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EUROPE

Kosovo's War Ended, but the Shooting Didn't. A Court Promises Justice.

By ANDREW HIGGINS and VALERIE HOPKINS APRIL 3, 2018

RUD, Kosovo — Fetah Rudi, a former schoolteacher and political activist, has been using a wheelchair for 17 years, ever since unidentified gunmen unloaded 14 bullets into his stomach and shoulder in a drive-by shooting near his small village in central Kosovo.

He has no hope of ever walking again but, thanks to a new war crimes tribunal, he finally has some hope that, after 10 years as an independent country, Kosovo will belatedly grapple with a singularly taboo topic: why ethnic Albanians like him kept getting attacked and in some cases killed even after their Serbian tormentors had fled.

He has watched in dismay over the years as the United Nations and then the European Union — which have both tried to establish the rule of law in this tiny Balkan nation since it broke free from Serbia in 1999 — failed to deliver justice for a wave of violence that followed Serbia's retreat.

The new court, based in The Hague but governed by Kosovo law, will focus on

judging not Serbian atrocities during the 1998-99 war but crimes committed during and after the conflict by the Kosovo Liberation Army, or K.L.A., an ethnic Albanian guerrilla force whose former commanders now run the country.

The court, Mr. Rudi said, is “the last chance to finally make our people free.”

In the nearly two decades since it split from Serbia, Kosovo has been governed as a United Nations protectorate and, since February 2008, as an independent state. Throughout that time, it has been dogged by demons left from its violent birth and a culture of impunity left by its failure to come to terms with the fact that some of Kosovo's most powerful figures have been accused of major crimes.

The special court, which is expected to issue its first indictments soon, is supported by the United States and Europe, Kosovo's main backers and funders. But it poses risks for them, too, as it will examine crimes directly related to the foundation of the West's state-building project in Kosovo: its alliance with the K.L.A. during NATO's bombing campaign against Serbia in 1999; its failure to disarm the K.L.A. after the war ended; and its inability to protect not only ethnic Serb residents who stayed behind, but also the K.L.A.'s ethnic Albanian political rivals.

In a sign that United States support for the court is perhaps flagging under President Trump, the American chief prosecutor, David Schwendiman, stepped down recently after the State Department declined to extend his appointment by two years to enable him to complete his term with the court, despite assurances during the Obama administration that he would be able to do so.

Mr. Rudi said the bullets that nearly killed him in December 2000 — 18 months after the end of the war and the departure of Serbian forces — were shot from the same gun that a month earlier had been used to murder Xhemajl Mustafa, a prominent journalist.

Both attacks occurred despite the presence of more than 45,000 NATO troops in Kosovo, a force that, wary of confronting the K.L.A., did little to halt post-conflict score settling.

Both Mr. Rudi and Mr. Mustafa were outspoken supporters of the

Democratic League of Kosovo, an originally pacifist group led by Ibrahim Rugova that shared the K.L.A.'s desire to end Serbian oppression but, once the Serbs left, challenged the self-declared right of the group's fighters to run Kosovo as their own fief.

The expectation of imminent indictments has delighted Mr. Rudi, who was held in a secret K.L.A. prison and violently beaten toward the end of the war and, after the conflict ended, was targeted for assassination by what he suspected was a K.L.A. hit squad. He said he would leave Kosovo and move to Western Europe with his wife and four children if the court flubbed its mission.

The prospect of the court's digging into cold cases left from Kosovo's birth as a separate state has sent former K.L.A. members — who include the country's president, prime minister and speaker of Parliament — into a panic. They tried in December to torpedo the special court with legislation that would have emasculated its function. They backed off after the United States and the European Union protested the move in unusually strong terms. The American ambassador, Greg Delawie, called it a “stab in the back.”

In an interview on the eve of a visit to Washington in February to attend a prayer breakfast with President Trump, President Hashim Thaci — the K.L.A.'s political commissar during the war, when he was known to his comrades as “the snake” — denounced the special court as a “historic injustice” but pledged to let it proceed.

“We have nothing to hide,” he said, insisting that the K.L.A. as an organization never imprisoned or murdered its ethnic Albanian rivals, massacred Serbian civilians or committed other war crimes, despite the persistent allegations that prompted the establishment of the special court.

