

The Department of Justice's Office of Overseas Prosecutorial Development, Assistance, and Training Helps Bring Foreign Terrorist Fighters to Justice



Foreign Terrorist Fighters Bekim Fidani (far left), Ridvan Haqifi (center), and Lavdrim Muhaxeri (far right) burn their passports in an ISIS propaganda video.

In December 2021, Katerina Kolarevikj, the North Macedonia official responsible for prosecuting her country's foreign terrorist fighters, had a problem. She knew from prior meetings with Department of Justice Office of Overseas Prosecutorial Development, Assistance, and Training (OPDAT) Resident Legal Advisors (RLAs) that two foreign terrorist fighters who had been repatriated to North Macedonia in July 2021, Bekim Fidani and Suad Idriz, had posted Islamic State of Iraq and Syria (ISIS) propaganda on social media. That evidence would enable her to charge them with terrorism recruitment -- but she was unable to locate it.

Most of the social media posts had been taken down and were no longer available as evidence. Now she was almost out of time: she had to indict in less than two weeks. On December 3, 2021, she contacted OPDAT for help.

The OPDAT Regional Counterterrorism Resident Legal Advisor (CT RLA), who covers Kosovo and Albania in addition to North Macedonia, knew that Kosovo police had collected much of the same social media evidence as North Macedonia. A call to them confirmed that, yes, they had some evidence on North Macedonia's foreign fighters. Twelve days later, the OPDAT CT RLA arranged for a meeting between prosecutors and investigators from Kosovo and North Macedonia in Pristina, Kosovo. He projected the social media pictures on a screen and went through each one so that both countries could discuss them. OPDAT legal specialists translated. With OPDAT assistance, a mutual legal assistance request was prepared between the two countries, and Kosovo provided the evidence to North Macedonia.

With this evidence in hand, Ms. Kolarevikj charged both Fidani and Idriz with fighting in a foreign army, and terrorist recruitment and spreading ISIS propaganda, respectively. They pled guilty in January 2022, and each was sentenced to 10 years in prison, two of the longest prison sentences for Balkan foreign terrorist fighters to date. The recruitment and spreading ISIS propaganda charges played a key role in the length of the sentences.

Ms. Kolarevikj was a newly promoted prosecutor who had never handled a terrorism case prior to North Macedonia's repatriation of Fidani, Idriz, and two other foreign terrorist fighters in July 2021. OPDAT RLAs conducted case-based mentoring with her to discuss the law and evidence and help fashion the most appropriate charges. Her convictions of Fidani, Idriz, and the two other fighters not only brought to a successful conclusion the repatriation of all of North Macedonia's foreign fighters, but also demonstrated what effective OPDAT case mentoring can achieve.

Experienced Prosecutors Embedded with Embassies

Established in 1991 and funded through interagency agreements with the Departments of State and Defense, the U.S. Department of Justice's OPDAT program promotes the rule of law and regard for human rights by reforming foreign justice systems and supporting professional and accountable institutions consistent with international norms and standards. At the same time, OPDAT builds the capacity of our foreign partners to combat transnational crime and terrorism before those threats reach the United States.

The majority of OPDAT's programs are implemented in country by RLAs, experienced U.S. prosecutors who are attached to U.S. embassies for one or more years. Through case-based mentoring, capacity building workshops and expert legal advice, these advisors work with their foreign counterparts to strengthen capabilities to investigate and prosecute terrorism, transnational organized crime, corruption, money laundering, economic crimes, human smuggling and trafficking, narcotics trafficking, cybercrime, and other offenses.

The Department of State's Bureau of Counterterrorism funds OPDAT CT RLAs throughout the world, including a regional position in Tirana, Albania that covers Albania, Kosovo, and North Macedonia. In addition, each of those countries has one or more RLAs attached to U.S. Embassies who are funded by the Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL).

From a Pizza Parlor to ISIS

In 2013, Fidani left his family's pizza business in North Macedonia, traveling through Turkey to join ISIS in Syria. Upon arriving, he stayed in a camp for a month-and-a half until ISIS was convinced of his readiness and that he was not a spy. One person from this group collected his personal data and escorted him to the front to start fighting. On September 26, 2014, he appeared in an ISIS propaganda video broadcast from Syria in which he and two foreign fighters from Kosovo burned their passports, urged followers to join ISIS, and warned of dark days ahead for the Balkans. One of the other terrorists in the video, Lavdrim Muhaxeri, earlier made

international headlines when he published photos of himself on social media beheading a young man. Fidani would later appear in numerous other social media posts promoting ISIS.



*New Year's Day 2015: Fidani and Muhaxeri (front row) in front of an ISIS tank.
Courtesy of Republic of North Macedonia Ministry of Interior, Department of Suppression of
Organized and Serious Crime, Counterterrorism Sector*

Suad Idriz, another foreign terrorist fighter from North Macedonia, also used social media to recruit for ISIS and promote its ideology. ISIS used propaganda like this to mobilize 40,000 foreign nationals from more than 80 different countries to join the group, including 5,000 from Europe. This message resonated strongly in the Balkans: 1,000 citizens from Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, and Serbia traveled to Iraq and Syria to join ISIS between 2012 and 2016, making the region the largest per capita contributor of European foreign terrorist fighters.

Many of these foreign fighters, including Muhaxeri, were killed fighting U.S.-backed coalition forces. Fidani and Idriz fought with ISIS until 2019, when they were captured by coalition forces along with thousands of other foreign fighters and their families outside of Baghouz, Syria, in a battle that marked the end of ISIS's so-called "caliphate." They were held in prisons run by the U.S.-backed Syrian Democratic Forces (SDF) until July 2021, when they were repatriated to North Macedonia together with eight other foreign terrorist fighters and 24 associated family members from Kosovo and North Macedonia.

