

Some Gross Violations of Human Rights in Albania, Comparison of Albanian Court's Decisions and European Court of Human Rights Decisions (Gërdec Case & 21st January Case)

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Abstract

Human rights issues are a legal international concern. This paper deals with two gross violations of human rights in Albania, so-known as Gerdec case and 21st January case, in a comparative view of court's decisions, elaborating the cases from the description of what happened to the human rights protection issues and finally in the decisions of albanian courts. The both cases are really sensitive and gross violations because there are some violated human rights in a single case including the right of life and because the cases call into question state responsibility vis-à-vis. In the first section of this paper it will be offered Gerdec case and 21st January case and what human rights are violated in these cases, starting with what happened in 15th March and 21st January, what happened with the cases in the court as human rights violations goes. The second section of the paper will bring out some similar cases in Europe, comparing decisions of European Court of Human Rights. We use secondary data and contents analysis, decisions court, interviews and statements of the people in order to obtain full and comprehensive picture of these gross human rights violations happened in the recent years in Albania. The comparative study will be in two levels: acts of governmental institutions and judicial process. The paper aims at reaching some conclusions, proposals and recommendations that could improve situation of human rights in Albania.

Keywords: human rights; violations; protests; right of life, Gërdec

1. Introduction

The commitment to protect and guarantee human rights is as old as human kind. It looks like all stakeholders are involved in fighting human rights violations, but a lot of cases worldwide represent extensive human rights violations. This research paper examines two cases, two dangerous precedents of violation of human rights in Albania. We use the term "gross violations" starting from the definition given by the doctrine concerning serious violations of human rights. Both cases, Gërdec and 21st January, cases of the last decade in Albania, constitute serious and flagrant violations of human rights. International audience possesses relative sufficient information to what happened in these two cases, but this study through analysis and interpretation aims to bring a comprehensive perspective on the events, in particular focused on the rights of abused domestic legal framework and international breached and identification of similar cases and has resolved these cases the European Court of Human Rights. Even they are different, they are also joined by several common characteristics: First of all they constitute serious and flagrant violations of human rights. Secondly, these are indicative of high level corruption in Albania, Gërdec, under the procedures followed, contractors or the defendants, they clearly refer to a situation generated by corruption. January 21st is an event born again due to protest corruption evidenced in television media. Besides others, cases constitute violations of the right to corruption-free society. These complex cases represent a violation of human rights. Gërdec is infringing the rights of property, life, labour rights, the right to a fair hearing, the right to compensation of victims, as well as the right to a society free of corruption. January 21st And what happened, it constitutes a violation of constitutional rights to life, to protest and the right to a fair hearing. These are dramatic cases even through a surface view on what happened, realizing here the fact that all possibilities exist to prevent, yet violation of human rights continued in fulfilling the duties of the state and its organs. We refer here, investigation of cases, litigation and impunity of perpetrators. Offenses at Gërdec and on January 21st, despite the relatively long time between today and the moment when they happened, they were left the violations without perpetrators, or they are sentenced at a minimum time of imprisonment.

2. Methods Used in the Study

Events subject of this study constitute two sensitive cases, that puts authors of different researchers, the obligation to

ensure thorough study and versatile cases . To achieve a complete picture of the cases , are used qualitative research methods , using primary sources of literature related to the legal framework for protecting human rights , respecting the hierarchy of sources of law . Also secondary sources , reports , studies , statistics institutions , research centers or particular researchers , they constitute the necessary literature and statistics, which give numerical strength of human or material consequences . Albanian court decisions , comparing them with the decisions of the European Court of Human Rights , or the decisions of foreign courts , analyzing it under a light , it will create the opportunity to reach clear conclusions , since we consider that in cases of violation of human rights , the courts constitute the last bodies to exercise the human rights.

