

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	104
Land:	Albanien
Kilde:	Council of Europe
Titel:	Special Report following the visit to Albania to assess the human rights aspects of the events of 21 January 2011 in Tirana by Thomas Hammarberg, Council of Europe Commissioner for Human Rights.
Udgivet:	22. februar 2011
Optaget på baggrundsmaterialet:	26. april 2011



COMMISSIONER FOR HUMAN RIGHTS
COMMISSAIRE AUX DROITS DE L'HOMME



Strasbourg, 22 February 2011

CommDH(2011)9
Original version

SPECIAL REPORT
following the visit to Albania to assess the human rights
aspects of the events of 21 January 2011 in Tirana

by Thomas Hammarberg
Council of Europe Commissioner for Human Rights

Summary

The Council of Europe Commissioner for Human Rights went to Tirana, Albania, on 13-15 February 2011 in order to assess the human rights aspects of events in connection with a demonstration on 21 January during which four demonstrators were shot dead and a number of policemen and demonstrators were injured.

The main purpose of the visit was to discuss with the relevant actors what steps were being taken and what could be done to investigate these extremely unfortunate developments. There was no intention on the part of the Commissioner to undertake a separate investigation.

The Commissioner met with the key political and institutional office holders and was struck by the deep political polarisation in today's Albania. The descriptions of what had actually happened on 21 January differed greatly between the two political blocs. This fact seems to have made the necessary investigations more complicated.

The General Prosecutor in charge of the investigations had been criticised by government representatives for appearing not to be impartial. However, the Commissioner noted that both political blocs stated that there was no alternative to her investigation and that they would co-operate.

The Commissioner concluded that it is of the utmost importance that the unfortunate events of 21 January be thoroughly investigated and that those responsible for criminal acts be held to account. This will require co-operation with other relevant institutions and not least the Ministry of the Interior. Everyone should respect the integrity of the General Prosecutor's Office and avoid negative statements until the results of the investigations are presented.

The international community should stand ready to offer technical and other assistance – if so requested – in order to facilitate the difficult investigations.

I. Introduction

1. The Council of Europe Commissioner for Human Rights undertook a special mission to Albania from 13 to 15 February 2011.¹
2. The Commissioner would like to thank the Government of the Republic of Albania and the national authorities for their generous and full co-operation during his visit. In particular, he would like to express his gratitude to the Ministry for Foreign Affairs and the Permanent Representation of Albania to the Council of Europe in Strasbourg for facilitating this mission.
3. The decision to visit Albania was taken in light of the events of 21 January 2011, when a demonstration organised by the Albanian Socialist Party took place in Tirana, in front of the Prime Minister's Office. The demonstration soon resulted in a clash between the demonstrators, the police and members of the Guard of the Republic. Four persons were shot to death. Several dozens of demonstrators and law enforcement representatives were injured during the clashes. There were also allegations of excessive use of force and ill-treatment by the police after the demonstrators were dispersed.
4. The aims of the visit were to obtain concrete information on the circumstances and to monitor the overall human rights situation following the events, in particular the investigations conducted, with a view to bringing the perpetrators of the offences committed to justice. The Commissioner paid particular attention to the alleged breaches of the right to life, the prohibition of ill-treatment and the State's obligation to conduct an

¹ Commissioner Thomas Hammarberg was accompanied by two advisers, Marsel Capi and Mehves Bingollu.

adequate and effective investigation into the allegations of breaches of the aforementioned rights.

5. During his visit, the Commissioner held meetings with the President of the Republic, the Prime Minister, the Minister of Justice, the Minister of the Interior, the Prosecutor General, the Acting Ombudsman, the Commissioner for Protection against Discrimination and the Commissioner for Personal Data Protection. He also met four leading representatives of the Socialist Party. In addition, he had meetings with a number of Ambassadors present in Albania as well as representatives of non-governmental organisations and media.

