

Turkey/Iraq, Turkish Military Operations in Northern Iraq

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N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

A. Turkey warplanes 'kill 25 rebels' in northern Iraq

[Source: "Turkey warplanes 'kill 25 rebels' in northern Iraq", in BBC News Europe, 10 September 2012, available at: <http://www.bbc.co.uk>]

The Turkish military says it killed 25 Kurdish rebels during a recent offensive in northern Iraq.

Warplanes hit 14 rebel hideouts in the cross-border strikes from 5 to 9 September, it said in a statement.

Clashes between soldiers and rebels have killed 461 people in south-east Turkey this year, the military said separately according to local media.

Fighting between the army and Kurdistan Workers' Party (PKK) rebels in the region has escalated in the past year.

The army has mounted hundreds of operations in a bid to drive out the rebels.

'Rendered ineffective' Several thousand rebels are believed to be based in northern Iraq, and the Turkish military regularly violates Iraqi airspace to target them.

"Initial data" suggest 25 terrorists were "rendered ineffective" in the recent air operation in northern Iraq, AFP news agency quoted the Turkish military as saying.

The PKK has been fighting for an ethnic homeland in south-eastern Turkey since 1984. It is classified as a terrorist organisation by Turkey, the US and EU.

Of the 461 people the army says have died in south-east Turkey this year, 88 – about a fifth of the total – were soldiers killed over the past nine months, AFP quoted local TV network NTV as saying. Some 373 rebels were killed over five months.

NTV quoted the army as saying the Turkish military operations were focused on four south-eastern cities of Hakkari, Tunceli, Siirt and Sirnak.

In a two-week period from the end of July alone, the interior minister said at least 115 rebels died in Hakkari province.

And just a week ago, 10 members of Turkish security forces were killed in a rebel attack in Sirnak province, officials said.

B. Baghdad calls on Ankara to end attacks on PKK in Iraq

[Source: "Baghdad calls on Ankara to end attacks on PKK in Iraq", in Press TV, 3 October 2012, available at: <http://www.presstv.com>]

Iraq has called for an end to the presence of Turkish military forces on its land, demanding that Turkey stop its attacks on members of the Kurdistan Workers Party (PKK) in northern Iraq.

"The cabinet decided to reject the presence of any foreign bases or forces on Iraqi land and to reject the entry of any foreign military forces into Iraqi land," said Iraqi government spokesman Ali al-Dabbagh in a statement issued on Tuesday.

Dabbagh reiterated that the Turkish military action against the PKK members on Iraqi land "contradicts the principles of good neighborly relations."

The Iraqi cabinet "recommends that parliament cancel or not extend any treaty signed in the past with any foreign state that allows the presence of foreign forces and military bases on Iraqi land or the entry of these forces," the Iraqi government spokesman stated.

The remarks were made in response to a request by the Turkish government on Monday from its parliament to renew a mandate, expiring on October 17, that allows Turkish military strikes against the PKK in the semi-

autonomous Kurdish region of Iraq.

The treaty in question was signed by former Iraqi dictator Saddam Hussein in 1995, allowing Turkish forces to have presence in the northern regions of Iraq to target the Kurdish group.

The military presence of Turkish forces and their crossing into Iraq “is a violation of Iraq’s sovereignty and security,” Dabbagh added.

Some analysts believe that Baghdad’s decision may be a reaction to Turkey’s refusal to extradite fugitive Iraqi Vice President Tariq al-Hashemi, who has been sentenced to death in absentia by an Iraqi court for running terror squads in Iraq.

Over the past months, Turkish military forces and the PKK have been involved in one of their heaviest clashes since the beginning of the Kurdish group’s armed opposition against Ankara.

In July, Baghdad warned Ankara against the “violation” of its territory and airspace by Turkish fighter jets and called on its foreign ministry to file a complaint with the UN Security Council over the issue.

