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The International Civilian Police Mission in Bosnia and Herzegovina: From Democratization to Nation-Building

Dominique Wisler

The agenda of the civilian police mission in Bosnia and Herzegovina evolved quite dramatically since its creation in 1996 under the framework of Annex 11 of the Dayton Peace Accord (DPA). Under the UN (1996–2002), the CIVPOL mission shifted from an initial programme centred on individuals—the micro level—with projects such as training, code of conduct, recruitment, and vetting, to an internal reorganization of all police forces of the country—the meso level—with activities centred on democratization, depoliticization, internal control, and accreditation. After the European Union took over the CIVPOL mission on January 1, 2003, the agenda became no longer ‘democratization’ but macro issues of ‘nation-building’ and financial sustainability. In the process, the DPA has lost its normative and reference character and has been substituted by the logic of the Realpolitik of influence in the region by the European Union. The paper explains this change of agenda with a set of three factors: (1) mission cycle, (2) changing role of international actors and agency style, and (3) the local configuration of power.

Keywords: Police Reform; CIVPOL; Police Transition; International Police Task Force (IPTF); European Union Police Mission (EUPM); Bosnia and Herzegovina

Introduction

Post-Dayton Bosnia and Herzegovina (BiH) is a fascinating case of a radical mutation of the agenda of an international civilian police mission over a period of 10 years and

Dominique Wisler, PhD in political sciences, is the founder of Coginta, a consulting company specialized in police reform in transition countries. Until 2002, he taught political sociology at the University of Geneva and has served in Sudan as senior advisor for the United Nations Development Programme. Correspondence to: Dr Dominique Wisler, Senior Adviser for Policing Affairs, Rule of Law Unit, UNDP, Khartoum, Sudan. Tel: +249 9 121 74 421; Email: wisler@coginta.com

the progressive salience of the issue of restructuring in police reform. After a decade of monitoring, training, and coaching, the international civilian police mission instituted by the peace agreement came to the conclusion that a complete reorganization of the Bosnian policing system was needed. The Dayton Peace Accord (DPA) had been inspired by a confederal constitutional model and delegated executive police authority entirely to sub-national governmental units. This model, 10 years later, had lost all its shine and the new consensus among the international community was that it actually constituted the principal limit to a full-fledged democratization of the police institution, a functioning judicial system, and the building of a nation. Dayton, in other words, had become the obstacle.

The Bosnian case is highly relevant today in the context of the changing nature of international interventions. International interventions have evolved from more security-oriented peacekeeping operations to comprehensive peace-building missions. Bosnia is one of the first examples of this change. The declared objective of the intervention was winning the peace rather than just ending the war, and the international community approached the post-conflict period with a declared nation-building agenda. It should perhaps not appear as a surprise, as we will see, that the international civilian police mission in Bosnia felt constrained by an (initial) mandate that was still traditional in essence. Nation/institution-building requires a much broader mandate than classic monitoring, coaching, and training tasks, and the appropriate police staff to deal efficiently with highly complex institutional-building issues.

The account we will undertake in this paper of the progressive change of agenda in the international police mission in Bosnia and the reasons that eventually led to a complete restructuring of the police forces, aims at alighting a more practical reflection on future international civilian police missions in peace-building operations and the realistic expectations the international community may have in their chances of success.

After a brief presentation of the actors involved in the police reform in Bosnia after Dayton, an analytical model for agenda change of a police mission will be developed in a more theoretical section. Using the suggested theoretical framework and secondary literature as well as primary data,¹ the paper will identify four chronological distinct phases in the short history of the international civilian police mission in Bosnia and identify the main factors leading to change. In the conclusion, lessons from the case study will be drawn to discuss the increasing relevance of the notion of restructuring in post-conflict international police missions.

The Main Actors of the Policing Reform

The main actors of the policing reform instituted by Dayton were the local authorities themselves, the International Civilian Police (initially the United Nations International Police Task Force), the NATO-led troops, and the Office of the High Representative (OHR). As we will see, their respective role, position, visibility, and even identity, in the policing reform process changed over the years. Let us introduce each actor briefly.

During and immediately after the war the police were organized in parallel structures along ethnic lines in BiH. The Croats controlled the western part they called the

Croatian Republic of Herzeg-Bosna. The Bosniak police was based in Sarajevo and controlled central Bosnia districts (Palmer, 2004a, p. 176). The Serbian police controlled the rest of the country and had established their headquarters in Pale. The police forces were under the influence of the intelligence services (usually collocated in police headquarters) and operated as tools of their respective political authorities. The DPA created a new policing system which, however, was not entirely distinct from its predecessor. A crucial decision made in Dayton was indeed to decentralize territorially the power to reproduce public order. Not a single policing competency was anchored institutionally at the national level. Instead, policing was entirely delegated to the entities and, in the case of the Federation, to its 10 cantons. In a later international arbitration, an autonomous district was created in Brcko with its own independent police force. This created in fact 13 autonomous law enforcement agencies (LEAs) for a small country with an estimated population of 3.5 million inhabitants: 1 single centralized police in the Republika Srpska (RS) with headquarters in Banja Luka, the new capital of the RS; 1 federal police at Federation level with competencies restricted to complex and organized crimes, inter-cantonal crimes, anti-terrorism, and VIP protection; 10 cantonal police agencies with large policing competencies; 1 autonomous district police in the 100,000 inhabitants large district of Brcko with entity-like policing competences. Later on during the mission, as part of the police reform, new LEAs were progressively established at the national state level: the State Border Service (border guards) in 2000, the Court Police, an Interpol office, and, in 2004, a national judicial police (the SIPA or State Investigation and Protection Agency). All these national agencies, with the exception of the Court Police, were integrated in the 2004 inaugurated Ministry of Public Security at the national level.

