



REPUBLIC OF ALBANIA

PEOPLE'S ADVOCATE

Executive summary of the People's Advocate special report on the hunger strike organized by a group of former political persecuted prisoners

April 2013

-Non official translation-

People's Advocate Office

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During the months of September-October 2012 a group of former political persecuted prisoners organized a hunger strike with improvised tents, among residential buildings, at the entrance to the road “Medat Shtylla”, in Tirana.

Their strike was made public by the media, which raised as well their problems and concerns. As this case, dealing with the violation of human rights by public administration bodies, was made public, the People's Advocate initiated an investigation on its initiative by sending immediately a working group to the location when the strike was taking place.

The working group met with the strikers and heard all claims and demands, and monitored the progress of the strike continuously.

In the meantime the strikers and their coordinators were visited and met several times by the People's Advocate at the premises of the strike, at the hospital, as well as in his office.

The hunger strikers also made several complaints to the institution of the People's Advocate against police officers, who exercised controls inside the tent by taking away the fluid they used, except water, such as tea bottles, trisol, sugar, coffee and glucose that were brought at the strike premises with knowledge of the police and doctors.

Meanwhile the strikers claimed that police had interrupted meetings with family members, with the coordinators of the strike and with the media.

After taking into consideration the claims of the strikers towards police it is identified that:

1. Normative acts in force in our country do not provide for the right of the hunger strike;
2. Prohibition by the police of entrance of liquids (tea), sugar, trisol and coffee in the premises of the strike was considered illegal and inhumane;
3. We found that the police didn't act according to article 112/4 of law no. 9749, dated 04.06.2007 “On the State Police Law”, since the police did not prepare the relevant report;
4. Termination of meetings with the strike coordinators and their families was evaluated as an incorrect measure;
5. Interruption of communication of the strikers with the media is considered as a violation of the right of expression of each individual to give opinions and to have access to information, guaranteed by article 22/1 of the Constitution of the Republic of Albania. Meanwhile we found that this action carried out by the police violates freedom of the press, radio and television, guaranteed as well by the Constitution (article 22/2).

The People's Advocate found out that although there is legal vacuum in domestic legislation in relation to the hunger strike, in fact, there have been adopted several regional and international instruments, e.g.:

1. "Declaration on hunger strike (Malta Declaration of 1991 as revised in 1992)", adopted by the 43rd World Assembly of Medicine held in Malta in November 1991, revised.
2. "Tokyo's Declaration - Guidelines for physicians concerning torture and cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment", adopted by the 29th World Assembly of Medicine, held in Tokyo, Japan, in October 1975, revised.
3. Recommendation no. R (96) 11 of the Committee of Ministers of the Council of Europe.

People's Advocate reaction to encountered problems

At the conclusion of the consideration of this case Ombudsman reacted by making three recommendations, respectively:

1. It was recommended to the Director-General of the State Police to:

Undertake immediate measures to prevent illegal actions carried out by the services of the Police Commissariat no. 2, in Tirana, related to the hunger strikers, by:

- Allowing the entrance of liquids, sugar, coffee, trisol, etc. in hunger strike premises required by the strikers and consequently also their use;
- Allowing the hunger strikers to meet with family members and their relatives;
- Allowing the strike coordinators to meet with the strikers;
- Allowing strikers to exercise the constitutional right of speech in the press, radio and television.

In this context, it is pointed out that this recommendation was accepted and promptly implemented.

2. Recommendation addressed to the Director General of the State Police, who was requested:

- a) To analyze the case of violation of hunger strikers' rights by State Police officers and accordingly take administrative measures;
- b) Take necessary measures to inform executives and employees of the State Police about international and regional acts that address hunger strike, as described above, and to train them on the management of hunger strikes.

