, the fundamental question remains which is the solution that Albanian domestic legislation has given to this matter and how far is it efficient? The purpose of this paper is to evaluate the politics of truth about past serious human violations through access to secret files and the preservation of collective memory.

2. Research Method

This study provides a legal theoretical analysis of the scope of the right to the truth according to International soft law, focusing mainly on discovering the truth about past atrocities through establishing mechanisms and models of truth revelation, like preservation of the archives and access to them and the protection of historical collective memory. The analysis was conducted through the interpretation of UN and European documents as Soft Law sources which provide thorough guidance and set political duties on states in regulating legal concepts and institutions which might play a determinant role in establishing the basis upon which justice and reparation might be carried out.

The study applies traditional legal methods of interpretation and qualitative document analysis of the Albanian legislation model built to unveil the truth regarding the serious human violations that happened during the communist regime through public disclosure of secret files and collective memory. The study is conducted based on a methodology that analyzes four variables in each of these policies of truth revelation specifically: the policies contributing to the truth revelation of past violations, the legal and empirical challenges encountered, the constitutional and legal basis of these measures, and the results achieved in practice.

2.1 Hypothesis and Results of the Study

In recent years in Albania, it can be noticed a strong change of trajectory in dealing with the past and in particular the issue of the right to truth about past atrocities. The study supports the hypothesis that transitional justice remains an open process because the relevant mechanisms created to make justice and reveal the truth about the bitter past have produced incomplete and insufficient results. The paper also argues that during these 33 years of democratic developments in Albania, the legal system of information on secret service files has just been recently properly contoured and the challenge remains its implementation in practice, meanwhile, the collective memory as a form of justice for the communist crimes in Albania has not yet served its basic mission.

3. Contouring the Politics of Truth Revelation in International Soft Law. The Access to the Secret Files and Preservation of Collective Memory as Elements of the Right to the Truth

Truth revealing about the violation of human rights is not closely bound to the precise wording of particular treaties, but it was vindicated by case law and especially soft-law and doctrinal contributions. The scope of the right to the truth in UN policy documents has evolved, extending beyond that recognized by the Protocol of the Geneva Convention. The Impunity Principles of 1997 and the revised ed. of 2005 are a valuable source of international norms on the right to the truth used by human rights jurisdictions including international criminal tribunals. According to these non-binding guiding instruments (UN Impunity Principles, 1997, Principle 3), the right to truth revealing about the past atrocities and reasons leading to the perpetration of wrongdoings is viewed as a natural right of every individual and an imprescriptible right of the victims, their families and family members and it isn't dependent upon any legal actions (p.17). The impunity principles consider the right to truth as a group right "attracting upon history to keep infringement from repeating from here

on out” (UN Impunity Principles 1997, Principle 2). The principles declare that the general public all in all has the privilege to know reality with regards to serious basic liberties infringement, while the state must safeguard the memory and further individuals' information on the historical backdrop of its mistreatment, as a feature of its legacy (UN Impunity Principles 1997, Principle 2, p.17)

Basic Principles on the Right to a Legal Remedy and Reparation adopted in 2005, consider the right to the truth an element of satisfaction in the framework of the general right of remedies and reparations for victims of gross violations of international human rights law. According to this act (UN Basic Principles, 2005) satisfaction includes, among others, “verification of the facts and full and public disclosure of the truth ...” (para. 22). The right to the truth according to the Basic Principles (UN Basic Principles, 2005) focuses “on the causes leading to victimization and on the causes and conditions about the gross violations of international human rights law. This right belongs to the victims, their representatives, and the public, so factual truth about gross violations of human rights might be publicly disclosed (UN Basic Principles, 2005, para. 24).

These standings of UN soft law were confirmed also by IACtHR in the case *Bamaca Velasquez v Guatemala* (2002) underlining that: “in addition to being an individual right, the right to the truth also belongs to society as a whole” (para.197). In the same vein, ECtHR (*Nashiri vs Poland*, 2014) states that where charges of significant basic liberties infringement are associated with the investigation, the right to the truth regarding the pertinent conditions of the case are not exclusively related to the victim and his family yet additionally to different survivors of comparable infringement and to the overall population, who has the privilege to realize what has occurred (*Velasquez v Guatemala* 2002, para. 495).

Contouring State obligations in cases of serious violations of fundamental rights has contributed to the designing of truth-seeking measures and policies to deal with the bitter past. State-driven truth-seeking measures although closely related to the pillar of truth, do not emerge exclusively from the right to truth per se but are rather considered as instruments for guaranteeing human rights and transitional justice. The state must preserve the memory as an element of the right to the truth. As “people’s knowledge of the history of its oppression is part of its heritage and, as such, must be ensured by appropriate measures in fulfillment of the State’s duty to ... preserve the collective memory from extinction (UN Impunity Principles, 2005, Principle 3, p.7). UN (Basic Principles, 2005) has considered preserving collective memory as serving for reparation and as an element of satisfaction for the harm suffered undertaking among others “g) Commemorations and tributes to the victims” (para 22, g). The main argument here is that protecting collective memory is a precondition for restricting the propensity of past systems to forestall the foundation of truth and peace. (UN Impunity Principles 1997, Principle 2, p.17)

After the fall of a repressive regime, the new democratic state must give effect to the processes of discovering the truth, establishing mechanisms and models of truth revelation, like preservation of the archives and providing access to them (UN Impunity Principles, 1997, Principle 4, p.18). Basic Principles (2005) also considers as a standard of reparation the state's obligation to develop means of informing the general public and, in particular, the victims on the causes leading to their victimization and on the causes of the gross violations of international human rights law” (para. 24).

Lastly, states should promote objective truth through the “Inclusion of an accurate account of the violations that occurred” (UN Basic Principles, 2005, para. 22, (h). Free and independent media informing the public about the human rights dimension in the area of transitional justice mechanisms locally, nationally, and internationally (UN, 2009, Res/12/11, para. 14, (c).

