

FORMER YUGOSLAV REPUBLIC OF MACEDONIA

Killed on the road to a brighter future: the possible extra-judicial killing of seven economic migrants in Rashtanski Lozja

At about 4.00am on 2 March 2002 seven men, six Pakistani citizens and one Indian citizen, were shot dead in a police ambush in Rashtanski Lozja, near the village of Ljuboten, north of the capital Skopje. The Macedonian authorities claimed that the seven men were members of a foreign terrorist group. On 2 March the Minister of the Interior, Ljube Boshkovski, announced that the seven had planned attacks on important buildings, foreign diplomats most probably from the US, Germany and the UK - those that were involved in the fight against global terrorism.

On the same day, an Interior Ministry official, claiming that uniforms with insignia had been recovered from the victims, said that the authorities believed the men had been working with ethnic Albanian rebels. A few days later, Macedonian state television (MTV1) reported on 5 March, quoting a source in the Ministry of the Interior, that the group had been communicating in Albanian on a mobile phone and concluding that ethnic Albanians were in control of the Amjahideen group.

Previously, in early 2001 an armed ethnic Albanian group, the so-called National Liberation Army (NLA), launched an armed insurgency ostensibly for greater rights for the ethnic Albanian population of Macedonia¹. Despite an agreement in August 2001 which laid down the basis for an end to hostilities, splinter groups of armed ethnic Albanian insurgents have continued to operate in Macedonia. The Macedonian authorities have in the past alleged that foreign radical Islamists, Amjahideen, have been involved in the insurgencies, although there has been little evidence produced to support these allegations.

Police claimed to have known of the seven men's intentions due to information received following the arrest in Skopje on 13 February of four men, two Jordanians and two Bosnians, who the police also alleged were a Amjahideen group with links to the Al-Qaida network - al-Qaida is an organization set up by Osama bin Laden believed to be responsible for a number of violent attacks including those of 11 September 2001 in the USA. Officials claimed that they had found evidence that the four men were involved in planning

¹Ethnic Albanians make up 23 percent of the population as per the census of 1994 although ethnic Albanian leaders claim the real figure is much higher.

attacks on foreign embassies. The authorities linked the killing of the seven men on 2 March with these previous arrests, and an Interior Minister official stated on 2 March that A[O]ur people knew that the terrorists were coming with a van so they were prepared@. He also claimed that the seven men had opened fire after the police had first fired warning shots. Official reports claimed that the group were armed with four automatic rifles of Chinese origin, hand grenades and launchers and a radio transmitter. On 4 March Interior Minister Boshkovski stated without giving further details or proof: "We have hints that say that two came from Pakistan and fought in Afghanistan [alongside or as part of al-Qa=ida forces]. After their participation in Afghanistan, they were transferred to the Balkans, to countries neighbouring [Macedonia].@



However, a number of serious doubts have been raised concerning these official explanations of the killings and of the men=s alleged intentions. It subsequently emerged that six of the seven men were Pakistanis while the seventh was an Indian Sikh. The names of the six Pakistanis are as follows (different reports give different variants of the names of most of the victims, a relatively common feature among rural communities in southern Asia, and the variants are given in parenthesis): 29-year-old Bilal Hussain Shah (Bilal Kazmi); Khalid Mahmood (Khalid Iqbal/Khalid Sadiq) - in his mid-twenties); 20-year-old Muhamad Asif Javed (Muhamad Asif Khan); Omer Farooq; Riaz Ahmed (Riiaz Ahmed Deen/Muhamad Riyaz) and Ijaz Ahmed (Ejaz Wilayet). The Indian Sikh is named as Sam Singh

(Sathnam Singh).



According to published interviews conducted with relatives with the press², all seven men had travelled from the sub-continent via Turkey to Bulgaria, Serbia and finally Macedonia to try and cross over into Greece as economic migrants and to join relatives already resident there. Relatives in Greece knew of the imminent arrival of the seven and had been in contact with the group during their journey - the last contact seems to have been when Bilal Hussain Shah=s brother, Dabeer Hussain Shah, who is resident in Athens, had spoken to his brother by phone on 16 February 2002

when the seven were in Bulgaria and had sent him money by telegraph transfer so he could buy warm clothes and food.