3. Definition of Terms Operational Legal Study

In the entirety of the study will be used both operational terms , such as gross violations of human rights and the state 's Responsibility . **Gross violations:** In itself, the adjective "gross" in legal jargon indicates conspicuous gravity: a violation is "gross" if it is "out of all measure, flagrant ...conduct ... not to be excused!". (Black's Law Dictionary, 5 ed., St. Paul: West, 1979.)It still remains to be determined whether any violation of an important human right is "gross", or whether the judgment must be made in every individual case, including the possibility that the violation of any human right could under particular circumstances become gross because of the methods employed. Gross violations of human rights are considered as violations as a matter of policy². **State 's Responsibility** :States bear the primary obligation to guarantee human rights . State obligations for human rights are generally classified in three categories: obligations to respect, to protect, and to fulfill—the latter includes obligations to facilitate (or promote) and to provide. Although these three levels of obligation are naturally interconnected, the protective function of States is regarded by highly respected scholars as the "most important aspect of state obligations" regarding social, economic, and cultural rights as well as civil and political rights.(Sende Marsella,The Columbian Journal of European Law)

The jurisprudence of the European Court of Human Rights (here in after referred to as ECHR) has synthesized the first approach by the two countries preset obligations: the obligation positive and negative obligation . Positive obligations of rights , the ECHR allowed to expand the requirements for a full realization and effective rights of their heads , while attaching obligations arising from substantive law , the procedural obligations of the character provided for by Articles 6 (Right to a fair trial)and 13 (The right to an effective remedy) of the European Convention of Human Rights (hereinafter referred to as the ECHR) . Positive and negative obligations of the state , for the protection and guarantee of human rights , are also met with the doctrine of horizontal and vertical protection of human rights .After this introductory submission , the operational terms of this paper , the second section will address the issue of incident, and January 21 . The study will focus on the rights of the vulnerable material provided by law and violated the rights of a procedural nature ,focusing on specific positive obligations of the state and the " implementation " of the doctrine of vertical protection of rights.

4. Gross Violations of Human Rights

4.1 Gerdec Case

The case Gërdec occurred in the Gërdec Village, Vora Municipality , 15 km from the capital of the Republic of Albania , Tirana . In chronological terms occurred on 15 March 2008 , where as a result of the explosion at a weapons factory dismantling , lost their lives , 26 people , destroyed 4,200 homes, and 300 people were injured and they were damaged . Gërdec a tragedy , in terms of the consequences that had , but was the culmination of a tragedy that had been started by a number of human rights violated earlier . A series of actions or omissions at Gërdec, for which the responsible government institutions , they failed to take the necessary , and they brought this tragedy was completely preventable . Human costs , materials and not only brought the tragedy of incident, reflected in the summary in Table 1 as follows:

¹ Black's Law Dictionary, 5 ed., St. Paul: West, 1979. The French equivalent appears to be "flagrante", which raises new difficulties. See A. Dormenval, *Procédures onusiennes de mise oeuvre des droits de l'homme: limites ou défauts?* Paris: Presses Universitaires de France, 1991, p.58. 3

² The connection of policy and the nature of rights was taken into account by the authors of the Third Restatement of the Foreign Relations Law of the United States, quoted by Th. van Boven in his Preliminary Report to the Subcommission. (Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, UN Doc.E/CN.4/Sub.2/1990/10, para. 38.)

Table 1: Costs and Consequences of Gërdec Case:

Case	Human Costs	Materiel destroyed	Other impact	Estimated costs
Gërdec Case	26 fatal, 300 injured	9,000 tonnes of materiel destroyed (including 600,000 artillery projectiles) 4,200 houses got damaged (400 completely destroyed)	An area of 350 ha was contaminated with UXO (shells were scattered to four surrounding villages) - Highway Durres-Tirana was closed until the next day - Flights to Tirana airport were suspended for 40 minutes - The Defence Minister in place resigned - risk education for UXO had to be provided	Clean up operations: - USD 10,000,000 Socio-economic costs: - USD 1,6,000 immediate financial help to displaced families - USD 1,100,000 for those families whose houses are not in living condition - USD 15,000,000 to rebuild the material damage an houses and infrastructure - USD 511,111 for 24 victims TOTAL COSTS: at least USD 28,300,000