Knowing the truth “to the fullest extent possible” is extremely important to help communities understand the causes of past atrocities. Unveiling the truth is an obligation and not an option for states where violations of human rights have occurred. The right to the truth should be pursued through both judicial and nonjudicial mechanisms. The truth, together with justice and reparations are the main pillars that guarantee a complete and sustainable solution to dealing with past human rights violations. In a transitional context, the right to the truth offers the victims and society as a whole a tool to instigate truth-seeking processes and holds authorities accountable to implement

effective measures to guarantee it. The right to the truth thus "acts as a bridge between international law and transitional justice truth-seeking practices, thereby contributing to normalizing the field of transitional justice, which in turn contributes to normalizing the "right to truth" (Naftali, 2016, p.13). Transitional justice policies synchronize like communication vessels with the policies that enforce the right to the truth about serious violations of human rights. The truth revelation policies represent a tool that enables the development of a larger, far-reaching transitional justice strategy. If implemented properly these policies can play a determinant role in establishing the basis upon which justice can be done. Victims, the State, and society must come together to enable the search for the truth; in this way safeguarding human rights.

4. Advancing the Policies of Truth Revelation about the Communist Crimes to a European Level

Establishing the truth while dealing with the past, in transitional societies, has been the focus of CoE policies (Res 1613/2008) as part of the responsibilities of its political mandate to protect human rights, the rule of law, and democracy (para.1). CoE (Res 1868/2012) has also given an immense contribution on the promotion and formation of the policies on the protection of all persons from enforced disappearance on a European level. Since transitional justice policies are like communication vessels with those of the right to the truth for serious human rights violations, the genesis of the truth-revealing policies can be found in Resolution 1096/1996 (para.1). The main aim of this act, above all, is to urge the development of transitional justice policies in post-communist countries as an obligation stemming from the principle of justice and the rule-of-law and not the right to the truth per se (Res 1096/1996, para.1 and para.4). However, some truth-seeking measures about serious violations of human rights articulated as recommendations "for criminal prosecution and the punishment of criminal acts committed by individuals during the totalitarian communist regime" (Res 1096/1996, para.7) and "opening of secret service files for public examination" (Res 1096/1996, para.9) can be found in this act.

The CoE Resolution of 2006 on the Need for International condemnation of crimes of totalitarian communist regimes expresses the conviction that the prosecution and criminal punishment of communist crimes on a European level did not serve as needed to the value of justice and the truth, thus resulting in a poor societal awareness and a serious threat for the future. (Res 1481/2006) The fault might be that the perpetrators of these wrongdoings have not been brought in front of the court by the internationals, as occurred with the awful violations of national socialism, however, they were left to be trialed by the particular local jurisdictions (Res 1481/2006, para.5). This act contributed to advancing the truth-seeking policies and institutional reforms in the member states and urged the states to use historical justice as an alternative approach to dealing with this issue. The main argument in the above-mentioned resolution was that unveiling the historical truth for the bitter past contributes to moral assessment and condemnation of crimes committed by totalitarian regimes as well as to the education of young generations (Res 1481/2006, para.7)

The truth and remembrance of a totalitarian tragic past in some European countries has been considered by EU institutions as an approach to achieving peace and reconciliation (Res 2009). The EU policy aimed at the condemnation of all crimes against humanity and the massive human rights violations committed by all totalitarian regimes and at the provision of effective solutions through presenting a catalog of measures for dealing with past human rights violations, like the "documentation of, and production of accounts testifying troubled past", "opening up archives", "preservation of historical memory", "establishment of European Memory Platform", "cooperation among national research institutes specialized on totalitarian history" and the "support for carrying out professional historical research". In the same vein, the Prague Declaration on European Conscience and Communism (2008), while establishing the presumption that the communist ideology was directly responsible for crimes against humanity, provided a very important guide on adopting truth-seeking measures about the communist past (Prague Declaration, 2008).

European institutions have provided a detailed catalog of measures aimed at enforcing, among others, the right to the truth about past communist atrocities. According to these policies unveiling the truth must go beyond legal processes and focus on building a collective historical memory. All the above-mentioned truth-seeking policies are mutually supportive, creating a nexus of complementarity and providing space for interaction between all actors involved thereby giving an immense contribution to promoting human rights and democracy. EU institutions have considered the implementation of these measures by member and non-member states as fundamental in the process of the consolidation of human rights, rule of law, democracy, European values, and integration processes.

5. The Politics of Truth Revelation about Human Rights Violations in Albania

Dealing with the serious violations of human rights and the manipulation of the truth is not only a political, moral, and historical goal, but it is above all a legal one. On the domestic level, the protection of human dignity and personhood, and fundamental human rights contribute toward making justice, unveiling the truth, and dismantling the manipulations built over the decades under the communist regime. The new democratic state must respond to the individual and collective demand for justice and truth by investigating criminal practices, identifying their authors, and evaluating their consequences. Digging for the truth contributes to alleviating the suffering of the victims, as well as to the creation of a historical memory. The state must build the appropriate truth-revealing mechanisms serving the individual needs of the victims and the society as a whole so as not to let the bitter past threaten again. This implies the necessity to establish an official truth regime, using different truth-seeking measures.

In transitional contexts shifting from a repressive system to a democratic one, different forms of restoring justice and truth have emerged and have been adopted in different jurisdictions. Transitional justice measures must focus on a credible truth-seeking and truth-telling process that elicits accountability, identifies perpetrators, removes the ideological veil of falsehood, and builds shared memories of violence. No single mechanism fulfills the right to the truth on its own. Unveiling the truth is a central demand of victims of a repressive regime and an internationally guaranteed right. From the methodological point of view, evidencing the truth includes investigation, analysis, review of events, and verification of facts and actions that have led to the violation of human rights. Indeed, a commitment to the truth implies carrying out an independent, legal, and historical examination of past crimes.