² *Kyriakatiki Eleftherotypia* 4 May 2002 and *Washington Post* 7 March 2002.



All the victims' relatives strenuously deny any link with armed radical groups. Furthermore, Amnesty International notes that all six Pakistani men were reportedly Muslim Shiites, a group who have been the targets of attack by militant Islamists and thus unlikely to have been sympathetic to a radical Sunni organization like al-Qa=ida, while Sam Singh, as an Indian Sikh, was even more unlikely. Additionally, western journalists reported that the documents belonging to the victims, which the police announced on 18 March 2002 showed the group had direct links with other Islamist groups (and thus implying connections with radical armed organizations like al-Qa=ida), were found to comprise an invitation to a Shia religious gathering which Bilal Hussain Shah's brother had organized in March 1999, and a coloured copy of a standard Shiite text.

Foreign diplomats in Skopje have been sceptical of the Macedonian authorities' past attempts to link the ethnic Albanian insurgents of the NLA with foreign radical Islamic groups like al-Qa=ida, and have been equally sceptical of the authorities' version of the killings of 2 March 2002. On 15 March James Holmes, US Special Advisor for Southeast Europe, was asked if there was any new information both on the killings of the seven men as well as the previous arrest of the four men in Skopje. He replied: 'The answer is no. I received no additional information; I did ask a number of questions and frankly we are not satisfied with the explanations which have so far been made available.'



On 20 March 2002 the US Embassy in Skopje again expressed its doubts in a statement which stated: 'With regard to the March 2 incident at Rashtanski Lozja, the U.S. Embassy reiterates its earlier statement that it has received no information that there was a specific threat to U. S. interests for the seven men killed. Nor has any credible evidence emerged linking these men with any international terrorist group.' Similar statements were made by many other diplomatic sources in Skopje and the Head of OSCE International Immigrant Organization reportedly concluded that the seven men were economic migrants who had the misfortune to come across a police patrol in a border area where there had previously been clashes between ethnic Albanians and security officials.

Amnesty International further notes that despite

the seriousness of the alleged charges against the four men arrested in February and their alleged links with an international terrorist group, which allegedly included the seven killed men and which was ostensibly planning attacks on embassies, the four were released without charge after four days in custody. They alleged that they had been ill-treated while in custody. On 17 March the Bosnia-Herzegovina Foreign Ministry summonsed the Macedonian ambassador in Sarajevo because of the continuing refusal of the Macedonian authorities to present valid evidence warranting the recent arrest, detention and physical abuse of the two Bosnia-Herzegovina nationals, Omer Avdusinovic and Assim Sefer, both undergraduates who had been passing through Macedonia. The press release from the Bosnian Ministry went on to state that these actions of the Macedonian police, that were even accompanied by hasty and untrue statements by senior police officials there and the continuing refusal to present evidence leads to the conclusion that the Macedonian police grossly violated the rules governing law enforcement activities, as well as fundamental human rights.

Amnesty International further notes that despite the claims by the Macedonian authorities that the seven men killed on 2 March were armed and had instigated a shoot-out with police in which all seven were killed, the police suffered no casualties. Additionally, although the bodies of the victims were reportedly riddled with dozens of bullet holes, none of the bags ostensibly containing NLA uniforms had holes in them raising suspicions that the uniforms and bags had been planted by police after the attack.

From the available evidence, Amnesty International believes that the seven men killed on 2 March 2002 at Rashtanski Lozja were economic migrants whom the authorities tried to link to foreign radical Islamic groups both as an attempt to justify the killings by appealing to the heightened post-11 September 2001 global tensions surrounding the issue of terrorism, as well as to try and discredit ethnic Albanian insurgents by similarly alleging such links. Amnesty International believes that the killings of the seven men on 2 March 2002 in Rashtanski Lozja were possible extra-judicial executions - deliberate, unlawful killings by state agents acting outside the framework of the judicial or legal system. The organization calls on the Macedonian authorities to undertake a prompt, thorough and impartial investigation into these deaths, to bring to justice those suspected of involvement in unlawful killings, and to compensate adequately the victims' families.