The United Nations Mission in BiH set up the International Police Task Force (IPTF) to implement tasks listed in Annex 11 of the Peace Accord. These tasks were essentially monitoring and inspecting, training as well as advising the local enforcement agencies. The IPTF was expected to work in accordance with 'internationally recognized standards and with respect for internationally recognized human rights and fundamental freedoms' (Annex 11). The DPA stated that the IPTF would be headed by a Commissioner who would report to the High Representative² as well as the Secretary-General of the United Nations and his Special Representative in BiH. The IPTF created ultimately by a UN resolution was 1,721 strong, a number that was increased later to 2,057 via several successive UN resolutions. The IPTF mission lasted until December 31, 2002 when it was replaced by the European Union Police Mission (EUPM).

The NATO Implementation Force (IFOR) was tasked by Dayton to implement the military aspects of the Peace Accord contained in Annex 1A. The 60,000 strong IFOR had a one-year mandate and was replaced in December 1996 by the follow-up NATO-led troop organization, the Stabilization Force (SFOR), who maintained initially 32,000 troops in BiH. At the end of 2004, the SFOR was replaced by a 7,000 strong European Union military force (EUFOR).

The last crucial actor for the policing reform was the High Representative who represented the Peace Implementation Council (PIC)³ and was tasked with overseeing the

implementation and coordinating the civilian aspects of the DPA. The High Representative's role in the implementation was significantly strengthened in December 1997 when it was asked by the PIC to exercise its 'final authority' in matters regarding the implementation of Dayton.⁴ On January 1, 2003, the High Representative was invested with an additional function as Special Representative of the European Union in BiH.

The International Police Agenda: A Model for Change

For the discussion of the evolution of the civilian police mission in Bosnia, it will be useful to distinguish between three levels of intervention: the micro, the meso, and the macro. Micro-level interventions deal with individuals. Training or monitoring, for instance, typically deals with individual capacity. The meso level is the level of the organization. A reorganization project dealing with the internal structure of a police force is a meso-level project. Macro-level projects deal with the redistribution of power between agencies or levels of government. For analytical purposes we will restrict the use of the term 'restructuring' to macro-level issues while the term 'reorganization' will be strictly applied to designate meso-level interventions.

This distinction is helpful to distinguish between the successive phases of the CIVPOL mission in Bosnia. We will show that after concentrating initially exclusively on monitoring and training activities, the mission gradually moved to meso-level interventions before, in the last phase, starting on January 1, 2003 with the transfer of the mission of EUPM, an even more significant programme commenced at the macro level. There was, of course, nothing natural, teleological, or nicely planned in this progressive transition from the micro to the macro for an international police mission. Instead, we will argue that together with the internal diagnostic of the functioning of the police forces the evolution of the agenda of the international civilian police has been the result of a changing combination of external factors. Four external factors played a critical role: the local political alliances, the Dayton mandate (and its changing interpretation by the relevant actors), the international configuration of power, and what we will call the 'mission cycle.'

The local political alliances mattered since the IPTF received only a weak mandate and, according to Annex 11 of the Dayton agreement, the enforcement of the rule of law rested entirely upon local agencies. We will see, for instance, that a power struggle within the nationalist party in the RS during the years 1997–98 combined with the results of the November 1997 special elections and the 1998 general elections opened a window of opportunity for the UN Mission to negotiate with the local authorities the first agreement to reorganize the RS police.

The interpretation or real change in their respective mandates mattered for the type of interventions taken by the main international actors of the security sector—the NATO troops (IFOR/SFOR), the IPTF/EUPM, and the OHR. During the mission, several important changes occurred. One example is the new extraordinary powers the High Representative (HR) obtained from a meeting of the PIC which took place in December 1997. The HR became entitled to use his full authority in matters regarding the implementation of the Peace Accord. This unique decision allowed the HR to

remove from public offices officials believed to be an obstacle to the implementation of the DPA as well as to impose 'laws' as he considered 'fit if Bosnia and Herzegovina's legislative bodies failed to do so.'⁵ This led to many authoritative decisions by the HR and opened the door for a more assertive programme by the IPTF in the internal reorganization of the police forces.

The international configuration of power has been critical for the evolution of the international civilian police agenda. While, during the IPTF mandate, the international configuration of power was relatively stable, a new logic settled in after the European Union decided to open the door of pre-negotiations of admission to BiH in 2000. Consecutively, Dayton ceased to be the exclusive frame of reference for state reforms. Calls for revisiting Dayton became louder and this allowed the EUPM and the OHR, the latter newly invested with the function of Special Representative of the European Union, to initiate a new radical police reform programme.