Source: Fifth RASR (The Regional Approach to Stockpile Reduction) Materials of the Workshop Held in Durres 223-25 April 2012

Table 1 of this study is an important indicator of the serious consequences that had this event , which is in contrast to the events of this nature in the region (here mention the events in Bulgaria (Chelopechene) and Serbia (Paracin) were associated with those consequences , the size of a tragedy) . Consequences are important indicators as long as they have violated important rights and basic human rights , protected by the legislation on the constitutional level , by domestic law , international law ratified by the Republic of Albania , as well as on its particular from the European Convention of Human Rights and its mechanism , referred to as the ECHR . The main research question of this paper is , what rights are violated and which is the state's responsibility for these rights violated ?Tragic consequences of Gërdec event was certainly the loss of life for 26 people , including children , or those who worked in the factory dismantling , or they were near the area , it because of the area where it was built and operated factory . It is interesting that the first scene of incident, none had heard of this village , which the " fame " of a tragedy made him well known across Albania . Nobody had heard , because the information authorities were " top secret " confidential , according to domestic law . Beyond that , dismantling factory was located in a populated area as it was between Durres and Tirana , these two highly populated cities in the Republic of Albania . Dismantling activity is a specific activity , it is dangerous and it requires specialized knowledge and training . The tragedy " it became " shocking facts , even in respect of the obligations that labor legislation and sets his standards , as women working in the factory , completely unspecialized for the work they will perform , and even more tragic is the fact that there also worked children aged 12-16 years , and many of the employees were uninsured , and employees were paid on average 10 Euros . The government and the Albanian state had not exercised control over what actions carried out this activity , being completely non-existent , to protect the rights and lives of employees , but also the lives and rights of other citizens . Gërdec , he makes the painful history of violations of human rights , as well as an irrefutable fact of corruption , state capture and the consequences that these bring in a society. All circumstances , in which the activity took place in Gërdec , they demonstrate , that are made in bad implementation or not of full implementation of the law . In summary, violated rights Gërdec presented in Table 2.

Table 2. Human Rights Violated in Gerdec Case

Human Rights Violated	Right of life	26 people dead,300 injured
	Property's right	4,200 houses got damaged
	Environmental Rights	An area of 350ha was contaminated with UXO
	Labour's Rights	Employment of children, Untrained women and children working in the factory
	Right to a corruption-free society Failure of state's responsibility	Officials failed to follow proper procedures of sub-contracting and destroying munitions

Source: Causes of the accident according to the final report of US experts, who assisted the Albanian team to investigate the causes of the accident

4.1.1 Right to due process

This right is a constitutional right. To encourage reflection on its importance, it is enough articulated that courts constitute the institutional mechanisms to restore a right that has been violated. That's right, it takes a special importance, if one of the parties of a judicial process, especially the criminal, they are public official. The Constitution of the Republic of Albania, it has enshrined this right in Article 42, as the right and fundamental freedom of citizens and on the other hand, Article 131, letter f of the Constitution of the Republic of Albania, the sets, the right to a fair hearing under the jurisdiction of the Constitutional Court. The ECHR also provides the right to a fair hearing, elaborating also jurisprudence in order to determine its full. Few issues Albanian courts, represent such a complex issue, where the injured, as well as public national and international actors seek justice. After many hearings, the decision of the Tirana District Court, was awarded after 4 years of Gerdec event. Verdict of Tirana District Court, it is an important indicator of violating the right to a fair hearing. Court decision voluminous, more than 530 pages, referred to a different position from that held the prosecution. The court did not give to any of the defendants, and no life imprisonment of the defendants pleaded not guilty to the crime of "Murder in other qualifying circumstances". Analysing the Tirana Verdict Court it is notable that the right to a fair trial process is violated. What are the indicators of a such violation?

Loss of life of twenty six people was not punished as long as none of the defendants were found guilty of "aggravated homicide".