On 14 March 2002 Amnesty International wrote to the Macedonian authorities expressing its concerns at the killings on 2 March of the seven men in Rashtanski Lozja and the arrest of the four men in Skopje on 13 February. The organization urged the Macedonian authorities to initiate an independent, impartial investigation into the circumstances surrounding the deaths in accordance with the United Nations (UN) Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, but received no reply. In its letter, Amnesty International also pointed out that the international community had offered the assistance of international

experts to help in such an investigation. However, this offer of forensic assistance was rejected.

Macedonian Constitution and Legislation

Article 10 of the Macedonian Constitution clearly states that "*the right to human life is irrevocable*".

The Law on Internal Affairs allows law enforcement officers to use force, but within the limitations of the Regulation Act issued by the Macedonian government in 1998. The regulations include that:

- T Force, including firearms, will be used only if there is no other means of achieving the desired aim (Article 3). Firearms can only be used if other means of force are insufficient to protect the life of the citizen or repel an attack in which life is endangered. Warnings must be given (Article 22).
- T In every situation where force or firearms are used, and where the conditions permit, the law enforcement officer will identify himself and clearly warn the individual that force may be used (Article 5).
- T If death or injury is caused as a result of the use of force or firearms, medical attention will be sought immediately and the family of the individual informed as soon as possible (Article 6). Moreover, Article 29 provides that if as the result of the use of force or firearms serious bodily injuries or death is caused, a commission of inquiry shall be formed to consider the justification for its use and whether it was in keeping with the regulations.
- T Law enforcement officers who exceed their authority in law in the use of force or firearms are answerable to the appropriate laws (Article 9).
- T Law enforcement officers who have used force or firearms must make a written report on the incident (Article 27).

International Standards and Recommendations

Macedonia is a member State of the United Nations and a party to many human rights treaties including the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

Article 6.1 of the ICCPR states that "*[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life*". The

ICCPR came to force in March 1976 and is legally binding on states which have ratified it. Macedonia ratified the ICCPR in 1994.

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials define the limited circumstances under which law enforcement officials may use force and firearms.³ Furthermore, the Principles also require that any use of firearms by law enforcement officials must be reported, while all uses of force or firearms which result in injury or death must also be reviewed. The Principles underscore that law enforcement officials must respect and preserve human life, minimize damage and injury, and that intentional lethal use of firearms may be made only when it is strictly unavoidable in order to protect life. Principles 4, 5, 9 and 10 state the following:

"Principle 4 - Law enforcement officials, in carrying out their duty, shall as far as possible apply non-violent means before resorting to the use of force and firearms. They may use force and firearms only if other means remain ineffective or without any promise of achieving the intended result."

"Principle 5 - Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:

- a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;
- b) Minimize damage and injury, and respect and preserve human life;
- c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment;
- d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment."

"Principle 9 - Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life".

"Principle 10 - In the circumstances provided for under Principle 9, law enforcement officials shall identify themselves as such and give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed, unless to do so would unduly place the law enforcement officials at risk or would create a risk of death or serious harm to other persons, or would be clearly inappropriate or pointless in the circumstances of the incident."

³The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials were adopted by the Eighth UN Congress on the Prevention of Crime and the Treatment of Offenders in September 1990 and welcomed by the UN General Assembly on 14 December 1990.

