



Study Group Information



Corinna Metz

The Role of the International Community in the Police Reform in Bosnia-Herzegovina 2004-2008

Vienna, August 2010

Impressum:

Study Group Information

Publishers:

© National Defence Academy and
Bureau for Security Policy at the Austrian Ministry of Defence and Sports
in co-operation with
PfP Consortium of Defence Academies and
Security Studies Institutes

Editor:

Predrag Jureković

Managing Editor:

Benedikt Hensellek

Facilitating Editor:

Benedikt Hensellek

Layout and Graphics:

Multimedia Office of the National Defence Academy, Vienna

Printing and Finishing:

Reprocenter Vienna
1070 Vienna, Stiftgasse 2a
ISBN 978-3-902670-43-4

Contents

Acknowledgements	7
Preface	9
1. Introduction	15
1.1. Scope and Focus	15
1.2. Research Topics	16
1.3. Hypothesis	17
1.4. Method	17
2. The Historical Development of Bosnia-Herzegovina	19
2.1. Former Yugoslavia	19
2.1.1. External and Foreign Policy	19
2.1.2. Internal Policy	21
2.1.2.1. The Historical Development	21
2.1.2.2. The Development of the Political System	23
2.2. The Break-up	26
2.3. Bosnia-Herzegovina	28
2.3.1. Independence and War	28
2.3.2. Dayton and the Consequences	29
2.3.3. State Structure	31
2.3.4. The Current Situation	35
3. The Development of the Police in Bosnia-Herzegovina	37
3.1. The Police during Communism in the System of Yugoslavia 1945-1992	37
3.2. The Development of Police Structures in the Period of Disintegration and War	38
3.3. The Bosnian Police Structures since the Dayton Peace Accords 1995	38

3.3.1. Police Structures and Competencies within the Republika Srpska	40
3.3.2. Police Structures and Competencies within the Federation	41
3.3.2.1. Police Structures and Competencies at the Level of Cantons	41
3.3.3. Police Structures in the Brčko District	42
3.3.4. Police Structures and Competencies at the State Level	42
4. The Presence of the International Community in Bosnia-Herzegovina	44
4.1. The International Presence and its Role	44
4.2. Institutions	45
4.2.1 The High Representative (HR)	45
4.2.2. The United Nations Organisation (UNO)	47
4.2.3. The North Atlantic Treaty Organisation (NATO)	48
4.2.4. The Organisation for Security and Cooperation in Europe (OSCE)	49
4.2.5. The European Union (EU)	50
4.2.6. International Criminal Investigative Training Assistance Program (ICITAP)	52
4.2.7. The Board of Principals	52
5. The Role of the International Community in Police Matters in Bosnia-Herzegovina – A Chronology of Reforms	53
5.1. The Actors	53
5.1.1. The High Representative (HR)	53
5.1.2. The United Nations International Police Task Force (UN-IPTF)	54
5.1.3. The European Union Police Mission (EUPM)	56
5.2. The Actions and Achievements	57
5.2.1. With Respect to Substance	57
5.2.1.1. The United Nations International Police Task Force (UN-IPTF)	57
5.2.1.2. The European Union Police Mission (EUPM)	59

5.2.2. With Respect to Structure	61
5.2.2.1. The Brčko Police	61
5.2.2.2. The State Border Service (SBS)	61
5.2.2.3. The State Agency for Information and Protection (SIPA)	62
5.2.2.4. The Ministry of Security	63
5.2.2.5. New Public Services	63
6. The Precedence: The Defence Reform and the Intelligence Reform in Bosnia-Herzegovina and their Effect on the Police Reform	64
6.1. The Defence Reform 2003-2005	64
6.2. The Intelligence Reform 2003-2006	67
6.3. The Effect of the Reforms on the Police Reform	69
7. The Police Reform 2004-2008	73
7.1. The Way to the Reform: Progress and Obstacles	73
7.2. The Reform Process	76
8. Evaluation of the Reform Process under the Involvement of the International Community	88
8.1. The Performance of the International Community as a Collectivity	88
8.1.1. The Underestimated Requirements for Peace Building and Reforms in Bosnia-Herzegovina	88
8.1.2. Unrealistic Guidelines for the Reform and the Discordance of the International Community in the Police Reform	88
8.1.3. Misjudgements and Mistakes of the International Community	90
8.2. The Performance of the Most Important Actors in the Reform Process	93
8.2.1. The Role of the High Representative	93
8.2.2. The Evaluation of the Performance of the IPTF and the EUPM	97
8.2.3. The Police Restructuring Commission	98
8.2.4. The Directorate for Police Restructuring Implementation	99

8.3. The Evaluation of the Outcomes of the Police Reform	99
8.4. Lessons Learned in the Reform Process	100
9. Forecast of the Completion of the Police Reform	102
10. Summary	104
11. Bibliography	105
11.1. Monographs and Anthologies	105
11.2. Encyclopaedia	107
11.3. Journals and Working Papers	107
11.4. Agreements, Conventions, Declaration, Studies and Reports	109
11.5. Online Resources	111
11.6. Interviews	113
12. List of Abbreviations	115
13. Annexes	117
13. 1. Ethnic Map of Bosnia-Herzegovina	117
13.2. Administrative Division of Bosnia-Herzegovina	118
13.3. Mostar Declaration	119

Acknowledgements

I want to thank DDr Heinz Vetschera for the accomplishment of this paper and for his patronage during my stay abroad in Bosnia and Herzegovina as well as for his academic mentoring.

I also want to thank all my interview partners for their time, help and assistance, but especially Major Bernard Markey who was a great relief.

Without the support of the Institute for Peace Support and Conflict Management (IFK) of the National Defence Academy, the publication of this analysis would not have been possible. Therefore I express my special thanks to the director of the institute, Brigadier General Dr Walter Feichtinger as well as to Mr Predrag Jureković, MSc, and Mr Benedikt Hensellek for the assistance through the publication process.

Corinna Metz
Vienna, July 2010

Preface

Security Sector Reform in post-communist States has been, as a rule, directed at achieving subordination of the Security Sector under the control of democratically legitimized authorities and at establishing the rule of law. As a consequence, these processes were normally undertaken as soon as possible and could be as a rule completed relatively fast, despite occasional relapses into old thinking (and acting). The newly established democratic governments were more than grateful for assistance by established western democracies as much as non-governmental organizations as for example the Geneva-based Center for the Democratic Control of Armed Forces (DCAF).

The situation and developments in Bosnia and Herzegovina (BiH) differ significantly from this general pattern. After the war (1992-1995), the Constitution enshrined in the Dayton Peace Accords established a rather complex State structure, with weak central State authorities and two relatively strong entities, whereby one of them, the Federation of Bosnia and Herzegovina (FBiH) has been further subdivided into ten autonomous Cantons. Finally, the district of Brcko has a special status outside the Entity structures.

The three ethnic groups (Bosniacs/Muslims, Croats and Serbs) had during the war each established their own security sector, including armed forces, police as well as security and intelligence services. Due to the State structure under the Dayton Constitution, these ethnic structures were more or less maintained, and even within the framework of the Federation the cooperation between Bosniacs and Croats had a rather loose character. The constitutional order of BiH legitimized this separation or was at least frequently interpreted and understood in this sense. This fragmented structure was not only dysfunctional with respect to major public tasks, but also favored ethno-political influence of provincial politician on key sectors as for example the military, the police, and security and intelligence services.

On the other hand, the Dayton Agreement also established a wide and multi-dimensional international presence which in parts can be seen as a significantly limiting BiH's sovereignty. The most prominent in this respect can be seen in the High Representative (HR) who has been given far-reaching, although not unlimited, competencies of interfering with BiH's legal and administrative system.

Correspondingly, SSR in BiH had to take place in a much more complex political and legal environment than in countries which are ethnically, politically and with regard to their constitutional arrangements more homogenous, as for example, Poland, Hungary and the Czech Republic, but even some of the successor States of former Yugoslavia as for example Slovenia or Croatia. In BiH, the task of SSR was not limited to overcoming the legacies of an undemocratic past, but also the consequences of the war and the ethnically induced political fragmentation of the country. As much as this fragmentation frequently served the purpose of political elites on the provincial (Entity and cantonal) level, they had relatively little interest in SSR which might have reduced their positions and power.

Thus, while SSR initiatives in other countries had been undertaken primarily by the domestic political elites, this was not the case in BiH. There, the driving forces were mostly the international institutions and organizations active within the country who saw it as necessary to increase the State level functions, for overcoming a dysfunctional and potentially destabilizing situation. In this, they frequently met the resistance of provincial politicians who would not have been ready to give up their competencies and thus power and influence, and have them transferred to the State level.

The first major reform was undertaken in the Defense Sector. It aimed at establishing State control over the hitherto strictly separated Entity Armed Forces which had been for quite a while after the war still perceiving each other as at least potential enemies. It was initiated by the High Representative who established a Defense Reform Commission (DRC) in 2003 which encompassed a variety of international organizations and domestic key actors. The DRC achieved, as its first step, po-

litical control by State institutions over the Entity armed forces. It continued its work and in 2005 achieved full State responsibility for Defense by establishing full State level parliamentary control, a clear chain of command and a single State level Army, and abolishing Entity competencies, Ministries of Defense, or armed forces, which became effective in early 2006.

Practically at the same time, a similar commission also established by the High Representative reformed the intelligence sector which had also been separated along ethnic lines. Parallel to the developments in the defense sector, the various ethnically-based intelligence services were abandoned, and a single State level Intelligence Agency was established.

While the Defense and Intelligence parts of SSR could thus all in all be considered major successes, similar attempts in reforming the police had started at about the same time but failed. It was therefore a subject worth to be researched what had set police reform apart from the other reform processes, in particular with respect to the role of the International community.

Ms. Corinna Metz has undertaken this research in a thorough and comprehensive in-depth study, based not only on available literature but also on field research in BiH, including interviews with key actors and witnesses of the reform process. Her research covers the necessary historical background from the former Yugoslavia throughout the war and the time after Dayton, but also the political and legal situation of the police sector in the current BiH. Her particular focus is on the role and activities of the International Community which had a crucial role both in initiating Police Reform, but also in its failure until now.

Her core thesis refers to the question whether the International Community had followed a wrong strategy in pursuing a legitimate purpose or not. One could see a certain irony that the relative success in Defense Reform instigated approaches which then turned out inadequate to the more complex situation in the police sector. Led by the High Representative, the International Community locked itself at a too early stage into

a rigid approach, aimed at establishing a single State level police force and abolishing the Entity police forces, in analogy to Defense Reform.

The reference to alleged "European standards" which would prescribe such police structures made it then almost impossible for the International Community to develop some flexibility even when it became obvious that its approach would not work. What made the situation even more complex was the fact that the European Union demanded a successful conclusion for the process as a precondition for concluding Stabilization and Association Agreement (SAA) with BiH.

One could see many more flaws in the process. First, it was forced upon the local politicians; then, it was headed by a Western European politician with little experience in the substance matter as well as the local political situation; it was frequently perceived as being biased. Worst, its work was coupled with wider questions as for example the reform of the Constitution. A "window of opportunity" in 2006 was missed, when the Serbian side would have been ready to give up their previous resistance and abandon most of their police competencies, as long as they could keep their own police forces. When this readiness was answered by the continued demand that the forces should be abolished, the opportunity was gone and the situation remained unchanged. All in all, one could come to the conclusion that Police Reform was bound to fail because it had been undertaken without taking proper consideration of the political realities, and with unrealistic objectives.

What becomes clear from the analysis is a set of specific as well as general factors which could be derived from it.

- On the side of specific factors, one must refer to the personal ambitions and (as the author would say from personal experience) often rather rash and superficially made statements and decisions by the then High Representative. In the same line, the process was overburdened by the objective of leading to a further centralization of BiH, and finally to drastically changing the existing constitution, which was not acceptable for the Serbian side. Finally, the rigid linkage to the question of SAA turned out, at the end, as counterproductive.

- On the side of general factors, one can see the lack of adequate coordination among the various international actors involved in the process as much as the lack of understanding for the political situation in particular with respect to the deep rift and mistrust between ethnic groups (or at least the utilization of such sentiments to mobilize the “ethnic basis” whenever required). A further weakness must be seen in approaching the reform process mostly as a technical, rather than a political issue. Finally, the process had been undertaken without tying in the most affected groups – the police officers within BiH.

Ms. Metz gives in her study a deep, thorough, detailed and coherent as well as convincing analysis of this process which comes to a quite critical assessment of the role of the International Community. It should be recommended reading for politicians as well as international functionaries who could find themselves in a similar situation in promoting Security Sector Reform.

Heinz Vetschera

1. Introduction

1.1. Scope and Focus

Because of its historical development, Bosnia-Herzegovina is a multi-ethnic state and has always been a paradigm for the peaceful coexistence of different denominations within one country.

After the Second World War, Bosnia-Herzegovina was a part of the socialist Yugoslavia, until it fell apart because of internal as well as external factors. Among them were the growing nationalistic tendencies which stood in a close connection with the disruption of the communist system and the death of Marshall Tito, who was the leading figure within Yugoslavia. Another important factor was the worsening of the economic situation which was a consequence of the second oil crisis in 1979 and economic mismanagement. These events led to the destabilisation of the whole Balkan region and finally to the escalation of the strained situation. In the ensuing war in Bosnia-Herzegovina from 1992 to 1995, 250.000¹ people lost their lives, ethnic cleansing was committed and due to displacement there were more than two million refugees. (cp. Reiter/Jureković, 2005, p. 7)

The war ended with The General Framework Agreement for Peace in Bosnia and Herzegovina, usually referred to as The Dayton Peace Accords from 14 December 1995, which is the basis of the new sovereign state of Bosnia-Herzegovina. The Dayton Peace Accords further describe the military as well as the civilian aspects of the international peacekeeping mission in Bosnia-Herzegovina. (cp. The Dayton Peace Accords, 1995)

With my research work, I am trying to describe the development of the police in Bosnia-Herzegovina as a part of the civil aspects of the peace

¹ There are contradictory studies about the number of victims who lost their lives during the war. With this numerical data I am referring to the works of Reiter and Jureković.

agreement. Policing is important for the maintenance of internal security of the country, especially for human security which centres on the individuals and therefore is an essential part of a functioning state.

My special interest lies in the analysis of the role of the International Community and its contribution to the police reform. With the widened importance of international cooperation in order to fight terrorism and organized crime after the terrorist attacks of 11 September 2001, the International Community is interested in the stabilization and integration of conflict areas and destabilized regions.

Because of its geographical position and its immediate neighbourhood to the territory of the European Union, Bosnia-Herzegovina is an important focus point for the EU members. Since 2000, a reorientation in Bosnian policy strategies towards the integration into the European Union has taken place. This was due to the close connection with the discourse about the constitutional amendment and hence is better known as the “reversal from Dayton to Brussels”. Against this background, the at least pretended will for reforms of the Bosnian elite and the pressure for reforms from the International Community can be explained. For Bosnia-Herzegovina, the signing of the Stabilisation and Association Agreement (SAA) opens the desired perspective for European integration. To correspond to the necessary standards for this integration, there is a need for reform in some sectors of the state and one of the most important aims is the police reform on which I am focusing in this paper.

1.2. Research Topics

In this paper I will work on the following questions:

- How has the historical development of the political system in Bosnia-Herzegovina influenced the development of police structures in the country until today?
- Why is it necessary to reform the Bosnian police structures?
- Who are the main actors in the police reform process and which role does the International Community play?
- What is the reform approach of the International Community?

- Which conclusion by analogy has been drawn between the more successful defence and intelligence reform and the police reform?
- How can the police reform process under the involvement of the International Community be evaluated?
- When will the police reform process be finished and which options for a successful completion are there?

1.3. Hypothesis

The international involvement in the development of functioning police structures in Bosnia-Herzegovina was necessary to get things moving, BUT the process then went into a direction which could not be sustained. This thesis will be evaluated in the following chapters of this paper.

1.4. Method

The analysis of the involvement of the International Community with regard to construction and reform of the police structures in Bosnia-Herzegovina is based on a quantitative and interpretative-qualitative ontological mix of methods. This gives me an opportunity to draw conclusions from the motivation of the involved actors. (cp. Patzelt, 1997, pp. 222-229)

Transcripts of lectures and interviews with local experts, politicians and members of international organisations concerned with the police reform serve as primary sources. Non-standardised guideline interviews were made in English, in German and Bosnian as well and were recorded and transcribed.

Furthermore I conducted a detailed document and source research as well as an analysis of relevant secondary sources. Official documents like Bosnian Laws, the Dayton Peace Accords and the Final Report on

the Work of the Police Restructuring Commission of Bosnia and Herzegovina served as the basic literature for my work.

As the literature research was conducted in English, German and Bosnian language quotations were translated according to their understanding.

2. The Historical Development of Bosnia-Herzegovina

2.1. Former Yugoslavia

2.1.1. External and Foreign Policy

After a long period of being under Ottoman and Austrian rule, Bosnia-Herzegovina became part of the Kingdom of Serbs, Croats and Slovenes under King Alexander which was founded on 1 December 1918 and was a result of the peace process after the World War I. Between 1918 and 1941, Bosnia-Herzegovina was a part of the South Slav state, called Yugoslavia after 1929. (Schuman, 2004, pp. 18-23)

In Yugoslavia, World War II lasted from 1941 until 15 May 1945, when the Partisans and the Allies, particularly the Red Army of the Soviet Union, defeated the fascist Germans and Ustaša. The Allies fought to liberate Europe from German and Italian fascism. One of the results was the Soviet occupation of eastern European countries at the end of the war which were transformed into communist dictatorships. The Soviet idea of communism under the leadership of Stalin saw the state as the owner of all businesses. The Communist Party was the only official political party and critical voices against the government were punished as well as religious worship was discouraged or outlawed.

In Yugoslavia, the creation of a new state with a system of state authorities at each state level took place with the National Committee for the Liberation of Yugoslavia as the interim government but it did not gain international recognition. The reason was that the western Allies wanted to secure their own interests in the Balkans and therefore supported the royal government-in-exile in London. So they put pressure on the National Committee for the Liberation of Yugoslavia to find a compromise with the royal family which ended with an agreement about a united government with Josip Broz Tito as Prime Minister and the former Premier of the government-in-exile in London, Ivan Šubašić, as Foreign Minister in 1945.

In September 1947, the Information Bureau of the Communist and Workers' Parties, also called Cominform, was set up in Warsaw under the participation of the Communist Parties of Bulgaria, Czechoslovakia, France, Hungary, Italy, Poland, Romania, the Soviet Union and Yugoslavia, later joined by Albania. It was the first international Communist organisation after the dissolution of its predecessor organisation, the Comintern in 1943. The official aim of the Information Bureau was the coordination and the exchange of experience between the countries. The true intention of Stalin was to achieve total control over the global Communist movement. Stalin saw himself as the leader of a historical world-revolutionary movement that was in line with the Soviet national interests since the Bolshevik revolution in Russia in 1917. Tito was not ready to become subordinate to Stalin's dictate. Stalin attacked Yugoslav policy in a Resolution on the State of Affairs in the Yugoslav Communist Party which was the starting point of a campaign against Yugoslavia and Tito.

These events led to the clash between Tito and Stalin and also to problems within Yugoslavia. Tito was able to win the battle against the Yugoslav Cominform supporters only by using repression. The relations between the Soviet Union and Yugoslavia were bad until the death of Stalin in 1953. (cp. Imamović, 2006, pp. 361-374)

The upcoming crisis between the two hegemonic powers after World War II, the USA and the Soviet Union, established itself along two different ideas of governing and economy. While the USA supported the system of market economy in a parliamentary state, the Soviet Union favoured socialism in a state with a tendency towards totalitarian mobilization. The latent confrontation between the western industrial states as one bloc and the Soviet bloc was soon called "Cold War" and manifested itself through the Soviet desire of expansion. This resulted in the takeovers of 1948 in Central Europe and in the struggle for influence outside of the territory of the two blocs like in the war in Korea. Since the break with Stalin, Yugoslavia received financial support of the western bloc to assure that they do not ally with the Soviet bloc again.

In 1949, the western bloc formed the North Atlantic Treaty Organisation (NATO) as a common defence system. When the Federal Republic of Germany (FRG) joined NATO in 1955, the Soviet Union and its Communist allies set up the eastern defence organisation, the Warsaw Pact in 1955. The whole era of the Cold War was marked by an enormous expensive arms race of both blocs. (cp. Woyke, 2006, pp. 400-408)

The new Yugoslav foreign policy between east and west and the decolonization process in Africa and Asia led to the establishment of a first informal and later formalized association of countries that aimed at preventing a third World War by promoting disarmament and peaceful co-existence as the negation of the division into an Eastern and Western bloc. The members of the movement wanted to become a stabilizing force between the blocks, promoted anti-colonialism and sought for a more influential voice through unity. In September 1961, the first conference of the so called Non-Aligned Movement in Belgrade was initiated by the Yugoslav president Tito who came to the fore as its leader, along with the Egypt head of State Nasser, the Indian premier Nehru and the Indonesian president Sukarno. The conference was attended by 25 countries as full members of the movement and 3 observers. Yugoslavia as a part of the Non-Alignment Movement behaved neutral in the East-West-Conflict, but it aimed to take an active role in solving global problems. The non-alignment philosophy became the main tactic of Yugoslav foreign policy. The Non-Alignment-Movement faded out of existence in the 1990s after the break-up of the Soviet bloc and after the formal completion of the decolonization process. With these events Yugoslavia lost its political orientation. (cp. Imamović, 2006, pp. 378-379)

2.1.2. Internal Policy

2.1.2.1. The Historical Development

As already mentioned, Bosnia-Herzegovina was – after a long period of foreign rule – part of the South Slav state, later called Yugoslavia. In 1941, Germany and Italy occupied Yugoslavia and divided the territory.