Finally, an equally important factor is what could be labelled as 'mission cycle.' The reform agenda seems indeed to vary depending whether it is located early or late in the mission cycle. When the IPTF, as we will see, begun to 'accredit' the 14 LEAs in Bosnia, many observers believed that this move came too early and was only intended to crone the IPTF mission with a final glorious success before the mission would be handed over to the European Union (Palmer, 2004a). Even more to the point, we will argue that the recent changes in agenda in the reform of the police are due in part to the search by all international actors for an exit strategy and the general sense that the implementation of Dayton is approaching an end. In the latest phase of the mission cycle, the notion of financial sustainability of the police has become almost obsessive. As we will see, financial considerations have influenced considerably the current reform under way in the public security sector in BiH.

The First Phase: The Public Order Security Gap⁶

In the immediate post-Dayton agreement, a number of events (elections, transfer of authority of five Serb suburbs to the Federation side of Sarajevo, the resettlement of Muslims to strategic locations in the Zone of Separation between the entities, the return of refugees) were planned with a critical potential of escalation and other, unplanned, such as roadblocks mainly at the inter-entity line but also in the Croat controlled areas contravening Dayton, were going to challenge seriously the civilian police force—the IPTF.

An additional risk factor was the fact that the pace of the IPTF deployment was relatively slow and that only 392 monitors were deployed in the first week of March 1996 when the transfer of the Serb suburbs was starting (the problem has been identified as the 'deployment gap'). The potentially escalating events scheduled, combined with the deployment gap and the fact that the civilian police was unarmed and not entrusted with executive powers posed an extraordinary challenge to a civilian police mission. Indeed, the mandate received by the IPTF from Annex 11 of the DPA, prescribed a mission with monitoring/inspection, training, and advising function only while the entire enforcement of the rule of the law stayed in the functioning police forces of the parties.

A public order security gap arose clearly from the fact that the NATO troops, the IFOR, received also a weak mandate. According to the International Crisis Group (ICG), the

U.S. military wanted a crisp clean mandate which could be fulfilled within a year and could allow them to avoid either 'mission creep' or involvement in any policing function. The first phobia stemmed from the 1993 debacle in Somalia and the second from disquiet over the otherwise successful intervention in Haiti in 1994. (ICG, 2002, p. 5)

During the first months of the mission it became clear to the IPTF that the IFOR would interpret their mandate indeed as weak and deny being the '911' for IPTF emergencies, as put by Dziedzic and Bair (1998, p. 24).

Even if there were formal mechanisms of exchange of information between the IFOR, the OHR, and the IPTF with the Joint Civilian Commission and a Joint Consultative Committee, the High Representative, which under Annex 10 of Dayton had the mandate to coordinate all civilian aspects of Dayton, had 'no authority over the IFOR nor could he or she interfere in the conduct of military operations or the IFOR chain of command' (see DPA, Annex 10).

The public order gap was narrowed down in size with the subsequent SFOR and the routinization of the support to the IPTF. Already after a few months into the mission, the IFOR became more supportive to the IPTF and important events such as the 1996 election were carefully planned jointly by the Organization for Security and Cooperation in Europe (OSCE), the IPTF, and the IFOR. The elections were a crucial test for the IPTF and the mission in general. The task of the international community was facilitated by the fact that the nationalists were supporting the electoral process. They were looking for a legitimization from the anticipated electoral victory.

Later on, as mentioned, support mechanisms would be routinized with the IFOR follow-up NATO mission, the Stabilization Force (SFOR), to ensure the freedom of movement and the dismantling of police roadblocks for instance. Roadblocks and checkpoints were in general forbidden by the IPTF, but were nevertheless often conducted along the inter-entity line. The SFOR provided assistance to the IPTF to dismantle them when persuasion did not work. The SFOR also conducted regular inspections on the special police forces in the RS confiscating illegal weapons and equipment. Later in the mandate, the SFOR also conducted operations to search for criminals wanted by the International Tribunal for War Crimes.

Two innovations were important during the mission to close the public order security gap. Dziedzic and Bair stress the importance of the civilian affairs specialists in the early phase that were detached to the IPTF by the IFOR to plan contingencies, assure the link between the two agencies, and provide the logistical support the IPTF cruelly needed in its deployment phase.