II. Events of 21 January 2011

6. On 21 January 2011, soon after the demonstrators assembled in front of the Prime Minister's Office, violent clashes occurred between a group of several hundred people and the police located in front of the building.
7. There are different and conflicting perceptions of what really happened and how the situation evolved and spiralled out of control. Political blocs offer contradicting accounts on the question of who provoked the outbreak of violence – the demonstrators or the police. According to the governmental authorities, the protest was staged by the opposition in order to overthrow the government by force, whereas the opposition maintains that it was the police who provoked the protestors almost immediately after the demonstration began.
8. It seems clear that a group of demonstrators did commit violent acts against the police and the Guard of the Republic, by throwing stones and using sticks from banners to hit them. Some protesters also burnt cars parked close to the demonstration venue. In response, the police employed a variety of means such as truncheons, water cannons, tear gas and rubber bullets. As a result of violent clashes between demonstrators and police, dozens were injured on both sides.
9. At a later stage during the demonstration, firearms were used by members of the Guard of the Republic. Four protesters died and several other persons sustained injuries caused by gunfire, which raises questions about the lawfulness and proportionality of the use of force.
10. The Prime Minister and the Minister of the Interior informed the Commissioner that the Guard of the Republic was entitled to use lethal force under specific circumstances once the security perimeter of government buildings was breached. While the Commissioner understood that all four killings in fact occurred outside the security perimeter of the Prime Minister's Office building, the Ministers maintained that there were attempts from the protesters to enter the yard.
11. Evidential material, including video footage, does exist to suggest that police resorted to violence in the aftermath of the demonstration and that persons apprehended and brought to police stations had in several cases been severely beaten. The Commissioner also received reports according to which people not linked to the protest had been beaten by the police and/or detained by them during the hours following the protest.
12. Further to the demonstration, 113 individuals were arrested in relation to the events and placed in detention. During his meeting with the Ombudsman and the Commissioners from the Ombudsman's Office, the Commissioner was informed that on 22 and 23 January 2011, the Ombudsman Office had carried out inspections in police stations and the police headquarters in Tirana as well as two pre-trial detention facilities. In total 112 detainees were visited in detention places, including 19 minors, and one person in a military hospital. A majority of these were later released but may be prosecuted.
13. According to the information provided by the Ombudsman's Office, all detainees were first brought to police stations and then transferred to pre-trial detention centres, since there would be overcrowding in the police detention facilities had the detainees be kept there.

All detainees maintained that they had been subjected to ill-treatment during their arrest and during their transfer to the detention facilities. They further contended that although documents concerning their detention bore the signature of lawyers, and in the case of minors, of psychologists, they had not been provided with legal assistance in reality. All detainees noted that they had signed the documents in question under psychological duress. The Commissioner learnt that two detainees visited by the Ombudsman's Office had signs of ill-treatment on their persons at the time of the visit. Finally, certain detainees complained about their inability to have access to their family members.

14. Representatives of the Socialist Party also informed the Commissioner about the allegations of ill-treatment of detainees during their arrest and transfer. They further provided evidential material (photographs and video recordings) in support of those allegations and documents demonstrating the legal steps that the Socialist Party itself and a number of lawyers had taken *vis-à-vis* those claims.