Bosnia-Herzegovina became part of the fascistic Independent State of Croatia, established by the ustaša revolutionaries, until 1945. (cp. Schön- ingh, 2007, pp. 180-185)

In World War II, Bosnia-Herzegovina had the highest human and material losses within Yugoslavia. The majority of those killed and massacred have been Serbs, followed by Bosnian Muslims, Croats, Jews, Roma and other nationalities. The infrastructure and the economy suffered badly because most of the public buildings, business enterprises and mines were destroyed in the war. (cp. Imamović, 2006, p. 361)

The Communist partisans under leadership of Josip Broz Tito emerged as the leading resistance force against the foreign occupation of Yugoslavia. They initiated the foundation of the Antifascistic Council of the National Liberation of Yugoslavia in Jajce on 29 November 1943 that laid the corner stone for the Federation of South Slav peoples under the rule of the Communist Party of Yugoslavia and Tito.

In 1946, the Federative People's Republic of Yugoslavia got its first constitution which established six Socialistic Republics (Bosnia-Herzegovina, Croatia, Macedonia, Montenegro, Serbia and Slovenia), one "Autonomous Province" (the Vojvodina) and one "Autonomous Region" (Kosovo) with lesser competencies than the "Autonomous Province". The Autonomous Province and Region were at that time not subordinated to the Republic of Serbia which changed only with the subsequent constitution.

On 7 April 1963, Yugoslavia adopted its new constitution under the name Socialist Federal Republic of Yugoslavia, which upgraded Kosovo to the status of "Autonomous Province" while at the same time subordinating the two "Autonomous Provinces" (Kosovo and the Vojvodina) to the Republic of Serbia. (cp. Vickers, 1998, pp. 146-162)

In 1971, constitutional amendments transformed Yugoslavia from a federal into a confederal state. In 1974 the next constitutional change took place which permitted greater self-rule in the 6 republics and the two autonomous provinces and Tito became president for life time.

In the 1970s, Yugoslavia borrowed great amounts of money from Western countries to stimulate its economic growth and prove its economic and political viability until Tito's death in 1980 which led to serious economic problems during the 1980s. These problems were one of the main reasons for the break-up of Yugoslavia and the secession of the republics. (cp. Schönningh, 2007, pp. 188-189/Čuvalo, 1997, pp. 37-39)

2.1.2.2. The Development of the Political System

After World War II, the establishment of the new state, Democratic Federative Yugoslavia, with Tito as Prime Minister took place. The official names of the state institutions were Interim Government of Democratic Federative Yugoslavia and Interim National Assembly. The Interim National Assembly started its work on 10 August 1945 and immediately adopted the Agrarian Reform and the Colonization Law that assured that land belonged to the person working it to eliminate worker's exploitation. Private ownership was left untouched but property was expropriated without compensation when the owner just used hired labour to work it. This was the case for banks, corporations, joint stock companies, large private owners and even for churches. The expropriated land was granted to people from "passive" regions and because of their movement the ethnic structure within the country altered.

Elections for the bicameral Constituent Assembly were held in November 1945 and created the Federal Assembly and the Assembly of Peoples because the federal system was seen as the appropriate structure for the new state. The first act of the Constituent Assembly was the Declaration on the Proclamation of the Federative People's Republic of Yugoslavia with which the monarchy in Yugoslavia was finally abolished.

With the vote on the Constitution of the Federative People's Republic of Yugoslavia in 1946, the Constituent Assembly and its bicameral structure began its work as the renamed National Assembly divided into the Federal Council and the Council of Peoples.

In the Federative People's Republic of Yugoslavia, a new legal system was adopted and the legislation of the Kingdom of Yugoslavia and laws enacted during the occupation in World War II lost their legal force.

Referring to the Law on the Constituent Assembly of the Republic of Bosnia and Herzegovina of 13 October 1946, elections for the institution took place and the first republican constitution for Bosnia-Herzegovina has been adopted. It expressed the republic's sovereign rights within the system of Yugoslavia. The constitution did not enumerate the peoples of the republic, but it assured equal rights to every citizen including members of national minorities.²

The clash between Tito and Stalin led to the introduction of the system of workers' self-management which originated in Yugoslavia in 1950. With the formation of workers' councils, the centralist state management of the economy ended and the new system extended to all areas of social life. In 1955, with the General Law on the Structure of Municipalities and Counties, the communal system as the basic form of territorial self-government was established. The self-management system demanded the citizens' participation in economic and social affairs which had a notion of democracy and enabled workers to make independent decisions in commercial enterprises and in cultural, educational and health care institutions. There was the idea of social ownership of the means of production and of labour resources.

The municipality was established as the basis for the self-management system because it was the territorial and political community within which individuals exercised their citizens' rights. The municipality was seen as the starting point for the exercising of citizens' rights at higher levels like counties, cities, association of municipalities, autonomous provinces, republics and the federal state.

² An explicit recognition of the Bosnian Muslims as a distinct ethnic group ("*narod*") was undertaken only in the 1960ies, when Tito gave "equal status" to all ethnic groups within Bosnia-Herzegovina to solve the question of identity. The affirmation of Bosnian Muslims in Bosnia-Herzegovina – beside Croats and Serbs – became a new political and cultural identification base.

In 1963, a new constitution was adopted which positioned self-management as an organizational and functional principle of the political system of the socialist state, now called Socialist Federal Republic of Yugoslavia. The constitution guaranteed private ownership of land and labour resources as well as the workers' rights of decision-making on economic and social matters. All self-management entities were able to act independently over their issues without the obligation to ask higher authorities which led to a lot of initiatives at the local level.

In 1974, a further constitution was adopted in reaction to a serious political crisis. The reasons for the crisis were economic problems and tendencies of separatism in Croatia. The Croatian Adriatic had become the most profitable region within Yugoslavia because of its emerging tourist industry in the 1960s which led to the wish of Croatian politicians to exert more control over this income. Due to polarization and provocations, the conflict arose along Croatian-Serbian lines and supported mass political mobilization for the wish to transform Yugoslavia from a federation to a confederation with greater self-rule for the 6 Yugoslav republics. The new constitution confirmed associated local wards, labour and socio-political organizations as the source of territorial authority. Those formed their own delegations to send them to the next higher government authority as representatives, for example to municipal assemblies. The assemblies consisted of local ward councils, associated labour councils and socio-political councils. Referring to the same model, municipalities elected their delegations which were sent to the republican assembly that had the same structure as mentioned above. At the highest level was the Assembly of the Socialist Federal Republic of Yugoslavia with its Federal Council and Council of Republics and Provinces. The state should be governed by a nine-member Presidency which consisted of the representatives of each of the six republics and two provinces and the Chairman of the Central Committee of the Communist League of Yugoslavia. The constitution guaranteed the right of self-management and socio-political activity, socio-economic rights as well as citizens' individual rights and freedoms. This included free health care and the right to education. (cp. Imamović, 2006, pp. 361-384)

The problem of the self-management system was that this form of democracy proved incompatible with efficiency and that citizens were not capable of macro-economic control. (cp. Koyama, 2003, pp. 11-13) Within the Yugoslav federation, the self-management practice came into conflict with the forces of Serbian greater-state hegemony. Another disadvantage was the high level of bureaucratization of the self-management which was partly responsible for the country's economic problems in the 1980s. (cp. Imamović, 2006, p. 385)

2.2. The Break-up

The six republics tried to find a way out of the acute economic problems and found different solutions: the Serbs preferred the recentralization while Croatia and Slovenia pushed for further decentralization.

Tito before his death in 1980 had created a system of government for Yugoslavia that should lead the country after his death. It foresaw a program of rotating presidents among the representatives of the six republics and the two autonomous provinces. The government ordered a study of the Yugoslav system that proved that the communist system and Tito's reforms did not work and that a free market system had to be introduced. The problem with this conclusion was that the communist authorities did not want to give up their power. In 1984, there was a short period of financial stabilization in Yugoslavia because of the Olympics in Sarajevo which were a huge success, but after that, industries again stagnated and bureaucrats who were afraid of losing their jobs blocked reform efforts.

Nationalism in all republics increased and a memorandum written by the leaders of the Serbian Academy of Sciences and Art in Belgrade in 1986, accused Tito as well as other non-Serb Yugoslav leaders of discrimination of Serbs within the country. The new ideology of the Serbs under the leadership of the emerging leader of Serbian branch of the Communist Party, Slobodan Milošević, was the establishment of a strong Serbia within a strong Yugoslavia and this included the protection

of Serbs all over the Yugoslav territory, especially in the Kosovo, where about 90% of the population are Albanians, but also in Croatia and BiH.

The end of communism in the eastern Soviet bloc was marked by the opening of the Berlin Wall on 9 November 1989, when one communist government after another resigned under the pressure of the citizens. In Yugoslavia, the situation was different, because there were no revolutionary demonstrations and the system broke down slowly. The two main pillars of the Yugoslav state were the Communist Party and the Yugoslav Peoples Army (Jugoslavenska narodna armija, JNA). (cp. Schönningh, 2007, pp. 188-189/Čuvalo, 1997, pp. 37-39)

Slobodan Milošević introduced a change in the Serbian constitution which allowed it to annex the two autonomous provinces, Kosovo and Vojvodina. This constitutional change of the Serbian republic and the economic collapse were an enormous set-back for the communist regime.

At a session of the Communist Party on 23 January 1990, the leaders of Slovenia demanded greater autonomy for their republic which was refused. The Slovenian representatives reacted by leaving the conference and this step was the end of a united state under the rule of the League of Communists of Yugoslavia. (cp. Schuman, 2004, pp. 38-39)

The Communist Party disintegrated in 1990 and national parties in all republics took over its place. In Bosnia-Herzegovina, national parties of the Muslims (Party of the Democratic Action/Stranku Demokratske Akcije, SDA), Croats (Croat Democratic Union/Hrvatska Demokratska Zajednica, HDZ) and Serbs (Serb Democratic Party/Srpske Demokratske Stranke, SDS) were established. The JNA continued to be the Yugoslav army but increasingly under Serbian hegemony. (cp. Schönningh, 2007, p. 189/Čuvalo, 1997, p. 39)

2.3. Bosnia-Herzegovina

2.3.1. Independence and War

The disintegration of the Yugoslav state and the Croatian and Slovenian declarations of independence in 1991 were the starting point of the armed conflict on the Balkans from 1991 until 1995. When the non-Serb republics seceded the Serbs planned for a Greater Serbia.

After armed conflicts between the JNA and territorial defence units in Slovenia and Croatia, the International Community finally accepted their declarations of independence of Croatia and Slovenia in January 1992. Bosnia-Herzegovina had been a multicultural country. In 1991, 43.5% of the 4.37 million citizens felt as Bosniacs, 31.2% as Serbs, 17.4% as Croats and 5.5% as Yugoslavs. The rest declared itself to be a member of the more than 20 ethnic minorities. After the break-down of Communist one-party rule, it was governed by a coalition of the Muslim SDA, the Serb SDS and the Croatian HDZ.

When the Bosniac and Croat deputies wanted to resolve the independence of Bosnia-Herzegovina without the agreement of the Serb delegation, the governmental coalition of the SDA, the SDS and the HDZ broke. On 9 January 1992, the Serbs proclaimed the Serbian Republic in Bosnia-Herzegovina (Republica Srpska, RS). After Bosnia-Herzegovina declared independence in April 1992, the RS in turn declared its independence from BiH on 7 April 1992 and affirmed their will to stay within the Yugoslav state.

The Bosnian Croats also preferred the integration into the independent state Croatia instead of being part of a multiethnic Bosnia-Herzegovina. Therefore the proclamation of the autonomous region Herceg-Bosna took place 3 July 1992.

The Bosniacs' aim was the establishment of an independent multiethnic state on the territory of the former republic of Bosnia-Herzegovina.

The JNA and Serbian paramilitary forces, led by General Ratko Mladić, occupied and controlled more than 70% of the Bosnian territory and established their own state structures. Non-Serbian population was displaced and Serbia as well as Croatia supported citizens of their nationality. Ethnic cleansing, deportations, rapes, mass executions and other human rights violations were committed by all ethnic groups.

In the first phase of the war, Bosniac and Croat forces fought together which changed after the proclamation of the Croat state “Herceg Bosna” under the leadership of Mate Boban, who was supported by the Croatian president Tudjman. This event led to armed hostilities between the former allies that could not be stopped until the US-led mediation in 1994 that could reach an Agreement between Croats and Bosniacs. (cp. Schönigh, 2007, pp. 71-75) The so called Washington Agreement brought an end to the armed conflict between the Bosnian Muslims and Croats by forming the Federation of Bosnia-Herzegovina (Federacije Bosne i Hercegovine, FBiH). The constitution of the Federation of Bosnia-Herzegovina proclaimed in March 1994, states that the Federation consists of federal units with equal rights and responsibilities. (cp. Imamović, 2006, pp. 392-393)

In 1995, the war with the Serb forces escalated. It led to NATO intervention and a roll-back of the Serbs and finally to the readiness of all sides for a peace agreement. (cp. Schönigh, 2007, p. 75)

2.3.2. Dayton and the Consequences

The peace talks took place in the US Air Force base in Dayton, Ohio, in November 1995 and were part of the International Conference on the Former Yugoslavia. The agreement was signed in Paris on 14 December 1995 by the representatives of Croatia, Bosnia-Herzegovina and Serbia. This was the formal end of the war in Former Yugoslavia that was safeguarded by 61.000 peacekeeping troops of the NATO-led Implementation Force (IFOR), later replaced by the Stabilization Force (SFOR). (cp. Imamović, 2006, pp. 392-395)

The most important segments of the Dayton Peace Accords are the military annexes (1-A and 1-B) the Constitution of Bosnia-Herzegovina, the annexes on human rights and refugee return, the civilian implementation and the establishment of the International Police Task Force. (cp. The Dayton Peace Accords, 1995)

One of the main issues discussed with regard to the political system of Bosnia-Herzegovina is the direct involvement of the International Community stated in the Dayton Peace Agreement and the question whether it is a basis for a protectorate or not.

Other positions classify the political engagement of the International Community in Bosnia-Herzegovina as colonialism or imperialism.³ Imperialism is defined as the ambition of a political leader state to increase its power beyond its own territorial borders to exert political, economic, military and cultural influence on the society of another state. (cp. Nohlen/Schultze, 2005, p. 362) Colonialism or neo-colonialism also refers to the occupation and political paternalism of states over another country. (cp. Nohlen/Schultze, 2005, p. 444) Both definitions can not be used to describe the political engagement of the International Community, because the Dayton Peace Agreement first aimed to end a war and not to extend the power of other states.

On 8 and 9 December 1995, the Peace Implementation Conference was held in London with the aim of mobilising international support for the Dayton Peace Accords. The result of the meeting was the establishment of the Peace Implementation Council (PIC) that comprises 55 countries and agencies supporting the peace process in Bosnia-Herzegovina by providing troops, financing or running operations in the country. To review progress and define goals, the PIC met at the ministerial level in 1996 in Florence and in London, in 1997 in Bonn, in 1998 in Madrid and in 2000 in Brussels. (cp. URL 2)

³ While Vedran Džihic says that the Bosnian statehood is stamped by the European protectorate and the ethnic primacy under the influence of forms of colonialism and imperialism, Werner Wndt refuses these classifications although he sees restrictions in the sovereignty of Bosnia-Herzegovina. (cp. Džihic, 2007, p. 2; Reiter/Jureković, 2005, p. 76)

2.3.3. State Structure

The Dayton Peace Accords in Annex 4 contain the Bosnian constitution which states that Bosnia-Herzegovina is a democratic state which operates under the rule of law with free democratic elections. The rights and freedoms written down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols are an integral part of the Constitution of Bosnia-Herzegovina. (cp. The Dayton Peace Accords, 1995)

It is given the fact that the Constitution of Bosnia-Herzegovina lacks democratic legitimacy because it was adopted without the consent of the Bosnian citizens and without a vote at the parliament. Beyond the constitution, executive powers are granted to the High Representative which is an international institution. (cp. Sebastián, 2007, pp. 1-4/Koyama, 2003, pp. 135-136)

The constitutional system of the country consists of the Constitution of Bosnia-Herzegovina itself (Annex 4 of the agreement), the constitutions for both entities (the Federation of Bosnia-Herzegovina and the Republika Srpska), ten constitutions for each of the cantons within the Federation and in 1999, a further constitution has been added for the Brčko District. The Federation of Bosnia-Herzegovina with a population of 2.3 million accounts 51% of the territory of the state and the Republika Srpska with 1.3 million citizens 49%. While the Federation has a three-tiered structure (the Federation, the 10 cantons and 48 municipalities), the two-tiered structure of the Republika Srpska consists of the Republic and 62 municipalities. (cp. Pejanović, 2007, pp. 42-43)

Executive, legislative and judicative bodies exist on the level of cantons, entities and on the state level. Each of the two entities has its own government, bicameral parliament, judiciary, legal system, education system, tax system and customs system. This leads to the fact that within Bosnia-Herzegovina, there are 13 parliaments and governments (ten in the cantons, two for the entities and the one on the federal level) with over 180 ministers and 760 members of legislative bodies. Furthermore,

the country has three official languages for the three constituent peoples and two alphabets.

To finance this multifaceted state structure, more than 60% of the Gross Domestic Product (GDP) annually is needed, which is a far too high expenditure. (cp. Sebastián, 2007, pp. 1-4/Koyama, 2003, pp. 134-135)

The constitutional framework set up in the Dayton Peace Accords regulates the ethnic relations in the highly decentralised state Bosnia-Herzegovina and establishes a loose confederation of the two entities. The Constitution of Bosnia-Herzegovina aims at guaranteeing power-sharing among the three constituent peoples, the Bosniacs, the Croats and the Serbs and includes a detailed system that shall assure ethnic protection. The political system of Bosnia-Herzegovina bases decision-making on the consent of the three constituent peoples which includes the so called “ethnic veto points”. Therefore the **presidency** is formed by three members who can each block any decision if it harms a vital national interest. Every member is for 8 months in rotation in the function as Chairman of the Presidency which corresponds to the head of state.

The **government** of Bosnia-Herzegovina is called the Council of Ministers and consists of the Chair of the Council of Ministers who has the authority of a Prime Minister and his two deputies as well as other ministers. Each of them has his deputy to assure the continuation of the governments work in his absence. The Council forms the Directorate of European Integration, the General Secretariat, the Office for the Legislature, the Committee of Home Policy and the Committee for Economy as standing bodies. (cp. The Feasibility Study, 2003, p.40) The state government has the responsibility for foreign policy,⁴ foreign trade policy, monetary policy, custom policy, asylum and immigration policies, air traffic control, payment of international financial obligations and communications. Important fields like social welfare and social services are matters of the entities. (cp. Koyama, 2003, p. 135)

⁴ Since 2004 defence has also become a responsibility of the state government.

The **parliament** consists of two chambers which correspond to the country's division into three ethnic groups. The House of Peoples is comprised of five members of each ethnic group and the majority can decide whether parliamentary resolutions violate their national interest or not. The House of Representatives has 28 members from the Federation of Bosnia-Herzegovina and 14 from the Republika Srpska who decide on a majority basis that demands one-third of the votes of members from each entity. They are elected directly from the two entities. This means that it is possible for 10 parliamentary members of the Republika Srpska to block any decision at the state level.

The Bosnian political system contains power-sharing provisions that place ethnic representation before political interest because citizens are represented only as members of their ethnic group. Some of these provisions violate the European Charter of Human Rights because citizens are forced to identify along ethnic lines and those who do not belong to one of the constituent peoples are neglected. This system serves as basis for nationalist platforms. Except of the Socijaldemokratska Partija BiH (SDP), an oppositional multiethnic party at the state level, the major parties in Bosnia-Herzegovina can be defined through their ethnic base, their nationalist divide which differentiates between moderate and radical ethnic-nationalism and their ideology which means their right-wing or the left-wing orientation that are both nationalistic. Therefore ethnicity has emerged as the key political cleavage. The power-sharing provisions laid down in the constitution slow down the decision-making process on the state-level and include the entity voting of the House of Representatives which provides no mechanism for its members to overcome blockages like in the House of Peoples. This gives entity delegates the power to block decisions at the state level easily. (cp. Sebastián, 2007, pp. 1-4/Koyama, 2003, pp. 134-135)

Because of blockades in the decision-making process in the parliament, most of the important laws for the realization of reforms were adopted under the pressure of the International Community or imposed by the High Representative of the International Community (HR). One of the main reasons for this is the irresponsibility of the domestic political elite

and the fact that ethnic authorities can not find social compromise when governing in coalition. (cp. Pejanović, 2007, pp. 28-29)

The **highest judicial body** in Bosnia-Herzegovina is the Constitutional Court which is concerned with constitutional disputes as well as with appeals from Entity courts.

The **central bank** serves as a currency board and is led by a governmental board which is appointed by the presidency at the recommendation of the International Monetary Fund (IMF). (cp. Sebastián, 2007, pp. 1-4/ Koyama, 2003, pp. 134-135)

The main problem concerning the state structure in Bosnia-Herzegovina is that the federal system was introduced by external pressure executed by the International Community in order to ensure the statehood of the country and to avoid its division. Some important elements needed for the set up of a federative state structure were missing such as the common interest based on compromises and agreements and the free will of the entities. Bosnia-Herzegovina was transformed from a unitary into a federative state which resulted in a complex and complicated state structure. Federalism within Bosnia-Herzegovina is to a high degree dysfunctional because of its ethnic adjustment. The mutual blockage of decisions within the state institutions at each level of government leads to the incapability of actions. It is also difficult to establish a system of coordination and legal control among the two entities. The political system of Bosnia-Herzegovina includes asymmetry and ethnic discrimination due to the mixture of territorial and non-territorial elements. Therefore there is inequality in the representation of national communities, federal entities and the citizens. (cp. Miljko, 2003, pp. 32-41) The first step to overcome the ethnic discrimination against members of the Croatian and Bosniac peoples who were excluded from the Constitution of the Republika Srpska and against Serbs who were excluded from the Constitution of the Federation of Bosnia-Herzegovina was the Decision of the Constitutional Court of Bosnia-Herzegovina in 2000 that all these peoples have the right to constitutive status. (cp. Pejanović, 2007, p. 199)

Other problems of federalism in Bosnia-Herzegovina are the lack of clear division of responsibilities as well as the unclear power sharing mechanisms among the different levels of government which also reflect on the police structures. (cp. Schultze, Rainer-Olaf, 2005, p. 252/Savić, 2003, pp. 18-29)

Because of these obstacles, it is difficult to reform the system in order to improve its functionality which is also true for the ongoing police reform. One of the main obstacles is that the state function policing is not in the hands of state level institutions but the responsibility of the ethnic divided entities which do not want to loose this power. Another problem within the system is that state power within Bosnia-Herzegovina is limited because of the existence of private security enterprises which also execute police powers.