The second linkage has been the creation on August 2, 1998 of the Multinational Specialized Unit (MSU) within the SFOR. An innovation of the Bosnian peacekeeping mission, the MSU consisted exclusively of police forces with armed force status (gendarmerie, carabinieri, guardia civil, etc.), was an integral part of the SFOR, and was conceived to take on large public order tasks. The MSU was originally deployed as

preparation for the second national election of October 1998 and was believed to be the best tool to bridge the public order gap identified during the first phase of the mission. Lutterbeck (2004) mentions that the MSUs seem to have been relatively rarely used, but they were nevertheless regarded as an important tool and, with the transfer of the SFOR to the European Union by the end of 2004, the MSUs are still today an integral part of the new force under the new name Integrated Police Unit. In 2005, it had staff from Italy, Hungary, Romania, and Slovenia and was 600 personnel strong.⁷

The Second Phase: Democratization Phase, Confidence-Building, and Personal Integrity

As the one-year mandate of IFOR of implementing the peace came to an end on December 20, 1996, the follow-up NATO organization SFOR took over the implementation of the Dayton military aspects with a new emphasis on peace consolidation. The SFOR mandate was anchored in the UN Resolution 1088 of December 12, 1996. The number of troops was cut by almost half to 32,000. At the same time, the same UN Resolution 1088 reinforced the mandate of the IPTF with a significant task to investigate or assist investigation on human rights abuses committed by local law enforcement personnel. This resolution, and the subsequent UN resolutions that increased the number of IPTF personnel from an initial 1,721 to about 2,057, manifested in fact an important change of focus of the IPTF mission after one year of mainly monitoring activities.

The second phase did not start simultaneously in both entities. In the Federation it was facilitated by the signing of the Bonn–Petersberg agreement between the UN Mission and the Federation on April 25, 1996. The December 1998 Framework Agreement allowed a similar programme to start in the RS only two years later.

During the war, the lines between the police and the military were fluid. The police forces on all sides of the conflict had contributed to protecting cities but had also been involved in ethnic cleansing. They had grown to an estimated 45,000 large force in the country or 1 police officer for about 75 inhabitants. Police forces were entirely mono-ethnic. The Bonn–Petersberg agreement's strategic objective was to transform the police in the Federation into a police that the public would trust. To reach this, a bottom-up approach was selected: training was to ensure that democratic practices would be implemented at police patrol level. The Agreement entailed also provisions for a significant reduction of the forces (from 32,750 to 11,500), for minority quotas based on the 1991 census, for a single uniform for the whole police in the Federation, for the adoption of a code of conduct, and a correlative vetting process.

The core issue of this phase was the vetting process of the police forces. The UN Mission created a certification following a three-stage process: the first stage was the registration of all personnel with law enforcement power; the second stage was the screening of this personnel who were to fulfil a number of conditions to be provisionally authorized; provisionally authorized personnel were issued a UN Mission ID card which they were required to wear on duty; the last stage for final authorization was to meet a number of standards to qualify to serve in a democratic police force.

This process of increasing the quality of the authorized officers and removing inappropriate personnel was accompanied by numerous training courses organized by the IPTF and other agencies with bilateral programmes. Despite the fact that the IPTF created a function of donor aid coordinator, bilateral programmes, including those of the Council of Europe, were however mostly uncoordinated. Moreover, while a database was created to register authorized personnel, this database was not used to register the courses that each police officer attended. Still in 2003, no such database existed. A survey conducted by the police academy of Sarajevo at the occasion of a crash training course introducing the new penal code in 2004 gave rather disappointing results: about 50% of all officers in the Federation had less than a month overall of training, while only 10% had received a basic police academy training.⁸

The Third Phase: The Democratization of the Police Organizations

During this phase that started in 1999 and lasted until the end of the IPTF mission on December 31, 2002, the emphasis of the democratic reform shifted from the individual level to the organizational level and included this time also the RS. Two events were of critical importance to explain the ability of the IPTF to start the reform in the RS, on the one hand, and the shift of emphasis of its core programme, on the other hand.

In the RS, the internal political struggle within the nationalist party SDS between 1997 and 1998 offered an opportunity for the UN Mission to overcome the years-long resistance to cooperation with the IPTF and broke an agreement with the moderate wing of the party on December 9, 1998. The so-called Framework Agreement was similar to the April 1996 agreement negotiated with the Federation.⁹ The access to the Presidency of the RS by Biljana Plavsic opened a conflict with the hard-liners. Plavsic was supported by the international community and, after special elections were held in November 1997 to replace the dissolved parliament of the RS, Plavsic was able to constitute a thin majority government and Dodik, who was regarded as a moderate by the international community, became prime minister in January 1998. This led the international community and the financial institutions to release the funding to the RS that was held back under the conditionality clause and, importantly for the police reform, led to the Framework Agreement with the RS in December 1998.

The second event of crucial importance for this new phase was the change in power configuration at the High Representative level. The High Representative's function in the implementation of the DPA was indeed significantly strengthened by the Peace Implementation Conference held in Bonn on December 9 and 10, 1997, in which the Peace Implementation Council welcomed the High Representative's intention to use his final authority in theatre regarding interpretation of the Agreement on the civilian implementation of the Peace Settlement in order to facilitate the resolution of any difficulties 'by making binding decisions, as he judges necessary.' This new authority was significant for exercising sufficient pressure on the local authorities to adopt far-reaching reforms and it set the basis for the start of an important reorganization of the police forces along the lines of democratic best practices.