III. Crowd control measure

15. The Commissioner was told that the police had been taken by surprise when part of the demonstration outside the premises of the Prime Minister's Office took a violent turn. The policemen lined up in front of the building were unarmed and did not even have shields. The purpose according to the Minister of the Interior was to avoid any approach which might be perceived as provocative.
16. After the violence erupted, the first line of policemen was replaced by others with better equipment, including shields, and more relevant training. However, the Commissioner was told that when gas grenades were fired there was a lack of gas masks among the policemen which left them also affected by the gas.
17. Some members of non-governmental organisations, who had been present during the demonstration, told the Commissioner that the gas used had strong effects and appeared to be more poisonous than ordinary tear gas. Their impression was that this had contributed to the very tense atmosphere, also among the police forces.
18. It was stressed by the Minister of the Interior that this demonstration was absolutely unique. The vast majority of previous demonstrations had been peaceful and therefore, it was understandable that the government had not invested more resources in preparing to handle violent situations.
19. It could, however, be argued that a competent riot control strategy must include a readiness to prevent and, if necessary, promptly and professionally react to violent tendencies – even if this would require extra investment. After a demonstration with such extremely negative consequences, it is obvious that a thorough review of training, equipment and strategy for riot control is called for.
20. It should also be stressed that those who organise demonstrations and protest rallies should take steps to prevent violent developments, for instance through always having a team of organisers who serve as voluntary demonstration guards and who could also represent the demonstrators in negotiations with law enforcement representatives.

IV. Investigations

21. The Office of the General Prosecutor started investigations into the events on 21 January 2011. The first focus was understandably on the deaths of the four persons who had been hit by bullets. Already in the morning of 22 January the General Prosecutor issued detention orders with regard to six chief officers of the Guard of the Republic with a view to taking their statements in relation to the events of 21 January. The orders were not executed by the police authorities until 8 February 2011, when the six officers made statements to the prosecutors. At the time of the Commissioner's visit to Albania, there were several members of the Guard of the Republic who were under prosecution within the context of the investigation into the shootings. Some of them were detained.

22. The Commissioner learnt that the General Prosecutor herself had been criticised by leading politicians and that her standing therefore had become an issue in the polarised political discourse. However, representatives of both political blocs stated to the Commissioner that there was no alternative to the General Prosecutor for these investigations. Nevertheless, the Commissioner understood that the work of her Office will be followed critically.
23. The United States government provided technical expertise to the Office of the General Prosecutor and the US Ambassador told the Commissioner that such assistance would also be available henceforth if requested.
24. Some progress has apparently already been made in regard to the ballistic investigations of the lethal shootings by members of the Guard of the Republic. However, the Commissioner got the impression that full clarity would require further co-operation by everyone concerned.
25. The Commissioner received information that nine individual complaints of alleged ill-treatment had been submitted.
26. There are expectations that the General Prosecutor's Office would also investigate the violent acts by demonstrators and charge those who had committed crimes. Furthermore, there are those who expect the Office to clarify whether these acts were ordered or encouraged by someone and if so, by whom.
27. Another matter on which there are expectations on the investigations is the question of who actually started the violence – the demonstrators or the police. There are a considerable number of film materials which would assist the investigators on this but the interpretation of such evidence may still be contested.
28. The sum of all this is that the Office of the General Prosecutor is faced with an extraordinarily difficult task. The focus has to be on preparing prosecutions against those suspected of having committed crimes. It has to be recognised that some of the acts committed this day must be regarded as crimes irrespective of the political climate and who started the negative spiral of violence. This is the case of the lethal shootings; the attacks by some demonstrators against the police; and unprovoked police violence during arrests and transport of persons apprehended.

V. Conclusions

29. There is a need for thorough, impartial and credible investigations into the human rights violations which took place on 21 January 2011. Those responsible for the violent acts and other human rights violations should be held to account. This is necessary in order to establish justice but also to prevent such serious developments in the future.
30. The Commissioner welcomed the fact that representatives of both political blocs stated that the investigations have to be undertaken by the Office of the General Prosecutor; there is no alternative. However, the Office and not least the General Prosecutor herself have been targeted by unfortunate and highly critical political statements. This should be avoided from now on.
31. Obviously, the deep political polarisation makes the task of the Office of the General Prosecutor particularly delicate and difficult. It is crucial that everyone avoids interfering in the ongoing investigations and that the relevant authorities, including the police, co-operate fully and promptly with the Office.
32. Technical assistance so far provided by US authorities to the General Prosecutor's Office appears to have been of considerable value. The Commissioner suggests that the international community continue to respond positively to requests for assistance in this context.