Article 3 of the United Nations Code of Conduct for Law Enforcement Officials states that: "[l]aw enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty". The commentary to this provision notes in relevant part in Article 3 paragraph c that: "the use of firearms is considered an extreme measure. Every effort should be made to exclude the use of firearms, especially against children. In general, firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender." ⁴

The above principles provide an international standard by which to judge the actions of law enforcement officials in particular cases. Lethal uses of force in contravention of these principles amount to arbitrary deprivations of life in violation of Article 6 of the International Covenant on Civil and Political Rights (ICCPR) to which Macedonia is a State Party. As the United Nations Human Rights Committee noted in its General Comment on Article 6, "States Parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the state is a matter of the utmost gravity."⁵ Non-lethal uses of force in contravention of these principles may amount to the violation of an individual's right to freedom from torture or cruel or degrading treatment or punishment, and to security of person, rights which are enshrined in Articles 7 and 9 of the ICCPR.

On 29 May 1989, the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions were adopted by the United Nations Economic and Social Council (ECOSOC). These 13 Principles were later welcomed by the United Nations General Assembly on 15 December 1989. They include recommendations for:

- T the prevention of extra-judicial executions: "In order to prevent extra-legal, arbitrary and summary executions, Governments shall ensure strict control, including a clear chain of command over all officials responsible for the apprehension, arrest, detention, custody and imprisonment as well as those officials authorized by law to use force and firearms" (Principle 1). Moreover, "Governments shall prohibit orders from superior officers or public authorities authorizing or inciting other persons to carry out any such extra-legal or summary executions. All persons shall have the right and the duty to defy such orders. Training of law enforcement officials shall emphasize the above provisions" (Principle 2).

- T Their investigation: Principle 5 states that "[t]here shall be a thorough, prompt and impartial investigation of all suspected cases of extra-legal,

⁴The Code of Conduct for Law Enforcement Officials was adopted by the UN General Assembly in 1979.

⁵Human Rights Committee, General Comment No. 6, Article 6, Sixteenth Session (1982), Para. 3

arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence, and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide".

Moreover, Principle 6 adds that "[i]n cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure (...)." The commission=s members must be "independent of any institution, agency or person that may be the subject of the inquiry" and "[t]he commission shall have the authority to obtain all information necessary to the inquiry".

Principles 7 and 8 detail procedures for the carrying out of autopsies and subsequent report. Under Principle 9 "[f]amilies of the deceased and their legal representatives shall be informed of, and have access to, any hearing as well as to all information relevant to the investigation, and shall be entitled to present other evidence (...). The body of the deceased shall be returned to them upon completion of the investigation".

Finally, Principle 10 recommends that "[a] written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred, and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it".

T Legal proceedings: "Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary and summary executions in any territory under their jurisdiction are brought to justice" (Principle 11). Moreover, under Principle 12 "an order from a superior officer or a public authority may not be invoked as a justification for extra-legal, arbitrary or summary executions (...). In no circumstances, including a state of war, siege or other public emergency, shall blanket immunity from prosecution be granted to any person allegedly involved in extra-legal, arbitrary or summary executions". Finally, "[t]he families and dependents of victims of extra-legal, arbitrary and summary executions shall be entitled to fair and adequate compensation, within a reasonable period of time" (Principle 13).

Amnesty International=s recommendations to the Macedonian authorities

- Amnesty International urges that effective steps be taken to ensure that lethal force is not used unless strictly unavoidable in order to protect life. In particular, the training and methods of the police should be reviewed in the light of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Amnesty International calls on the Macedonian authorities to release the full autopsy report on each of the seven men to their family or legal representatives as soon as possible and ensure that the manner of and responsibility for each of the deaths is independently, impartially and fully investigated without further delay;
- Amnesty International urges the Macedonian authorities to comply with international standards and initiate prompt, thorough and impartial investigations into these deaths. The organization requests to receive a copy of the report of any such investigation. Amnesty International also urges the Macedonian authorities to bring to justice any police officer suspected of involvement in the alleged unlawful killings of the seven men.
- Amnesty International also calls on the Macedonian authorities to ensure that the victims' family and relatives receive adequate compensation.

Appendix:

Amnesty International=s 14-point Program for the Prevention of Extra-judicial Executions.