3. Recommendation sent to the Minister of Health, by an official letter dated 06.11.2012, by requesting:

- a) To analyze the case of omission of duty by the Emergency Service physicians to manage the hunger strike organized by a group of former political prisoners of the communist regime;

- b) Take necessary measures to inform the medical personnel about international and regional acts that address hunger strike, as described above, and to train them on the management of hunger strikes.

We clarify that these two recommendations regarding the training of police officers and physicians on monitoring and management of hunger strikes were well received by the authorities. Pursuant to this recommendation, the People's Advocate in cooperation with the Albanian Helsinki Committee, on 28.02.2013 organized a conference on: "The role of physicians, employees of the State Police and other Law Enforcement Agencies for the management and monitoring of hunger strikes".

This conference was attended by employees of the Ministry of Health, General Directorate of State Police and General Prisons Directorate. There were also participants from the American Embassy, EU, OSCE and several NGOs, which have a continuous cooperation with the People's Advocate.

The performance of the compensation process

A group of hunger strikers filed a motion of intervention at the People's Advocate institution, which referred the following main issues: complete and immediate compensation of all political prisoners as provided by the law; social benefits to all those former political prisoners, who are currently left unsupported by governmental services; free medical service to all former political prisoners; state bonds to all former political prisoners; prompt measures to facilitate employment of former political prisoners; approval by the Parliament of a law that facilitates the compensation of all those former political prisoners, who haven't been yet compensated and makes possible the immediate processing of all files, without any delay.

The hunger strikers also requested an amendment of the current legislation or a new law on: a) 30% increase of the respective nominal value of the compensation for any former political prisoner, as a result of inflation that occurred in the country from 2007 to 2012; b) provision of a special pension to all former political prisoners, as provided by law no. 7703 dated 11.09.1993, article 5c and the Decision of the Council of Ministers no. 429 dated 12.09.2002; c) amendment of the current legislation in order to enable certain former political prisoners, who didn't have the possibility to file the documents to benefit from the compensation process within the deadline as provided by the law.

Based on the mentioned issues, which represent a complexity of requests and solutions and after a thorough examination of the relevant legislation, which addresses the question of the former political prisoners in Albania, we have sent an official letter to the Ministry of Justice, Ministry

of Finances, Ministry of Labour, Social Affairs and Equal Opportunities and to the Ministry of Health by emphasizing the importance of finding a solution accepted by all parties through a process of negotiation between all relevant public institutions and the hunger strikers with regard to the issues faced by the former political prisoners. Until now there has been no reaction to our request.

Based on our analysis on the performance of the compensation process of former political prisoners of the communist regime and according to the provisions of law no. 9831, dated 12.11.2007 “On the compensation of former political prisoners of the communist regime”, as amended, we have found that the legal framework related to this issue, has generated confusion, which has delayed the compensation performance remarkably by not setting a clear deadline to the end of the process.

The deadlines have changed very often by damaging the whole compensation process. The People’s Advocate has recommended to the Minister of Justice, the implementation of the legislative initiative for an amendment to the Decision of the Council of Ministers no. 419, dated 14.04.2011 “On the approval of the terms and compensation funds distribution scheme for former political prisoners of the communist regime”, in order to provide a reasonable deadline for the completion of the compensation process.

The People’s Advocate has also observed that the category of internees confined in concentration camps by the communist regime, has not yet been compensated according to the stipulations as provided by law. Although these individuals have filed the necessary official documentation to the Ministry of Justice, the compensation process hasn’t started due to the fact that this ministry didn’t make the relevant proposals to the Council of Ministers.

The Council of Ministers hasn’t yet approved a pension scheme for the category of people expelled by the communist regime, despite of earlier compensation requests presented by the interested subjects. The People’s Advocate has sent 2 recommendations to the Ministry of Justice and the Ministry of Labour, Social Affairs and Equal Opportunities, where it was emphasized that these two institutions shall send as soon as possible all proposals concerning the approval of the nominal compensation and the approval of the pension scheme. The aim of these recommendations is the approval of relevant bylaws, which will enable the compensation process for these categories.