2.3.4. The Current Situation

The Dayton Peace Accords legalized the ethnic division of Bosnia-Herzegovina by fixing the two entities, the Federation of Bosnia-Herzegovina and the Repubika Srpska, as the state structure. This made the ethnic principle dominant in the internal structure and functioning of the state which is one of the main reasons why Bosnia-Herzegovina became a dysfunctional and expensive state. (cp. Pejanović, 2007, pp. 41-43)

The situation continues to be political instable and among the citizens, the level of ethnic mistrust is enormously high. National rhetoric is again at the rise, state level institutions remain weak and there is little progress on the EU priorities for Bosnia-Herzegovina, the Stabilization and Association process and the constitutional reform as well as the police reform. (cp. Sebastián, 2007, p. 1)

Because of the historical development of the political system of Bosnia-Herzegovina, local self-government is one of the most important democratic institutions with the municipality as basic unit. Within this unit, citizens exercise their rights and obligations and aim at satisfying their

common needs like housing, employment, local traffic, community infrastructure, education, health care, culture, security and the protection of their human rights and environment. Local self-government can be seen as the exercise of power through elected organs and through direct participation of citizens who live in a local community. Citizens have the right to take an active part in the decision-making in the municipality through referenda, local citizen rallies, civic initiatives and activities of citizen associations. People relate their interests to their unit of self-government and therefore have a strong motivation to participate in the election of local governments. The local government should act under citizen control and represents the basis for citizens' participation in democracy in general as written down in the European Charter for Local Self-government. This may be one of the reasons why the maintenance of their own police structures is that important for each administrative unit within the country. (cp. Pejanović, 2007, pp. 139-142)

3. The Development of the Police in Bosnia-Herzegovina

3.1. The Police during Communism in the System of Yugoslavia 1945-1992

During communism in Yugoslavia, police, called milicija, was multiethnic and was a function of the communist party elite. The main responsibility of the Yugoslav police was the preservation of the regime instead of serving citizens which was the reason for the high political influence on operational police work. There was no democratic control over the forces and repression on citizens was common if they were against the communist regime because there was no legal protection e.g. for the freedom of speech and police therefore acted on orders of politicians. Another problem concerning police was the high level of corruption within the political field and among police officers. The network system of the communist party assured employment for life-time for police officers who were loyal to the party and normal uniformed police staff was seen as decoration instead of enforcement institution of law and security. However, police during communism was very professional and notwithstanding the political patronage within the police criminal detection rates were high.

Police in Bosnia-Herzegovina was integrated under its own Ministry of Interior of the Socialist Republic of Bosnia and Herzegovina. Police was organized through centralization on two levels: the first one was the state level Republic Secretary of Internal Affairs of Yugoslavia which was the head office for all six republics. The second centralization level was that of the republic under the Republic Secretary of Internal Affairs of Bosnia-Herzegovina. These secretaries contained not just police forces but also the intelligence service which had the responsibility of government security. This fact shows that it also served primarily the communist regime not citizens. (cp. Mühlmann, 2007 I, p. 377/Interview 8)

3.2. The Development of Police Structures in the Period of Disintegration and War

During the period of disintegration and war, police⁵ was split along ethnic lines and ruled by nationalist party leaders who created a system that protected their wartime gains and their power. Political structures were established through and supported by black marketing and criminal activity which was protected by police staff. (cp. Mühlmann, 2007 I, p. 377) During the war, police was seen as a tool of political authorities. Police had two duties: its first responsibility was public security and especially crime fighting and its second task were war duties. The key decisions concerning activities of the army and the police forces were both decided by the military headquarters which resulted in overlapping fields of action. This means that police forces were involved in war activities and the army also executed police duties, which is not normal even in war times. In Sarajevo for example, the military police made roadblocks and investigated criminal activities of organized groups. Members of police forces are also accused of committing war crimes which is a given fact in the case of the ethnic cleansing in Srebrenica committed by officers of the RS police. (cp. Interview 8)

The Croatian police controlled the territory of the Croatian Republic of Herzeg-Bosna, the Bosniac police was based in Sarajevo and responsible for central Bosnian districts. Serbian police, headquartered in Pale, controlled the rest of Bosnia-Herzegovina. (cp. Wisler, 2007, p. 255) In some areas of the country there was still multiethnic police in which citizens could trust which was true for example for the city Zenica. (cp. Interview 8)

3.3. The Bosnian Police Structures since the Dayton Peace Accords 1995

Corresponding to the asymmetric state structure, in Bosnia-Herzegovina, there exist a number of Ministries of Interior and police forces at differ-

⁵ In Bosnia-Herzegovina, the old communist name of the forces, milicija, was changed on 13 August 1993 into policija. (cp. Interview 8).

ent levels of government with diverse territorial and subject-matter jurisdictions. Therefore 13 Ministries are responsible for internal affairs and security and there are separate police forces for the Republika Srpska, the Federation of Bosnia-Herzegovina, the Brčko District and the state level.

The police structures in Bosnia-Herzegovina reflect the reality of a weak state and strong entities within the country. Until the establishment of the Ministry of Security and its subordinate bodies, there had not been an administrative body for inner security on the state level because it lies within the competency of the entities, the centralised Republika Srpska and the cantons within the Federation of Bosnia-Herzegovina. The only security institutions at the state level are the Border Police and the State Information and Protection Agency (SIPA).⁶

Coordination problems arise because there are no functional or hierarchical links between the Ministries of Interior respectively the Ministry of Security at the state level and the police forces which causes inflexibility in criminal investigations and further policing tasks. One of the main obstacles for the functioning of police forces is the dysfunctional relationship between the Ministries of Interior and Police Directors and Commissioners. There are inappropriate appointment and selection procedures and a lack of division between the political supervision by the ministry and operational management by Directors and Commissioners. Other problems are the politicization of police, the poor organisation of work and resources, outdated technology and the absence of country-wide coherence among police forces as well as the defective cooperation between prosecutors and police. Due to these circumstances, a comprehensive review of the police structures in Bosnia-Herzegovina commissioned by the European Commission was conducted and as a reaction to its results, police reform started. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, p. 15)

The Justice Chain Analysis Bosnia and Herzegovina issued by the Swedish International Development Agency in 2007 states the following:

⁶ Now State Investigation and Protection Agency.

“The constitutional reality of Bosnia and Herzegovina leads to fragmented police jurisdiction, which makes systematic cooperation among individual police forces impossible and crime prevention efforts sometimes futile, with criminals escaping across cantonal or entity borders.” (Justice Chain Analysis Bosnia and Herzegovina, 2007, p. 38) Entity laws still prevent police forces from crossing into territory of the other entity. This offers criminals the opportunity to skip across the entity borders to the safety of the other entity’s jurisdiction. In some cases, criminals are cooperating with their entity police or act under its protection like persons indicted for war crimes that find refuge in the Republika Srpska. (cp. Report 5)

Since the end of the war, the United Nations International Police Task Force (UN IPTF), the International Criminal Investigative Training Assistance Program (ICITAP), the European Commission and the European Police Mission (EUPM) have been working with police forces in Bosnia-Herzegovina, but they are still not ready for the integration into the European Union which demands the ability for cooperation among the member states in the security sector. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, p. 15)

3.3.1. Police Structures and Competencies within the Republika Srpska

The Law on Ministries of the Republika Srpska of 17 October 2002 constitutes a centralized police administration under the jurisdiction of the entity Ministry of Interior of the Republika Srpska. There are five regional Public Security Centres and a number of police stations that work under the territorial jurisdiction of the RS which is strictly separated from the FBiH and cantonal jurisdictions.

The Ministry of Interior is responsible for the following actions related to police: the protection from violent endangerment of the system and the RS, for citizens’ personal security, for the maintenance of public order, for the prevention as well as the discovery of crimes, for traffic security, the carrying of weapons and for the training of police staff at

the police academy. The ministry is obliged to cooperate with other police structures in Bosnia-Herzegovina.

Especially in the Republika Srpska, there is a high level of political control over police forces which means that police still acts according to the will of political leaders. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, pp. 36-37/Law 3, Article 9)

3.3.2. Police Structures and Competencies within the Federation

The Law on Federation Ministries and other Bodies of Federation Administration⁷ of 21 October 2002 defines the competencies of the FBiH Ministry of Interior which comprises similar policing tasks like in the RS: prevention and investigation of terrorism, organized crime, inter-cantonal crime, drugs trafficking, arrest of criminals, security of persons and buildings in the Federation, education, training and citizenship matters of the Federation. The ministry is also responsible for policy-making, collection of information and analysis and the provision of technical resources.

Except of cooperation between the FBiH Ministry of Interior and cantonal Ministries of Interior in matters of the jurisdiction of the FBiH Ministry of Interior, there is no hierarchical structure which includes and connects the Federation and cantonal police institutions. The head of the forces is the Police Director who is selected by an Independent Board and is in charge of reporting to the government and the minister. An important organizational unit of the Ministry is the police academy. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, p. 35/Law 4, Article 6)

3.3.2.1. Police Structures and Competencies at the Level of Cantons

Ten cantonal Laws on Internal Affairs in FBiH regulate the police work within the cantons. They have their own cantonal Ministries of Interior

⁷ It can be assumed that the basis for the Law on Federation Ministries and other Bodies of Federation Administration was Yugoslav law.

with two specific units: the Police Administration and the Administration and Support Unit. The Police Administration is responsible for security and specific policing tasks and covers one or more municipalities and can have one or more police stations. The Administration and Support Unit is in charge of issuance of documents for citizens.

Police commissioners are selected by independent boards as operational personnel which have the duty to report to the ministers of interior. The minister and the police director cannot be of the same ethnicity. Due to the fact that territorial jurisdictions are strictly divided between the cantons, there is little ability for flexibility and cooperation in criminal investigations. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, p. 36)

3.3.3. Police Structures in the Brčko District

The Brčko Police was established in 2000 and is tasked within the district with the protection of life and personal safety, with the implementation of the constitution and Bosnian laws, the maintenance of public order and peace, the protection of human rights, persons and property, the prevention and disclosure of crime, the possession of weapons, security and traffic control on roads and other policing issues. The headquarters are located in the town of Brčko and police carries out its duties in the area of the district over internal organizational units: the uniformed police units, the crime investigation unit, the traffic police unit and the unit for administrative affairs. The police structures of the Brčko District are independent from other police structures in Bosnia-Herzegovina. (cp. Law 1)

3.3.4. Police Structures and Competencies at the State Level

The Law on Ministries and Other Administration Bodies of BiH of 13 February 2003 established the Ministry of Security (MoS) at the state level with the State Information and Protection Agency (SIPA) and the State Border Service (SBS) as organizational units and the Office for Co-operation with Interpol as autonomous service.

The Ministry of Security is charged with preventing and tracing of perpetrators of criminal acts of terrorism, counterfeiting of domestic and foreign currencies, drugs trafficking, trafficking in persons and other criminal offences with inter-entity or international dimension. Other tasks are the protection of persons and facilities, the collection of security data relevant for Bosnia-Herzegovina and the coordination of the activities of the Entity Ministries of Internal Affairs and of the Brčko District. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, pp. 37-38/Law 5, Article 14)

The Ministry of Security consists of the following sectors: Civilian Protection, Legal Affairs, Human Resources, General Affairs, Financial Affairs, International Cooperation, Immigration, Asylum, Fight Against Terrorism, Organized Crime and Drugs Abuse, IT and Telecommunication Systems, Protection of Classified Information, Border and Public Order Protection, the Inspectorate and the Bureau for Cooperation with Interpol. (cp. URL 9)

4. The Presence of the International Community in Bosnia-Herzegovina

4.1. The International Presence and its Role

The presence of the International Community in Bosnia-Herzegovina is prescribed in the Dayton Peace Accords which regulates both, the military and the civilian aspects of the peacekeeping mission in the country.

Annex 1-A confirms that the United Nations Security Council is invited to adopt resolutions that authorize member states and organisations to establish a multinational military force in order to ensure the compliance with the provisions of the agreement. Annex 1-B deals with regional stabilization which is part of the OSCE work in Bosnia-Herzegovina. According to Annex-7, the UN High Commissioner for Refugees (UNHCR) shall be involved in repatriation plans for refugees and displaced persons. The civilian implementation of the peace settlement establishes the position of the High Representative in order to coordinate activities of civilian organizations that are involved in the peace process (Annex 10). Annex 11 establishes the International Police Task Force as part of the UNCIVPOL operation in order to assist Bosnia-Herzegovina to provide a safe and secure environment for all citizens. (cp. The Dayton Peace Accords, 1995)

To describe the role of the International Community in the implementation process of the civilian aspects of the peace agreement, including the police reform, it has to be mentioned that – until now – there were two phases concerning the political orientation of the country.

One is described in the Dayton Peace Accords which first aimed at the pacification of the ethnic groups and envisioned the presence of international organisations with a strong engagement of the USA and some European countries. The second phase has earmarked a new political orientation of Bosnia-Herzegovina towards the European integration since 2000 and is better known as the “reversal from Dayton to Brus-

sels". (cp. Džihčić, 2007, p. 2) This reversal came after the electoral success of non-nationalistic forces in Bosnia-Herzegovina which started a discussion about a constitutional change in order to reach a European orientation. During the long years of engagement of the International Community in Bosnia-Herzegovina, there has been a process of transformation from the era of strong American and international presence within the peacekeeping and -building institutions to the new view of European integration.

4.2. Institutions

4.2.1 The High Representative (HR)

In the Dayton Peace Accords (Annex 10), the position of the High Representative (HR)⁸ was created. The High Representative (HR) is an international institution that is responsible for the supervision of the implementation of civilian aspects of the Dayton Peace Accords. The headquarters of the HR, his Principal Deputy and their Cabinets, are based in Sarajevo. His office, the Office of the High Representative (OHR) also accommodates the Economic, Legal, Political, Rule of Law, Resources Departments and Units and the Press Office.

The OHR has the status of a diplomatic mission and is composed of diplomats seconded by the governments of the Peace Implementation Council (PIC) countries, international experts and national staff from Bosnia-Herzegovina.

The High Representative in his second function is EU Special Representative (EUSR) in Bosnia-Herzegovina and has to ensure that the country creates a peaceful environment and a viable democracy in order to reach the integration into Euro-Atlantic institutions. Therefore one of the main

⁸ Until now, this function was held by Carl Bildt, 1996-1997; Carlos Westendorp, 1997-1999; Wolfgang Petritsch, 1999-2002; Paddy Ashdown, 2002-2006; Christian Schwarz-Schilling, 2006-2007; Miroslav Lajčák, 2007-2009 and Valentin Inzko since March 2009.

aims of the HR is transition, which means reaching the point where the country is able to take full responsibility for its affairs.

The mandate of the HR described in Article II of Annex 10 of the Dayton Peace Accords entitles the High Representative to

- monitor the implementation of the Dayton Peace Accords;
- promote the full compliance of the parties to the Dayton Peace Accords with all civilian Aspects of the agreement;
- co-ordinate the activities of civilian organisations in Bosnia-Herzegovina in order to ensure the efficiency of their work with respect for their autonomy within their spheres of operation;
- facilitate the resolution of complications arising in connection with the implementation of the civilian aspects of the Dayton Peace Accords;
- participate in meetings of donors;
- report on progress to the UN, EU, USA, the Russian Federation and other interested governments or organisations.

Among the outcomes of the London Peace Implementation Conference was the establishment of the Steering Board of the PIC that works under the chairmanship of the High Representative as the executive section of the PIC. The main function of the Steering Board is to provide the High Representative with political guidance. The members of the Steering Board are the countries Canada, France, Germany, Italy, Japan, Russia, United Kingdom, United States, as well as the Presidency of the European Union, the European Commission and the Organisation of the Islamic Conference (OIC), which is represented by Turkey.

The involvement of the HR in the political sphere in Bosnia-Herzegovina has changed and developed due to his mandate and the requirements of the PIC.

During the first phase of the peace process, the High Representative was the chair of joint bodies that were joined by representatives of the war time parties and took care of the initial requirement at that time. Therefore, at the PIC Conference in Bonn in December 1997, the High Repre-

sentative was requested to remove from office public officials who violate the Dayton Peace Accords or legal commitments and to impose laws in the case of failure of the legislative bodies in Bosnia-Herzegovina.

Now one of the main tasks of the HR is to ensure the effective functioning of the state and entity institutions that were set up after the first post-Dayton elections in 1996. After the reconstruction phase of the economic field under a \$ 5.1 billion World Bank/European Commission program is largely completed, now the aim is to revitalise the economy through reforms in order to create jobs and reach stabilisation. The focus of the HR was the establishment of the rule of law which is an essential requirement for reforms. (cp. URL 2)

4.2.2. The United Nations Organisation (UNO)

The UNO participates in the military as well as in the civilian implementation of the Dayton Peace Accords and transformed its function during the peace process from a peace enforcer to a peace builder and peace keeper.

On 21 December 1995, the Security Council adopted resolution 1035 (1995) which included the establishment of the United Nations Mission in Bosnia-Herzegovina (UNMIBH) that comprised the UN civilian office and the UN International Police Task force (UN-IPTF).

The mandate of the UNMIBH was to support the establishment of the rule of law in the country by providing assistance in reforming and restructuring the local police, assessing the judicial system of Bosnia-Herzegovina and monitoring the performance of the police. The main units of the UNMIBH were the UN-IPTF, the Human Rights Office, the Criminal Justice Advisory Unit, the Civil Affairs Unit and the Administration. Regional Headquarters of the mission were set up in Banja Luka, Bihac, Brcko, Doboje, Mostar, Sarajevo and Tuzla. (cp. URL 3)

4.2.3. The North Atlantic Treaty Organisation (NATO)

The North Atlantic Treaty Organisation was involved in the peace enforcement since 1992 by enforcing the no-fly zone over Bosnia-Herzegovina established by the UN and when air strikes in August 1995 played an important role in bringing an end to the war in Bosnia-Herzegovina. (cp. URL 16)

In December 1995, the first NATO-led peacekeeping mission, the Implementation Force (IFOR) was established through the UN Resolution S/RES/1031 (1995) of 15 December 1995 with the aim to implement the military aspects of the Dayton Peace Accords. In September 1996, when the first elections were held in Bosnia-Herzegovina, the NATO allies were engaged in maintaining security. The Stabilization Force (SFOR) replaced the IFOR by UN-Resolution S/RES/1088 (1996) of 12 December 1996 to maintain a secure environment for the country's reconstruction and for the reform of the armed forces in Bosnia-Herzegovina. The mission ended in December 2004 when its responsibilities were handed over to the European Union but NATO still provides support to the EU operation Althea within the framework of the Berlin Plus arrangements. The NATO forces retained a military headquarters in Sarajevo with the aim to assist the Bosnian authorities with issues like the defence reform, the fight against terrorism, intelligence gathering, the capturing of war-crimes suspects and the Bosnian aim to become a member of the NATO Partnership for Peace.

These efforts were successful and therefore, Bosnia-Herzegovina joined NATO Partnership for Peace in 2006 and in April 2008, the intensified dialogue on the membership of Bosnia-Herzegovina started. The current cooperation between Bosnia-Herzegovina and NATO is set out in an Individual Partnership Program (IPP) and in the Individual Partnership Action Plan (IPAP). The full integration into NATO depends on the willingness of Bosnia-Herzegovina to continue its reform processes in the democratic, institutional and defence field. Another important condition for the NATO membership is the cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY).

The military forces of Bosnia-Herzegovina have to be able to work together with forces from NATO countries and partners in peacekeeping and crisis-management missions. Therefore the defence and security sector reforms are necessary measures to bring Bosnia-Herzegovina to the level of full ability to cooperate within the alliance. (cp. URL 4)

4.2.4. The Organisation for Security and Cooperation in Europe (OSCE)

The Dayton Peace Accords assigned the OSCE Mission to Bosnia-Herzegovina responsibility for human rights, regional military stabilization and elections. The mission's head office is located in Sarajevo and there are 14 field offices within the entire country.

The original mandate was deployed under the Dayton Peace Accords in 1995 and developed over the years of engagement. The OSCE envisions programmes to assist in the development process of democratic political institutions at all levels of the state to assure the independence of the state. The organisation supported the establishment of six political resource centres which promote the participation of politicians and citizens in the creation of a pluralistic and multiethnic political environment. Important fields in which the OSCE Mission is engaged are Education, Democratization, Human Rights and Security Co-operation. Therefore it is important to work closely with local authorities and citizens.