6. The Politics of Truth Revelation Through the Secret Files in Albania

Criminal justice can't give a more extensive image of the entire arrangement of constraints posed upon a specific society; however, they are sufficiently able to determine the truth inside the system of individual obligations. Through the trials it is impossible to address all cases of serious human rights violations, therefore societies should adopt different truth-finding approaches to deal with legacies of the past. One of the approaches to unveiling the truth is accessing secret files as a way of obtaining evidence of serious human rights violations. As Safjan (2007) enunciates, the main presumption about secret files is that "the truth detracted from the secret files isn't the genuine truth (the documents were much of the time manipulated, somewhat annihilated and created through blackmailing of the victims." (p.13).

Information contained in the files can reveal the truth about specific past acts of abuse committed by Secret Service officials and their collaborators, thereby contributing to accountability and serving the historical clarification of the truth. This is also asserted by Gonzales (2013) who emphasizes that "In states transitioning from conflict or widespread repression, archival revelations can help the new government establish a break from the past and forge a new social contract premised on greater transparency, accountability, and respect for human rights." (Gonzales, 2013, cit

in Ciorciari and Franzblau, 2014, p.3). The right to access to the secret files is considered as “constitutional obligations derived from the principle of transparency of public life and the right of each citizen to access the information on state activity” (Safjan, 2007, p.11-12). Access to the secret files represents a path to unveiling the truth, but it might also encourage the action of other mechanisms such as criminal prosecution and public reaction. As a public policy, file access is conceived as a mechanism of both individual and collective justice.

6.1 *Evaluating the Obstacles of the Policy*

Access to the secret files as a policy, like any other right to information, is characterized by a strong internal tension between the right to access to these files and the duty to protect privacy rights and national security, which are considered of greater importance. Providing a solution to this conflict is determinant in deciding on the applicable approach, namely full or limited access to the secret files. Even more important is the political will in specific jurisdictions.

The main concern arising when the full access approach is considered is how to manage it effectively while dealing with issues of privacy rights or national security. According to Safjan (2007) improper use of the full access approach “can violate the presumption of innocence and can reserve the burden of proof” (p.13). Meanwhile, aiming to prevent social retaliation and confrontation, the limited access approach restricts access to the files concerning former collaborators and classified files thereby “leaving space for doubts and speculations in the public eye for an endless time frame on the issue whether an individual, particularly a public one, was a collaborator or not (Gruodytė and Gervienė, 2015, 162).

6.1.1 *Constitutional Basis and the Content of the Policy*

The politics of truth-revealing through access to secret files in Albania besides originating from the constitutional obligation to guarantee fundamental human rights and freedoms and the pledge to protect human dignity and personhood, is rooted in the general right to information. The Albanian Constitution (Law 8417, 1998) explicitly states that “The right to information is guaranteed. Everyone has the right, in compliance with the law, to get information about the activity of state organs, as well as about persons who exercise state functions.” (Art.23, para.1 and para.2). The legal policy of the secret files disclosure is a necessary instrument for achieving the country’s “Europeanization”.

The first step to legally recognize the right of access to secret files in Albania was taken at the end of 2008, with the approval of Law 10034/2008 “On the Cleanliness of the Figure of High Functionaries of the Public Administration and Elected Persons”. This law sanctioned the right of any person “to be acquainted with personal data, about what is contained in the files of the former State Security, according to the provisions of this law (Law 10034/2008, Art 26). To be able to access the information contained in these files the interested persons were obligated to submit a written request to the competent authority, which in turn “makes it possible” to inform the interested person only about his personal data and issues. While informing the interested person, the law prohibited disclosure of information on issues and names of third parties that may be included in the interested person’s file.

Although the law was repealed by the Albanian constitutional court (Decision no. 9/2010) a few months later for serious constitutional problems related to the lustration mechanism, some aspects related to the right to access the secret files can be analyzed to understand the political will about this issue. As stated above, while the main purpose of this law was lustration, it provided for a very narrow channel of information flow by allowing access only to interested persons. Interested persons could obtain information about their personal data contained in the secret files, without being allowed to learn the truth about the persons who caused their sufferings. Even though the right to access to the files was recognized, the wide discretion given by the law to the competent authority through the statement “to make possible” was a strong limitation.

For more than a quarter of a century, the right to access the secret files was missing and therefore an obstacle on the way to discovering the truth about the bitter past. Right, to access secret files was officially recognized only in 2015 with the approval of Law 45/2015" On the right of information to the documents of the former security service of the People's Socialist Republic of Albania". This law constitutes a very important step in completing the legal infrastructure of transitional justice in Albania. According to this law, the right to information on secret files is not a derivative approach, as it resulted in the previous law where lustration was the main purpose while access to files had a secondary role and a very limited scope. The law started being enforced only in the middle of 2017 with the establishment by the Parliament of Albania of the Authority of Files of the communist era.

In Law 45/2015 unveiling the truth through the right to access to the secret files is considered an individual right of every person affected by repression. The scope of this right includes access to secret police files, knowing the truth about their conviction, identifying the names and the role of each person involved, etc. (Law 45/2015, Art.5). In fulfillment of the aim of this law a public institution that administers the secret archives of the communist period was established as a collegial body with 5 members elected from the Albanian Parliament. This law guaranteed the right to access to the affected persons, the collaborators, the persons supported by the secret police, as well as to public institutions for lustration purposes and other persons or institutions for historical review or educational purposes (Law 45/2015, Art.19-24). The law recognizes the right of each of the above-mentioned persons to be informed by the competent authority upon request. The law also foresees recognition, examination, and retrieval of original documents or their duplicates, and public presentation of documents containing information from secret files only upon request of the persons. The Files Authority was also granted the right to reveal the truth, by correcting false information found in secret files and to partially (Law 45/2015, Art.5, p.6) or completely limit the right to information in secret files when the data constituted a real threat to National Security or a breach on personal data protection (Law 45/2015, Art.6. p.3).