In January 1999, the IPTF published a strategy document clarifying what it meant by democratic policing. The strategy contained three axes: (1) more post-communist, post-paramilitary restructuring; (2) more rigorous training, selection, certification, and de-certification procedures; and (3) more democratization by establishing depoliticized, impartial, accountable, and multinational police forces dedicated to the principles of community policing (ICG, 2002, p. 7). While, during this phase, there was a continuation of the training efforts and the certification process,¹⁰ the emphasis of this phase lay in a reorganization of the police force in order to adjust them to the principles of democratic policing. The centre of gravity of the programmes shifted from the individual level of integrity to the organizational level of integrity. The reform efforts that were at the forefront of the stage during this period were mainly concerned with internal reorganization of the LEAs even though some projects were clearly also restructuring projects, the most important of them being the establishment of the national State Border Police imposed by a decision of the High Representative.

The change of focus of the IPTF was reflected in the creation of positions of senior co-locators in the Ministries of Interior at entity, canton, and Public Security Center levels in 1999 (Palmer, 2004b, p. 4) and reinforced in 2001 with the new 'manage the managers' project. The central piece of the democratization programme at organizational level was the so-called 'police commissioner project.' The idea was to create a position of police chief, or police commissioner, within the police organograms which would be responsible for all operational aspects of the police while the role of the Minister of Interior would be confined to policy-making processes. To ensure this depolitization process, a mechanism of selection of the commissioners for a four-year period was set up that marginalized the influence of the Minister of Interior. The police commissioner project targeted obviously the nationalists who traditionally 'owned' the Ministry of Interior, and exercised considerable influence in operational aspects of the police. Accessorily, the project served in the canton of Mostar to integrate into a single chain of command the police which were still operating under separate ethnic lines of command.¹¹

A second important project was the complete reorganization of the forces and their formalization in books of rules. The project was conducted mainly by an American contractor to the US government (ICITAP). All LEAs were reorganized according to one basic scheme and books of rules were issued for each agency specifying and describing the terms of references of all police functions, the number of staff in the various functions as well as the ranks of the personnel in each function.

The third significant project was meant to crone the IPTF efforts as the mission was closing. The intention was to send a signal to the public that significant progress had been made towards the democratization of the police forces. Therefore, the IPTF launched an accreditation programme of the 14 LEAs. The recommendations for improvement and the final accreditation were issued within one year for 12 areas of policing. The audit team, composed by organizational and financial specialists, began its work with the District of Brcko. The 14 LEAs were audited individually.

At the end of this democratization wave initiated by the IPTF, many successes had been scored and their impact was palpable. The level of street crimes and burglaries in

BiH was low in regional comparison; there was a relatively high level of subjective security; even though there were cases of ethnic riots, these cases remained the exception. The Property Law, a fundamental law for refugee return, had been enacted and, in 2003, was nearly completed and its responsibility transferred to the local governments. Refugees started to return at a high pace in 2000 and in subsequent years. According to the United Nations High Commissioner for Refugees (UNHCR), in 2004, over 1 million externally and internally displaced persons had returned to their original place of residence. Certainly, the democratization of the police had contributed to these successes.

The Fourth Phase: State-Building and Financial Sustainability under European Union Influence

Despite all these achievements, when the European Union Police Mission (EUPM) took over the police mission on January 1, 2003, there were still many weaknesses in the police organizations and the policing system itself became increasingly under scrutiny. The May 23/24, 2000 meeting in Brussels of the PIC had been the first to call for structural reforms with a clear state-building agenda.¹² This ‘national’ agenda, as well as the search for an exit strategy by the international community, prompted the new EUPM to bring the sustainability issue and the state-building reforms to the top of its agenda. Even more important, Dayton no longer constituted the main source of power of the OHR, but Brussels and the EU did. Indeed, the HR became double hatted High Representative of the PIC and Special Representative of the EU in BiH. The second hut opened the door to a new era of *realpolitik* in Bosnia by the EU and a departure from the ‘Daytonism’ that was predominant during the first three phases.

Stated in general terms, a major weakness that was obvious after the departure of the IPTF was the strong underdevelopment of all so-called support processes of the police forces. While the capacity-building cooperation programmes had focused during many years on strengthening the operative police functions (traffic police, community policing, criminal investigation, public order, crowd control, etc.), almost nothing had been done to rehabilitate and develop the support functions of the police. Little or nothing had been done in areas such as policy-planning, budgeting, and human resources (career plans, selection, etc.). Training had been the exception, with a large investment by the IPTF and the donor community. Police academies had been entirely remodelled; courses had been adapted to international good practices. However, typically, training for managers and other support functions had not been promoted by the IPTF.

These weaknesses were recognized during the preparation phase of the EUPM mission. Consequently and building on the successful co-locator programme of the preceding phases, the planning mission decided to collocate at senior management levels EUPM police advisors. Various kinds of specialists—such as financial officers—were also co-located within the respective functions of the Ministries of Interior. An investment in these support processes had the potential to bring major productivity gains and, therefore, contribute directly to the financial sustainability of the police in

BiH. As we will argue below, the issue of the financial viability of the police forces in BiH became progressively more salient during this phase as the European Union searched actively for an exit strategy.