Court Verdicts were characterized by a soft penal policy³

The legal qualification of the criminal acts was really favorable to the defendants

In the Appeal Court the tendency is to reduce the imprisonment time

Six years after the events of the tragedy, only two defendants are still in prison.

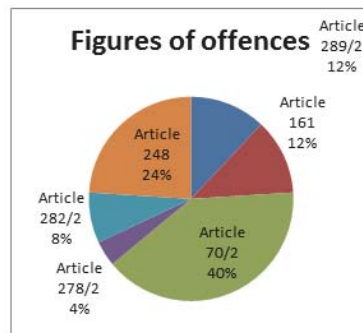
The court found innocent the defendants for some criminal figures

Controversial statement of Court and Prosecution Office

The most common criminal figure it was "Abuse of Duty" "Abuse of power by commanding staff" and "Negligent destruction of property"

The courts "legitimized" Gerdec activity. According to the court verdict state responsibility it was for violation of specific rules that require this activity.

Figure1. Figures of offences committed by the defendants of "Gerdec Case" (According to Tirana Court's Verdict)



Article 161 Penal Code of the Republic of Albania "Destruction of property due to negligence"

Article 248 Penal Code of the Republic of Albania "Abuse of office"

Article 278 Penal Code of the Republic of Albania "Illegal manufacturing and keeping of military weapons and ammunition"

Article 282 Penal Code of the Republic of Albania "Violation of rules on explosive, flammable or radioactive substances"

Article 289 Penal Code of the Republic of Albania "Violation of safety rules at work"

Not only the decision court were widely contested, as well as judicial process was found a human right violation. More on this violation it is presented in table 3 about fair trial process.

³ The imprisonment time it was from 1-18 years

Table 3. Fair Trial Process human rights violated

Fair Trial Process Violated	The OSCE representative in Albania (Albanian Newspaper Panorama, 2011) emphasised the Gerdec case was not conducted in accordance with fair trial principles.
Court's Verdicts	Only 19 former officials sentenced in prison , imprisonment them to between one and 18 years
Impunity	Some high-level officials were not punished by law Some Court's verdicts were not proportioned to the criminal conduct
Reasonable time of the process	The hearings were postponed 77 times The Tirana Court declared its verdict on the verge of 4 th anniversary

One month away from the anniversary of the March 15, 2008 tragedy at the weapons dismantling depot in Gërdec, the Court of Appeals issued its ruling on the 29 defendants of the case. The ruling of the Court of Appeals on the "Gërdec" case caused a new wave of strong reactions by public opinion about the credibility of justice bodies and judges. Meanwhile, in September 2013, the High Court ruled to reject a recourse submitted by the prosecutor's office, considering that the Gërdec tragedy was a technological accident and there are no elements of the penal offence of intentional murder as none of the defendants aimed at the death of 26 persons. According to the judges panel, the tragedy was caused by failure to implement technical safety rules at those responsible for the incident, where 26 persons were killed, were the employers

5. Why It Happened?

Today, after six years from Gerdec event, one of the fundamental questions around which the story revolves is the question "Why Gërdec happened?" Similar cases occurred in Serbia or Bulgaria probably refer to the position that "accidents" such as inevitable. Albanian and foreign scholars seem to have abandoned this approach as repeatedly stated that Gërdec is the event of failure to complete state and corruption. Gërdec revealed how the state had not functioned, how intelligence surveillance were left out such a business where millions of rounds of shells moved hundreds of millions of euros.(Kikia, Shqip 2008).In the paper How corruption and lack of accountability can set a country on fire: The tragic tale of ammunition trade in Albania,it is said truly, Gerdec is testimony of institutional failure. Unfortuately it is absolutely true.