One of the key priorities for the International Community in Bosnia-Herzegovina is the reform of the education sector and the adoption of new education laws to assure that the system is in line with the European standard. The OSCE is the coordinating body for all the actors in the reform process. To support the democratisation process in Bosnia-Herzegovina and the active involvement of citizens in the political field, the OSCE's field offices implemented different projects. Examples are the Parliamentary Support Project that aimed at strengthening the work of members of the Parliamentary Assembly or the OSCE's engagement in the Public Administration Reform. One of the essential functions of the OSCE Mission to Bosnia-Herzegovina is the protection of human

rights within the country. Therefore human rights officers work together with local institutions and State authorities to prevent human rights violations and offer expertise to authorities and citizens in that field and in the rule of law. Another part of OSCE work in the human rights field is the support in questions of return of displaced persons and refugees by monitoring the process. This means that the OSCE assures the safety of returnees, that they have access to education and that there is no discrimination concerning their socio-economic rights. The OSCE played and plays a fundamental role in strengthening Bosnia-Herzegovina's ability to establish a sustainable security and defence environment. This includes arms control, the overcoming of the military division, the development of defence structures at the state level and the implementation of OSCE politico-military commitments. (URL 5)

4.2.5. The European Union (EU)

EU engagement in Bosnia-Herzegovina started during the war with the European Community Monitor Mission (ECMM) for the Western Balkans in July 1991. The mission was replaced by the European Union Monitoring Mission in December 2000 by the Joint Action 2000/811/CFSP, adopted by the Council of the European Union and was finally closed in 2007. The European Monitoring Mission (EUMM) was engaged in the formulation of European Union policy towards Bosnia-Herzegovina. Its particular focus was to monitor development in the field of political and security matters as well as border monitoring, refugee return and inter-ethnic issues. (cp. URL 7)

The EU has also played an important role in the stabilisation process in Bosnia-Herzegovina after the war: the two European Security and Defence Policy (ESDP) missions, the European Police Mission (EUPM), established in 2003 and the European Union Force (EUFOR), established in 2004, mark the increasing engagement of the EU in the new entered integration centred process of Bosnia-Herzegovina. The mission works in coordination and under the guidance of the European Union Special Representative (EUSR) who got its function in 2002.

While EUFOR deals with military matters, the European Union Police Mission (EUPM) is concerned with the civilian aspects of the peace process mentioned in the Dayton Peace Accords and is the successor of the IPTF. It aims at establishing sustainable policing arrangements under the ownership of the state of Bosnia-Herzegovina in accordance with European standards. There are 33 countries contributing police officers and civilian staff to the EUPM mission. The first phase of the mission was called EUPM I and lasted from 1 January 2003 until 31 December 2005, then the mandate was extended and EUPM II worked from 1 January 2006 to 31 December 2007 and the third phase with the name EUPM III which started on 1 January 2008 will last until the end of 2009. (cp. URL 6)

The European Commission as well as the Council of the European Union are engaged in the police reform in Bosnia-Herzegovina which is a precondition for the European integration. While the Council is present through the EUPM and the EUSR, the Commission set up political principles that have to be fulfilled. (cp. Declaration 1)

In order to reach the aim to join the European Union, a development of Europeanization is needed, which means that the European integration has a strong influence on national politics and its structures. It demands reforms like the one of the police structures. However, it can not be denied that there is a high degree of pressure of the International Community behind every step in the reform process in Bosnia-Herzegovina and sometimes the result is mere institutionalism.

Among the most serious problems concerning the EU association process are the deficiencies in the public administration sector which have to be dissolved before Bosnia-Herzegovina can become a full member.⁹

⁹ Vedran Džihic calls the process initiated by the prospect of an EU membership “(quasi-)reform dynamics” which is exploited by politician of all 3 constitutive peoples for domestical purposes. The model of the European Union is pragmatically seen as a fast dissolver for substantial problems in Bosnia-Herzegovina. Nevertheless there are voices that criticise the European delay in the interference into the war as a counterpart of the myths of European progressiveness, modernity and predominant democracy. (cp. Džihic, 2007, p. 3)

When talking about the orientation on the European Union, on the one hand, it is necessary to take the motives of Bosnian politician and Bosnian people into consideration. Vedran Džihic describes the beliefs as follows: “In the public discourse Europe or rather the European Union are omnipresent substitutes for all the missing ideas, constructive impulses for development and visions within the Bosnian statehood. Europe is seen as the frame on which hopes, cognitive expectations as well as feelings and emotions of different kinds are projected.” (Džihic, 2006, p. 39) On the other hand, there is a differentiation within the academic discourse concerning the classifications “Balkanism” and “Europeanism” which shows the effects of stereotyping and termination in the identification process.

4.2.6. International Criminal Investigative Training Assistance Program (ICITAP)

The International Criminal Investigative Training Assistance Program (ICITAP) is primarily funded by the United States Department of Justice and works with foreign governments in order to establish transparent law enforcement institutions with the duty and ability to protect human rights, fight corruption, transnational crime and terrorism.

The ICITAP began its work in Bosnia-Herzegovina in 1996 and provides assistance in the development of modern information management systems and specialized units with the aim to improve police response as well as immigration and border control. Until now, it has trained over 26.000 law enforcement officials in modern democratic policing. (cp. URL 10)

4.2.7. The Board of Principals

The Board of Principals, under the chairmanship of the High Representative, was established in order to coordinate the activities of the International Community in Bosnia-Herzegovina and is attended by the OHR, EUFOR, NATO HQ Sarajevo, OSCE, UNHCR, EUPM, the European Commission, the World Bank, the IMF and the UNDP. (cp. URL 2)

5. The Role of the International Community in Police Matters in Bosnia-Herzegovina – A Chronology of Reforms

5.1. The Actors

5.1.1. The High Representative (HR)

Since the establishment of this function in 1995, the High Representatives themselves were playing key roles in the process of the reform of police structures in Bosnia-Herzegovina. While the IPTF was mainly engaged in technical matters of the topic, the HR was involved in the political field.

The first High Representative was Carl Bildt. He was in mid-1997 replaced by Carlos Westendorp, who had more support from the U.S. State Department and therefore decided to play a more forceful role than his predecessor. When the PIC met in Bonn in December 1997, it interpreted the role of the High Representative described in the Dayton Peace Accords and enabled him to make binding decisions, also called the “Bonn Powers”. This allowed Westendorp as well as his successors, Petritsch, and Ashdown to dismiss politicians and other officials, issue decisions, impose laws and take other important actions without consulting Bosnia’s democratically elected parliaments. These new powers lead to dismissals of public officials as a measure of political punishment for non-cooperation or the blockage of decisions. This model continued until the end of 2005, when international actors cut down their forces in Bosnia-Herzegovina and some members of the International Community criticized the model and objected to the High Representative’s use of Bonn Powers. It was in particular High Representative, Paddy Ashdown who tried to follow his agenda by using his Bonn Powers as a threat for politicians of the Republika Sprska who were not willing to cooperate with the ICTY or refused to accept any of the proposals on reforming police structures.

Paddy Ashdown in his function as High Representative also established the Police Restructuring Commission following the two role models, the commissions for the defence and the intelligence reform. It had the task to propose a single structure of policing under the oversight of a ministry, but there was no agreement among Bosnian leading parties on that concept. He also related the success of the police reform with the carrot of an EU membership and the participation in the NATO partnership for peace which was a highly risky decision for the development of Bosnia-Herzegovina.

It was also one of the main tasks of the OHR to participate in an intensive public information campaign about the police reform in Bosnia-Herzegovina to explain why it is that badly needed.

Christian Schwarz-Schilling, who came into office in 2006, followed the philosophy of domestic political ownership and refused the use of his Bonn Powers. But without threat on some of the political actors, there was no chance to find compromise on important topics. Therefore High Representative Schwarz-Schilling was not further confirmed in his office in 2007 and replaced by Miroslav Lajčák whose main aim is to support Bosnia-Herzegovina on its way towards EU accession and therefore also to find a compromise on reforming police structures. His proposal from September 2007 was rejected but in October 2007, a consensus was found that was written down in the Mostar Declaration. (cp. Parish, 2007, pp. 13-23)

5.1.2. The United Nations International Police Task Force (UN-IPTF)

The UN-IPTF put an emphasis on changing the focus of the Bosnian police from the protection of the state security to the security of the individual. Another important function was the downsizing of the large number of ethnically divided police forces as a result of the war-time. The UN-IPTF was involved in the recreation of multi-ethnic police forces and made sure that their work was professional and effective.

New tasks were adopted when the UN-IPTF got involved in the set up and training of the Court Police, the State Border Service (SBS) and a police contingent that would be ready to participate in UN peacekeeping missions. The UN-IPTF was engaged in the recruitment, training and deployment of police personnel from under-represented ethnic and gender groups at the two police academies in Bosnia-Herzegovina.

The UN-IPTF also provided specialized trainings and supported local police by co-locating personnel at the Police Stations, Public Security Centres and at the Interior Ministries. Other responsibilities of the UN-IPTF included the inspection of weapons and prisons as well as monitoring the enforcement of traffic and crime control.

The Human Rights Office was in charge of the investigation of human rights abuses by law enforcement personnel, the invention of measures to correct the violations and to monitor the implementation of these measures.

It was important to ensure that local police staff met a minimum of qualification needed to exercise police powers. This was done by the registration of local police personnel, the selection and certification of police and by the conduction of checks on police personnel. Also a database for police officers who acted in non-compliance with the UN-IPTF has been set up.

The Judicial System Assessment Program was introduced to monitor and assess the Bosnian court system as part of the legal reform process. The functions of the Criminal Justice Advisory Unit included the monitoring of key court cases, the support of the cooperation between the criminal justice system and the police and also the training of local police.

The Civil Affairs Unit was established to build confidence among citizens and ensured that the UNMIBH's implementation worked effectively. The Public Affairs Office supported the mission by the organisation of a public information strategy.

The functions of the UN-IPTF were taken over by the European Union Police Mission (EUPM) on 1 January 2003. (cp. URL 3)

5.1.3. The European Union Police Mission (EUPM)

The EUPM in Bosnia-Herzegovina was the first stabilization program introduced as part of the European Security and Defence Policy (ESDP) that became operational in 2003 and is an extension of the Common Foreign and Security policy (CFSP) of the EU. Furthermore it aims at responding to global or regional security threats and because the EUPM was the first ESDP operation, it was a huge challenge. (cp. Penska, 2006, pp. 1-4)

The mandate of the EUPM aims at mentoring, monitoring and inspecting to support the deployment of a sustainable professional and multi-ethnic police force. The police service shall fulfil the commitments needed for the Stabilisation and Association Process with the EU which includes the important agenda point of reforming the police in Bosnia-Herzegovina. The EUPM takes part in the overall peace implementation process and follows three strategic objectives: the support of the local police in the fight against organized crime, the accountability of local police and the support of the Police Restructuring Implementation.

The first objective is referred to with the transformation of the State Investigation and Protection Agency (SIPA) and the development of further state-level institutions like the Ministry of Security (MoS) and the State Border Service (SBS) – now State Border Police.

To assure the accountability of local police, the EUPM inspects police operations and evaluates unlawful situations or misconducts committed by officers.

The third aim of the EUPM is performed through legislative and technical assistance for national institutions in questions of the police reform offered by the EUPM's Police Reform Department. Since the responsibility for the reform was handed over to local authorities – after the Di-

rectorate for Police Restructuring Implementation (DPRI) finished its work in 2007 – this has become an important task. EUPM prolonged its mandate so that there are 3 phases of the mission until now. (cp. URL 6)

5.2. The Actions and Achievements

5.2.1. With Respect to Substance

5.2.1.1. *The United Nations International Police Task Force (UN-IPTF)*

Since its creation in 1996, the International Civilian Police Mission in Bosnia-Herzegovina shifted from a program that focused on individuals at the micro level to an internal reorganisation program of police forces at the meso level under the UN-IPTF and evolved to a state building project at the macro level. This happened when the EUPM took over the mission in 2003.¹⁰ There were four factors that influenced the development of the mission: the changing local political alliances, the changing interpretation of the Dayton mandate, the international configuration of power and the so called “mission cycle”.

The UN-IPTF’s tasks listed in Annex 11 of the Dayton Peace Accords are monitoring, inspecting, training and advising the local law enforcement agencies which are actions at the micro level. In its *first phase*, the IPTF was concerned with the **public order security gap** in order to avoid violent escalations. This task was important when roadblocks at the inter-entity line had to be relinquished in order to assure the freedom of movement, when elections were held, during the resettlement process of refugees and when the transfer of authority of five Serb suburbs to the federal part of Sarajevo took place. Here the main challenge was the fact that the IPTF had a serious lack of deployment and its officers were unarmed and without any executive powers due to its weak mandate. Therefore, in 1998, the Multinational Specialized Unit (MSU) was cre-

¹⁰ The differentiation of actions of the International Civilian Police Mission in Bosnia-Herzegovina between the micro, the meso and the macro level was introduced by Dominique Wisler. With this classification he referred to the transformation of the IPTF’s and the EUPM’s mandate.

ated within the SFOR which consisted of police forces with armed force status (like the Carabinieri, the Guardia Civil and others) in order to take on public order tasks. Today the force is renamed to Integrated Police Unit and is an integral part of the successor mission, EUFOR.

The *second phase* comprised the **democratization process, confidence-building** and the **promotion of personal integrity by decertification**. Therefore, the reinforced mandate tasked the UN-IPTF with the investigation of human rights abuses which were committed by local police officers and changed the missions focus. In the Federation of Bosnia-Herzegovina, the second phase started with the signing of the Bonn-Petersberg agreement between the Federation and the UN Mission on 25 April 1996. In the RS it started in 1998 with the Framework Agreement which was the result of struggles within the RS nationalist party SDS that presented an opportunity to overcome the RS's years-long resistance to cooperate with the UN-IPTF. The agreements aimed at transforming police forces into bodies of public trust with officers who are trained in democratic practices and at the reduction of law enforcement personnel. The core of the second phase was the three-stage vetting process of all police forces in Bosnia-Herzegovina. The first stage was the registration of law enforcement personnel; the second was its screening and the third stage was to ensure that police officers meet the necessary standards of qualification to serve in a democratic police force. Therefore the UN-IPTF conducted exams for officers that are composed of a psychological test and also checked the officers' awareness of democratic policing.

During the *third phase* which lasted from 1999 until the end of 2002, the main focus of the UN-IPTF was the **democratization of the police organizations** which already was a meso level action. Two important events during this phase were the new will of cooperation from the RS side and the change in power configuration at the OHR. The High Representative's authority was strengthened by the PIC which enabled him to exercise pressure on the local leadership and to adopt far reaching reforms. In 1999, the UN-IPTF explained its strategy through the following focus points: more post-communist and post-paramilitary restructuring, more training, selection, certification and de-certification procedures and more democratization by the establishment of depoliticized multina-

tional police forces. Positions of senior co-locators in the Ministries of Interior at all governmental levels were created. As a part of the **depoliticization** process, the position of Police Commissioners at the cantonal level and Directors of Police at the entity level were adopted. They are responsible for the operational level while the ministers of interior are tasked with policy making. The **reorganisation of police forces** was executed according to one basic scheme and books of rules which contain all police functions were issued for each agency. Another important focus point during this phase was the accreditation programme of all law enforcement agencies. At the end of this democratization phase, many of the actions could be evaluated as a success. (cp. Wisler, 2007, pp. 253-262)

5.2.1.2. The European Union Police Mission (EUPM)

When the EUPM took over the International Civilian Mission, its main task at the macro level was the redistribution of power between police bodies and levels of government. In 2003, the **fourth phase** which included **state building and financial sustainability** started and can clearly be seen as macro level action. During the first three phases of the international civilian police engagement, much was done to strengthen the operative police functions like traffic policing or criminal investigation but almost nothing was done to develop support functions like policy planning, budgeting or in the field of human resources except for training. In order to overcome this weakness, EUPM police advisors were collocated. (cp. Wisler, 2007, pp. 262-265)

The mandate for EUPM I focused on the middle and senior level management **development and the construction of state level security institutions** and its working methodology was programme-driven. The programmes centred predominantly on the **modernization and standardization** of police forces. Therefore, the EUPM was engaged in the set-up of a country-wide computer-based intelligence model and in the re-engineering of crime departments according to modern international and European standards. The main task of EUPM I was to establish sustainable policing structures under local ownership in accordance with

best international and European practice. Its four primary action fields were the following:

- the development of independent and accountable police;
- the fight against corruption and organized crime;
- the financial viability of policing in Bosnia-Herzegovina;
- the institution and capacity building.

The seven main program areas were criminal justice, crime police, internal affairs, public order and security, police administration, the SBS and the SIPA which were further divided into about 120 projects. During its first term, the EUPM widened the institutionalization of the SIPA as a state level body tasked with fighting organized crime and it supported the establishment of the SBS and the Ministry of Security. EUPM I also provided support to the state level Ministry of Security and to the Bosnian Interpol office. Other actions taken by EUPM I were the establishment of the Police Restructuring Directorate and it was engaged in the refugee return process.

The mandate of EUPM II had a focus on the following points:

- supporting local police in fighting organized crime;
- conducting inspections and monitoring police operations;
- supporting the implementation of police restructuring.

EUPM II had a structure that was based on a regional approach rather than co-location and it concluded projects from EUPM I as well as it worked on new responsibilities. Among the new tasks was the work on unsolved murder cases in the field of organized crime, the support of a police services' public information campaign against drugs, inspections of internal control and investigation procedures and the support of SIPA and SBS by giving strategic advice leading to new laws. Competencies of border guards were clarified and their work procedures were streamlined. Other focus points of the work of EUPM were providing accountability to police services through monitoring and the introduction of new policies and procedures like the new anti-human trafficking policies, guidelines for major public events and new financial plans to rationalize the use of resources were adopted under the involvement of the EUPM.

The most challenging action field of EUPM II was **police restructuring** which is directly connected to the rule of law reform (judicial, penal and prosecutorial). It can be seen as the last area of RS entity autonomy and therefore it is a very sensitive issue. The EUPM Police Reform Unit was an important advisory body in technical and operational concern with the main task to make **reform proposals** and progress in the reform process became a factor of consideration for the decision when to close the mission. (cp. Penska, 2006, pp. 6-15/Mühlmann, 2008, pp. 48-53)

EUPM III sticks to the same three pillars as EUPM II and is working with main focus on the support to the **fight against organized crime** and on **reinforcing cooperation between police and prosecutors**. (cp. URL 15)

5.2.2. With Respect to Structure

5.2.2.1. The Brčko Police

The Brčko District began functioning in March 2000 and became a leader in reforming in Bosnia-Herzegovina by establishing an independent judiciary and implementing modern criminal and civil codes. It established the first multiethnic police force in the country with a new salary scale, modern budgeting, procurement and training and is independent from all other police structures within Bosnia-Herzegovina. Brčko Police enjoys strong public support from members of all ethnic groups because it has achieved a good level of security in the district. (cp. Clarke, 2004, pp. 1-3)

5.2.2.2. The State Border Service (SBS)

The State Border Service was established on 6 June 2000 by a Law which was imposed by the High Representative in January 2000 and ratified by the Parliament of Bosnia-Herzegovina in August 2001. (cp. URL 17)

The amended Law on the State Border Service adopted in October 2004, states that it is an administrative organization within the Ministry of Security of BiH with operational autonomy. Another law in 2007 renamed the State Border Service into State Border Police.

The headquarters of the Border Police is in Sarajevo and it is financed from the budget of the institutions of Bosnia-Herzegovina. Its employees are recruited among police officials, civil servants and other employees and their structure shall reflect the ethnic structure of the population of Bosnia-Herzegovina according to the 1991 census. Its task is to control BiH border crossings without protecting or undermining the interests of any political party or organization. The competencies are the enforcement of the Law on Surveillance and Control of State Border Crossing and the Law on Movement and Stay of Aliens and Asylum and the prevention, detection and investigation of offences. Further the Border Police is responsible for providing police support to organisational units within the Ministry of Security, taking measures of protection of civil air traffic and security of international airports in Bosnia-Herzegovina, securing its organizational units against danger, providing judicial bodies with expert opinion and carrying out other activities related to its working field. The Border Police shall cooperate with foreign law enforcement agencies and other international bodies in order to execute its duties and to exchange information that affects global security. (cp. Law 8)

5.2.2.3. The State Agency for Information and Protection (SIPA)

In May and June 2002, the Law creating the state-level State Agency for Information and Protection passed the House of Peoples and the House of Representatives of Bosnia-Herzegovina. (cp. Law 2)

The new law on SIPA was adopted in April 2004 and states the renamed State Agency for INVESTIGATION and Protection is – like the Border Police – an administrative body within the Ministry of Security of Bosnia-Herzegovina which is financed by state level budget and it shall also act independently from any political interests. The headquarters of SIPA are located in Sarajevo and it has regional offices in Banja Luka and

Mostar which are staffed with police officers, civil servants and other employees. SIPA's competencies include the prevention, detection and investigation of criminal offences falling within the jurisdiction of the Court of Bosnia-Herzegovina like organized crime, terrorism, serious financial crimes, trafficking in persons, war crimes and other offences against humanity and values protected by international law. Another important task is the collection of information and data on crimes as well as the analysis of the security situation in Bosnia-Herzegovina. SIPA is responsible for the assistance to the Court and the Prosecutor's Office of Bosnia-Herzegovina in securing information and executing the institutions' orders and for the technical and physical protection of persons, witnesses and facilities protected by the Law on the SIPA. It shall implement international agreements of police co-operation and offer criminal expertise. (cp. Law 7)

5.2.2.4. The Ministry of Security

The Ministry of Security was established in 2003 to form an institutional framework at the state level for the SIPA and the SBS and the Office for Co-operation with Interpol in order to serve as an "umbrella policy making body". (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, pp. 37-38)

5.2.2.5. New Public Services

With EUPM's support, a public complaints bureau and a crime hotline with the name Krimo Lovci (crime hunters) for ordinary citizens were established. (cp. Mühlmann, 2008, p. 54)

6. The Precedence: The Defence Reform and the Intelligence Reform in Bosnia-Herzegovina and their Effect on the Police Reform

6.1. The Defence Reform 2003-2005

During Tito's time, armed forces served as defence units against potential external (Western countries and the Soviet Union) and internal enemies to protect the communist ideology. The number of soldiers was far higher than needed and officers of the army – as well as of the police – were engaged in political functions like in the Defence Ministry so there was a high level of politization of armed forces. In former Yugoslavia, there was a civilian defence system established which led to the militarization of the whole society.

