

Tribunal Stages First Kosovar Trial

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Former Kosovo Liberation Army members deny charges of murder and ill-treatment in landmark case.

The trial of three former Kosovo Liberation Army members accused of beating and murdering Serbs and suspected Albanian collaborators in a prison camp in 1998 is set to begin on November 15.

Fatmir Limaj, Haradin Bala and Isak Musliu have pleaded not guilty to a series of charges of crimes against humanity and violations of the laws and customs of war in relation to their alleged involvement in the camp in the central Kosovo village of Lapusnik.

It will be first time that former KLA members – who are largely viewed as heroes and liberators by Kosovo’s majority ethnic Albanian population – have appeared before the Hague tribunal.

Prosecutors allege that between May and July 1998, Limaj was a KLA commander in charge of a region in central Kosovo which included the village of Lapusnik. Musliu, they claim, was one of his subordinates and was the commander responsible for Lapusnik itself. And Bala is alleged to have been a guard at the camp.

During those three months, prosecutors claim that more than 30 mostly Serb and Albanian men – almost exclusively civilians – were abducted by Limaj’s forces and detained at the camp, where they were kept in horrific conditions, beaten, interrogated and very often killed.

In one location at the compound, referred to as the cowshed, between ten and 15 prisoners are alleged to have been kept in a space designed to hold three or four cows, with cement floors that after a while were covered with human blood and excrement.

Prosecution lawyers claim that prisoners were subjected to beatings with sticks, rifle butts, axe-handles and electric cables. The pre-trial brief claims that one former detainee had two of his teeth broken when a KLA soldier put the barrel of a rifle into his mouth and ripped the gun out, and another allegedly had two of his finger nails torn off with pliers. It is also alleged that the ear of a third prisoner was severed during an assault.

Some 15 people were allegedly murdered in the camp during the three month period, and ten more were are said to have been killed when the KLA abandoned the compound on July 26, after Serb forces launched an offensive to retake the area.

Prosecutors claim that Bala and another guard marched some 21 prisoners into the Berisa mountains. Around nine were released and the rest led to a clearing in the woods where Bala, the other guard and a third KLA soldier murdered all but two, who managed to escape into the thick forest.

The specific accusations levelled at the three defendants vary according to their alleged role in the KLA during the period referred to in the indictment.

Prosecutors say all three were personally involved in the beatings at the camp. Bala and Musliu are also accused of personally taking part in murders, while Limaj is said to have “planned, instigated and ordered” them.

Prosecutors also hope to use the concept of command responsibility to hold Limaj and Musliu to account for the crimes attributed to them in the indictment. According to the tribunal's statute, commanders can be held responsible for crimes committed by their subordinates even if they didn't directly order them.

All three accused are also charged as participants in a joint criminal enterprise, the purpose of which was allegedly "to target Serb civilians and perceived Albanian collaborators for intimidation, imprisonment, violence and murder".

But the three men maintain their innocence, claiming they didn't even know of the camp's existence at the time.

Bala claims that he was not in Lapusnik for most of the three months in question, arguing that he had been transferred to non-combat duties elsewhere because of a heart condition. He rejects the prosecution's claim that he admitted having been a "guard at the transit house" in an interview following his arrest, claiming his actual words were mistranslated.

Lawyers for Limaj and Musliu also plan to rebut the claim that their clients had command responsibility for the alleged crimes. They claim that the KLA had not developed a proper organised structure at the time, and had no hierarchy comparable to that of a regular army.

They allege that in their roles as KLA "commanders", Limaj and Musliu in fact had no practical authority over other members, who fought not out of a sense of duty, but merely because they trusted them.

Defence lawyers will also question the prosecution case on technical grounds - contesting, for instance, the assumption that the fighting in Kosovo at the time amounted to an "armed conflict" in the technical legal sense required for charges of crimes against humanity to be valid.

Limaj, the most senior of the three accused, was already a well-known figure in Kosovo by the time he was arrested in February 2003, having risen to the highest echelons of the KLA before entering into politics following the end of the conflict.

Thousands of people gathered in his home town of Malisevo following his arrest, chanting "Freedom to the Liberators" and "KLA, KLA". And the so-called "Limaj fund" has since collected large sums of money towards his legal costs.

Given the violent rioting that erupted in Kosovo in March this year, some worry that the beginning of the first KLA trial in The Hague could stir up further trouble.

UN Mission in Kosovo spokesperson Mechthild Henneke acknowledged that the situation got out of control during the rioting in March, but she said many people in Kosovo were shocked by these events and did not want to see them repeated.

In any case, the Limaj case has drawn relatively little attention in Kosovo of late. The Democratic Party of Kosovo of which he is a member has refused to lobby on his behalf, conscious of its image in the eyes of the international community.

The trial has been further pushed into the shadows in recent days by signs that the tribunal may be preparing to mount a case against another high-profile politician and former KLA member, Ramush Haradinaj.

More significant than the public reaction, perhaps, is the fact that the case has already led to the tribunal issuing its first ever indictment for contempt with regard to witness intimidation. Beqë Beqaj appeared in court earlier this week to plead not guilty to accusations that he contacted two prosecution witnesses and tried to pressure them into withdrawing their statements.

Beqaj reportedly claimed to have been in direct contact with two of the three accused in The Hague's Scheveningen detention centre, and to be acting on their behalf.

UN officials in Kosovo, including the tribunal's chief prosecutor Carla Del Ponte, have said in the past that the main obstacle to pursuing justice in Kosovo is the unwillingness of eyewitnesses to appear in court.

But Florence Hartmann, spokesperson for the Office of the Prosecutor, OTP, refused to comment on the scope of the problem in relation to this trial. Instead, she underlined that the OTP has resources at its disposal to deal with any further issues if and when they arise.

This might include witnesses testifying anonymously before the tribunal in private sessions, or using screens and voice-distortion to hide their identity.

Prosecution lawyers will use next week's hearing to outline their case against the three accused.

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