

**BOSNIA'S STALLED POLICE REFORM:
NO PROGRESS, NO EU**

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BOSNIA'S STALLED POLICE REFORM: NO PROGRESS, NO EU

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The international strategy for Bosnia and Herzegovina risks derailment. It consists entirely of preparing the country for eventual European Union (EU) membership in the hope that integration processes will overcome ethno-political divides and their intertwined economic and criminal interests. However, the police reform needed to begin negotiations on a Stabilisation and Association Agreement (SAA) with the EU appears hopelessly blocked. With integration stalled, the international community will have to maintain its High Representative in Sarajevo for at least two to three years, if not longer, to head off dangers of new conflict unless it acts decisively in the next several weeks to confront the chief obstacles to reform: the main Bosnian Serb political party and the Belgrade government of Prime Minister Vojislav Kostunica.

Bosnia has long needed substantive police reform. During the 1992-1995 war, the police were a key instrument of ethnic cleansing -- particularly in Republika Srpska (RS) and the Croatian areas of the Federation. The war left Bosnia with three police forces: Bosniak, Croat and Serb, each with its own jurisdictions. The first two have since merged, at least nominally, but the RS has refused all efforts to reform structures or integrate them with those of other ethnic groups. Police throughout the country have remained highly politicised, acting at the behest of politicians to obstruct implementation of the Dayton Peace Accords, in particular refugee return, and heavily involved in organised crime. The RS force is filled with war criminals and actively supports persons indicted by the International Criminal Tribunal for the Former Yugoslavia in The Hague.

The Office of the High Representative (OHR) is attempting to gain agreement on sweeping police reform for the entire country to satisfy criteria established by the European Commission as preconditions for SAA negotiations. It has failed, due to obstruction from the Serbian side. The leading RS party -- the Serbian Democratic Party (SDS) -- openly blocks all efforts at reform and receives active encouragement from the Serbian government, the Serbian Orthodox Church and Serbia's security

structures, which desire to annex RS as part of a Kosovo final status settlement.

The OHR and Bosnia's other parties have made significant concessions to the RS, watering down the reform proposal to the extent that it may not satisfy two of the three European Commission criteria, but in vain. The most recent idea floated by the Bosnian prime minister would merely delay the important decisions for at least a year or two and would not constitute serious reform.

If a 15 September deadline is not met, the European Commission will formally reject Bosnia's bid to negotiate an SAA, and the reform window will close at least for two years, because the country will be preoccupied with elections in 2006. The only chance to get police reform and European integration back on track is for the international community to decide now to put meaningful pressure on the obstructionists in Banja Luka and Belgrade, beginning with a decision to shake up RS politics by banning the SDS if its failure to compromise on police reform causes Bosnia to miss the deadline for EU negotiations. It should also reassess the disappointing performance of the EU Police Mission (EUPM) and use the expiration of its mandate at year's end to replace it with a more effective institution with a broader mandate.

RECOMMENDATIONS

To the High Representative and Members of the Peace Implementation Council:

1. Insist that the current watered-down proposal be strengthened to meet the three criteria established by the European Commission.
2. Place serious pressure on the Republika Srpska to accept police reform, beginning by banning the SDS as a political party and seizing its assets if its failure to compromise on police reform causes Bosnia to miss the deadline for negotiations with the EU on a Stabilisation and Association Agreement.

3. Seek a public declaration from Belgrade that it has no territorial aspirations towards Bosnia and Herzegovina and will respect Bosnia's borders in the event of a Kosovo final status determination.
4. Return to the original police reform plan developed by the EUPM, including:
 - (a) five police regions rather than ten;
 - (b) community oversight councils, with participation of local civil society groups, particularly women; and
 - (c) without entity representatives as deputies to the director of local police, the community oversight councils, and the police board.