When socialism collapsed, military forces had to be reformed in order to downsize their number and to establish democratic control over the remaining forces. The International Community was engaged in this reform process in Bosnia-Herzegovina as well as in the establishment of international norms concerning defence which include a rational size of forces and democratic control over them. The Dayton Peace Accords implicitly described defence as a responsibility of the two entities with a high degree of autonomy which left them the possibility to keep their armed forces that were set up during the war between 1992 and 1995. There was no explicit competence for defence at the state level besides the Standing Committee on Military Matters (SCMM) which led to a de facto partition of the country in this field. Therefore no adjustment of armed forces according to the security situation in Europe took place. Armed forces were seen as a symbol of sovereignty and this was the reason why the entities and especially the RS were not ready to hand over their responsibility to state level institutions. As described in the chapter about police structures, there were high inefficiencies also in the defence sector concerning personnel, equipment, structures and cooperation. (cp. Vetschera, 2005, pp. 101-134)

Although first steps to reform the defence structure in Bosnia-Herzegovina started immediately after the war, the most important steps to the successful completion of the reformation of the defence sector were taken between 2003 and 2005. (cp. Staples, 2004, pp. 34-39)

On 8 May 2003, High Representative, Paddy Ashdown, decided to establish the Defence Reform Commission with the responsibility for drafting and amending legislation in order to reform the defence structures of Bosnia-Herzegovina. The Defence Reform Commission worked in accordance with the following principles:

- defence structures shall be in line with Euro-Atlantic standards in reference to an entry of Bosnia-Herzegovina into the Partnership for Peace program;
- defence structures shall respect Bosnia-Herzegovina's commitments undertaken within the politico-military dimension of the OSCE;
- there shall be democratic and civil oversight of the armed forces established;
- command and control of the forces shall be at the state level;
- interoperability of Bosnian defence structures must be ensured;
- budgeting of the defence sector shall be within the fiscal limits set by political authorities through the democratic process.

The Commission was composed of a Chairman appointed by the High Representative, the Secretary-General of the Standing Committee on Military Matters and his deputy, the President of the RS, the President of the Federation of Bosnia-Herzegovina and respectively two appointed civilian representatives – two of them were the entity Ministers of Defence. The High Representative in his function as European Union Special Representative delegated a member of his staff as well as there were representatives of the NATO, the SFOR and the OSCE. The Presidency of the European Union, the United States and Turkey as representative of the Organization of Islamic States and the Russian Federation appointed observers to the Commission. (cp. Decision 1)

The report of the Defence Reform Commission of 25 September 2003 met the requirements of the High Representative's decision by recommending a BiH Law on defence and amending legislation at the entity level. The main outcome of the report was the creation of a state Ministry of Defence, a central military command structure on the state level, the establishment of a democratic oversight over the forces at the state level as well as budgeting at the state level in order to assure lower defence costs. (cp. Report 1)

With the decision to extend the mandate of the Defence Reform Commission from 31 December 2004, the High Representative tasked it to assist Bosnia-Herzegovina with the further implementation of the Commission's recommendations and to oversee the fulfilment of the NATO benchmarks for Partnership for Peace. The Commission had the responsibility to examine and propose legal as well as institutional measures to enhance a state level command and control over the forces, to promote full cooperation with the ICTY, to achieve fiscal sustainability, to support the development of a single military force by transferring the competencies of the entities' Ministers of Defence to the state level of Bosnia-Herzegovina and to strengthen parliamentary oversight. (cp. Decision 3)

The second Commission's report of September 2005 proposed all necessary measures to create a single military force and proposed the full professionalization of the armed forces of Bosnia-Herzegovina with the brigade as the basic formation in accordance with NATO standards. There was a single chain of command proposed which runs from the Presidency of Bosnia-Herzegovina to the Minister of Defence, to the Chief of the Joint Staff, to the Commander of the Operational Command and to the Commander of Support Command and through them to subordinate elements. Due to the report, the Parliamentary Assembly of Bosnia-Herzegovina should have the full oversight of defence institutions and the single budget for the armed forces at the state level shall further be reduced. The armed forces belong to the three constituent peoples and others in the country and should reflect the ethnic structure of Bosnia-Herzegovina. (cp. Report 4) The report was approved by representatives from all constituent peoples and the required legislation

passed the Parliamentary Assembly of Bosnia-Herzegovina and both entity parliaments at the end of 2005. The full transfer of competencies from the entity to the state level started on 1 January 2006 with the state level Ministry of Defence absorbing the functions of the entity ministers. (cp. Haupt, 2006, pp. 38-39)

The defence reform under the involvement of the International Community is seen as a progress for the country and big success for the international institutions but the reform process was marked by a high degree of pressure on national authorities. The RS was afraid of loosing its autonomy by transferring its defence competencies to the state level and therefore the International Community used the need for downsizing of the military forces as a pressurizing medium. On the one hand, troops had to decrease in order to cut the defence costs of both entities and on the other hand, there is a need to merge the forces of both entities to form a functional army with a small number of soldiers.

Other measures used by the International Community were the RS lack of will to fully cooperate with the ICTY, a scandal related to the RS military intelligence service and illegal deals in arms in 2002 between the RS armaments manufacturer ORAO, located in the RS, and Iraq which clearly violated a UN embargo. This outrage weakened the position of the RS to such an extent that it was possible to find an agreement on the reform. (cp. Staples, 2004, pp. 34-39/Vetschera, 2005, pp. 101-134)

6.2. The Intelligence Reform 2003-2006

The constitution of Bosnia-Herzegovina stipulates that the country is responsible for preserving its sovereignty, territorial integrity and political independence and international personality but powers regarding the control of the intelligence sector were granted to the entities through their own constitutions. The different intelligence services in Bosnia-Herzegovina, under the authority of political parties, directed their activities against each other or were used by political leaders to support

criminal activities or support persons who were accused of war crimes by the ICTY.

Their structure was very complicated because the Republika Srpska had its own civil and military intelligence service and in the Federation of Bosnia-Herzegovina, there were a civil and a military service as well but separate for both ethnic groups, the Bosniacs and the Croats. The structure in the Federation changed in 2002 with the Law on Intelligence Security Service of the Federation which merged the services of the two ethnic groups into one. The parliamentary oversight was also performed by entity institutions but its weak performance and the scandal on illegal arms deals were the driving forces for a reform. In 2002, when the government of the RS violated the UN embargo, the EU decided to establish the Commission for Intelligence Reform in order to abolish the parallel intelligence service structures within the two entities. (cp. Hadžović, pp. 1-10)

On 29 May 2003, the High Representative, Paddy Ashdown, issued the Decision Establishing the Expert Commission on Intelligence Reform which was composed of seven members with the task to draft and amend legislation required to strengthen the state level competency on intelligence and security matters. The commission was responsible for proposing a single apolitical intelligence agency for Bosnia-Herzegovina in line with best European practice under executive and parliamentary oversight which is able to cooperate with the ICTY by providing information to the tribunal. Other aims were the downsizing of the number of intelligence officers through assessment and the differentiation between the powers of intelligence officers and law enforcement officers. (cp. Decision 2)

The commission worked in close cooperation with the OSCE mission to BiH and the outcome was the drafting of the Law on the Intelligence-Security Agency of BiH which was delivered to the Council of Ministers but there it was not approved. Therefore the High Representative decided to hand it over to the Parliament of Bosnia-Herzegovina which adopted the law in March 2004 and it came into force on 26 April 2004. According to the law, the Security Intelligence Committee of the BiH

Parliamentary Assembly was established in May and in June 2004 the Executive Intelligence Committee was set up. Further the Intelligence Security Agency, also referred to as Obavještajno Sigurnosna Agencija BiH (OSA) was established and at the same time the former intelligence structures within the entities were abolished. The agency is a civilian intelligence and security institution with the status of an independent administrative organisation. It has the main responsibility of gathering, analyzing and disseminating intelligence within and outside of Bosnia-Herzegovina to protect security, sovereignty, territorial integrity, economic stability and constitutional order within the country. The OSA shall exchange intelligence and cooperate with intelligence and security services in other states as well as with foreign international institutions.

On 18 June 2004, the High Representative decided to appoint a supervisor for the intelligence reform who was responsible for monitoring, advising and assisting the local authorities in the implementation of the law and dissolving the Expert Commission on Intelligence Reform which was replaced by the Intelligence Reform Implementation Section (IRIS) of the OSCE Mission. On 24 June 2004, the Council of Ministers approved the Rulebook on Internal Organization of the Intelligence Security Agency and on 1 February 2005 the agency was fully operational and the reform was declared as successfully completed. (cp. Report 2/ Law 6)

6.3. The Effect of the Reforms on the Police Reform

The defence and the intelligence reform in Bosnia-Herzegovina have been seen as the International Community's paradigms of successful reform processes and therefore were used as role models for the police reform.

From the technical point of view, the analogy between the reforms can be found in the requirements set up by the International Community, in particular the former High Representative, Lord Paddy Ashdown and in his favoured method to set up Reform Commissions to overcome blockages which was the case for the sectors of defence, intelligence, taxation

and police. (cp. Staples, 2004, p. 38) The requirement of being in line with the so called “best European practice” was present in all reform processes and demanded the transfer of entity competencies to the state level. Although the entities see this transfer as a symbol of lost sovereignty, the defence as well as the intelligence reform showed that it is possible to find a compromise between both entities to strengthen the state level in order to achieve cost reductions and more effective structures and functionality of the institutions.

The successful completion of both reforms resulted from a variety of factors among which strong international pressure is the most important one. Against the background of the ORAO-scandal in 2002, the position of the RS was weakened so that it was possible for the International Community to pull through the two reforms. The question of time was important in this case because after the completion of the reforms, international pressure decreased in order to honour the cooperation of the RS and the Federation and the will of the RS of giving up more power also went down. Although Paddy Ashdown still tried to exercise power on the involved actors, the result was political resistance and after he left his office, this strategy changed significantly. Schwarz-Schilling did not force laws but made negotiations to get an agreement on new laws in the parliament and also Lajčák would not use force to reach the completion of the police reform. In the police reform, the International Community did not want to be involved as much as in the other two reforms and it looked for a fast exit-strategy.

It has to be considered too, that there was a more differentiated political leadership during the time of the defence and the intelligence reform which was more cooperative than the political elite now. There was much more local ownership in the first two reforms.

The analogy that was drawn between the two successful reforms and the police reform did not consider the importance of police forces for the political leadership of the entities and for the citizens as well. First of all it was seen as the last remaining symbol of autonomy and sovereignty of the entities and second as a means of security which had been loyal to the entities and its ethnic groups during war time. The entities, especially

the RS, were afraid of being abolished when it comes to further losses of power which could be part of the constitutional reform that was closely related to the discussion about the police reform.

The difference between the police and the defence reform was that there was a political will to reform the army because after the war there were 3 different armed forces which demanded a lot of money from the entities. Serbia and Croatia were also supporting the abolishment of parallel defence structures in Bosnia-Herzegovina because it was clear that one country should just have one army.¹¹

The corner stone for a defence reform was already laid in the Dayton Agreement in Annex 1-B. This section of the agreement refers to regional stabilization and in particular to confidence- and security-building measures. These measures include restrictions on military deployments and arms imports, cooperation among the entities as well as provisions for negotiations on voluntary limits on military manpower among the parties of the agreement. (cp. Dayton Peace Accords, 1995)

This was different in the policing sector because the transfer of competencies to the state level would lead to a harmful loss of power of the Bosnian Serbs and Bosnian Croats. The defence reform had worked fast because the military system had been very artificial and there were new army positions created under huge political influence for former civilians who acted as officers without any qualification because they just joined some military courses, if at all. Although the defence reform was not a total success because of its artificial character, dismissals without long lasting social provision and the creation of new command structures which are still complicated, the reform was not as sensitive as the police reform. The main reason for that is that the cantons never had any competencies concerning the army which is different in police matters. Another important fact is that it was not possible to force a reform which is connected with European Union membership.¹²

¹¹ Cp. interviews with experts.

¹² In this section I am referring to conversations with my local interview partners whose statements were more or less concurrent.

Mr. Denis Hadžović, Secretary General of the Centre for Security Studies, stated that another fact that has not been considered by the International Community when the analogy between the reforms was drawn was that NGOs were much more active in the defence and the intelligence reform than in the police reform. This leads to more involvement of the civil society and to more support of citizens for the reform. (cp. Interview 9)

7. The Police Reform 2004-2008

7.1. The Way to the Reform: Progress and Obstacles

When it comes to reforming police structures in post-communist and post-war systems, it has to be considered, that there are modernization problems resulting from past traditions. Transformation societies are characterized by an unfinished process of development and modernization and their functional differentiation of the state is still incomplete which presents the main challenge when it comes to reforms. The cultural patterns are incompatible with the requirements of legal statehood which leads to the formation of hybrid forms of governance with an insufficient division of the private and the public sphere. Other characteristics of the state of Bosnia-Herzegovina are personalized politics and a clientelistic political system as well as weak democratic institutions, state-controlled economy, an underdeveloped civil society, shortcomings in the rule of law and the absence of political accountability and transparency. (cp. Stodiek, 2006, p. 9)

During the war from 1992 until 1995, the state lost its monopoly of force because beside the police, citizens who did not trust in the ability of the state to provide security armed themselves. The challenge of reforming police forces after the war lies in the disarmament of citizens and in the demobilization of the conflict parties. When it comes to demobilization of former combatants who in some cases were part of the domestic police forces, it has to be considered that they need an economic perspective otherwise there is the risk that they organize themselves in fields of organized crime. Their integration into regular police forces is a quick solution but it could hinder the functioning of the body and lower the acceptance by citizens. In Bosnia-Herzegovina, the parallel chains of command and loyalty based on ethnic group membership within the police units undermine the police forces' performance. Due to open partisanship after the war, police officers are exposed to social pressure exercised by their own ethnic community.

The police forces should have the ability to prevent human rights abuses, protect democratic institutions and fight corruption, organized crime and terrorism. A precondition to reach this aim is the formation of ethnically mixed police forces within Bosnia-Herzegovina's multi-ethnic society which is also a challenge because of the social mistrust among the different population groups in the aftermath of the violent conflict. Even if the aim to establish multi-ethnic police forces can be reached, there is no guarantee that they will be accepted among the citizens and therefore it is necessary to introduce confidence-building measures. (cp. Stodiek, 2006, pp. 7-9)

A reform of police structures requires a sense of ownership of the local governments because without their support, the police reform will not be sustainable. The reform of police forces is a sensitive issue because it touches important state competencies and its monopoly of force. Resistance to reform arises from within the political field as well as within the police forces which have a tendency to support traditional structures. One of the main reasons is that they enjoyed privileges under the authoritarian regime and they do not want to lose their power within the new system. Therefore the only way for the International Community to gain the support of local governments and police staff is to involve them in the reform process. (cp. Stodiek, 2006, p. 9)

In order to overcome serious weaknesses in the statehood as well as in the police structures of Bosnia-Herzegovina, the police reform is closely related to the constitutional reform. The Dayton constitution failed to create an efficient state trusted by all constituent peoples within Bosnia-Herzegovina and for this reason it is one of the most important challenges for the International Community and especially the EU to bring the country to the level of European standards. This would support the establishment of reliable police forces and promote Bosnia-Herzegovina's readiness for the integration into the union. (cp. Sebastián, 2007, p. 1)

To understand the obstacles that block the police reform process it has to be understood that all three constituent peoples have different interests which are not easy to conciliate.

The **Bosniacs** generally aim at a strong citizen-based government that is no longer dominated by entities and therefore support the efforts of the International Community, regarding the constitutional as well as the police reform. The police reform proposal to establish a unified police structure therefore would most probably favour the Bosniac interests. With the withdrawal of the internationals, the Bosniacs will lose their ally and hence they try to buy time.

The **RS** parties SDS, PDP and SNSD support the constitutional reform mentioned in the April Package of 2006 as well as an EU membership but on the condition that the existence of the RS is not put at risk. Therefore they are not ready to give up all their power over government institutions or their police forces. The presence of the International Community in Bosnia-Herzegovina seems to harm their interests and therefore the Serb side follows the obstructionist approach of blocking decisions at the state level that threaten the existence of the RS. Dodik even came up with the proposal to create a third Croat multi-ethnic unit within Bosnia-Herzegovina to place all three entities into the state construction of a loose federation.

Croats believe that the Dayton constitution discriminates them and therefore they support the idea of changing or amending the constitution but they want to keep the three-pillar power-sharing structure within all political fields in order not to be outvoted. The April Package would have reduced their powers and that's why the Croats are mainly interested in a decentralized organisation of the state and its police structures. The Croats support that police reform proposal that goes for the model of ten or more police regions in order not to lose control over areas which were Croat-dominated through the cantonal structure. Another option for them would be the full transfer of police competencies on the state level because then every ethnicity would have 1/3 of control over the state police which means an increase of power for the Croats. (cp. Sebastián, 2007, pp. 10-11)

7.2. The Reform Process

The reform of police structures in Bosnia-Herzegovina has a technical as well as a political aspect.

The **technical** aspect is mentioned in reviews which were conducted in the scope of the EU's Stabilisation and Association Process (SAP) which started in 2000 with a so called "Road Map" of 18 priority reform steps for Bosnia-Herzegovina. When the Road Map was largely completed in 2002, the Feasibility Study of the European Commission assessed the readiness of Bosnia-Herzegovina to enter negotiations for the Stabilisation and Association Agreement (SAA) in 2003 which is an important step for its integration into the European Union. The Feasibility Study as well as the Functional Analysis of Police Forces in Bosnia of 2004 diagnosed the need for restructuring the Bosnian police forces. (cp. CEIS Policy Brief Nr.4, 2006, pp. 2-4)

The following report of the comprehensive analysis of police forces commissioned by the European Commission in 2004 focused on police deficiencies and can be seen as the official starting point for the police reform in Bosnia-Herzegovina. This 2004 report assessed the financial, administrative and organisational structures of the Bosnian police forces and the State Border Service.

It came to the conclusion that Bosnian police forces are not ready for an European future because of an outdated policing philosophy and management style, old equipment, poor training and a lack of modernization strategies. The main problems detected by the analysis are the following: there is no clear division between political supervision and operational management, poor overall organization, outdated technology as well as a lack of country-wide coherence with common support units and processes. The poor organisation of the police forces results in the fragmentation of the police system and implicates a lack of cooperation between the different bodies as well as overstaffing, overspending and overspecialisation of staff. The interaction between police and citizens is limited which avoids the identification of needs and priority setting in the planning process. Because of the absence of coherence among the police

forces in Bosnia-Herzegovina, there is no common information system, procurement, selection or training. Results are for example gaps in communication and a lack of standardized job descriptions, which imply the harmonization of salaries. Another problem is the poor cooperation between police and prosecutors which is needed for the successful performance of trials. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, pp. 38-43)

One of the most important **political** reasons for the police reform was political punishment for the Republika Srpska by the High Representative, Paddy Ashdown, for its unwillingness to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague which is a precondition for Bosnia's membership in the NATO's Partnership for Peace program. Another reason for the pressure put on the Republika Srpska by the High Representative is that its police was still mostly mono-ethnic due to its low rate of police officials who are non-Serbs. The new organised police forces would no longer be a political instrument of the leadership in the Republika Srpska and new police districts were foreseen to cross the Interentity Borderline between the entities which would again limit the leadership's power. (cp. CEIS Policy Brief Nr.4, 2006, p. 3)

In 2004 and 2005, the EU gave explicit instructions that the police reform as a precondition to sign the SAA should stick to the three principles laid out in letters by the then EU Commissioner for External Relations Patten, the Secretary-General of the Council of the EU and the EU High Representative for the Common Foreign and Security Policy (CFSP), Solana, and EU Enlargement Commissioner Rehn to Bosnian authorities. These three principles include the following:

- exclusive competence for all police matters at the state level;
- no political interference in policing;
- Local Police Areas shall be designed on the basis of technical policing considerations rather than political factors.

In June 2004, NATO rejected Bosnia-Herzegovina as a candidate for the Partnership for Peace because of the lack of cooperation of the Repub-

lika Srpska with the ICTY. Due to that pressure on the Republika Srpska, the RS police acted on a warrant from the Sarajevo Cantonal Court to arrest eight Persons Indicted for War Crimes (PIFWC). This act and some similar steps demonstrated the readiness of the Republika Srpska to work together with the ICTY there had been indications that one of the most wanted criminals, Mladić was still protected and hiding in an RS military compound.

The EUPM developed a police reform proposal that foresaw the position of a police director that is supervised by the state-level Ministry of Security and the establishment of five police regions based on technical criteria like the number of inhabitants of the region, the geographical size, the intensity of crime, traffic and economic factors and the ability to cooperate with other law enforcement bodies. Due to these criteria, the five regions would cross the entity and cantonal boundary lines. While the EUPM proposal was supported by the members of the Federation of Bosnia-Herzegovina, it was opposed by the members of the Republika Srpska. The main obstacles for the Bosnian Serbs were the crossing of the Interentity Borderline and the transfer of competencies to the state level. (cp. Report 5)

On 2 July 2004, the High Representative, Paddy Ashdown, established the Police Restructuring Commission (PRC). The PRC was composed of twelve members and seven associate members and the Chairman, Wilfried Martens, as well as the Deputy Chairmen, David Blakey, were appointed by the High Representative. Other members of the PRC were the Minister of Security of BiH, the Ministers of Interior of the Republika Srpska and Federation of Bosnia-Herzegovina as well as two of cantons. Further members were Mayors from the Republika Srpska, the Federation of Bosnia-Herzegovina and the Brčko District, a representative of the Chairman of the Council of Ministers of Bosnia-Herzegovina and the EUPM Commissioner. Associate Members were the Chief Prosecutor of Bosnia-Herzegovina, the Directors of the SIPA, of the SBS, of the Office for Co-operation with Interpol, of the Police of the Republika Srpska, of the Federation Administration of Police and a Cantonal Police Commissioner.

Paddy Ashdown used his Bonn Powers to impose the PRC which was tasked with proposing a single structure of policing under the political oversight of a ministry. He did that because he was convinced that this structure is European standard.

The PRC was obligated to undertake a review of policing in the country and prepare policies, legislation and other legal actions that later have to be enacted by national political bodies.