Unveiling the truth about the communist crimes cannot be considered only an individual demand but also a public one. It is the state's responsibility to inform the whole society about the truth, to preserve the memory, and to make people aware of the history of its oppression, as part of its heritage. Limited access to secret files does not allow for public disclosure and availability of information for all the other persons who show relevant interest. This concern was also raised by the European Commission which identified "the need to complete the process of declassifying communist-era files and making them accessible to researchers and the wider public to advance justice and reconciliation, bring justice to victims and provide reparations to survivors and their families." (COM Rep on Albania, para.66).

The socio-political need to challenge the dominant and self-constructed narratives provided by the post-communist governments, on one side, and the recommendations imposed by the EU approach on the other side, urged the Albanian legislator to remove restrictions of the previous model thereby shifting toward a full access to secret files approach. The latest legal changes of 2022 recognized the right of any person "who justify their interest" to receive information about documents of the secret police (Law 72/2022, Art. 9) and entitled the Authority to complete the declassification of all communist-era files (Law 72/2022, Art. 18). The Authority was mandated with a more proactive role, acting as a truth mechanism to determine the state of facts and circumstances related to specific cases through collecting statements from the parties, witnesses, and experts as persons involved in the cases (Law 72/2022, Art. 15). This feature shows that this truth mechanism can contribute to dismantling forged truth and building another one, the official truth. Lastly, the state authority was mandated with a more interactive role with schools, museums of memory, and cultural heritage institutions to unveil the truth of communist crimes (Law 72/2022, Art. 4). Attributing to the Authority a proactive role as a truth mechanism, and an interactive function of collaborating with cultural heritage and educational institutions reveals an overlap between the scope of responsibilities of three state institutions namely the Institute for the Study of the Crimes of

Communism, the Authority of the Files and the Institute of the Politically Persecuted Persons.

6.1.2 *Evaluating the Policy*

In a transitional context with a history of serious violations of human rights, such as the Albanian one, socio-political needs require consideration of how justice and truth should be achieved. The discovery of the truth is of great importance in the Albanian context, because it can assist in the healing process and the restoration of personal dignity after years of stigmatization. One of the main policies addressed at the regional level by the Council of Europe and carried out by other ex-communist countries that offers a major contribution to the cause of justice, truth, and the democratization of public life is the public access to the secret files of the communist period. This is because the archival documents might have important evidence of state violence and repression. Access to these documents serves to ease the injustices to the victims and promotes accountability processes like the criminal prosecution of communism crimes or lustration.

For more than 25 years after the fall of communism, the Albanian legal system did not recognize the right to access the state security files, neither to the victims of communism, to the interested persons nor to the general public. Denying access to the secret files for several decades in Albania represents a vacuum in the legal system, not serving the cause of truth and justice, and having negative implications for the human rights regime during this period. The lack of a legal solution for such a long period has reduced the social pressure of the early years after the fall of communism. The fact that now a significant part of the victims and persons involved in the communist violence and terror are no longer alive has made today's society not to have a great interest in unveiling the truth about the bitter communist past. Different authors highlight the lack of information and therefore the lack of interest of the new generation in the communist past. (Godole, 2018)

The lack of such a policy is related to the lack of the will of the Albanian political elite of this period. As argued by Austin and Ellison (2008, 378) in their study, such a legal policy was not carried out in Albania because the political power after the fall of communism was not taken by dissidents, but by individuals with strong ideological ties to the previous regime. Of course, they were not at all interested in shedding light on a dark period of communist Albania. As argued by other researchers, Austin and Ellison (2008), Elbasani (2011), and Kalemaj (2021) the Albanian political class after the fall of communism used the files "card" and especially lustration as a political weapon to attack their opponents in the electoral process of 1996. This reform was never considered as a mechanism that would serve the interest of the victims, in particular, and the whole society in general.

Only in 2015, the law recognized for the first time-limited access to secret files, not allowing full declassification and public disclosure of the files. This right became effective only by the end of 2017. The right to access secret files in Albania is long overdue and this has perhaps contributed to the shift from a limited model to a full public access one within a very short period. Monitoring reports of the Albanian Parliament, as well as the Authority's annual reports emphasized the fact that the main focus of the policy should be handling the information requests from subjects and the declassification of secret documents. There has been an increase in the number of requests for information as well as in the answers provided to the interested subjects. During these 5 years, as stated above, the powers of the Authority have been expanding, entitling it to investigate the whereabouts of the missing persons from the communist period.

The cooperation with foreign and local partners has had important effects. One valuable cooperation has been the agreement between the Files Authority and the private foundation "Remember", in 2019. The product of such cooperation was the establishment of a memory archive of the victims and executioners of communism by the Remember Foundation, a work that should have been carried out by the Institute for the Study of Crimes and Consequences of Communism. The main challenge now remains, the enforcement of the law, specifically in terms of making public disclosure of the secret files effective to serve the discussion of the facts and the unveiling of the truth.

6.2 *The Politics of Resurging the Collective Memory in Albania*

One of the main objectives of the socio-political transition from a repressive regime to a democratic one is to unveil the truth about serious human violations by all possible means and as soon as possible. Shedding the light on the bitter individual and collective history is said to lay the necessary foundation for the new democratic order and to serve justice and reconciliation. The unveiling of the truth about the past violations of fundamental rights is considered an obligation of the state to at least repair the consequences to the victims, to raise public awareness, and to protect the society from reoccurrence of such events. Therefore, in fulfilling this obligation, the states have designed another approach, that of using the law to do historical justice. Adopting the policy of preserving collective memory implies using the law, no longer for regulating social relations in an imperative and coercive way, but to contribute to unveiling the “truth” about the past. This is a non-typical approach to the law because the historical truth must usually emerge from independent historical studies.