To the European Union:

5. Place serious pressure on Belgrade to support international community policy on Bosnia, beginning with a warning that the Stabilisation and Association process with Serbia and Montenegro will be suspended unless the Kostunica government uses its influence with the RS to achieve early agreement on police reform.
6. Shut down the EUPM at the end of its mandate and establish in its place a new police mission with a mandate at least as strong as that of the EUPM's predecessor organisation, the International Police Task Force (IPTF), with the expectation that its powers will be used to remove recalcitrant police officials.

Sarajevo/Brussels, 6 September 2005

BOSNIA'S STALLED POLICE REFORM: NO PROGRESS, NO EU

I. INTRODUCTION

Since the Dayton Peace Accords were signed in December 1995, Bosnia and Herzegovina's (BiH) multiple police forces have been a major obstacle to their implementation and consequently the country's progress toward integration into the European Union (EU). Police reform is possibly the last substantial policy issue that must be resolved before the international community can draw down its decade-long engagement. The EU has clearly stated that it is a key precondition for Bosnia's negotiations on a Stabilisation and Association Agreement (SAA). It also appears to be an informal precondition for membership in NATO's Partnership for Peace (PfP). If Bosnia is to be perceived as a functional state rather than a potential security risk requiring continued supervision, efficient police are a necessity. Until the current structures have been fundamentally reformed, the international community cannot seriously contemplate reducing either its mission in Bosnia or the powers of the Office of the High Representative (OHR).

All efforts at reform have failed, due almost entirely to obstruction by politicians in the Serb entity, the Republika Srpska (RS), which has the worst police force in Bosnia -- one that continues to protect and employ war criminals, resist refugee return and refuse cooperation with the International Criminal Tribunal for the Former Yugoslavia in The Hague (ICTY). RS politicians, with strong support from Belgrade, which hopes eventually to be allowed to annex the entity as compensation for Kosovo, block reform as an infringement on "sovereignty".

Bosnia needs to approve a reform program by 15 September 2005 in order to move forward on EU integration. If it misses that window, the European Commission will conclude that Bosnia has failed to meet the requirements to begin negotiation of an SAA.¹ The country would then likely lose at least two more

years, because it will be preoccupied with elections in 2006. To help it, the international community and OHR will have to take a strong and united stance in the face of RS and Belgrade obstruction and also revise the plan presently on the table to bring it into compliance with EU criteria. Attention likewise needs to be given to how any legislated police reform will be implemented. The mandate of the lacklustre European Union Police Mission (EUPM) expires at the end of 2005. To make police reform work, the EU will need to create a replacement mission with a more robust mandate.

¹ The European Commission is scheduled to issue a report on Bosnia's readiness to begin Stabilisation and Association negotiations in October 2005.

II. BOSNIA'S PROBLEM POLICE

A. THE NEED FOR POLICE REFORM

During the 1992-1995 war, police forces were key instruments of ethnic cleansing -- particularly in the RS and Croatian areas of the Federation. The war left Bosnia with three de facto forces: Bosniak, Croat and Serb, each with its own jurisdiction. Bosniak and Croat police have merged, at least nominally, into ten cantonal and Federation-level forces, while the RS has refused all efforts to reform structures or integrate them with those of other ethnic groups. Its police have remained highly politicised, acting at the behest of politicians to obstruct implementation of the Dayton Peace Accords, in particular refugee return.

The BiH constitution and relevant entity laws prevent police from crossing into the territory of a different entity. This hampers any serious efforts, whether from the Federation or RS, to launch an investigation or operation in another jurisdiction. While it would be inaccurate to say there is no cooperation between the fragmented entity police agencies, there is neither operational coordination nor an institutional framework for such cooperation as exists. Organised crime, petty criminals and corrupt politicians regularly exploit Bosnia's fragmented police: numerous offences cannot be resolved, simply because criminals can skip across the entity boundary to the safety of another jurisdiction. Some criminals cooperate with or act under the protection of the police in their entity, particularly in RS, where persons indicted for war crimes by the Federation or the ICTY have found refuge.