The managerial weaknesses of the police were important but 'fixable.' They did not point towards a fundamental flaw in the police reform. It can be debated whether they could or should have surfaced earlier in the CIVPOL mission. However, the IPTF left Bosnia having untouched a number of more structural problems in the police reform that were to become central for the new EUPM. These 'non-fixable' problems were closely associated with the confederal political system instituted by the Dayton agreement. Given the history of political patronage of the police, the international community started to worry about the willingness and readiness of the local police to cooperate with the newly instituted Chamber on organized crime at entity level and the domestic trial capacity for war crimes. The lack of independence of the police and their continuous domination by the nationalists alimanted the fears of 'empty benches' in the pessimist camp. Furthermore, after almost a decade of reform, the police forces in the country were still a long way from being financially sustainable. They were extraordinarily expensive, consuming almost 10% of the public budget in 2003. It was soon diagnosed, as we will argue below, that the confederal model of policing ethnic divided Bosnia was creating competition rather than collaboration, implying duplication, inefficiency, and raising the cost of a system in an already financially weak country. Let us review in more detail these two non-fixable problems.

The limit to the police commissioner project or, more generally, to the democratic model of policing, lay partly in the confederal constitution. The 'territorialization' of policing instituted by Dayton started to constitute a fundamental obstacle to an independent and professional police in a political context dominated by nationalism. In 2002, the nationalists made significant electoral gains and became the dominant party in their respective ethnic groups. Despite the vigilance and the constant pressures exercised by the IPTF and the EUPM, there was ample evidence that local police commissioners could not always resist political influence.¹³ Reporting on Bosnia, the International Crisis Group noted that 'the apparent incompetence of the police is often a strategy to mask the influence of well-connected individuals and nationalist agendas.'¹⁴ What has put significant additional pressure to strengthen the independence of police was the creation in 2004 of the State Court with Special Panels dealing with organized crime, economic crime, and corruption as well as the plans to create a state-level domestic capacity for prosecuting war crimes.¹⁵

As an attempt to avoid empty benches in these courts and given the demonstrated lack of enthusiasm of the local police to arrest war criminals, a partial measure taken by the OHR had been to strengthen the State Information Police Agency (SIPA). It had quickly become clear to the initiators of the SIPA project that without judicial competencies and power to arrest this institution was toothless. The SIPA was later renamed State *Investigative* Protection Agency and its target strength increased to 1,500 officers. The intentions of this project were clearly to de-territorialize the police investigative and enforcement capacity in matters relevant to the highest courts, thus bypassing local police allegedly under control by the nationalists. This equated to an implicit

recognition of the failure of the confederal model. The SIPA project was the first clear sign of recognition by the OHR that policing in Bosnia could not be territorialized, or at least not entirely territorialized, and the first step of a fundamental change of approach to the police reform.

In addition to that, the very fragmented policing structure in BiH was affecting negatively the performance of the fight against serious and organized crime. In BiH, the fight against crime is indeed performed by 15 different agencies, while criminal investigation tasks and competencies are distributed in cascade to five administrative or governmental levels. The efficiency of the criminal investigation is further impeded by the fact that there are no single police databases and criminal investigation staff are operating with very little training and poor salaries. In 2004–2005, there were several ongoing projects with the potential to improve the situation at a technical level. National databases were established for passports, residency permits, and driving licences. National police databases, allowing searches for vehicles and persons, are currently being built as well as the necessary electronic communication network across police agencies. All these projects which aim at ‘integrating from below’ the crime-fighting process in Bosnia are no guarantee however that the relevant data is filed into these databases or that enforcement will take place when perceived vital interests are at stake in the respective territorial units of BiH.

The other independent issue that influenced the agenda change of the EUPM was the diagnosed lack of financial sustainability of the police forces in Bosnia. The issue of the financial viability of the Bosnian state had moved to the centre of the agenda of donors and financial institutions as they looked for an exit strategy after a decade of assistance. The financial viability of the police forces was immediately a prime concern of the EUPM whose initial mandate was for three years only. The financial viability of the Bosnian state was also adopted by the OHR as a priority. In 2002, the mission statement of the OHR read: ‘To ensure that Bosnia and Herzegovina is a peaceful, viable state on course to European integration.’¹⁶ Additional pressures for a viable state in Bosnia came from the EU who opened the doors for a European future to Bosnia in its meeting of Feira in June 2000. By 2002, virtually all financial institutions and international organizations had indeed set the goal of financial viability as the primary objective for the Bosnian state for the coming years.

In 2002, the BiH state was clearly not viable. The state budget accounted for 47% of the Gross Domestic Product—a high figure in regional comparison. The police forces concurred to this high spending situation by consuming 9.2% of the public budget (all levels of government aggregated). Again, in international comparison, this share is extremely high. Taking the year 2003 as benchmark, in relative terms, it equates to three times the corresponding figure in Slovenia and about five times the European average. Relevant to explain this high spending situation are certainly, as mentioned earlier, a general lack of productivity of the police institution itself, but also the consequence of competition (rather than collaboration) between territorial police agencies in the ethnically divided Bosnia and the lack of trust between the former enemies.