Memory laws represent the main instrument that aims to enforce the collective right of the society to know the truth about past violations. As Baranowska & Gliszczyńska-Grabias (2018) state “Memory laws are legal instruments aimed at protecting what is considered to be objective historical knowledge” (p.99). They are intended to remove the false narrative masks built by the communist state about certain events, facts, and persons, and to reveal the objective historical truth. Memory laws enshrine state-approved interpretations of crucial historical events, commemorating the victims of past atrocities as well as heroic individuals or events emblematic of national and social movements (Baranowska & Gliszczyńska-Grabias, 2018, p.98). They go beyond the boundaries of mere criminal legal regulations. Historical justice and truth may be achieved through a range of legal and administrative measures. States often use laws not only to prescribe but also to promote historical narratives of persons or events from the past.

In most of the countries that have gone through the same painful experiences, mandating a state institution to analyze, study, evidence past crimes, and preserve collective memory has been considered a supportive policy alongside criminal trials or truth commissions. States have considered a matter of public interest the politics of resurging collective memory through a mandated mechanism. This implies using historical and legal techniques for evidence, documentation, and promotion of the truth about past violations. This politics is proof that a given state has assumed responsibility if not legal, at least moral and political for crimes and serious violations of human rights committed in the past. To materialize the above-mentioned responsibility, the states have undertaken an approach to establish robust legal apparatuses founded on the principles of transitional justice and aimed at safeguarding collective memory.

In Albania, since the criminal trials did not produce the desired effect, the need to analyze, study, and evidence communist crimes, as well as their consequences, with any appropriate means is of imperative importance. The evaluation of the communist period and especially the communist crimes should not be left only to the judgment of researchers and historians but needs timely intervention from state mechanisms.

6.2.1 *Evaluating the Obstacles of the Policy*

The approach followed by the Albanian legislator to deal with symbols, ideology, and slogans of the previous communist regime is non-punitive. In the Albanian legal framework, there is no provision to foresee prosecution and punishment in any form for the use of communist symbols, ideology, and slogans. There are several norms of a formal character of the Albanian Parliament, but not laws in the narrow sense, that condemn the period of communism and the crimes committed (Res no.1/2006; Res no.11/2016). Nevertheless, it must be said that the Law on Memory set up the presumption that the activity of the previous regime was criminal and in violation of fundamental human rights. In these circumstances, in Albania, differently from other jurisdictions there is no dilemma in balancing

rights. Questioning whether punitive legal approaches limit or not proportionately the right of expression is not an issue in Albania, and thus not an obstacle to politics. In the Albanian context, a challenge is establishing a professional and reliable mechanism to properly fulfill the process of resurging collective memory. An arising concern is in which way this mechanism, through its institutional action, will be able to carry out such an important mission so that the whole society, especially the younger generation, might understand what communism is and what its consequences are.

6.2.2 *Constitutional Basis and the Content of the Policy*

During 45 years of the communist regime, violence was used against thousands of individuals, monstrous crimes were committed, and false evidence and facts were forged to build accusations and justify punishments. Victims of violence and their descendants have a legal right, even a moral one, to learn the truth regarding violations of their rights. The domestic legal policy on collective memory of communism has its roots in the preamble of the Albanian Constitution, specifically in the values of "justice", and "respect for human rights" as well as in the "pledge to protect human dignity and personhood". Alongside them, this politics derives from the necessity to protect and promote another basic constitutional principle that of "national historical aware(ness)". The PACE Resolution of 2006 and that of the European Parliament of April 2nd 2009, have given an immense contribution to the enactment of a domestic policy regarding collective memory.

The perpetrators of communist crimes in Albania were not identified and punished. Therefore, it was of utmost importance to adopt a policy through which the state takes responsibility for making justice and unveiling the truth. In 2010, a state-mandated mechanism was created, the Institute of Studying Communist Crimes, according to the German model, in the form of a scientific institute. The mechanism was in the form of a collective body, with well-known personalities from the academic and professional fields, chosen by the Albanian Parliament with alternative proposals from the descendants, the academic community, and the civil society (Law 10242/2010, Art 5, Art 8). The composition of the state-mandated mechanism aimed to use the competence and professional ability of an academic elite, allowing them to use practice and institutional action to reveal and promote the truth about communist crimes (Law 10242/2010, Art 13 and 14).

The mission of this institute was to objectively study and evaluate the period of communism and document the crimes of communism and their consequences (Law 10242/2010, Art 5, paras. a and b). The creation of such a mechanism represented the only possibility to reveal the historical truth over the communist crimes raising awareness about the bitter past and resurging collective memory. The research carried out by this mechanism does not exclude the role of other studies compiled by historians aimed at the determination and objective verification of what took place during the communist dictatorship in Albania. This mechanism has been given the right to rewrite and officially promote collective memory with the main aim of avoiding political influence and overall producing objective historical truth.

6.2.3 *Evaluating the Policy*

Albania, like all other Eastern European countries, embraced the German model of doing historical justice and discovering the truth about the bitter communist past. This model was centered on the establishment of a reliable public mechanism, with figures of undisputed professional integrity to study and document serious violations of human rights during the communist period. The main purpose was to serve the interests of the victims and society in general, revealing the truth about the communist crimes, promoting accountability processes such as the prosecution of the crimes of communism, lustration, etc., and serving the process of democratization of the society. Such an approach has given satisfactory results in Poland, within the framework of the Institute of National Remembrance, or in Romania, through the Institute for the Investigation of Communist Crimes,

where a series of crimes from the communist period were studied, documented, and supported with evidence, demanding the criminal prosecution of the perpetrators of the communist crimes. A large number of ex-communist officials have faced criminal charges and have been subjected to criminal trials in these countries. For example, in Poland, in the first decade of the establishment of the Institute, 305 cases were filed against 469 individuals, 131 were convicted, with as many as 129 for communist crimes (<https://enrs.eu/article/unprosecuted-crimes>). Meanwhile, in Romania during the first decade after the establishment of the Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile (IICMER) authorities have begun issuing genocide charges against 35 ex-communist officials. (<https://www.csmonitor.com/World/Europe/2013/1029/Romania-reopens-door-on-brutal-communist-era>).