The legislative framework according ammunition is completed only after the "Albademil Company" express its willing to be part of practises of dismantling. Up to date 05.04.2007,when the Albanian Parliament voted the law "On state control of the import-export of military goods and dual-use technology", which was enacted on 17.04.2007 by the President knew only arms trade monopoly, state companies. Law came at a time when the Council of Ministers had decided that the company can connect MEICO state contracts with "various entities" for the disassembling of demilitarization, action that came just 2 ½ months after the registration of the company "Albademil" in NRC. What happened with the law voting ,the time when the procedures of sub-contracting started, the place where the factory was are clear evidence of state failure and state capture of corruption. The place of the factory were in a very crowded area and the inhabitants were not informed of this dangerous activity. None of governmental institution exercised their competences to protect first of all the people lives and then to protect their property rights, environemntal rights and children rights. This activity had invested legislative power to create the necessary legal framework and the executive authorities failed to exercise their functions and powers. This is why it happened. Reading European Court of Human Rights judgements, there are e lot of judgements affirming state's responsibility to protect human rights. There is one case, really similar to Gerdec Case.It is *Öneryıldız v. Turkey (No. 48939/99 30.11.2004 Grand Chamber)* .Similarity between the two cases it is not in only in what happened but as well in what human rights are violated. Relying on Articles 2, 8 and 13 of the Convention and on Article 1 of Protocol No. 1, the applicants submitted that the national authorities were responsible for the deaths of their close relatives and for the destruction of their property as a result of a methane explosion on 28 April 1993 at the municipal rubbish tip in Ümraniye (Istanbul). They further complained that the administrative proceedings conducted in their case had not complied with the requirements of fairness and promptness set forth in Article 6 § 1 of the Convention.In that cases it was drawn before an expert report and the activity and it its danger and some other institutional steps. After the accident happened reiterating the public authorities' obligations and duties under the relevant regulations, the experts concluded that liability for the accident should be apportioned as follows: to Istanbul City Council, for failing to act sufficiently early to prevent the technical problems, to Ümraniye District Council for implementing a development plan while omitting, to the slum inhabitants for putting the members of their families in danger by settling near a mountain of waste; to the Ministry of the Environment for failing to monitor the tip

effectively: to the government for encouraging the spread of this type of settlement by declaring an amnesty. European Court of Human Rights observing all the facts, according to legal framework and legal reasons *Holds* unanimously that there has been a violation of Article 2 of the Convention in its substantive aspect, on account of the lack of appropriate steps to prevent the accidental death of nine of the applicant's close relatives; *Holds* by sixteen votes to one that there has also been a violation of Article 2 of the Convention in its procedural aspect, on account of the lack of adequate protection by law safeguarding the right to life; *Holds* by fifteen votes to two that there has been a violation of Article 1 of Protocol No. 1; *Holds* by fifteen votes to two that there has been a violation of Article 13 of the Convention as regards the complaint under the substantive head of Article 2; *Holds* by fifteen votes to two that there has also been a violation of Article 13 of the Convention as regards the complaint under Article 1 of Protocol No. 1; *Holds* unanimously that no separate issue arises under Article 6 § 1 or Article 8 of the Convention; *Holds* unanimously that the respondent State is to pay, within three months, the amounts, exempt from any taxes or duties, to be converted into Turkish liras at the rate applicable at the date of settlement. *Öneryıldız v. Turkey* should be a precedent case for albanian courts in their decisions.

5.1 1st January and the right to protest

January 21st event is closely associated with two fundamental rights, such as the right to life and the right to protest. Trying to introduce in the story, the so-called event January 21st is related to the death of four protesters in the Boulevard "Deshmoret e Kombit" during opposition protests in Tirana. Four protesters were shot dead by the Guard of Republic. The central question around which the case revolves is whether it was the 21st January a peaceful protest? Attempted to elaborate an answer for this, we use the doctrines understanding about this: According to Geneva Academy of International Humanitarian Law and Human Rights(2014) A protest should be presumed peaceful unless there is compelling or clear evidence that the organizers or participants intend to use or incite violence and violence is likely to occur. Acts of violence by a small number of participants do not render a whole assembly violent and do not justify its dispersal.