To fulfil its mandate, the PRC had to stick to the following guiding principles: policing in Bosnia-Herzegovina shall be efficient, effective and financially sustainable, the national institutions shall be able to carry out their law enforcement responsibilities and policing shall be in line with European best practice, democratic values and international human rights. It shall reflect the ethnic structure of the population and be protected from political interference. Policing shall further base on a partnership with the community and civil society, policing shall be executed within the framework of accountability to the law and the community, the capacity to investigate war crimes shall be guaranteed, the examination of linkages to broader justice system matters shall be ensured and Bosnia-Herzegovina shall be able to participate as a partner with other member states of the EU in common actions, planning and operations on internal affair matters. The main task of the PRC was to prepare a final report by 31 December 2004 which was later called the "Final Report on the Work of the Police Restructuring Commission of Bosnia and Herzegovina". (cp. URL 8/Report 3)

Although it was the main target of the PRC to remove entity control of the police forces, politicians as well as PRC members from the Republika Srpska were ready to participate in the commissions work due to international pressure. The Commission held seven meetings over six months in which the RS members questioned its rights to propose constitutional changes. They argued that the Bosnian constitution foresees police competencies for the entity governments and should be protected by the High Representative. The RS had presented a police reform proposal that did not meet the requirements of the PRC's mandate to estab-

lish a single structure or the EU requirement for exclusive competence over police matters at the state level.

During the talks it became clear that Bosniac members encouraged the PRC to propose constitutional changes in order to unify the Bosnian police while Bosnian Croat members supported the idea but were not ready to give up cantonal police without a full transfer to the state level.

The commission's chairman, Martens, declared that there has been professional consensus on the establishment of police regions as well as on the state competencies but political restrictions placed on PRC participants from the RS by the RS National Assembly avoided the acceptance of the PRC recommendations. Therefore Martens published the final report as a chairman's report on his own authority. (cp. Report 5)

One of the most important fields mentioned in the report is the size and location of local police areas that shall be shaped by technical policing criteria and the existing borderlines between the entities, the canons and administrative regions will have no impact on its formation. Each local police area shall have a Community Oversight Council which consists of locally elected officials and judiciary and community leaders and maintains community oversight. The report offered three options: the original reform proposal from the EUPM with five local police regions, another proposal with ten and a last one with eleven police regions.

It was the High Representative's turn to decide for one option and in January 2005, Paddy Ashdown went for the ten-region option including the transfer of policing competencies from the entity to state level institutions. The Ministry of Security should supervise the unified police structure including the SBS, the SIPA and Local Police Services. He chose this option for political reasons although the EUPM proposal stated that ten police regions would be an inefficient construct. This decision followed an intensive public information campaign by the EUPM and the OHR.

Direct participation of citizens in the development of policing priorities is one of the most important mechanisms. The National Director of Lo-

cal Police shall have the responsibility to ensure the cooperation and the exchange of information of Local Police Commissioners. The state-level Conference of Directors and Commissioners, made up by the leaders of the police services, shall coordinate police activities within the whole county and make a National Policing Plan. The Police Administration Agency shall provide centralized support to the police services which implies recruitment, promotion and transfer of police staff under the same standards, salary and rank conditions. Further, a centralized information and communication system accessible to all police services shall be established as well as an independent State Forensics Service. The competency of all police matters like legislative and budgetary affairs shall be in the hands of national institutions of Bosnia-Herzegovina. The Minister of Security has overall political oversight of the single police structure which is monitored by the National Police Inspectorate in order to ensure its effectiveness. The Law on Police Service of Bosnia and Herzegovina shall establish the Directorate for the Implementation of Police Restructuring as a temporary body under the Ministry of Security to lead the implementation process. (cp. Report 3)

Under the increasing pressure over war crimes and police reform, some Bosnian Serb politicians resigned and all of the significant Serb political parties in the Republika Srpska identified the proposed police reform as unacceptable. For this standpoint, RS leaders received backing from the Serbian prime minister, Kostunica, who saw the proposal as a threat to the existence of the Republika Srpska and the Dayton Peace Accords. Also the Russian Federation, a member of the PIC, did not support Ash-down's decision while there was strong support from the USA, UK, EU and NATO.

In April 2005, new meetings with the leaders of eleven parties took place with the aim to find a solution based on the PRC's report, but still no consensus could be reached. Therefore the European Commission refused to start negotiations on the SAA with Bosnia-Herzegovina. Although there is no monolithic standpoint within the political field of the RS concerning the best way to ensure the entity's survival, all parties share a common ideological basis. Those politicians who see the future of the RS within the European Union, including Čavić, Ivanić and

Dodik, have to think about their political careers when it comes to compromises with the Federation of Bosnia-Herzegovina. (cp. Report 5)

The talks continued until September 2005, but consensus on any proposals could not be reached. Therefore Ashdown decided to punish the Serb party SDS for non-cooperation by targeting its funds which could have been the first good possibility for a reform agreement which was not captured by the International Community. (cp. Mühlmann, 2007 II, p. 48)

On 5 October 2005, the president of the Republika Srpska, Dragan Čavić, persuaded the RS parliament to support an agreement on police reform which was welcomed by the PIC Steering Board and which passed the governments and Parliamentary Assemblies of the Republika Srpska and the Federation of Bosnia-Herzegovina. Due to this progress achieved, the European Commission recommended the start of SAA negotiations with Bosnia-Herzegovina on 21 October 2005 which was welcomed by the Council on 7 November and the negotiations started on 25 November. The outcome of the agreed proposal simply foresaw the establishment of a Police Restructuring Directorate which was simply a repetition of the Police Restructuring Commission and therefore not able to overcome the major disputes of the police restructuring process. (cp. CEIS Policy Brief Nr.4, 2006, pp. 3-4/Agreement 1)

The Directorate for Police Restructuring Implementation (directorate) was established by a decision of the Council of Ministers of Bosnia-Herzegovina of December 2005 as a temporary body of the Council. The directorate's Steering Board was composed of the Director of the SIPA and its deputy, of the Director of the SBS and its deputy, of the Police Director of the RS, of the Director of the Police Administration of the Federal Ministry of the Interior, of two Cantonal Police Commissioners, the Chief of Police of the Brčko district, a member of the directorate's executive and EUPM members. The executive of the directorate was composed of experts from Bosnian institutions and support staff. Its mandate lasts for one year and was tasked with making proposals for a plan of implementation of police structures which includes the creation of police areas and the improvement of efficiency. (cp. Decision 4)

The plan for restructuring police forces proposed by the Directorate for Police Restructuring Implementation in Bosnia and Herzegovina of December 2006 foresaw legislative authority and political oversight to the Parliamentary Assembly, the Council of Ministers and the Ministry of Security at the state level. The Law on Police Service of Bosnia and Herzegovina should establish a single police structure under state legislation and should regulate employment relations as well as police powers within the country. Another important recommendation of the report is a single police budget at the state level. According to the report, there should be state and local level police bodies and crossings of local areas should be regulated by the Law on Police Service of BiH. The state-level police SIPA would be in charge of more serious legal violations, the analysis of the security situation within the country, witness protection and the implementation of international agreements on police cooperation. Local police bodies would be responsible for the maintenance of peace and order, community policing activities, traffic security activities, crime fighting, investigation of crimes under their jurisdiction and information gathering to meet the needs of the citizens. The realization of the plan failed due to political disagreement for the foreseen single police structure on the state level and the crossing of Entity borderlines. (cp. Justice Chain Analysis Bosnia and Herzegovina, 2007, pp. 41-43/ Proposed Plan for the Implementation of the Reform)

The European Parliament adopted a resolution in 2005 that calls for a more viable model for the BiH state in order to meet the requirements needed to join the European Union as well as the NATO partnership for peace.

The most important proposal for a constitutional reform was the so called April Package in 2006 which was rejected by the Bosniac party SBiH and the Croat HDZ 1990 while all major Serb parties, the leading Bosniac party, the SDA and the Croat HDZ BH supported the proposal. Although the US Bush administration tried to find a compromise in a meeting with the RS prime minister, Dodik, and the President of the SBiH, Silajdžić, it failed to reach an agreement. Dodik would have been

ready to accept a reduced formula of entity voting¹³ and agreed that the RS police would come under joint control in legal and administrative terms which would have been an enormous step towards an agreement in the constitutional as well as in the police reform process. Nevertheless, Silajdžić refused to accept any compromise if there would not be a change of the name of the RS and its police. This demand was not acceptable for Dodik because it would have meant that he sold the interests of the Republika Srpska. Keeping the name of the entity and its police for the Serbs is an important symbol for their identity and the things they fought for during the war. For the Croats and Bosniacs on the other hand it stands for committing war crimes. The amendment of the April Package in 2006 would have been the second great opportunity for the International Community to push through its idea of the police reform but it again was not captured. (cp. Sebastián, 2007, pp. 4-9)

One of the interviewed international experts sees here the biggest mistake of the International Community because it failed to put pressure on Silajdžić to accept the compromise. He even went that far to say that Silajdžić wanted to be pressured in order to justify his concessions politically.¹⁴

Another great opportunity to find a compromise between the Federation of BiH and the Republika Srpska was a meeting between Dodik and Silajdžić in May 2007 in Washington but there was again no success.¹⁵

On 29 August 2007, High Representative Miroslav Lajčák presented another police reform proposal to the Bosnian party leaders and put

¹³ The entity voting system in the House of Representatives in the Parliamentary Assembly of Bosnia-Herzegovina is a decision-making procedure that demands one-third of the delegates from each entity to vote for decisions. Since all decisions have to be approved by this chamber of the parliament, any decision that threatens the national interest of one of the two entities can be blocked without the possibility to overcome the blockage. In other words, no decision can be taken without the approval from Serbs from the RS or the Bosniacs. Croats have no capacity to overcome the barrier of 1/3. (cp. CEIS Policy Brief Nr. 5, 2006, p. 3)

¹⁴ Cp. interview with an international expert.

¹⁵ In this section I refer to a statement of a member of the International Community.

pressure on them by imposing amendments to the Law of the Council of Ministers of Bosnia-Herzegovina and instructing the BiH Parliamentary Assembly to amend their rules of procedures on 19 October 2007. He warned the parties of further impositions if there would not be a consensus on the reform, but the prime minister of the Republika Srpska, Milorad Dodik, called the High Representative's actions "unconstitutional". Lajčák's deadline for a compromise could not be met and when the PIC endorsed Lajčák's decisions on 31 October, the Serb prime minister of Bosnia-Herzegovina and ally of Dodik, Nikola Spirić, resigned. Bosnia-Herzegovina faced a serious political crisis. To explain its position, the OHR mentioned 10 Reasons for Police Restructuring on its website. (cp. Bender/Knaus, 2007, pp. 31-34)

There was a huge pressure on the local as well as on the international side to finalize the reform. The International Community was obliged to coat its inability to find a compromise and the local politicians wanted to lower the pressure that was set upon them by the International Community as well as by the citizens who wanted to see results.¹⁶

Therefore an initial step forward in the process of the police reform was the signing of the Declaration on Honouring the Commitments for Implementation of the Police Reform with Aim to Initial and Sign the Stabilisation and Association Agreement. This agreement is the so called Mostar Declaration of 24 October 2007 signed by the representatives of the leading parties in Bosnia-Herzegovina. With this document, "the signatories [...] agree to undertake all necessary activities for implementation of the police reform in accordance with the principles of the European Union, and which are indispensable for continuing the process of association of Bosnia and Herzegovina with the European Union." (Declaration 1) Further the document includes the establishment of a "functional, multiethnic and professional police" to guarantee the security of citizens and goods within Bosnia-Herzegovina. Its single structure shall be in line with the constitutional structure of the country and it shall be based on provisions of the Constitution of Bosnia-Herzegovina which shall be shaped during the process of constitutional reform. The details

¹⁶ Here I refer to an Interview with an expert of the International Community.

of the new and reformed police structure shall be defined through two laws on police service and on police officials. (cp. Declaration 1)

The Action Plan for Implementation of the Mostar Declaration with aim to fulfil commitments needed for initialling and signing the Stabilization and Association Agreement was signed by the parties on 22 November 2008. With their signing, parties agreed on the adoption of the Law on Police Officials and on the Law on Police Service which regulates the establishment of new state bodies for the level of Bosnia-Herzegovina. The local level as part of the unified police structure shall be regulated after the reform of the Constitution of Bosnia-Herzegovina. (cp. Action Plan) On 16 April 2008, the two laws mentioned in the Action Plan were adopted by the Parliamentary Assembly of Bosnia-Herzegovina. "The Law [on Independent and Supervisory Bodies for Police Structure of BiH] establishes the Independent Board, the Board of Complaints of Police Officials and Public Complaints Board and defines their competences and organisation as independent bodies of the police structure of Bosnia and Herzegovina." (Law 9) The Independent Board is a body of the Parliamentary Assembly of Bosnia-Herzegovina which consists of three Bosniacs, three Croats and three Serbs and is competent for the selection of candidates and proposals of removals from office of police heads and deputy heads of police bodies as well as for complaints against their work and the initiation of disciplinary procedure against them. The Board for Complaints of Police Officials is a body of the Council of Ministers of Bosnia-Herzegovina with the responsibility to decide upon complaints by police officials against decisions made by police bodies and consists of four police officials and three civil servants. The public complaints board is also a body of the Parliamentary Assembly of Bosnia-Herzegovina and responsible for receiving, registering, assessing and forwarding of complaints against conduct of police officials as well as for the monitoring of status of cases and the initiation of relevant actions against the complaint if it is false. The body consists of seven members selected amongst prominent and distinguished citizens who are not working for police bodies. (cp. Law 9)

The Law on Directorate for Coordination of Police Bodies and on Agencies for Support to Police Structure of BiH establishes a Directorate for

Coordination for Police Bodies, an Agency for Forensic Examinations and Expertise, an Agency for Education and Advanced Training of Personnel and an Agency for Police Support and defines their organisation and competences as administrative organisations within the Ministry of Security of Bosnia-Herzegovina. Their budgets shall be managed autonomously and their work shall not be determined by political interests.

The most important competencies of the Directorate for Coordination for Police Bodies are communication, cooperation and coordination amongst police bodies of Bosnia-Herzegovina and other relevant national and international bodies as well as standardization in the field of policing, the collection and use of data relevant for the security of the country and the protection of persons and facilities of BiH Bodies while the other bodies established by the law shall ensure an improvement in the work of police forces in Bosnia-Herzegovina. (cp. Law 10)

At the moment, the adoption of the two laws is the final stage of the police reform because all other efforts were postponed to the constitutional reform and enabled the signing of the SAA on 16 June 2008.

8. Evaluation of the Reform Process under the Involvement of the International Community

8.1. The Performance of the International Community as a Collectivity

8.1.1. The Underestimated Requirements for Peace Building and Reforms in Bosnia-Herzegovina

The international intervention in Bosnia-Herzegovina was among the first paradigms for a change from more security-oriented peacekeeping operations to comprehensive peace building missions. The lessons that had to be learned by the International Community were that nation building requires a wider mandate than classic monitoring and training, and to push through a far reaching reform like that of the police structures, it also requires the right international experts and police staff to work in the field. (cp. Wisler, 2007, p. 254) One of the main problems of the approach of the International Community was that there was no consideration given to the ethnic division and political reality of the country. (cp. Mühlmann, 2008, p. 50)

8.1.2. Unrealistic Guidelines for the Reform and the Discordance of the International Community in the Police Reform

When the European Commission financed a functional review of policing in Bosnia-Herzegovina in 2004 in order to bring it up to the so called "European standards", it analysed that the existence of 15 different law enforcement agencies within the country is not the core problem because there are other European countries which also have decentralized police forces like the Netherlands and Switzerland. There are no real European standards of policing because only very few European countries have a centralized police and therefore arguments of the International Community for this role model became obsolete. So the functional review concluded that there are 3 possible models: One of them is a national police, the second would foresee two entity police forces, the Brčko District,

SIPA and the Border Police but no cantonal forces and the third option is a “bottom-up approach” which means that there are cantons, the RS police regions, the Brčko District, SIPA, the Border Police and a common national function responsible for coordination, selection, training, information and communication.

Among the biggest mistakes in the police reform was Paddy Ashdown’s decision that the only possible choice was the establishment of the Police Restructuring Commission with the task to propose a single structure of policing in Bosnia-Herzegovina. This interpretation of the European standard was highly contradictory to the functional review. (cp. Bender/Knaus, 2007, p. 28) Most members of the International Community supported Paddy Ashdown’s vision of a centralized Bosnian state which also includes centralized police structures because it would end the fear of a secession of the Republika Srpska and it would neutralize the Bosnian Serb military potential. This refers to the fact that much of the RS military capacity during the war came from special police units and now has the reputation of having committed war crimes.

Therefore Ashdown chose to work through the European Commission by persuading EU Commissioner for Enlargement, Olli Rehn as well as High Representative for the Common Foreign and Security Policy, Javier Solana to state the police reform as a precondition for signing the SAA. With this step a new problem arose: police reform as an EU conditionality has to be done voluntarily and therefore there is no possibility for the High Representative to impose measures in this field by using its Bonn Powers any more. It has to be considered that the EU treated Bosnia-Herzegovina differently from other countries of the Balkans because the signing of the SAA was refused in 2005 while it was permitted for Serbia. This linkage between the police reform and the SAA lead to the endangerment of the EU integration process as a whole and appears in today’s perspective a mistaken approach. It is also one of the main reasons why Bosnia-Herzegovina is lacking behind its neighbouring countries. (cp. Parish, 2007, pp. 17-19)

The main dispute when it comes to a unified international position is about the three principles that are met by only few of the EU member

states and therefore are not demanded by all EU members. Another controversial question within the International Community was the crossing of the Interentity Borderline for the design of police regions. When this became public in Bosnia-Herzegovina, the differentiated positions were interpreted as the inability of the EU and the International Community as a whole to speak with one voice. (cp. Mühlmann, 2007 II, pp. 37-41/cp. Penska, 2006, p. 24) It even happened that delegates of EU member states intervened on their own behalf and went to Banja Luka to tell the politicians that they don't have to stick to the guidelines set by the EU.¹⁷

Mr. McKechnie, EUPM Chief Political Adviser, summed up that “there were too ambitious unrealistic goals”. (cp. Interview 4) Mr. Orsini, his predecessor, stated: “If you want a perfect reform you won't succeed.” (cp. Interview 11)

8.1.3. Misjudgements and Mistakes of the International Community

The International Community underestimated the meaning of police forces for the entities and for politicians who use the police for the coverage of criminal acts. It was also a popular issue for elections which did not allow the politicians of each ethnic group to lose their faces by making concessions.¹⁸

Further, the International Community should have given more attention to the coordination among its members. Early in the engagement of the International Community, there was a lack of stakeholder coordination with the consequence of a duplication of resources and a competition among organizations and state interests. During the whole reform process of police forces in Bosnia-Herzegovina, the lack of coordination among the multiple EU instruments was endemic and there were overlapping mandates of the ESDP instruments which was a result of the Brussels based decision making process. This fact was an underesti-

¹⁷ This statement was made by a member of the International Community during an interview.

¹⁸ Cp. interview with a member of the International Community.

mated obstacle for a successful work of the international organizations. (cp. Penska, 2006, pp. 20-24)

Thomas Mühlmann, the former head of the EUPM political department, stated the following: “The main reason why the process proved to be so difficult was that police restructuring touched upon the fundamentals of a delicate ethno-political power-sharing model in a post-conflict situation.” (Mühlmann, 2007 II, p. 37) These circumstances were ignored by the International Community. Therefore the International Community struggled with the local political leadership which aimed at maintaining the old power-sharing model and their influence over police. There was an opposition of nationalism versus European integration, politically motivated versus effective policing, decentralized versus centralized structures and the maintenance of the states structures that were created through the Dayton Peace Accords versus a constitutional change.

For the Bosnian Serb side there was most at stake, Croats hid behind Serb opposition because they were afraid of losing power over Croat-dominated areas within the cantonal structure while the International Community’s reform proposal most of all favoured the Bosniacs’ interests. It was almost impossible to bring the International Community’s conception and the Serb position together. The International Community chose a wrong approach by using the reform of police structure as a measure of punishment for the RS because it denied the full cooperation with the ICTY and in order to abolish the RS political leadership’s power over police. While the Serb side was not ready to negotiate things that go beyond the constitutional framework, the International Community and in particular the EU wanted Bosnia-Herzegovina to overcome constitutional weaknesses in order to reform the police structures.

Although the International Community was aware that consensus on the sensitive police reform as most important security sector reform was hard to reach, the real dimension of the discourse was underestimated. Some of the actors simply wanted to reform through technical changes and ignored political factors while others tried to link the police reform to other topics in order to gain influence and control in the political negotiations. For them, police reform was a means of changing the politi-

cal and constitutional landscape of Bosnia-Herzegovina. Summing up it can be said that the initial plans for the police reform proved to be unrealistic, the political negotiation process was almost a complete failure and the result of the reform process was far from reaching the foreseen aims. (Mühlmann, 2007 II, p. 51) It was simply too early for this reform and according to a local expert, it would have been better to exercise more force on the political leaders and to stick to clear aims like a certain structure which should have been agreed on by all members of the International Community.

Another problem was that the international actors were not able to convince the Federation of BiH which stuck to the change of the RS police's name which was a totally political action and in reality can not be related with war crimes. (cp. Interview 9) The use of arbitrarily accusations of committing war crimes in order to execute pressure on politician is a sensitive measure. In some cases, the public fails to understand these actions for example when the former RS president got 10 years in The Hague but people knew that he had no influence to order war crimes because party leaders like Karadzic did not respect him. On the other hand persons who are known as criminals were not accused at the tribunal which is merely a political question.¹⁹

The International Community went for a top-down approach which is favoured by diplomats in order to reach quick results but there was no local ownership and the country was not ready for this reform. The International Community has to recognize that reforms are not all about police or special topics but about the ethnic groups' culture of living together in a post-war country.

The reached agreements between the involved actors left too much room for interpretation. For example the criterion of being in line with the constitution was interpreted by the Serbs as a confirmation of their entity competences over the police because it is granted by the constitution. For the side of the Federation of BiH it meant the possibility to transfer the competencies from the entities to the state level. The same problem

¹⁹ In this section I refer to a local expert who does not want to be quoted.

of too much room for interpretation can be found in the compromise of finalizing the police reform in the course of a “constitutional reform” or a “change of the constitution”.