A structural problem was that the quasi totality of the police budget was consumed by salaries (80%) and operating costs. There was little room in the already very high

police budget for investment in the necessary technology to increase the performance of the police. Without heavy restructuring programmes and a drastic reduction of police officers, no significant investment could be undertaken which, in turn, affected negatively police productivity. The autonomy of the cantons and entity in procurement issues created situations that were unacceptable in a precarious financial context and detrimental to the performance of the police. Individual cantons purchased communication material or developed computer applications for instance in an uncoordinated manner which resulted in incompatibility or lack of interoperability of databases at the national level. Competition rather than cooperation was the rule.

Competition can also explain why cantons in Bosnia in 2002 were still maintaining large police forces with numbers that could not be justified by the reality of crime. Typically, on average in Bosnia, rural cantons have a higher police density than urban cantons. In several rural cantons,¹⁷ the police consumed in 2002 as much as 20% of the cantonal budget while in others they consumed less than 10%. More generally, there were still too many police in BiH in 2002. The ratio was 1 authorized officer for about 220 inhabitants or 1 officer for 150 if the police support process staff were included in the calculation. The ratio recommended by the United Nations is 1 officer for 450 inhabitants.

The prospect of empty benches in higher courts, the patronage system established at the local policing level, the high-spending situation, and the pattern of competition between territorial police agencies in the confederal policing system prompted the High Representative to initiate a fundamental review of the policing structure in the country. On July 2, 2004, he set up a Police Restructuring Commission (PRC) with the mission to propose 'a single structure of policing for Bosnia and Herzegovina under the overall political oversight of a ministry or ministries in the Council of Ministers.' The PRC was guided by 12 principles in its work; most prominently among these principles appeared four goals: efficiency, sustainability, multiculturalism, and accountability. The preliminary results of the PRC were made public on December 15, 2004. The new model proposed was a single structure model with two administrative levels of policing bearing close similarities with the Belgian model: services such as the SIPA, the State Border Service, and central support services were organized at the central national level while regional police forces under the supervision of a national directorate would serve associations of municipalities (regions) that would cut across the borders of former entities and cantons.¹⁸

Such a proposal was obviously no longer compatible with the negotiated Annex 11 of Dayton and represented a bold attempt to nationalize the police. To advance such an agenda, the OHR could no longer rely on his Bonn power as the proposal challenged the territorialization principle of Dayton. This time, the OHR had to rely entirely on his new position as special representative of the European Union. To exert the necessary leverage, the adoption of the new policing model by the respective parliaments of Bosnia was quickly made a condition to advance in the pre-negotiation of admission to the European Union. After interminable delays and the determined resistance of the Bosnian Serb nationalists, the OHR won the battle when the new police reform was adopted by the parliament of the RS on October 5, 2005.

An Agenda for Police Reforms in Peace-Building Missions: From Training to Restructuring

One of the main lessons of the Bosnian case is the key relevance of restructuring in a peace-building police mission. The impact of initiatives conducted by the IPTF at the micro and the meso levels proved insufficient to cope adequately with the politics of patronage of the police, the recurrent cases of lack of cooperation between territorial police agencies, and the increasingly salient issue of financial sustainability of the costly confederal police system. A full-fledged democratization and the development of a viable, affordable, police institution in Bosnia necessitated, in the view of the international community, a more radical approach involving the complete restructuring of the police. International reformers advocated a significant de-territorialization of the police, the decoupling between entity politics and policing, and the rationalization of the system. A consensus was eventually reached over the relevance of a federal model (Belgium) to replace the unsuccessful Dayton confederal policing system.

Bosnia is a radical case of restructuring as the reform involved revisiting the peace agreement. More successful peace agreements should not diminish the need for restructuring however. One current example is the Sudan. The double institutional transition to democracy and federalism implied by the Comprehensive Peace Agreement (CPA) (January 2005) in Sudan creates indeed a system whose complexity and newness for the local police authorities would call in principle for a strong capacity-building and international expertise to support the implementation of the CPA policing provisions. In addition, peace agreements leave ample room for conflicts over institutional interpretations and low key mediation by a police mission to reach a consensus between the parties can prove useful. The relevance of institution-building is acknowledged by the Security Council Resolution 1590 instituting the United Nations Mission in Sudan as it explicitly mentions 'restructuring' as one of the key tasks of its international police section.

Restructuring is a new, non-classical task, of international civilian police missions. Traditionally, civilian police missions have focused on micro-level activities such as training, monitoring, and vetting. What has changed, as was already alluded to in the introduction, is the nature of the international interventions themselves. Originally limited to peacekeeping, they involve today a peace-building or a nation-building agenda. 'Consolidate the peace,' as framed in the Secretary-General report *An agenda for peace* (1992), requires expert knowledge in facilitating institution-building in a post-conflict national context, including police law expertise, skills in police systems, and knowledge of accountability mechanisms, to name only a few. There are signs—as we have seen with the Sudan—that restructuring is already becoming a key component in the mandate of the most recent civilian police missions. To cope with these new tasks, police missions might have to change their human resource profile as well. A third of the personnel of the current UN police mission in Sudan are officers who have served in executive positions. Many of the skills required in institution-building however are not 'policing' expertise per se and the current requirement of a police

background for participating in a United Nations police mission might be a handicap in view of the changing nature of these missions themselves.