Meanwhile, the politics of memory, like that of access to the secret communist files, was not a priority for the Albanian political elite. This was probably because, in Albania, people with strong linkages to the communist past were entrusted to lead democratic processes. They used transitional justice reforms for their narrow political and economic interests. The lack of an official political memory about the bitter past for more than 30 years in Albania and the long and conflictual change caused a low open interest in uncovering past events after the fall of communism. The political regime that followed the post-Communist period did not assign importance to the preservation of the memory, the remembrance of the victims, the evidence of violence and terror, and the identification of the responsible persons and often attempted to manage public memory for political interest.

It appears difficult to evaluate the memory politics in Albania through the analysis of the activity of the Institute for the Studies of the Crimes of Communism. The analysis is based on the resolutions of the Albania Parliament, annual reports of the Institute, and standings of different actors such as civil society, and religious communities. Although over a decade has passed since the establishment of this mechanism, its main activity has been focused on the creation, collection, documentation, and promotion of memory through publications, the organization of informative sessions or conferences, audio-visual archives of testimonies, and material archives with artifacts, etc. (Res. Albanian Parliament, 2018), or through the promotion of this memory through several museums established for this purpose such as House of Leaves, Bunkart 1 and Bunkart 2, Spaçi Prison, etc. This is an insufficient outcome because the truth about the crimes of communism should be known not only through visits to these environments, but also in a more proactive form using technology, television and social networks, meetings, and awareness campaigns to bring these environments to the broader public (Res. 2019 and Res. 2022).

The mission of the Institute makes it serve more the cause of historical justice seeking redress for historical wrongs that are transmitted across generations through collective memory and memory practices. Although Albanian law assigns to the Institute the attribute of studying the communist period and identifying the persons responsible for the repression, it does not expressly recognize the right of the Institute to refer a charge to the prosecution office. Meanwhile, the Romanian law foresees the analog institute the right to “scientific investigation and identification of crimes, abuses, and human rights violations throughout the period of the Communist regime in Romania, as well as referral to law enforcement agencies in those cases in which there have been identified situations of violation of the law” (Romanian Government Decision nr.1372/2009, Amend. by Government Decision nr.768/2012, para.1.e). It must be said that regardless of the provisions of the Criminal Procedure Code, it would be best if the organic law focusing on the study and documentation of the crimes of communism had a special provision on the referring role of the Institute to the prosecution office in cases where serious violations of human rights are encountered. Nevertheless, when referral to the prosecution office cannot be performed, the law recognizes the right to identify the victims and name the names of perpetrators.

The Institute has not yet served its basic mission namely that of evidencing and recording the communist crimes, determining the responsible persons, and enabling the publication on the online platform of the victims of communism and their executioners. There is still no official data on the documentation and publication of the criminal activity carried out during the period of communism

and the persons responsible. The main criticism is that during the 12 years of its activity, the Institute has referred to the prosecution office in 2019 just one criminal report against a former prison official, who has emigrated since the '90s. Even though 4 years have passed since then, nothing is publicly known about the progress of the criminal proceedings.

In 2022, the Parliament evidenced the lack of a database listing victims of prisons and camps (Res. 2022). Meanwhile, a private non-profit foundation, named "Remember" established only 5 years ago, carried out a much more voluminous and detailed work by setting up an accessible online database where all the generalities of the victims of communism and some of the executioners were evidenced. Another pending concern remains that communist crimes are not still part of the curriculum of pre-university education in Albania. There is an exigency for strong cooperation between the Institute and the Files Authority to enrich the collective memory database with statistical data on victims of three categories: executed, imprisoned, and interned, as well as to make it accessible to citizens (Res. 2023).

In Albanian society, the voices that evoke the past as glorious, have increased. In a long political and economic transition with an increased popular perception of officials as corrupt, the shortest way out of the situation is to return to the previous regime. The past continues to be evoked through the symbols and slogans that are exhibited and articulated on certain dates representing the "glorious commemorative moments" of that regime as the dictator's birthday, liberation day, etc. This concern increases when members of parliament from the current political class in power take part in these celebrations and hold up portraits of the dictator. (Sot News <https://sot.com.al/english/politike/uroi-28-nentorin-me-foton-e-diktatorit-enver-hoxha-deputeti-ela-befason-i478052>)

The issue has been raised and articulated even by various interest groups such as religious communities, associations of the descendant community, and various researchers who express the necessity of strengthening the legal framework to prevent these practices from reappearing. The raising concerns reveal that the effects of the policy are limited and the outcome of the work of the institute is trivial because the communist past has not been reflected equally well in instruments with social impact on the younger generation.

7. Conclusions

In a transitional context, the right to the truth offers the victims and society as a whole a tool to instigate truth-seeking processes and demands from authorities to implement effective measures to guarantee it. If implemented properly these processes can play a determinant role in establishing the basis upon which justice can be done. On a regional level, European institutions have provided a detailed catalog of measures aimed at enforcing, among others, the right to the truth about past communist atrocities. According to these policies unveiling the truth must go beyond legal processes and focus on building a collective historical memory. The above-mentioned truth-seeking policies are mutually supportive, creating a nexus of complementarity and providing space for interaction between all actors involved thereby giving an immense contribution to promoting human rights and democracy. EU institutions have considered the implementation of these measures by member and non-member states as fundamental in the process of the consolidation of human rights, rule of law, democracy, European values, and integration processes.

The right to access the secret files of communism in Albania went through a difficult path. The politics of file disclosure was used as an electoral card during the 25 years of transition, never allowing access to them. In 2015, the law recognized for the first time-limited access to secret files, not allowing full declassification and public disclosure of them. This right became effective only by the end of 2017. The right to access secret files in Albania is long overdue and this has contributed to the shift from a limited model to full public access within a very short time. The main challenge now remains, the enforcement of the law, specifically in terms of making public disclosure of the secret files effective to serve the discussion of the facts and the unveiling of the truth.