The International Community missed to capture great chances at the right time and didn't use its force when it would have been needed.²⁰ International as well as local experts agree that one of the biggest mistakes of the International Community was that the main interest groups were not involved in the police reform process. Mrs. Simonetta Silvestri, EUPM Deputy Head of the Police Reform stated that the main interest group of the police reform, the police officers, never participated in the reform process which was a serious obstacle for its completion. (cp. Interview 5) Mr. Denis Hadžović, Secretary General of the Centre for Security Studies in Sarajevo sees the main problem in the unsuccessful project of reforming police structures in the fact that there was no space for the involvement of Non Governmental Organisations (NGOs) which was a major barrier because civil society did not participate in the reform process. (cp. Interview 9)

8.2. The Performance of the Most Important Actors in the Reform Process

8.2.1. The Role of the High Representative

During the whole process of reforming police structures in Bosnia-Herzegovina, there were disputes among the members of the International Community about the question whether the use of the Bonn Powers of the High Representative was a good measure of enforcement. This question is still unanswered because the Bonn Powers shifted the High Representative's role from a mediator to an enforcer which on the one hand gave him the power to make binding decisions to overcome blockages and on the other hand lead to a higher level of resistance from the involved parties. The Bonn Powers should be used to save the results of the Dayton Peace Accords and therefore are not foreseen to be used in

²⁰ Cp. interview with members of the International Community.

the police reform process. High Representative, Paddy Ashdown, who due to his term in office from 2002 until 2006 and his personal engagement was the main actor in the police reform made intensive use of his Bonn Powers. He used it for example for the dismissal of 58 Serbs from public office as a pressurizing medium in order to reach an agreement on the transfer of powers from the entity to the state level which lead to antagonism. (cp. Parish, 2007, pp. 14-15) Referring to the former High Representative, Mr. Wolfgang Petritsch, Paddy Ashdown has shown frankly that he even made use of the Bonn Powers without any immediate connection with the protection of the Dayton Agreement. (cp. Interview 13) When High Representative Miroslav Lajčák made use of his Bonn Powers in 2007, RS Prime Minister, Milorad Dodik, consulted Serbia and Russia for support and declared that the changes in the functioning of state organs imposed by Lajčák are illegal and will not be respected. This lead to demonstrations of thousands of citizens in the RS and backed up Dodik's position. But without that threat of removals, there is the danger there are no incentives for the actors to cooperate at all. (cp. Parish, 2007, pp. 20-21)

One point of criticism is that especially High Representative, Ashdown, forced a controversial political reform as if it was just a matter of administrative and technical management. (cp. Chandler, 2007, p. 7) Mr. Petritsch thinks that "instant gratification"²¹ is not possible when it comes to sensible issues like security or confidence building. (cp. Interview 13) Ashdown was under time pressure because he had to lay down his post at the beginning of 2006 so he wanted to push through the reform. "Security sector reform touches the heart of any political system and normally needs long discussion and negotiations to balance out the different political interests with professional necessities. The importance of the police restructuring question for Bosnia was therefore in clear conflict with Ashdown's ambitions to push through reforms within few months." (Mühlmann, 2007 II, p. 51) Instead of preparing for the RS resistance, the internationals went into a long process of political negotiations with the aim to find voluntary compromises. Ashdown's mistake

²¹ With the term "instant gratification" Mr. Petritsch refers to the expectation that actions show an immediate result.

was to go for the political 10 police regions proposal which respects the Interentity Borderline in most regions in order to ease the negotiations instead of choosing the technical EUPM proposal to establish 5 police areas. (cp. CEIS Policy Brief Nr.4, 2006, p. 3) By retarding the reform process, the representatives of the Republika Srpska successfully defended their entity's interests and the International Community and especially Ashdown whose aim was to crown his era as High Representative with the quick and successful completion of the police reform gave up. (cp. Mühlmann, 2007 II, pp. 50-52)

The requirements set by the European Commission in the field of policing in Bosnia-Herzegovina did not even demand such a far reaching reform as forced by Ashdown. But he decided that the EU should do the same in the police sector what the USA did in the defence sector. The European Commission was afraid that Ashdown's strong position and the linkage between the police reform and the SAA would put the country's way into the EU at risk and therefore welcomed the final agreement on the reform as a way out of a dead end negotiation process.²² (cp. Mühlmann, 2007 II, p. 60)

Concerning the question of personalities, there is disagreement among the experts. While most of them agree that Paddy Ashdown was the wrong person in the position of the High Representative, there are also experts who supported him.

Referring to a local expert, among the main reasons why the police reform had been a very unsuccessful project was that Paddy Ashdown was the wrong person because he started to reform without any political consensus among the local political leadership. Police in Bosnia-Herzegovina has a very complicated structure and therefore reforms are possible only step by step. Before starting the reform process there should have been political consensus on a constitutional change which to his mind is necessary for a successful police reform. The Bosnian society is still too divided to reform immediately and political leaders do not have a com-

²² In this section I refer to the work of Mühlmann as well as to an interview with an expert and member of the International Community.

mon sense of reforms especially concerning the constitution. Ashdown made a negative rule by saying things that threatened the RS and put pressure on individuals which hindered cooperation. At the end of his mandate, Ashdown wanted to push things to have a good reputation for solving all of the country's problems but the reform process of Bosnian institutions will take another 20 years. Bosnia-Herzegovina has to find its own compromises if it wants to join the EU and political leaders know that so there has to be a will to reform without pressure from outside. This would contribute to the evolvement of a political culture in Bosnia-Herzegovina. Ashdown wanted to reform without respect to differences in the country and it has to be respected that it is important for each ethnic group to have its own characteristics like its language. Especially Ashdown wanted to push things in this divided society and demanded a strong centralized state which is contradictory to the current situation because all ethnic groups are afraid of losing power and the fear a new conflict within Bosnia-Herzegovina. The International Community and its High Representative did not respect the structure of the society after the war and after ethnic cleansing.²³ Mr. Petritsch, stated that there was an error in reasoning in Ashdown's approach. He tried to force the disposal of the entities' competence in security matters to the state level by conducting a police reform. This intent was too ambitious. To his mind, Ashdown also underestimated the will of police staff from both entities to work together in situations which demand cooperation in their own interest. Mr. Petritsch speaks from his own experience that the High Representative has to comply with the situation in the country. (cp. Interview 13)

Mr. Hadzović on the other hand thinks that Paddy Ashdown did a good job because it was important to have a strong force in Bosnia-Herzegovina for the reason that citizens need strong leadership which is a reflection of communism. His use of the Bonn Powers was a good decision because the International Community can reach nothing with negotiations if there is blockage within the political system. (cp. Interview 9)

²³ Cp. interview with a local expert.

8.2.2. The Evaluation of the Performance of the IPTF and the EUPM

During the first phase of the IPTF mission, there were personnel employed without giving consideration to its skills in other fields than monitoring like training, management or administration. There were even police monitors from autocratic regimes who had no idea of the international standards of policing. Another problem was the delay in bringing the IPTF into operation which resulted in a security gap when the suburbs of Sarajevo were transferred to the Bosniacs in March 1996. Other problems of the mission were shortcomings in transportation, communication, equipment and financing. The IPTF later had to be supported by the SFOR which provided operational assistance when the IPTF's persuasion did not work the same as with the dismantling of roadblocks. (cp. Bair/Dziedzic, 1998, p. 9)

Similar problems arose during the EUPM which was the first ESDP mission and therefore there was a lack of experience which should be filled by conducting a civilian police mission in the immediate surrounding of the EU territory, in Bosnia-Herzegovina. Problems of the mission started in the planning phase because it was short and there was no compromise on a clear EUPM strategy. Also the takeover of the IPTF mission did not happen in a proper way because documents got lost or in some cases were denied to be handed over to new staff. There were also problems with internal communication and in recruiting the right personnel for adequate tasks. The lack of seniority and the personnels' experience limited the influence of the EUPM on Bosnian police staff. Another problem was the task to finish programmes started by the IPTF with which local police officers were partly overburdened. But maybe the biggest obstacle was the unrealistic expectancy that the first ESDP mission could meet all its mandated objectives in a short period without giving consideration to the uncooperative and ethnically divided political leadership in the country. The mission had to discover that the communist legacy was harder to overcome than it was first expected because this takes time. When it came to the EUPM task of reforming police structures, there was no effort to explain the necessity to the police officers who were the most affected group. The mandate was in between execu-

tive and advisory capacity. While IPTF had had an executive mandate, the EUPM was mandated with monitoring, mentoring and inspecting. If the mission had played a more active role, it could have contributed to the avoiding of mistakes committed by the High Representative. A more authoritative mandate for the EUPM, similar to that of the IPTF, would have been needed to reform the Bosnian police forces. (cp. Mühlmann, 2008, pp. 46-51) Concerning the EUPM it can be diagnosed that many of the EU officials had the opinion that “best European and international standards” can be met by bringing together well-trained police staff deployed in Bosnia-Herzegovina, but that was not the right solution. Many of the EUPM foreign experts operated like in their own environment which is dysfunctional because that does not automatically work in Bosnia-Herzegovina. And most of the forced laws are mere copies of those from western countries without giving consideration of differences. (cp. Penska, 2006, p. 14) One of the interview specialists is of the opinion that the international police missions are the wrong tool in a country where the political framework is not clean. He further thinks that it is not a good idea at all to let police officers run a mission which is not operational and where a reform has to be conducted.²⁴

8.2.3. The Police Restructuring Commission

The main problem of the Police Restructuring Commission was the choice for an international flown-in expert as chair of the commission who had no experience with the political culture and reality of Bosnia-Herzegovina. This fact brought Martens into conflict with other members of the International Community who saw themselves as real experts and therefore a lot of time was lost. As a consequence, Paddy Ashdown took control over the commissions tasks. (cp. Mühlmann, 2007 II, pp. 42-47)

One of the interviewed specialists thinks that instead of setting up the so called Martens-Commission it would have been necessary to convince

²⁴ With this statement I refer to an interview with one of the international specialists.

citizens as well as politicians that the reform is needed which would have resulted in more local ownership.²⁵

8.2.4. The Directorate for Police Restructuring Implementation

The Directorate for Police Restructuring Implementation was simply a repetition of the project of the Police Restructuring Commission. It had the duty to stick to the three principles, instead of putting emphasis on technical factors for the design of the police regions which would ignore political borders and most important the Interentity Borderline. The directorate could not solve the question of police regions for two reasons: first there was just a one year mandate to find a solution and second, there was no political compromise on that question. Therefore again time was lost.²⁶

8.3. The Evaluation of the Outcomes of the Police Reform

Police structures after the agreement of the reform are still inefficient and therefore the reform process can be marked as a loss of time for the development of Bosnia-Herzegovina. The International Community chose the wrong way by linking the police reform with a constitutional reform which rose existential fear of the entities. Although the two adopted laws which were an outcome of the reform process establish institutions at the state level they are meaningless without having the competency of coordinating also institutions at the entity and cantonal level.

International experts of the EUPM told me that the outcome of the police reform is not even 10% of what was expected. The final agreement on police restructuring was far weaker than aimed and left important questions like that on the design of police regions just in order to push European integration.²⁷

²⁵ In this section I refer to an interview with an international expert.

²⁶ Cp. interview with a local expert involved in the work of the institutions.

²⁷ Herewith I refer to the analysis of EUPM experts.

To Mr. Spahić's mind, who is the Director of the Police Academy of the Federation of Bosnia-Herzegovina, the police reform was no success because the essence of the reform was postponed to a constitutional reform and it did not even meet the three principles because the entity Ministries of Interior which execute high political influence on the police were not abolished and best European standards would be fulfilled by the establishment of police areas which cross the Interentity Borderline. (cp. Interview 8) Mr. Osman Topčagić, Director of the European Integration Secretary in Bosnia-Herzegovina, stated the following: "What we have now is not much of a reform. The real police reform is left for the new constitution and is a highly political issue. The reform was no success, but the positive thing is that it enabled the signing of the SAA." (cp. Interview 1)

8.4. Lessons Learned in the Reform Process

One of the most important lessons learned in the police reform process is that the involvement of individuals shapes the outcome of a reform process as much as mandates and decision-making structures. Therefore there is an accurate choice of personnel needed. (cp. Penska, 2006, p. 21)

All of my interview partners who work for international organizations agree that not only the Bosnian Serbs are to blame for the failures in the police reform process but also the political leaders of the Federation of Bosnia-Herzegovina as well as the International Community itself which was too confident that it would succeed like in the defence and the intelligence reform. But no one considered the fact that it would even be harder to push through one more reform after the entities already had given up their power in the previous reforms.

The main international actors, the OHR and the EUPM, should have been in line concerning the police reform and there should not have been a top-down approach without local ownership.

International experts as well as local politicians have the opinion that the result of the police reform, the 2 laws, is a first step but it does not improve the coordination of the different levels of policing as it would be needed. The outcome of the police reform just promotes the coordination between state bodies and what follows is a more bureaucratic process than before. To have things organized on the state level is no criteria for success because the criteria should be functionality, and a more complicated structure was not the idea behind the police reform. The international actors ignored the political reality of the country and that Bosnia-Herzegovina is not ready for a reform of this magnitude.

A central lesson learned in the reform is that the police restructuring is a political and diplomatic process rather than a technical project which requires consensus among the driving actors as well as among the domestic political officials, citizens and the police staff.

9. Forecast of the Completion of the Police Reform

To my mind, there are some possible options for a successful completion of the police reform.

The first possibility is the **abolishment of the entities** in the course of a constitutional reform. This would lead to the complete transfer of entity competencies to the state level and to a centralized organization of all state institutions. This would be much more cost effective than the current organizational structure and the problem of divergent jurisdiction in the law enforcement sector and the lack of cooperation between the entity institutions would be solved. The problem here is as afore mentioned that the entities are not ready to give up their power over state functions because there is still social mistrust among the peoples of Bosnia-Herzegovina so this solution will not work for a long period of time.

After the third attempt of reforming police structures in Bosnia-Herzegovina, experts agree that the topic is in a dead end situation for the coming years. The implementation of the two laws which were the only meaningful outcome of the police reform process will bring a harmonization into the police legislation at all levels of government. There is a chance that some steps will be taken in the scope of a constitutional reform in order to improve police's effectiveness but it will not be among the main agenda points in the near future. The only way to reach improvements in the sector of policing is to make through these steps.

It does not matter whether police is organized under entities or under the state level because it is more important to have functional forces with a clear hierarchy for the maintenance of public security.²⁸

At the moment it has to be respected that it is not even impossible to cross the Interentity Borderline when it comes to the creation of police areas but there could be a **compromise solution** introduced by Mr. Spahić, the Director of the Police Academy of the Federation of Bosnia-

²⁸ Cp. interviews with local as well as international experts.

Herzegovina. The compromise proposes two different police forces within one police area, each of them working within their entity or cantonal territory. The precondition for this model is a perfect cooperation between the forces and there could be an organizational umbrella for the police at the state level. The best way of reforming is step by step which could be done through the standardization of police training and mutual trust among police officers of different ethnic groups. (cp. Interview 8)

One of my local interview partners thinks that there should be **ministries for coordination** at the state level but without dismissing the ministers of the entities which is another possible concept for the organization of police bodies. Fields like education, training, international cooperation or finance should be at the state level but there should also be police bodies at the entity or cantonal level with a clear division of competencies.²⁹

Another possibility could be the **adoption of a real European model of policing** which is not referring to a non-existent standard model but to European values. Therefore it is necessary to abolish ethnic aspects as organizational and classification criteria in questions of policing. As an expert once cited: “It is the police of the province of Bavaria and not the police of the Bavarian people”. The same should be true for the police forces of Bosnia-Herzegovina which serve all citizens not just one of the three constituent peoples.

²⁹ Cp. interview with a local expert.

10. Summary

Summing up, my working hypothesis has been verified because the involvement of the International Community was necessary to actuate the reform process but international pressure was not result-oriented enough to promote a successful police reform.³⁰

Beside some technical and individual mistakes during the police reform process and lacks in coordination among the actors of the International Community, local ownership was not respected which brings the country close to protectorate.

The International Community simply undervalued the political division of the country and the meaning of symbols for the entities. Police forces represent a means of quasi-state autonomy for the Republika Srpska as well as for the Federation of Bosnia-Herzegovina and were a loyal security institution for the respective ethnic group during the war. Because of this profound meaning of symbols, there is even a dispute about the maintenance of the name of the RS police. Each of the constituent peoples within Bosnia-Herzegovina is afraid of losing its status by losing the power over its autonomous police forces which should have been taken into consideration by the International Community.

Some of the experts in the reform process analysed that the country lost 4 years because the International Community did not work well or they even stated that it created a mass in the country which is hard to overcome. The police reform under the involvement of the International Community can not be denominated as a big success but it enabled a further step in the direction of an EU integration which hopefully will have positive influence on the country's overall development and stabilization.

³⁰ My thesis has been confirmed by the majority of my interview partners from international organizations as well as by local politicians whose names are listed in the bibliography of this paper.

11. Bibliography

11.1. Monographs and Anthologies

- Albrecht, Gaby (2005): Die Polizei und das Gewaltmonopol des Staates. Eine Analyse der historischen Anfänge der Polizei bis zur Zusammenlegung der Wachkörper. Diplomarbeit and der Fakultät für Sozialwissenschaften der Universität Wien
- Bair, Andrew/Dziedzic, Michael J. (1998): Bosnia and the International Police Task Force. In: Dziedzic, Michael J./Goldberg, Eliot M./Oakley, Robert B. (1998): Policing the New World Disorder. Peace Operations and Public Security. Institute for National Strategic Studies (INSS)
- Džihic, Vedran/Nadjivan, Silvia/Paić, Hrvoje/Stachowitsch, Saksia (2006): Europa – verflucht begehrt. Europavorstellungen in Bosnien-Herzegowina, Kroatien und Serbien, Willhelm Braumüller Universitäts-Verlagsbuchhandlung Ges.m.b.H., Wien
- Haupt, Christian (2006): Dayton – Bosnia and Herzegovina at a Crossroads. In: International Peace Plans for the Balkans – A Success?
- Koyama, Yoji (2003): South Eastern Europe in Transition. A Quest for Stabilization of the Region after the Breakup of the Former Yugoslavia. Niigata University Scholars Series Vol. 1
- Imamović, Mustafa (2006): Bosnia and Herzegovina. Evolution of its Political and Legal Institutions. Sarajevo
- Markert, Thomas (2003): Der Beitrag der Venedig Kommission. In: Vitzthum, Wolfgang/Winkelmann, Ingo (2003): Bosnien-Herzegowina im Horizont Europas. Demokratische und föderale Elemente der Staatswerdung in Südosteuropa. Duncker & Humboldt, Berlin
- Miljko, Zvonko (2003): Föderalismuserfahrungen in Bosnien-Herzegowina. In: Vitzthum, Wolfgang/Winkelmann, Ingo (2003): Bosnien-Herzegowina im Horizont Europas. Demokratische und föderale Elemente der Staatswerdung in Südosteuropa. Duncker & Humboldt, Berlin

- Mühlmann, Thomas (2008): The Police Mission EUPM in Bosnia, 2003-2005. In: Merlingen, Michael/Ostrauskaite, Rasa (2008): European Security and Defence Policy. An implementation perspective. Published by Routledge
- Patzelt, Werner J. (1997): Einführung in die Politikwissenschaft. Wissenschaftsverlag Rothe Richard, 3. Auflage
- Pejanović, Mirko (2007): The political development of Bosnia and Herzegovina in the Post-Dayton Period. Translated by Borislav Radović, TKD Šahinpašić, Sarajevo
- Reiter, Erich/Jureković, Predrag (Hrsg) (2005): Bosnien und Herzegowina. Europas Balkanpolitik auf dem Prüfstand. Nomos Verlagsgesellschaft, Baden-Baden
- Samsinger, Elmar (1984): Föderalismus. Eine zeitgemäße Antwort auf die Herausforderungen an Gesellschaft und Staat von heute. Politische Bildung, Heft 45, Verlag für Geschichte und Politik Wien
- Savić, Snežana (2003): Die Staatsorganisation von Bosnien-Herzegowina. In: Vitzthum, Wolfgang/Winkelmann, Ingo (2003): Bosnien-Herzegowina im Horizont Europas. Demokratische und föderale Elemente der Staatswerdung in Südosteuropa. Duncker & Humboldt, Berlin
- Schöningh, Ferdinand (2007): Wegweiser zur Geschichte. Bosnien-Herzegowina. 2. Auflage, Militärgeschichtliches Forschungsamt, Paderborn, München, Wien, Zürich
- Schuman, Michael A. (2004): Nations in Transition. Bosnia and Herzegovina. Verlag Sonlight Christian
- Stodiek, Thorsten (2006): The OSCE and the Creation of Multi-Ethnic Police Forces in the Balkans. Working Paper 14 of the Centre for OSCE Research, Institute for Peace Research and Security Policy at the University of Hamburg
- Vetschera, Heinz (2005): Zur sicherheitspolitischen Entwicklung. Verteidigungsreform in Bosnien-Herzegowina. Hintergrund, Entwicklung und Ergebnisse. In: Reiter, Erich/Jureković, Predrag (Hrsg) (2005): Bosnien und Herzegowina. Europas Balkanpolitik auf dem Prüfstand. Nomos Verlagsgesellschaft, Baden-Baden

Vickers, Miranda (1998): *Between Serb and Albanian. A History of Kosovo*. Columbia University Press, New York

11.2. Encyclopaedia

Čuvalo, Ante (1997): *Historical Dictionary of Bosnia and Herzegovina*. European Historical Dictionaries, No. 25, The Scarecrow Press, Inc., Lanham, Md., & London

Nohlen, Dieter (2005): Imperialismus, in: Nohlen, Dieter/Schultze, Rainer-Olaf (Hg.): *Lexikon der Politikwissenschaft, Band 1*, Verlag C.H.Beck, München