Helping Bring Terrorists to Justice

The fact that foreign terrorist fighters like Fidani and Idriz were captured in Syria is typically insufficient to successfully prosecute them for terrorism crimes. Courts in the Balkans require evidence that they joined ISIS, and often ask for proof of what the defendants did when they were in Syria and Iraq. Without U.S. assistance, that evidence would be almost impossible for other countries to obtain. In fact, many nations outside of the Balkans cite a fear that they will not succeed in convicting their foreign fighters as a reason not to conduct repatriations.

To solve this problem, OPDAT RLAs work with the regional FBI Legal Attaché to provide prosecutors with battlefield evidence on foreign terrorist fighters collected from the war in Syria and Iraq. In this manner, OPDAT was able to provide prosecutors in Kosovo and North Macedonia with battlefield evidence on all 10 of the foreign terrorist fighters repatriated in July 2021, including Fidani and Idriz. In Kosovo, OPDAT also helped with mutual legal assistance requests for this evidence so it could be used in court.

Equally important is ensuring that battlefield evidence is admissible in court. In 2018 and 2019, Counterterrorism Bureau and INL-funded RLAs invited U.S. judges and Department of Justice National Security Division Counterterrorism Section attorneys to the region to conduct a series of workshops on the admissibility of battlefield evidence for Balkan prosecutors and judges. This paid tremendous dividends, as Bosnia and Herzegovina, Kosovo, and North Macedonia now admit battlefield evidence in court.

Balkan prosecutors would have been unable to prosecute foreign terrorist fighters if they did not have the laws to do so. As far back as 2013, CT Bureau and INL-funded OPDAT RLAs worked with the Balkan countries to draft and adopt laws criminalizing participation in a terrorist organization and fighting in a foreign army. Kosovo and North Macedonia used these laws to prosecute the foreign fighters repatriated in 2021.

In 2018 and 2019, CT Bureau and INL-funded OPDAT RLAs, together with their respective embassies, held a series of workshops for the Balkan countries to help them prepare for the repatriations and develop step-by-step plans for their citizens once they were brought back from the conflict zone. In addition, CT Bureau and INL-funded OPDAT RLAs worked with were Kosovo to help it prosecute women repatriated from Syria, something few other nations have been willing to do.

Perhaps the most important contributor to the success in the Balkans is the level of trust that prosecutors have in OPDAT's RLAs. Living in country and working out of the U.S. embassies, the RLAs meet or speak with their foreign counterparts daily. This allows them to provide mentoring and training that is tailored to each country's specific needs. OPDAT Legal Specialists speak the language, understand the law, track case developments, maintain relationships, and provide program continuity when RLAs rotate back to the United States.

An Untenable Situation

In his June 2021 remarks to the Global Coalition to Defeat ISIS, Secretary Blinken noted that 10,000 foreign terrorist fighters remain in SDF prisons, a situation he characterized as “untenable.” He urged countries to “repatriate, rehabilitate, and where applicable, prosecute their citizens.” His remarks proved prescient: In January 2022, ISIS attacked the SDF prison in Hasakah in an attempt to free ISIS foreign fighters incarcerated there. The ensuing battle left more than 500 dead. Equally important is the repatriation of the women and children who willingly or unwillingly, accompanied the foreign terrorist fighters to Syria and Iraq. Since 2019, they have been housed in displaced persons camps that have been described by numerous international relief agencies as “humanitarian nightmares” and by General Kenneth McKenzie, Jr., the Commander of United States Central Command, as “breeding grounds for the next generation of ISIS.”

The Balkan countries have been leaders in repatriating their citizens and holding them accountable for their actions. In his June 2021 remarks, Secretary Blinken specifically commended Bosnia and Herzegovina, Kosovo, and North Macedonia for repatriating their foreign terrorist fighters. While it has not repatriated its foreign fighters, Albania has repatriated many of its women and children from the conflict zone, effectively saving them from a life of misery.

Country	Repatriation Date	Number of FTFs	Number of Women	Number of Children
Albania	10/26/2020	0	1	4
	8/1/2021	0	5	14
	5/28/2022	0	3	10
Bosnia and Herzegovina	12/19/2019	7	6	12
Kosovo	4/22/2019	4	32	74
	7/16/2021	6	1	4
	5/28/2022	2	0	0
North Macedonia	8/7/2018	7	0	0
	7/17/2021	4	5	14
Total		30	53	132

With OPDAT assistance, 29 of the 30 foreign fighters repatriated to the Balkans have been convicted and imprisoned, including all 10 repatriated in July 2021. The sole exception was a juvenile. In addition, 30 of the women who were repatriated to Kosovo were convicted of providing material support to ISIS.



*Six Kosovan Foreign Fighters Who Were Repatriated in July 2021 and Convicted of Terrorism
Courtesy of: Kosovo Police Counterterrorism Directorate.*

DOJ's OPDAT RLAs stand ready, willing, and able to help the Department of State and other nations follow Secretary Blinken's call to repatriate and prosecute foreign terrorist fighters.

About the Author: Clay Stiffler is an Assistant United States Attorney from the Western District of Michigan who served as the OPDAT Regional Counterterrorism Resident Legal Advisor for Albania, Kosovo, and North Macedonia from March 2021 through July 2022. He has been with DOJ for 13 years.