Attention to police reform has concentrated on technical issues. Bosnia's police have been given training to improve their skills, its police academies have received donations, and various organisations and individuals were certified by the UN agency responsible for the initial reforms -- the International Police Task Force (IPTF) -- in an often hasty procedure.² However, the essence of the problem -- political control -- has largely been ignored. Especially in the RS, police still act according to the will of their political masters, particularly when it comes to war crimes. They have not arrested a single one of the ICTY indictees at large in the entity.³ There is

little inclination on the force to pursue them and no pressure to do so from the officials in charge.

Although police in the Federation have demonstrated the ability to arrest and deliver war crimes indictees, they, too, have many problems. The Federation has a highly complex police organisation. Each of its ten cantons has an autonomous police ministry and laws regulating operations. The Interior Ministry at the Federation level is not superior to canton police. It has jurisdiction only in cases of terrorism and inter-cantonal and organised crime and may not interfere in other matters.⁴ In addition to the RS police, Federation police and ten cantonal police forces, there is an autonomous Brcko District police -- a total of thirteen distinct forces employing some 19,000 people in a country of less than 4 million.⁵ This fragmented structure consumes close to 10 per cent of the government budgets at Federation, RS, cantonal and state level, double the percentage of public expenditures dedicated to policing in the EU. And yet crime continues to increase.

B. THE RS POLICE -- HAUNTED BY WAR CRIMINALS

Dealing effectively with war crimes indictees would not by itself resolve the underlying problems affecting Bosnia's police or lessen the urgency of wider police reform but cooperation with The Hague Tribunal is the single most egregious failing of the RS police. Carla del Ponte, the tribunal's chief prosecutor, told the NATO Council on 3 November 2004 that the RS had not located or arrested a single indicted fugitive and accused its authorities of providing full support to Radovan Karadzic, the former political leader and RS founder, one of the Balkan's two most wanted men. She suggested three cures: NATO operational assistance in locating and apprehending war crimes suspects; destruction of their support network; and "deep, structural reforms of the security sector".⁶ In a speech before the UN Security Council on 23 November 2004, del Ponte demanded changes in stronger terms:

I believe that there are fundamental systemic weaknesses built into the law enforcement and security structures in Bosnia and Herzegovina,

² See Crisis Group Europe Report N°80, *Is Dayton Failing: Bosnia Four Years After the Peace Agreement*, 28 October 1999, and Crisis Group Europe Report N°103, *War Criminals in Bosnia's Republika Srpska: Who Are the People in Your Neighbourhood?*, 2 November 2000.

³ In the past several months, under outside pressure, the RS police have facilitated the surrender of several lower-ranking ICTY war crimes indictees; none has actually been arrested.

They have also arrested a number of individuals indicted by the Federation authorities for war crimes. See Section II B below.

⁴ *Zakon o unutrašnjim poslovima*, Federacije BiH, Article 2. (Law on Internal Affairs).

⁵ In addition, the RS and each of the ten cantons run separate court police services.

⁶ Address by Carla del Ponte to the NATO Council, 23 November 2004. Full text available at www.un.org/icty.

and in particular the Republika Srpska.⁷ They must be tackled so that these structures finally help, not hinder the country in co-operating with the Tribunal. The Ministries of Defence and of the Interior of Republika Srpska cannot, by any reasonable standards, be judged to have helped in this regard.⁸