Mr. Thaci (pronounced THAH-chee) conceded that some “individuals” in the K.L.A. had taken the law into their own hands, and he said he wanted to see their crimes punished. At the same time, he complained that “you can't put an equal sign between the crimes of the Serbs and those of the K.L.A.”

Few if any Kosovars would dispute that but, with Serbian forces long gone, many are asking why so few of the hopes raised by the K.L.A.'s NATO-enabled victory

in 1999 have been fulfilled — why nearly 60 percent of young people are unemployed, why corrupt politicians, many of them former K.L.A. fighters, can ransack the economy with impunity, and why witnesses in criminal cases against senior K.L.A. figures keep disappearing or refusing to testify.

“We thought it would be completely different,” said Mr. Rudi, the former teacher. “We thought we would have a functioning country with laws, institutions, security and a developed economy. We never thought there would be all this killing and stealing.”

Beriane Mustafa, the daughter of the murdered journalist, said she did not know who killed her father, “but I do know it was a political murder, probably by political opponents.” Mr. Mustafa’s murder and the attack on Mr. Rudi followed the defeat of the K.L.A., which had been reconfigured as a political party, in local elections in early October 2000.

The timing, Ms. Mustafa said, suggested “a kind of revenge” by fighters who, furious at being denied the political support they thought they deserved, calculated that “if we kill these people we will come to power.”

By 2007, the K.L.A.’s political party was the country’s dominant political force. Mr. Thaci became prime minister in 2008, one month before Kosovo declared independence, and then president in 2016.

Mr. Thaci has become the emblem of two diametrically opposed views of Kosovo’s liberation struggle and its aftermath. In 2010, Vice President Joseph R. Biden Jr. described him as “Kosovo’s George Washington,” the nation’s heroic founding father. A report issued the same year by the Council of Europe, however, described him as “the most dangerous of the K.L.A.’s ‘criminal bosses.’”

The report had been commissioned after ghoulish allegations of organ trafficking by the K.L.A. appeared in a book published by Carla del Ponte, the former chief prosecutor at United Nations war crime tribunals in The Hague.

Written by the Swiss prosecutor Dick Marty, the report portrayed Kosovo as a failed state run by gangsters and thugs. It caused outrage in Kosovo across the political spectrum, mostly because it repeated Ms. del Ponte’s claims that the K.L.A. had killed Serbian prisoners for their organs. But it nonetheless set in

motion calls for a reckoning that led to the establishment of the special court.

The accusation of wartime organ theft has never been substantiated, but the issue continues to haunt Kosovo, fueled in part by the discovery in 2008 of an organ trafficking ring operating out of a medical center near the capital, Pristina. The man accused of leading the ring, an Israeli citizen, Moshe Harel, was arrested in January in Cyprus.

Clint Williamson, an American appointed by the European Union in 2011 to head an investigation into Mr. Marty's allegations, concluded that the practice of killing prisoners for their organs "did occur on a very limited scale" but that finding evidence to prove it would be very difficult.

Instead, he said, future indictments against former K.L.A. commanders should focus on their responsibility for "a campaign of persecution" directed at Serbs and other minority groups, as well as "toward fellow Kosovo Albanians whom they labeled either to be collaborators with the Serbs or, more commonly, to have simply been political opponents of the K.L.A. leadership."

In his interview in February, Mr. Thaci dismissed the Marty report as part of a Russian-orchestrated program of "fake news," a farrago of lies and disinformation intended to undermine Western influence in the Balkans.

Calling Kosovo "the most pro-American country in the world," he said that by blackening its name, Russia, a firm ally of Serbia, wanted to damage the United States. He produced no evidence that Russia had a hand in Mr. Marty's report.

Whether the special court can get to the bottom of what happened nearly 20 years ago will depend to a large extent on whether witnesses will agree to testify and, if they do, whether they and their family members can survive.

When a former K.L.A. commander living abroad, Agim Zogaj, agreed in 2011 to testify against former comrades in a war crimes trial, he was put into a witness protection program run by the European Union. Before the trial could start, he was found hanging from a tree in the western German city of Duisburg.

Ms. Mustafa, the daughter of the murdered journalist, said she was "not optimistic" about the court's ability to succeed where the United Nations and

European Union had failed, but added, “If you want to consider yourself a real state, a serious state, you have to deal with all crimes, no matter who committed them.”

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