C. Turkish jets strike Kurdish rebel hideouts in Iraq: sources

[Source: “Turkish jets strike Kurdish rebel hideouts in Iraq: sources”, in Ahram Online, 8 October 2012, available at: <http://www.english.ahram.org>]

At least 12 F-16 fighter jets bomb Kurdish targets inside four camps in the Kandil Mountains in the autonomous Kurdistan region of north Iraq

Turkish jets bombed Kurdish rebel hideouts in northern Iraq overnight, military sources told AFP, but it was not immediately clear if there were any casualties.

At least 12 F-16 fighter jets took off from the Diyarbakir base in the southeast and targeted four camps in the Kandil Mountains and the surrounding area where the leadership of the outlawed Kurdish Workers' Party (PKK) is believed to be hiding, the sources added.

The latest operation comes after the Turkish government asked parliament last week to renew the mandate for its armed forces to attack Kurdish rebel bases in Iraq for another year, as the clashes sharply escalated between the two sides.

The last air strike was in early September when Turkish jets bombed suspected PKK ammunition depots and shelters. [...]

D. Turkey Kurds : PKK chief Ocalan calls for ceasefire

[Source: "Turkey Kurds: PKK chief Ocalan calls for ceasefire", in BBC News Europe, 21 March 2013, available at: <http://www.bbc.co.uk>]

The jailed leader of Kurdish rebels fighting Turkey, Abdullah Ocalan, has called for a truce after years of war.

Ocalan also urged the fighters of his PKK organisation to withdraw from Turkey, in a message read out to cheers during Kurdish New Year celebrations in the city of Diyarbakir.

Turkish Prime Minister Recep Tayyip Erdogan cautiously welcomed the call.

More than 40,000 people have died in the 30-year fight for an ethnic Kurdish homeland in Turkey's south-east.

Mr Erdogan said the move was "positive" but stressed the importance of the implementation of any ceasefire.

He said Turkish security forces would not undertake fresh operations against the rebels if Ocalan's call was implemented.

The military leader of the PKK, Murat Karayilan, said that he "very strongly" supported Ocalan's move. [...]

Several previous ceasefire attempts between the two sides have failed.

But the BBC's James Reynolds in Istanbul says the announcement is potentially an important step towards ending the three-decade long conflict between Kurdish rebels and the Turkish state.

He points out that this time Ocalan and Mr Erdogan – the two key figures involved – are talking via intermediaries.

Turkey's aims to become a leading power in the Middle East – and eventually in Europe mean it must end its 30-year armed conflict with Kurdish rebels, our correspondent adds.

He says that Ocalan is still the final decision-maker among the Kurds, despite the 14 years he has spent in jail. He is serving a life sentence for treason. [...]

Our correspondent says it is not immediately clear when this withdrawal will take place – or whether the PKK will ultimately choose to disarm.

There was an enormous cheer from the crowd when Ocalan's announcement was made, the BBC's Guney Yildiz reports from Diyarbakir.

But as the announcement was finished, one man in the audience, Ismet, cautioned that there was nothing new in the message. "He has been making similar calls for peace since the 1990s," he told our correspondent.

However, the co-chair of the pro-Kurdish Peace and Democracy Party (BDP), Gultan Kisanak was more hopeful, telling the BBC that "this announcement is more than a call about the technical matter of a ceasefire".

"It is the declaration of a new strategy," she said. [...]

E. Kurdish Rebel Group to Withdraw From Turkey

[Source: "Kurdish Rebel Group to Withdraw From Turkey", in The New York Times, 25 April 2013, available at : <http://www.nytimes.com>]

ISTANBUL — The Kurdistan Workers' Party, the main Kurdish rebel group in Turkey, said Thursday that it would withdraw all of its forces from the country by May 8 as part of a peace agreement to end a 30-year conflict with the Turkish state.