Soon afterward it was revealed that Ratko Mladic, the fugitive former RS military commander indicted by The Hague Tribunal in 1995 for the Srebrenica massacre, had been on the payroll of the Army of Serbia and Montenegro until June 2001, and of the RS army until February 2002. This drew condemnation of the RS authorities from the OHR and other international players in Bosnia. High Representative Paddy Ashdown stated that "the fact that as recently as two years ago, the VRS (Army of Republika Srpska) had an employer/employee relationship with Mr Mladic is scandalous, and is an indication of the flagrant disregard that the RS authorities and especially the VRS have held toward their Dayton commitments and obligations to the International Tribunal in The Hague".⁹ The U.S. ambassador, Douglas McElhaney, said that RS leaders constantly failed to arrest indicted war criminals, gave only "cheap promises" of improved cooperation with the ICTY, and had "done nothing" to remove a key obstacle on Bosnia's road to Europe, with negative effects for all its citizens.¹⁰

Realizing that serious sanctions were imminent, the RS authorities made cosmetic efforts. On 15 November 2004, RS police acted on a warrant from the Sarajevo Cantonal Court (in the Federation) and arrested eight individuals indicted for war crimes.¹¹ A month later, again acting on a warrant from a court in the Federation, they arrested Miroslav Vjestica, a former senior Serbian Democratic Party (SDS) official.¹² The arrested men were transferred to the custody of Federation authorities, a first.

In mid-December 2004, the RS police "discovered" at the RS Interior Ministry building in Banja Luka war-time documents the ICTY had requested years previous. Roughly 1,500 kilos of military documents were delivered to The Hague that month.¹³ In addition, the RS Interior Ministry facilitated the "voluntary" surrender to Serbian police of eight lower-ranking Hague indictees, most of whom lived in Serbia.¹⁴

These events supposedly demonstrated RS readiness to cooperate with the ICTY. Yet, contrary evidence came to light in early December, when international intelligence sources leaked to the media that they had evidence Mladic was still being protected and had been hiding in an RS military compound in Han Pijesak as recently as July 2004.¹⁵ This was later publicly confirmed by David Leaky, the commander of EU troops in Bosnia (EUFOR).

It came as no surprise, therefore, when NATO foreign ministers on 9 December 2004 again did not invite Bosnia to join the PfP program. Instead, they expressed "deep concern" over the latest assessments by the ICTY prosecutor on the level of cooperation she was receiving from the RS and called for "improvements in security and law enforcement structures" in Bosnia.¹⁶ The OHR, EUFOR and the U.S. embassy announced measures aimed at improving that cooperation at a joint press conference on 16 December.

Two of the important measures concerned the "demand" for accelerated defence reforms and the "expectation" that RS authorities would accept suggested police reforms.¹⁷ Contrary to frequently expressed belief in Bosnia and abroad, the OHR has not imposed changes in either defence or police structures. Rather, it insisted that defence competencies be transferred more rapidly -- by

⁷ The phrase "fundamental systemic weaknesses" has subsequently been used regularly by international officials in discussing lack of RS cooperation.

⁸ Address by Carla del Ponte, op. cit.

⁹ "Mladic's file shows RS disregards ICTY obligations", OHR press release, 30 November 2004.

¹⁰ "McElhaney: RS blocking European future of BiH by not cooperating with ICTY", Federal News Agency (FENA), 1 December 2004.

¹¹ Those arrested were: Jovan Skobo, Svetko Novakovic, Momir Glisic, Goran Vasic, Zeljko Mitrovic, Veselin Cancar, Dragoje Radovanovic and Momir Skakavac. "RS: police arrest indicted war criminals in Pale, Lukavica and Foca", FENA, 15 November, 2004.

¹² "Miroslav Vjestica arrested", FENA, 23 December 2004.

¹³ "RS: Several thousand wartime documents of RS Army transferred to ICTY", FENA, 28 December 2004.

¹⁴ The first Bosnian Serb official to be transferred to The Hague was Savo Todovic, on January 2005. He was followed by Mico Stanisic, Gojko Jankovic, Drago Nikolic and Vinko Pandurevic in March, and Ljubomir Borovcanin, Vujadin Popovic and Milorad Trbic in April. Most of these surrendered via Belgrade.

¹⁵ "Massacre general kept from justice by old allies", *The Times* (London), 10 December 2004.