Even the politics of memory was not a priority for the Albanian political elite. This is probably

because, in Albania, people with strong linkages to the communist past were in the leadership of democratic processes. The lack of an official politics of memory about the bitter past for more than 30 years in Albania and the long and conflictual transition caused little interest in the community in bringing past events to light after the fall of the Communist regime. The actual effects of the politics of memory are limited because the communist past has not been reflected equally well in instruments with a social impact on the younger generation.

References

- Aquinas, T. (1981). *Summa Theologica* / St. Thomas Aquinas; translated by Fathers of the English Dominican Province. (Complete English ed.). Christian Classics.
- Austin RC and Ellison J, "Post-Communist Transitional Justice in Albania" (2008) 22 *East European Politics and Societies: and Cultures* 373
- Baranowska, G., & Gliszczyńska-Grabias, A. (2018). "Right to Truth" and Memory Laws: General Rules and Practical Implications. *Polish Political Science Yearbook*, 47(1), 97-109. <https://doi.org/10.15804/ppsy2018107>
- Bunkart Database. (2023). Available at <https://bunkart.al/2/database>, accessed 10 June 2023
- Ciorciari, J. and Franzblau, J. (2014), Hidden Files: Archival Sharing, Accountability, and the Right to the Truth, *Columbia Human Rights Law Review*, Vol. 46, No. 1, 2014, Available at SSRN: <https://ssrn.com/abstract=2446205>
- Constitutional Court of Albania(2010) Decision no. 9/2010, available at https://www.gjk.gov.al/web/Vendime_perfundimtare_100_1.php, accessed 10 June 2023.
- Council of Europe. (1996). PACE Resolution 1096 Measures to dismantle the heritage of former communist totalitarian systems, available at <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16507>, accessed 10 May 2023.
- Council of Europe. (2006). PACE Resolution 1481 Need for international condemnation of crimes of totalitarian regimes available at, <https://assembly.coe.int/nw/xml/xref/xref-xml2html-en.asp?fileid=17403&lang=en>, accessed 10 May 2023.
- Council of Europe. (2008). PACE Resolution 1613 Use of Experience of the Truth Commissions <https://pace.coe.int/en/files/17647>
- Council of Europe. (2012). PACE Resolution 1868 The International Convention for the Protection of all Persons from Enforced Disappearance, available at, <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18076&lang=EN>, accessed 10 May 2023
- Elbasani, A., (2011), Public Contestation and Politics of Transitional Justice: Poland and Albanian Compared, *EUI/SPS Working Paper Series 2011/2*, <https://dx.doi.org/10.2139/ssrn.1956796>.
- European Commission. (2021, October). Report from the Commission to the European Parliament and the Council: Albania 2021, Strasbourg, 19.10.2021 SWD (2021) 289 Final, available at, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2021-10/Albania-Report-2021.pdf>, accessed 11 May 2023
- European Commission. (2022, October). Report from the Commission to the European Parliament and the Council: Albania 2022 Report, Brussels, 12.10.2022, SWD (2022) 332 Final, available at, <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Albania%20Report%202022.pdf>, accessed 11 May 2023
- European Commission. (2023, November). Report from the Commission to the European Parliament and the Council: Albania 2023 Report, Brussels, 8.11.2023, SWD (2023) 690 final, available at https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf, accessed 11 May 2023.
- European Court of Human Rights. (2014, July). Case *Al-Nashiri v. Poland* (Application No. 28761/11).<https://hudoc.echr.coe.int/eng?i=001-112302>
- European Court of Human Rights. (2012, December). Case *El-Masri v. the former Yugoslav Republic of Macedonia* (Application No. 39630/09). <https://hudoc.echr.coe.int/eng?i=001-115621>
- European Parliament Resolution. (2023). On the 2022 Commission Report on Albania 2022/2199 (INI), P9_TA (2023)0285, available at https://www.europarl.europa.eu/doceo/document/TA-9-2023-0285_EN.html, accessed 11 May 2023.
- Grudotyć, E., & Gervienė, S. (2015). Access to Archives in Post-communist Countries: The victim's perspective. *Baltic Journal of European Studies*, 5(2), 147-170. <https://doi.org/10.1515/bjes-2015-0018>