A further lesson from the Bosnian case is that the agenda of the international civilian police is highly dependent on a number of enabling and constraining factors. What was possible at one stage for the civilian police mission in Bosnia was often not feasible in the previous stage. While the necessity for reform at the macro level might have been recognized early, the agenda of the civilian police mission was constrained by the Dayton legal framework which gave only little leverage for pushing for a radical institutional reform agenda. It was only when the OHR obtained new competencies from the Bonn conference and, above all, a new advantageous bargaining position as special representative of the European Union that the agenda of the international police mission could move decisively towards the harder restructuring issues. The limits to the restructuring efforts of international civilian police missions will always be the mandate itself and, depending on the mandate, the cooperation disposition of the local governments. Missions conducted under Chapter VI of the United Nations Charter will not all benefit from the unique international configuration of power that made the radical reform possible in Bosnia and international civilian police missions, such as the mission in Sudan, might find themselves in positions similar, or even weaker, to that of the IPTF in Bosnia prior to the engagement of the European Union. While restructuring is a key to the democratization process, international police missions might have little bargaining power to fulfil their new restructuring mandate.

Notes

- [1] Having been a regular consultant to the police academies of BiH between 2000 and 2004 and as a member of an assessment team mandated in 2004–2005 by the European Commission to audit the police system in BiH, the author had a privileged access to the police in BiH and conducted numerous formal and informal interviews with local police authorities, the International Police Task Force, and the European Union Police Mission that have informed the substance of the paper.
- [2] Article 2, paragraph 4 of Annex 11. During the IPTF period, however, it seems that the Commissioner ‘reported’ to the Special Representative of the Secretary-General (SRSG) and ‘worked closely’ with the HR.
- [3] The PIC is a group of 55 countries and international organizations that ‘sponsor and direct the peace implementation process’ and the High Representative is nominated by the steering board of the PIC.
- [4] See the conclusions of the Bonn conference of the PIC (http://www.ohr.int/pic/default.asp?content_id=5182).
- [5] See the OHR description of its mandate (<http://www.ohr.int/ohr-info/gen-info/#pic>).
- [6] This section is based mainly on the account by Dziedzic and Bair (1998).
- [7] <http://www.nato.int/sfor/factsheet/msu/t040809a.htm>
- [8] These are unofficial figures from the survey.
- [9] This paragraph is partially based on the account of the ICG report ‘The Wages of Sins’ (ICG, 2001, p. 9).
- [10] By the end of 1997, the provisional certification process was finished for the Bosniak police in the Federation; beginning in 1998 it started with the Croatian side (ICG, 2002, p. 6) and in 1999 in the RS.

- [11] Another project along this line was the physical separation of the intelligence services from the police as the two agencies used to share the same premises.
- [12] See ESI paper 'Turning Point. The Brussels PIC Declaration and a State-Building Agenda for Bosnia and Herzegovina,' June 7, 2000.
- [13] In addition, the organizational reform of the police and the Ministry of Interior led by the IPTF failed to put the support services under the police commissioner authority. Instead, they remained under the direct authority of the Ministers of Interior.
- [14] 'Policing the Police in Bosnia' (ICG, 2002, p. 2).
- [15] See the programme 'state-level criminal justice institutions' of the 2004 Implementation Plan of the OHR. The War Crime Chamber was expected to hear cases as soon as January 2005 and to be composed by local and international judges (see: 'War Crime Chamber Project,' OHR publications, November 2004).
- [16] OHR Mission Implementation Plan 2003–2004.
- [17] Livno, Gorazde, Orasje, see Final Report (2004, p. 87).
- [18] Bosnia and Herzegovina Police Restructuring Commission, *Executive Summary*, December 15, 2004.

References

- Dziedzic, M. J., & Blair, A. (1998). Bosnia and the International Police Task Force. In R. Okley, M. Dziedzic, & E. M. Goldberg (Eds.), *Policing the new world disorder: Peace operations and public security* (pp. 253–314). Washington, DC: National Defense University Press.
- Final Report. (2004, July 11–26). *Functional review of the BH police forces*. Sarajevo: Ministry of Justice of Bosnia and Herzegovina.
- International Crisis Group (ICG). (2001, October 8). The wages of sin: Confronting Bosnia's Republika Srpska. *Balkans Report*, 118. Brussels.
- International Crisis Group (ICG). (2002, May 10). Policing the police in Bosnia: A further reform agenda. *Balkans Report*, 130. Brussels.
- Lutterbeck, D. (2004). Between police and military. The new security agenda and the rise of gendarmeries. *Cooperation and Conflict: Journal of the Nordic International Association*, 39(1), 45–68.
- Palmer, K. L. (2004a). Police reforms in Bosnia-Herzegovina: External pressure and internal resistance. In M. Caparini & O. Marenin (Eds.), *Transforming police in Central and Eastern Europe. Process and progress* (pp. 169–193). Münster: LIT.
- Palmer, K. L. (2004b). Transfer of mandate and institutional reforms: Policing and educational reforms in Bosnia and Herzegovina. *GSC Quarterly*, 11, 1–7.