

ANALYSIS: The Macedonian Tribunal

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The sharp increase in violence in the closing days of the fighting is likely to be the focus of exploratory investigations by the Hague war crimes court.

As Macedonia's main political parties were finalising the political framework agreement at Lake Ohrid in early August, an exponential increase in violence and abuses by both the National Liberation Army, NLA, and government troops drew the attention of Hague tribunal investigators, bringing the spectre of war crimes investigations to Macedonia for the first time.

On August 12, 2001 - the day before Macedonia's main political parties were due to sign the political framework agreement aimed at ending six months of fighting - Macedonia's police mounted a devastating attack on the ethnic Albanian village of Ljuboten, located just north of the capital Skopje. By the time the Macedonian police were finished, ten ethnic Albanian civilians were dead: three were killed in shelling, six were shot dead in the village, and another man was beaten to death in police custody. Police had gone from house to house on the upper street of the village, burning homes and cars with gasoline, and shooting civilians as they fled from their homes.

The attack on Ljuboten brought Macedonia's conflict to a new level of abuse - summary executions of civilians, widespread arson, and deadly beatings in police custody. The NLA had also been stepping up its level of abuses, brutally torturing, mutilating and sexually abusing five ethnic Macedonian road workers on August 7.

It was also blamed for a rapidly increasing number of abductions of ethnic Macedonians in the region of Tetovo. Two successful Albanian guerrilla ambushes - later claimed by the breakaway Albanian National Army - had taken the lives of another 18 government soldiers in the same week. In a conflict that had cost the lives of less than 100 persons in the first five months, more than 35 people died in the days prior to the signing of the Ohrid accord.

Since the outbreak of fighting in Macedonia, The Hague tribunal, ICTY, has been quick to assert jurisdiction over the conflict. On March 21, 2001, the chief prosecutor, Carla Del Ponte, announced that "the jurisdiction of the ICTY covers on-going events in Kosovo, south Serbia, and the Former Yugoslav Republic of Macedonia". This position was emphasised on June 13, when the prosecutor announced that she "had already warned all sides in Macedonia . . . that all individuals responsible for crimes under the tribunal's competency . . . could be punished for their acts". She added that she "was closely monitoring the situation in Macedonia and had people in the field collecting information".

The tribunal opened its Skopje office back in 1999 but declared jurisdiction over Macedonia only in early March 2001. Its investigators regularly visit Macedonia and relay information about their findings to the office of the prosecutor. For the moment, its inquiries are mostly exploratory, aimed at determining whether the abuses being committed are severe enough to warrant a more formal investigation and possible indictments.

Even at this early stage of its work in Macedonia, the tribunal has the potential to provide an important deterrent effect. It has a well-established track record of bringing war criminals to justice for massive violations of international humanitarian law in Croatia, Bosnia and Herzegovina, and Kosovo. This reputation has been bolstered in recent months by the arrest and transfer to The Hague of former Yugoslav president Slobodan Milosevic and the increased cooperation from the Serbian, Bosnian and Croatian governments.

Almost immediately after the allegations about serious abuses in Ljuboten became public, the cafes of

Skopje were filled with speculation that the perpetrators could end up in The Hague. Interior minister Ljube Boskovski, who himself was present in the village on the worst day of the abuses, shrugged off the possibility of an indictment, saying, "I fear only my people's tribunal, not the political one set up by America in The Hague."

The tribunal's role in investigating and prosecuting war crimes in Macedonia was formally recognised by the amnesty provisions of the political framework agreement, which provides for a blanket pardon to NLA combatants but explicitly excludes those guilty of war crimes under the jurisdiction of The Hague.

However, international support for a greater tribunal role in Macedonia remains limited. Many Western diplomats seem concerned that this could complicate the sensitive political negotiations - an attitude reminiscent of the lukewarm international support for the tribunal's initial efforts in Bosnia. Already, Del Ponte has openly criticised NATO for failing to provide information requested by the prosecutor's office on weapons handed over by Albanian rebels.

NATO spokesperson Mark Laity insists that while the alliance cannot serve as "investigative authorities" for the tribunal, it has a "good record of cooperation" with The Hague and other international agencies. Yet presumably NATO is concerned that such cooperation with The Hague could interfere with the disarmament process.

Macedonia's majority ethnic Macedonian population may also be disappointed by the focus of the investigations in Macedonia, and the tribunal could face increasing hostility from the government. The NLA actions which have most outraged ethnic Macedonians, and for which the government has repeatedly demanded a tribunal investigation, are the deadly NLA ambushes of military and police convoys. However, these bloody incidents will most likely be considered as operations against "legitimate military targets" in the parlance of the law of war, and will not lead to indictments by The Hague - disappointing ethnic Macedonians.

A more likely target of an NLA-focused investigation are the abductions, disappearances, and beatings of ethnic Macedonians around Tetovo that have been blamed on the rebels. The recent release by the NLA of most of the ethnic Macedonians they had illegally detained limits the likelihood of an indictment, but displaced ethnic Macedonians still face considerable obstacles and violence when attempting to return to their homes, many of which have been destroyed, around Tetovo.

The level of violence and abuses in Macedonia has drastically decreased since the deployment of NATO's Operation Essential Harvest troops, who quickly established themselves in most of the flashpoints around the country. The ruling ethnic Macedonian majority is now faced with the choice of swallowing what they perceive as a humiliating political compromise "under the gun" or plunging the country into an ever-bloodier conflict which would quickly engulf the civilian population.

It remains uncertain what path Macedonia's leaders will choose. The interior ministry has embarked on a fierce recruitment and training drive, and the increased level of activity by presumed Macedonian paramilitary groups also bodes badly for peace.

The NLA, as main victors from the political agreement, are holding their fire for the moment, but there is little doubt that they stand ready to respond with arms if conflict breaks out again. "If we feel concerned at any point, we will buy new arms," one young NLA fighter told journalists after handing over his weapons to NATO in Radusha. "If they don't sign [that is, if the government does not ratify the Ohrid agreement into law], it will be war again." Realising the security vacuum an early departure may create, the West is expected to deploy a more long-term mission in Macedonia.

One thing is certain. If fighting breaks out again, Macedonia will witness a bloodier and more abusive conflict. Macedonian society has become increasingly polarised, the thirst for revenge is widespread, and

extremists on both sides are ready for a major onslaught. That could well bring further war crimes, and an expanded role for the international tribunal.

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