Nohlen, Dieter (2005): Kolonialismus, in: Nohlen, Dieter/Schultze, Rainer-Olaf (Hg.): *Lexikon der Politikwissenschaft, Band 1*, Verlag C.H.Beck, München

Schultze, Rainer-Olaf (2005): Föderalismus, in: Nohlen, Dieter/Schultze, Rainer-Olaf (Hg.): *Lexikon der Politikwissenschaft, Band 1*, Verlag C.H.Beck, München

Schultze, Rainer-Olaf (2005): Gewaltmonopol, in: Nohlen, Dieter/Schultze, Rainer-Olaf (Hg.): *Lexikon der Politikwissenschaft, Band 1*, Verlag C.H.Beck, München

Woyke, Wichard (Hrsg.) (2006): *Handwörterbuch Internationale Politik*. 10. durchgesehene Auflage, Verlag Barbara Budrich, Opladen & Farmington Hills

11.3. Journals and Working Papers

Bender, Kristof/Knaus, Gerald (2007): *The Worst in Class: How the International Protectorate Hurts the European Future of Bosnia and Herzegovina*. In: *Inside the Bosnian Crisis: Documents and Analysis*. *Journal of Intervention and Statebuilding*, Volume 1, Special Supplement, 1 December 2007

Chandler, David (2007): *Introduction: Inside the Bosnian Crisis*. In: *Inside the Bosnian Crisis: Documents and Analysis*. *Journal of Interven-*

- tion and Statebuilding, Volume 1, Special Supplement, 1 December 2007
- Clarke, Henry L. (2004): Brčko District: An Example of Progress in the Basic Reforms in Bosnia and Herzegovina, Summary of his presentation at the EES noon discussion on 4 February 2004, Meeting Report 293
- Džihic, Vedran (2007): Dilemmata im Prozess der „Europäisierung“ Bosniens. WP No. 1/2007. Center for European Integration Strategies.
- Hadžović, Denis: Intelligence in Bosnia and Herzegovina. Centre for Security Studies Bosnia and Herzegovina
- Mühlmann, Thomas (2007 I): International Policing in Bosnia and Herzegovina. The Issue of Behavioural Reforms lagging behind Structural Reforms, including the Issue of Reengaging the Political Elite in a New System, *European Security*, 16:3, 375-396, Online Publication Date: 01 September 2007, <http://dx.doi.org/10.1080/09662830701751166>
- Mühlmann, Thomas (2007 II): Police Restructuring in Bosnia-Herzegovina: Problems of Internationally-Led Security Sector Reform. In: *Inside the Bosnian Crisis: Documents and Analysis. Journal of Intervention and Statebuilding*, Volume 1, Special Supplement, 1 December 2007
- Parish, Matthew (2007): The Demise of the Dayton Protectorate. In: *Inside the Bosnian Crisis: Documents and Analysis. Journal of Intervention and Statebuilding*, Volume 1, Special Supplement, 1 December 2007
- Penksa, Susan E. (2006): Policing Bosnia and Herzegovina 2003-2005. Issues of Mandates and Management in ESDP Missions. CEPS Working Document No. 255, December 2006
- Sebastián, Sofía (2007): Leaving Dayton Behind: Constitutional Reform in Bosnia and Herzegovina, Working Paper November 2007, FRIDE Fundación par alas relaciones internacionales y el diálogo exterior
- Staples, James (2004): Defence Reform and PfP in Bosnia and Herzegovina. In: *RUSI Journal* August 2004

Wisler, Dominique (2007): The International Civilian Police Mission in Bosnia and Herzegovina: From Democratization to Nation-Building. Police Practice and Research. Published by Routledge, Vol. 8, No. 3, July 2007

11.4. Agreements, Conventions, Declaration, Studies and Reports

Action Plan for Implementation of the Mostar Declaration with aim to fulfil commitments for initialling and signing the Stabilization and Association Agreement

Agreement 1: Agreement on Restructuring of Police Structures of Representatives of Authority in BiH, 5 October 2005

CEIS (Center for European Integration Strategies) Policy Brief Nr. 4/2006: Police and Intelligence Reforms in Bosnia and Herzegovina: Urgent Action Needed, 7 April 2006

CEIS (Center for European Integration Strategies) Policy Brief Nr. 5/2006: Overcoming the War in the Heads: Renewing Bosnia's Constitutional Debate, 4 May 2006

Decision 1: Decision by the High Representative Establishing the Defence Reform Commission of 8 May 2003

Decision 2: Decision by the High Representative Establishing the Expert Commission on Intelligence Reform of 29 May 2003

Decision 3: Decision by the High Representative Extending the Mandate of the Defence Reform Commission of 31 December 2004

Decision 4: Decision Establishing the Directorate for Police Restructuring Implementation of the council of Ministers of Bosnia-Herzegovina of 8 December 2005

Declaration 1: Declaration on honouring the commitments for implementation of the police reform with aim to initial and sign the Stabilization and Association Agreement, Mostar, 24 October 2007

Justice Chain Analysis Bosnia and Herzegovina: commissioned by the Swedish International Development Agency (Sida), Author: Nina Karadjinovic, Sarajevo, June 2007

Law 1: LAW on Police Brčko District of Bosnia and Herzegovina, adopted on 8 June 2000 by the Assembly of the Brčko District of Bosnia and Herzegovina

Law 2: Law on the Agency of Bosnia and Herzegovina for Information and Protection, Official Gazette of Bosnia and Herzegovina, 15/02, adopted on 2 July 2002 by the Parliamentary Assembly of Bosnia and Herzegovina

Law 3: LAW on Ministries of the Republika Srpska, Official Gazette of Republika Srpska, 70/02, adopted on 17 October 2002 by the Parliamentary Assembly of the Republika Srpska

Law 4: LAW on Federation Ministries and Other Bodies of the Federation Administration, Official Gazette of the Federation of BiH, No. 8/95, 2/96, 9/96 and 48/99, adopted on 21 October 2002 by the Parliamentary Assembly of Bosnia and Herzegovina

Law 5: Law on Ministries and Other Administration Bodies of BiH, Official Gazette of Bosnia and Herzegovina, 5/03, adopted on 13 February 2003 by the Parliamentary Assembly of Bosnia and Herzegovina

Law 6: Law on the Intelligence and Security Agency of Bosnia and Herzegovina, Official Gazette of Bosnia and Herzegovina, 22/04, adopted on 22 March 2004 by the Parliamentary Assembly of Bosnia and Herzegovina

Law 7: LAW on The State Investigation and Protection Agency, adopted on 24 April 2004 by the Parliamentary Assembly of Bosnia and Herzegovina

Law 8: LAW on State Border Service, adopted on 21 October 2004 by the Parliamentary Assembly of Bosnia and Herzegovina

Law 9: LAW on Independent and Supervisory Bodies of Police Structure of BiH, adopted on 16 April 2008 by the Parliamentary Assembly of Bosnia and Herzegovina

Law 10: LAW on Directorate for Coordination of Police Bodies and on Agencies for Support to Police Structure of BiH, adopted on 16 April 2008 by the Parliamentary Assembly of Bosnia and Herzegovina

Proposed Plan for the Implementation of the Reform of Police Structures in Bosnia and Herzegovina on 22 December 2006, Sarajevo

Report 1: The Path to Partnership for Peace: Report of the Defence Reform Commission of 25 September 2003, Sarajevo

Report 2: Final Report of the Supervisor for Intelligence Reform, 30 May 2003-31 December 2004

Report 3: Final Report on the Work of the Police Restructuring Commission of Bosnia and Herzegovina on 31 December 2004, Sarajevo

Report 4: AFBiH: A Single Military Force for the 21st Century: Defence Reform Commission 2005 Report of September 2005, Sarajevo

Report 5: Bosnia's Stalled Police Reform: No Progress, No EU. Crisis Group Europe Report Nr. 164, 6 September 2005

The Feasibility Study: Bosnia and Herzegovina. The Stabilisation and Association Process. The Feasibility Study. Part 1, Sarajevo, April 2003

The Dayton Peace Accords. General Framework Agreement for Peace in Bosnia and Herzegovina. Released on the U.S. Department for State Foreign Affairs Network on the [www.http://dosfan.lib.uic.edu](http://dosfan.lib.uic.edu) by the Office of Public Communication, Bureau of Public Affairs, U.S. Department of State

11.5. Online Resources

URL 1: Protektorat: <http://lexikon.meyers.de/meyers/Protektorat>, found on 21 July 2008 at 10:20 pm

URL 2: The Office of the High Representative: <http://www.ohr.int/ohr-info/gen-info/>, found on 21 July 2008 at 11:00 pm

- URL 3: United Nations Mission in Bosnia and Herzegovina: <http://www.un.org/depts/dpko/missions/unmibh/>, found on 5 August 2008 at 11:30 am
- URL 4: NATO's relations with Bosnia and Herzegovina: <http://www.nato.int/issues/nato-bosnia-herzegovina/index.html>, found on 7 August 2008 at 08:40 am
- URL 5: OSCE Mission to Bosnia and Herzegovina: http://www.oscebih.org/oscebih_eng.asp, found on 7 August 2008 at 10:00 am
- URL 6: The EUPM: <http://www.eupm.org>, found on 7 August 2008 at 11:00 am
- URL 7: The EUMM: http://consilium.europa.eu/cms3_fo/showPage.asp?id=622&lang=en, found on 5 September 2008 at 02:30 pm
- URL 8: The Establishment of the Police Restructuring Commission: http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/prc-key-doc/default.asp?content_id=34149, found on 5 September 2008 at 03:30 pm
- URL 9: Ministry of Security of Bosnia-Herzegovina: http://www.msb.gov.ba/home/index.php?option=com_content&task=category§ionid=5&id=21&Itemid=27, found on 11 September 2008 at 02:30 pm
- URL 10: ICITAP: <http://www.usdoj.gov/criminal/icitap/programs/europe/eurasia.html>, found on 11 September 2008 at 03:00 pm
- URL 11: Edwards, Charles (1999): Democratic Control of Police: <http://www.aic.gov.au/conferences/hcpp/edwards.pdf>, found on 12 September 2008 at 05:00 pm
- URL 12: Elazar, Daniel J.: Federal Systems of the World: A Handbook of Federal, Confederal and Autonomy Arrangements: <http://www.jcpa.org/dje/books/fedsysworld-intro.htm>, found on 30 September 2008 at 05:00 pm
- URL 13: Elazar, Daniel J.: Federalism and Peace-making: <http://www.jcpa.org/dje/articles/fed-peace.htm>, found on 30 September 2008 at 05:20 pm

URL 14: Bosnia and Herzegovina: Commission approves Feasibility Study: http://www.ohr.int/other-doc/eu-stmnt/default.asp?content_id=31227, found on 30 September 2008 at 08:30 pm

URL 15: EUPM Overview: <http://www.eupm.org/Overview.aspx>, found on 16 October 2008 at 01:50 pm

URL 16: NATO Handbook: <http://www.nato.int/docu/handbook/2001/hb050102.htm>, found on 23 October 2008 at 05:00 pm

URL 17: State Border Service celebrates two years in BiH: <http://www.nato.int/sfor/indexinf/141/p14a/t02p14a.htm>, found on 5 November 2008 at 10:00 pm

11.6. Interviews

All listed experts were asked for their personal opinion and did not represent their organization's standpoint during the interviews.

Interview 1: Mr. Osman Topčagić, Director of the European Integration Secretary in Bosnia-Herzegovina on 22 August 2008

Interview 2: Mr. Christian Haupt, Former Head of the Parliamentary Section in the Department of Security Cooperation of the OSCE Mission to BiH on 8 September 2008

Interview 3: Mr. Michael Maierl, Austrian Police Attaché in Bosnia-Herzegovina on 10 September 2008

Interview 4: Mr. Boyd McKechnie, EUPM Chief Political Adviser on 26 September 2008

Interview 5: Mrs. Simonetta Silvestri, EUPM Deputy Head of the Police Reform Department on 3 October 2008

Interview 6: Mr. Predag Nikolić, Expert-Adviser to the Joint Security-Intelligence Committee on 13 October 2008

Interview 7: Mr. Momo Severika, Minister Counsellor of BiH on 15 October 2008

Interview 8: Mr. Tahib Spahić, Director of the Police Academy of the Federation of Bosnia-Herzegovina on 20 October 2008

Interview 9: Mr. Denis Hadžović, Secretary General of the Centre for Security Studies in Sarajevo on 21 October 2008

Interview 10: Mr. Tobias Flessenkemper, Chief of EU Coordination Office, Political Adviser in Sarajevo on 29 October 2008

Interview 11: Mr. Dominique Orsini, former EUPM political adviser in Pristine on 10 December 2008

Interview 12: Mr. Raffi Gregorian, Brčko Supervisor and Deputy High Representative in Sarajevo on 15 December 2008

Interview 13: Mr. Wolfgang Petritsch, former High Representative for Bosnia-Herzegovina and current Ambassador to the Permanent Delegation of Austria to the OECD in Brussels on 23 January 2009

12. List of Abbreviations

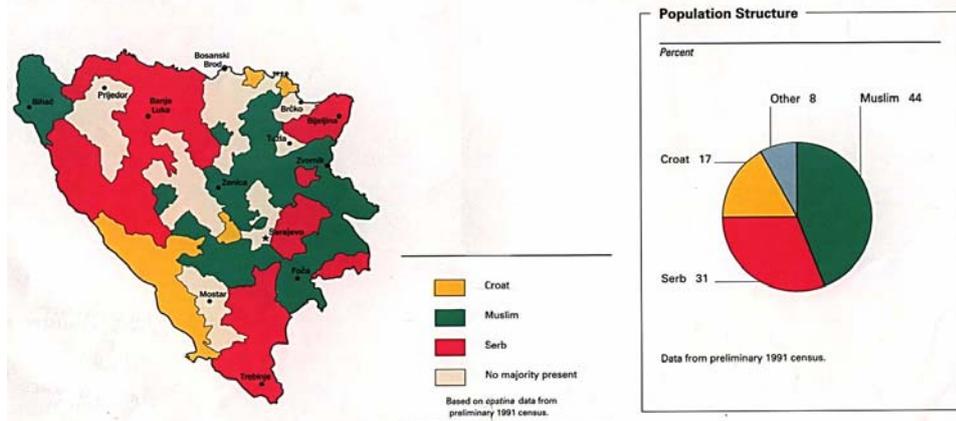
CFSP:	Common Foreign and Security Policy
Cominform:	Communist Information Bureau
Comintern:	Communist International
ECMM:	European Community Monitor Mission
ESDP:	European Security and Defence Policy
EUSR:	European Union Special Representative
EU:	European Union
EUMM:	European Monitoring Mission
EUPM:	European Union Police Mission
EUFOR:	European Union Force
EUSR:	European Union Special Representative
FBiH:	Federacije Bosne i Hercegovine
FRG:	Federal Republic of Germany
GDP:	Gross Domestic Product
HDZ:	Hrvatska Demokratska Zajednica
HR:	High Representative
ICITAP:	International Criminal Investigative Training Assistance Program
ICTY:	International Criminal Tribunal for the former Yugoslavia
IFOR:	Implementation Force
IMF:	International Monetary Fund
IPAP:	Individual Partnership Action Plan
IPP:	Individual Partnership Program
IRIS:	Intelligence Reform Implementation Section
JNA:	Jugoslavenska narodna armija
MoS:	Ministry of Security
MSU:	Multinational Specialized Unit
NATO:	North Atlantic Treaty Organisation
NGOs:	Non Governmental Organizations
OHR:	Office of the High Representative
OSA:	Obavještajno Sigurnosna Agencija BiH
OSCE:	Organisation for Security and Cooperation in Europe
PDP:	Party of Democratic Progress
PIC:	Peace Implementation Council

PIFWC:	Persons Indicted for War Crimes
PRC:	Police Restructuring Commission
RS:	Republika Srpska
SAA:	Stabilisation and Association Agreement
SAP:	Stabilisation and Association Process
SBiH:	Stranka za Bosnu i Hercegovinu
SCMM:	Standing Committee on Military Matters
SDA:	Stranku Demokratske Akcije
SDP:	Socijaldemokratska Partija BiH
SDS:	Srpske Demokratske Stranke
SBS:	State Border Service
SFOR:	Stabilization Force
SIPA:	State Agency for Information and Protection
SNSD:	Stranka Nezavisnih Socijaldemokrata
UNCIVPOL:	United Nations Civil Police
UN-IPTF:	United Nations International Police Task Force
UNHCR:	UN High Commissioner for Refugees
UNMIBH:	United Nations Mission in Bosnia and Herzegovina
UNO:	United Nations Organisation
UNPROFOR:	United Nations Protection Force
USA:	United States of America

13. Annexes

13. 1. Ethnic Map of Bosnia-Herzegovina

Ethnic Majorities

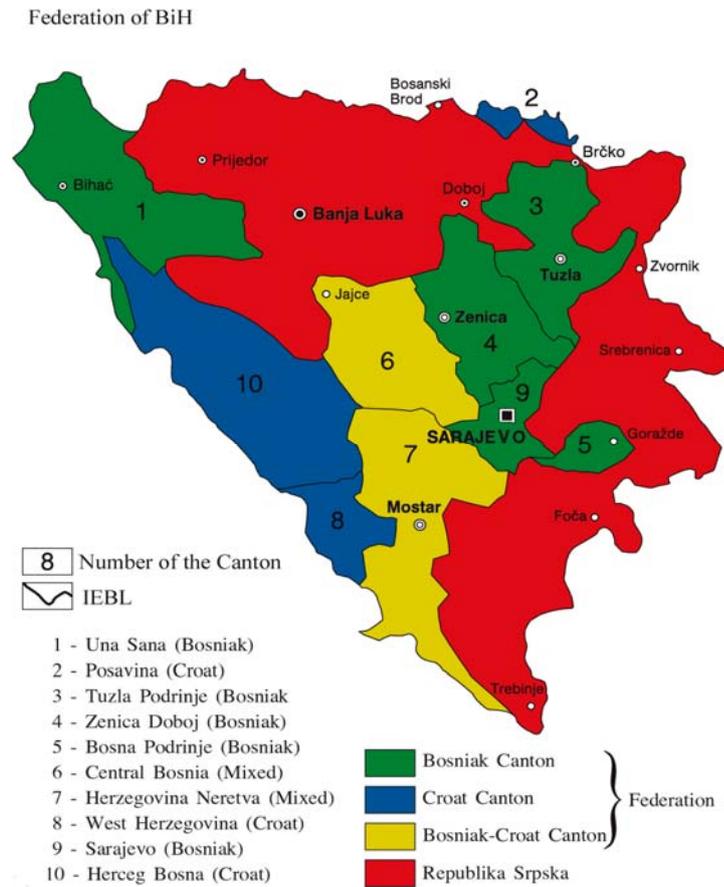


Source: Bosnia Ethnic Majorities – From Bosnia & Herzegovina Summary Map CIA 1993.

Available: http://www.embassyworld.com/maps/Maps_Of_Bosnia.html, found on 28 October 2008 at 7 pm³¹

³¹ Since there are no updated population census data, all values for the representation of the three constituent peoples in state institutions refer to the census of 1991.

13.2. Administrative Division of Bosnia-Herzegovina



The Brčko district which is not shown in this map is a self-governing neutral entity under international supervision.
 IEBL = Inter Ethnic Boundary Line

Source: Federation of BiH. Available: <http://www.ohr.int/ohr-info/maps/images/federation-of-bih.gif>, found on 28 October 2008 at 7 pm

13.3. Mostar Declaration

DECLARATION on honouring the commitments for implementation of the police reform with aim to initial and sign the Stabilisation and Association Agreement

The signatories of the present Declaration agree to undertake all necessary activities for implementation of the police reform in accordance with the principles of the European Union, and which are indispensable for continuing the process of association of Bosnia and Herzegovina with the European Union.

We fully and unconditionally agree with the content of the present Declaration and every of its particular point as indicated below.

I. The reform of the current police structures in Bosnia and Herzegovina shall be implemented in line with the following three principles of the European Commission:

1. All legislative and budgetary competencies for all police matters must be vested at the State level.
2. No political interference with operational policing.
3. Functional local police areas must be determined by technical policing criteria, where operational command is exercised at the local level.

II. Accordingly, we agree and accept that:

- the overall reform aims at establishing a functional, multiethnic and professional police on the basis of the three principles of the European Commission, and which shall guarantee the security of all citizens and goods on the entire territory of BiH;
- the structure of the single police forces of Bosnia and Herzegovina shall be in line with the constitutional structure of the country;
- new and reformed police structure of Bosnia and Herzegovina shall be based on relevant provisions of the Constitution of BiH, which shall take form during the process of constitutional reform;

- the details of the police structure of BiH shall be defined through two fundamental laws: Law on police service of BiH and Law on Police officials of BiH.

Being aware of the gravity of political momentum in Bosnia and Herzegovina, and of the need to continue as soon as possible on the road of European integrations, the signatories of the present Declaration commit themselves to proceed, without delay, to a full implementation of the above mentioned principles.

For HDZBIH

dr. Dragan Covic (signed)

For HDZ1990

dr. Bozo Ljubic (signed)

For PDP

dr. Mladen Ivanic (signed)

For SNSD

Milorad Dodik (signed)

For SDA

Sulejman Tihic (signed)

For SBiH

dr. Haris Silajdzic (signed)

Mostar, 24 October 2007

Source: Mostar Declaration. Available: <http://www.eusrbih.eu/policy-docs/?cid=2109,1,1>, found on 28 October 2008 at 8 pm

Role of the Police and Security Apparatus. The law gives the state-level government primary responsibility for law enforcement, but extends significant overlapping competencies to each entity and to the Brcko District, each of which has its own police force.Â The Police Reform Directorate finalized a draft plan for BiH police reform in December 2006. This report was never approved due to highly divergent views of leading political parties over police reform. Despite numerous rounds of negotiations, the Federation and RS did not agree on a plan to reform local police structures.Â Judicial reforms reduced the level of intimidation by organized crime figures and political leaders, but some intimidation remained.