Law enforcement personnel should be equipped with adequate and appropriate protective equipment, to minimize resort to force. Consonant with their obligations under human rights law and Human Rights Council Resolution 22/10 (2013) states should draw up clear regulations and instructions as well as agree on protocols concerning the use of 'less-lethal' weapons, particularly tear gas (pepper spray)⁴. Law enforcement personnel who police protests should be trained in use of firearms and 'less-lethal' weapons, to ensure that any use of force is absolutely necessary, is proportionate, and is not arbitrary or indiscriminate. Firearms may be used only in response to an imminent threat to life or serious injury. The use of firearms simply to disperse a protest is prohibited. Any use of firearms should be reported and investigated. Lethal force is permissible only when it is strictly unavoidable to protect life. States have a duty to thoroughly investigate alleged violations and provide effective remedy to victims. Incidents that involve death or injury of protesters, or any use of firearms, must be reported and properly investigated. Allegations of excessive or unnecessary use of force should also be promptly, thoroughly, and impartially investigated. Law enforcement officials who are shown to have been responsible for arbitrary or abusive use of force must be brought to justice. This brief introduction refers not only clear when a peaceful protest but also considered what are the obligations of the state in the case of the use of weapons during peaceful protests. Beyond political attitudes on both sides for the January 21st protest and its nature images presented by the media clearly show that 4 shot dead protesters are not armed, there were attempting to enter the premises of the prime ministry and are not performing violent actions. . Also in reference to the judicial decision No.267 Tirana Court of Appeals in part application field cited the fact that the defendant's brother was killed during a protest held by the opposition Boulevard in which he was participating and at the moment the murder was not doing nothing but freedom and of exercising his right to protest peacefully. Therefore killing him, without any doubt is classified as an event that has given great impact on public. Regarding human rights to a fair trial process and a fair court decision it is important to point out decisions of albanians court. The decision of the Tirana Judicial District Court declared innocent the two persons indicted for the killing of 4 demonstrators on January 21, 2011. After the publication of the decision, public, opposite and international partner have had a strong reaction regarding this decision⁵. The decision of Tirana Judicial District Court was

⁴ See Paragraph 11 of the resolution: 'Encourages States to make protective equipment and non-lethal weapons available to their law enforcement officials and to refrain from using lethal force during peaceful protests, while pursuing efforts to regulate and establish protocols for the use of non-lethal weapons'.

⁵ AHC said it is aware that judicial rulings may only be annulled or altered by higher instances of the judiciary, but expressed that criticism toward them may not be stopped. AHC expressed civic concern about the mentioned court ruling because it is not convincing,

appealed from the prosecutor office before the Court of Appeals. In its ruling, the Court of Appeals rejected prosecutor claims and qualified the criminal offence committed by the defendants from "intentional murder" to "careless murder." The Court of Appeals has sentenced with 1 year of imprisonment the defendant N.P. and 3 years of imprisonment the defendant A.L., time which was considered executed through house arrest for the first defendant, and served through pre-trial detention for the second defendant. The imprisonment verdict is given only for the murder of three protestors? Who killed the forth? It is clear that if there is a murder, there is a violator of the most fundamental human right, right of life.

In this last session it will be an attempt to analyze these critically decisions of albanian court through the analytical view of European Court of Human Rights but firstly it is extremely important to summarize these verdicts through the valuable opinion of The Special Rapporteur.

According to The Special Rapporteur states have a positive obligation under international human rights law not only to actively protect peaceful assemblies, but also to facilitate the exercise of the right to freedom of peaceful assembly. In his opinion, states have three essential obligations: To refrain from committing violations, including by use of excessive force, against individuals exercising their rights to peaceful assembly, expression, and association. To protect individuals exercising these rights from abuses by non-state actors. To fulfil these rights by taking positive measures to prevent violations from occurring, and ensuring that everyone can freely and effectively exercise them. Further more in a lot of cases European Court of Human Rights affirmed the right to protest as a fundamental right.