Speaking at a rare news conference at the group's base in the Qandil mountains of neighboring Iraq, Murat Karayilan, the commander of the group, known as the P.K.K., called on the Turkish Army not to launch attacks during the rebels' gradual withdrawal into northern Iraq. Any such confrontation will end the P.K.K.'s cease-fire, he said.

Mr. Karayilan, in a statement read in Turkish and summarized in English, outlined the process by which the P.K.K. expected the government to meet its end of the bargain, by giving the Kurds further democratic rights under a new constitution and releasing Kurdish prisoners, including the P.K.K.'s highly influential primary founder, Abdullah Ocalan. However, he refused demands by the Turkish government that rebels disarm before leaving the country, and said his militants would carry weapons strictly for self-defense. He also suggested that foreign observers monitor the withdrawal for any misconduct on either side, reported NTV, a private TV network.

[...]

"It is highly hopeful that the will of the P.K.K., the will of the government and the will of the people join for the first time for a common cause, to end a 30-year-old conflict," Numan Kurtulmus, deputy chairman of the party, said on NTV.

"The first step has been made, so we hope the process would be finalized without any acts of provocation," he said. [...]

Discussion

A. Classification of the situation

1. How would you classify the situation between Turkey and Iraq? Is it an international armed conflict? What arguments can be made in favor of and against such a classification? (GC I-IV, Arts 2(1) and 3; P I, Art. 1; P II, Art. 1)
2.
 1. How would you qualify the situation between Turkey and the Kurdistan Workers' Party (PKK)? Does the fact that Turkey, the U.S. and the EU consider the PKK as a terrorist organization have an impact upon the classification of the conflict under IHL? (GC I-IV, Art. 3; P II, Art. 1)
 2. Which conditions must be fulfilled for a situation to be qualified as a non-international armed conflict? Once the requisite level of intensity has been reached, does IHL apply until a peaceful settlement is achieved? Even if the level of intensity and the rebel group's degree of organization go down below that threshold? (P II, Art. 2(2))
 3. Does the fact that a non-international armed conflict spills over the borders of one state change the nature of the conflict? Does it become an international armed conflict? A transnational armed conflict? Under what circumstances does a non-international armed conflict become an international armed conflict?
 4. When does a non-international armed conflict end? An international armed conflict? Does the withdrawal of PKK fighters from Turkey end the non-international armed conflict? (GC IV, Art. 6(2); P I, Art. 3)
3. If one considers that both an international (between Turkey and Iraq) and a non-international (between Turkey and the PKK) armed conflict exist, which rules apply to the attack by Turkish fighter planes against PKK fighters in Iraq? In what respect, if any, would the classification make a difference? Would it make a difference under the ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities? (see Document, ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities)

B. Classification of persons

1.
 1. If IHL of international armed conflicts applied to Turkish attacks in Northern Iraq, how would you classify the members of the PKK under IHL? Are they combatants? Civilians taking part in hostilities? May they be legitimately targeted? When and under what conditions? (P I, Arts 43, 48 and 50; P II, Art. 13(3); CIHL, Rules 1 and 6; Document, ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities)
 2. Under IHL, is a member of armed group a legitimate target at all times? Does your answer vary depending on the nature of the conflict? (P I, Arts. 48 and 51; P II, Art. 13(3); Document, ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities)

C. Conduct of Hostilities

1. Do the documents reproduced contain any indication that the Turkish attacks in Northern Iraq violated IHL?
2. Are the PKK's "hideouts" legitimate targets? What if the pilot suddenly realizes that civilians have been deployed all around a hideout by the PKK in order to protect it? Is the pilot allowed to carry on with the attack as planned? Would he necessarily violate IHL if he decides to carry on with the attack? Is the PKK violating IHL by placing civilians around a military objective? (P I, Arts. 51(5)(b), 51(7), 52, 57, 58; P II, Art. 13(1); CIHL, Rules 1 and 6-24)
3. Are PKK fighters withdrawing with their weapons from Turkey after having announced a unilateral ceasefire under IHL still legitimate targets of attacks?

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