- Godole, J., (2018), Young Generation to Make the Difference in the Confrontation with the Past, <https://www.observatorikujteses.al/jonila-godole-young-generation-to-make-the-difference-in-the-confrontation-with-the-past/>, accessed 10 September 2023.
- Interamerican Court of Human Rights. (2000). Case *Bámaca Velásquez*. (Ser.C) No. 91, paras. 76 and 77 and *García & Family members Case*, 2012 Inter-Am. Ct. H.R. (Ser.C) No. 258, https://www.corteidh.or.cr/docs/casos/articulos/seriec_70_ing.pdf, accessed 10 May 2023.
- International Commission of Missing Persons. (2021). Report on Albania, Missing Persons from the Communist Era: a Needs Assessment, ICMP.GR.WB.152.6.W.doc, 2021 available at <https://www.icmp.int/wp-content/uploads/2021/03/icmp-gr-wb-152-6-W-doc-albania-missing-persons-from-the-communist-era-a-needs-assesment.pdf>, accessed 10 June 2023.
- International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 UNTS 609, available at: <https://www.refworld.org/docid/3ae6b37f40.html> [accessed 19 June 2023]
- Kalemaj, I., (2021) Lustration in Albania: The past and the future, OSCE Presence in Albania, https://www.researchgate.net/publication/349604929_Lustration_in_Albania_The_past_and_the_future, accessed 11 June 2023.
- Law 7514/1991(1991) On the innocence, amnesty, and rehabilitation of former convicts and the politically persecuted, <https://qbz.gov.al/share/LJdNfSluSDCUiUVQFBenMQ>
- Law 7895/1995(1995) The Criminal Code of the Republic of Albania, <https://qbz.gov.al/preview/a2b117e6-69b2-4355-aa49-78967c31bf4d>.
- Law 8417/1998 (1998) Constitution of Albania <https://qbz.gov.al/preview/635d44bd-96ee-4bc5-8d93-d928cf6f2abd>
- Law 10034/2008 (2008) On the Cleanliness of the Figure of High Functionaries of the Public Administration and Elected Persons
<https://qbz.gov.al/eli/ligj/2008/12/22/10034/300ef3e1-5f0c-4fbc-9369-30167f333d28;q=10034>.
- Law 10242/2010(2010) On the Institute of Studies on the Crimes and Consequences of Communism in Albania, <https://qbz.gov.al/eli/ligj/2010/02/25/10242/9511a0d4-1254-4bb6-8f06-ebc8a4c57af8;q=ligj>.
- Law 45/2015(2015) On the Right to Information about the Documents of the Former State Security in the People's Socialist Republic of Albania, <https://qbz.gov.al/share/hOmphM9RTvidcsl3OuCluw>.
- Law 83/2018(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), <https://qbz.gov.al/eli/ligj/2018/11/15/83/78c12761-2934-4d16-8923-b26918979fca;q=ligj%2083%2F2018>.
- Law No.72/2022(2022) On some Additions and Changes in Law no. 45/2015. On the Right to Information about the Documents of the Former State Security in the People's Socialist Republic of Albania, <https://qbz.gov.al/eli/ligj/2022/10/20/72/e6b64145-6e19-46ba-8d2a-08b7f28of606;q=ligj%2072%2F2022>.
- Naftali, P. (2016). "La fabrique d'un "droit à la vérité. En droit international: des mobilisations convergentes pour des agendas divergents?" *Champ pénal*, (Vol. XIII). doi:10.4000/champpenal.9245
- Prague Declaration. (2008). Declaration on European Conscience and Communism. Prague
- Resolution No. 1481 (2006) On the Punishment of Crimes Committed by the Communist Regime in Albania, <https://www.iskk.gov.al/wp-content/uploads/2006/01/REZOLUTE-1.pdf>, accessed 8 September 2023
- Resolution No.11 (2016). On the Condemnation of the Crimes of Communism against the Clergy, as well as Special Recognition for the Role and Activity of the Clergy in the Protection of Democratic Values and Basic Human Rights and Freedoms, <https://www.iskk.gov.al/wp-content/uploads/2016/01/REZOLUTE-1.pdf>, accessed 8 September 2023
- Resolution (2018). On the Evaluation of the Activity of the Institute of Studies for Crimes and Consequences of Communism in Albania for the Year 2017, <https://www.iskk.gov.al/wp-content/uploads/2018/01/REZOLUTE-1.pdf>, accessed 8 September 2023
- Resolution (2019). On the Evaluation of the Activity of the Institute of Studies for Crimes and Consequences of Communism in Albania for the Year 2018. available at <https://www.iskk.gov.al/wp-content/uploads/2019/01/REZOLUTE-1.pdf>, accessed 8 September 2023
- Resolution (2022). On the Evaluation of the Activity of the Institute of Studies for Crimes and Consequences of Communism in Albania for the Year 2021. available at <https://www.iskk.gov.al/wp-content/uploads/2022/10/Rezoluta-2022.pdf>, accessed 8 September 2023.
- Resolution (2023). On the Evaluation of the Activity of the Institute of Studies for Crimes and Consequences of Communism in Albania for the Year 2022. available at <https://www.iskk.gov.al/wp-content/uploads/2023/11/Rezoluta-2022.pdf>, accessed 10 September 2023

- Romanian Government Decision No.1372 (2009). On the Establishment, Organization, and Functioning of the Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile, available at <https://www.iicmer.ro/en/about-us/legislation/>, accessed 10 September 2023.
- Romanian Government Decision No.768 (2012). For the Modification and Completion of The Governmental Decision Nr. 1,372/2009 Concerning the Establishment, Organization, and Functioning of the Institute for the Investigation of Communist Crimes and the Memory of the Romanian Exile”, available at <https://www.iicmer.ro/en/about-us/legislation/>, accessed 10 September 2023.
- Safjan, M. (2007) “Transitional Justice: The Polish Example, the Case of Lustration.” *European Journal of Legal Studies*, 1,2,, p13
- Teitel, R. G. (2000). *Transitional Justice*. Oxford University Press. <https://doi.org/10.2307/840816>
- UNCHR(1997) Question on the Impunity of Perpetrators of Human Rights Violations (Civil and Political: Revised Final Report by Mr. Joinet Pursuant to Sub-Commission Decision 1996/119 – Annex II’ (2 October 1997) UN Doc E/CN.4/Sub.2/1997/20/Rev.1 [accessed 18 June 2023]
- UNCHR(2005)Report of the Independent Expert to Update the Set of Principles to Combat Impunity, Diane Orentlicher, Addendum: Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity’ (8 February 2005) UN Doc E/CN.4/2005/102/Add.1
- UN General Assembly (2006) Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law: Resolution / adopted by the General Assembly, 21 March 2006, A/RES/60/147, available at: <https://www.refworld.org/docid/4721cb942.html> [accessed 18 June 2023]
- UN General Assembly(2002) Responsibility of States for internationally wrongful acts: Resolution adopted by the General Assembly, 28 January 2002, A/RES/56/83, available at: <https://www.refworld.org/docid/3da44a10.html> [accessed 18 June 2023]
- UN General Human Rights Council(2009)Resolution on Human Rights and Transitional Justice, 12 October 2009, A/HRC/RES/12/11;
- UN Human Rights Council (2012) Right to the truth: Resolution / adopted by the Human Rights Council, 10 October 2012, A/HRC/RES/21/7, available at: <https://www.refworld.org/docid/50ae27412.html> [accessed 18 June 2023]
- Zalaquett, J. (1992). Balancing Ethical Imperatives and Political Constraints: The Dilemma of New Democracies Confronting Past Human Rights Violations. *UC Law Journal*, 43(6), 1425, available at https://repositor.y.uclawsf.edu/hastings_law_journal/vol43/iss6/1, accessed 10 June 2023.