In its judgment in *Oya Ataman v. Turkey* Judgment, 5 December 2006 the European Court of Human Rights affirmed that "the authorities have a duty to take appropriate measures with regard to lawful demonstrations in order to ensure their peaceful conduct and the safety of all citizens". Earlier it concluded that Article 11 of the ECHR implies that states have a positive obligation to secure effective enjoyment of this right. European Court of Human Rights goes further when in its judgement *Giuliani and Gaggio v. Italy*, the European Court of Human Rights held that states "have the duty to take reasonable and appropriate measures with regard to lawful demonstrations to ensure their peaceful conduct and the safety of all citizens". *Solomou and Others v. Turkey* it is an other important cases where the European Court of Human Rights assessed the necessity and proportionality of force used to disperse violent protests. In, it stated that, although the demonstrators had sticks and iron bars and were throwing stones at the Turkish forces, the killing of a demonstrator who had crossed the ceasefire line and was unarmed was not 'absolutely necessary' and was thus a violation of the right to life. In other cases European Court of Human Rights affirmed that maintenance of public security cannot be invoked to justify violation of the right to life. States have a duty to investigate any death or injury that occurs during protests, including those resulting from the discharge of firearms or the use of 'less-lethal' weapons by law enforcement officials.

In the case of Association "*21 December 1989*" and *Others v. Romania* in the context of the same events, concerned the death of the applicants' son during the anti-government demonstrations. Violation of Article 2 on account of the lack of an effective investigation into this death. The Court noted that its finding of a violation of Article 2 on account of the lack of an effective investigation related to a wide-scale problem, given that many hundreds of people were involved as injured parties in the impugned criminal proceedings. It added that general measures at domestic level would unquestionably be necessary in the context of the execution of the Association "*21 December 1989*" and *Others v. Romania* judgment.

In the context of peaceful protests, violations of human rights may occur when use of force is deemed to be unnecessary (not strictly necessary in the situation); excessive (not strictly proportionate to an actual or imminent threat or use of violence); or indiscriminate (not directed at specific individuals or groups who are engaged in acts of criminal violence or about to commit such acts). Where allegations of unnecessary or excessive use of force are made, there must be a prompt, impartial and thorough investigation. In particular, law enforcement officials who are implicated in or found to be responsible for arbitrary deprivation of life during protests must be brought to justice. To that end, national laws should ensure that victims of the use of force or firearms have access to an independent complaints process, including a judicial process. Victims must also be entitled to fair and adequate compensation within a reasonable period of time. According these consequent cases of European Court of Human Rights and what happened in Tirana on 21st January there is no doubt there as some violations of human rights: Right to protest ;Right of life ;Right to have access to an independent complaints process, including a judicial process; Right to fair and adequate compensation within a reasonable period of time.

both in terms of delivering justice and in its impartiality. The January 21 case has spurred numerous reactions by representatives of international organizations and the diplomatic corps accredited to Tirana. European Union's Enlargement Commissioner Stefan Füle commented on the January 21 case, "The legal review of the case is not over; procedures should end with a credible judicial process, demonstrating impartiality, independence and accountability.

6. A Few Concluding Remarks

The most dangerous precedents of both cases is that the loss of life, 30 people (26 in Gerdec case and 4 in 21st January) is a crime without perpetrators. Going back again in judgements of European Court of Human Rights and especially the case *Badayeva and others V Russia*, the Court has ruled that states have three main duties under Article 2: a duty to refrain from unlawful killing, a duty to investigate suspicious deaths and, in certain circumstances, a positive duty to prevent foreseeable loss of life.

The Albanian government have not fulfilled these duties.

The both cases are gross violations of human rights in Albania, happened in the last decade. The high level of corruption caused both of them and unfortunately the judicial bodies and all the process resulted some other violations of human rights. High level officials were not punished, as well as the investigation was not complete. The most flagrant violation of human rights regarding judicial bodies it was judicial verdict, really favorable to the perpetrators, and not credible. The right to an effective remedy and compensation was violated as well.

What it is needed... State should undertake to abolish the consequences of violations and to prevent new violations from occurring. Both cases should not be archived and the state should pay for real compensation of victims. All the public official responsible for the events should be brought before the justice and should be punished.

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