¹⁶ The full text of the NATO communiqué is available at www.nato.int.

¹⁷ Additionally, the OHR removed nine individuals from public positions and froze the bank accounts of six, on the basis of its conclusion that they were helping war criminals or had failed in their duties to apprehend them. OHR also demanded that RS authorities investigate persons on active duty in the police who are listed as war crimes suspects in the confidential annex of the Srebrenica Commission Report. It further demanded regular audits of public companies and amended the Criminal Procedure Codes. Full texts of OHR decisions are available at www.ohr.int.

the end of 2005 -- from entity ministries to the State Ministry of Defence and expressed the expectation RS authorities would implement recommended police reforms in early 2005.¹⁸

At the same time, EUFOR's Leaky declared that the underground military complex in Han Pijesak, where Mladic had been hiding, would be closed and sealed and all other underground military facilities would be inspected and closed, unless they had a legitimate use. Ambassador McElhaney announced that the U.S. was freezing all SDS assets in its jurisdiction and prohibiting U.S. persons from engaging in financial transactions with the party. He said the Serbian Democratic Party was actively working against Bosnia's international commitments and had links with RS institutions to support war criminals. Washington also declared leaders of the SDS and its coalition partner, the Party of Democratic Progress (PDP), ineligible to enter the U.S. The ambassador said his government hoped there would not be a need for additional punitive measures but if there was no demonstrable progress, it would hold appropriate RS individuals and institutions accountable.¹⁹

C. ETHNIC IMBALANCES

Various post-Dayton constitutional changes have mandated proportional ethnic representation in all public institutions to reflect the ethnic ratio from the 1991 census, explicitly including entity ministries, and consequently each entity's police force. Yet, the ethnic imbalance in the three main police forces has never been remedied. Fewer than 8 per cent of the RS police force are non-Serbs, most of whom are assigned to less sensitive activities and are kept away from supervisory and management positions. Although the overall situation in the Federation is better, the ethnic composition of the police is not balanced. For example, in Ljubuski canton fewer than 1 per cent of the police are non-Croats, while in Gorazde canton there are no Croats (see Appendix B).

These figures on composition of the police forces are not significantly different from what the Helsinki Committee in Bosnia recently reported on a larger scale: almost every city in the country now has one dominant ethnic group making up nearly 90 per cent of its population.²⁰ Police

and residence patterns in the country largely reflect the conduct and results of the war. Significant police reform, in other words, means reversing part of the work of the ethnic cleansers, and it is a prerequisite to further progress on that important front since refugees are reluctant to return to areas in which they do not feel comfortable about the police.²¹

¹⁸ For discussion of those recommendations and the body in which they were developed, see discussion of the Police Restructuring Commission (PRC) below.

¹⁹ Remarks by U.S. Ambassador to Bosnia Douglas McElhaney at the press conference in Sarajevo, 16 December 2004.

²⁰ Pre-war Bosnia was so ethnically mixed that in about 80 per cent of municipalities no single ethnic group had an absolute majority. Today Tuzla is the only municipality in which the

majority population is not 90 per cent of the total. See, "Report on the status of human rights in Bosnia and Herzegovina, Analysis for Period January -- December 2004", available at Helsinki Committee website, www.bh-hchr.org.

²¹ For more on the refugee return situation, see Crisis Group Europe Report N°137, *The Continuing Challenge of Refugee Return in Bosnia & Herzegovina*, 13 December 2002. Of course, even if the ethnic imbalance in Bosnia's police forces is redressed, fundamental restructuring would still be required to address their systemic problems.

III. EFFORTS AT REFORM

A. THE EU FEASIBILITY STUDY

In November 2003, the European Commission's Feasibility Study on Bosnia's readiness to move toward eventual EU membership cited the rule of law and the police among sixteen priority areas in need of improvement. Bosnia's government has now whittled down the list until only two remain, one of which is police reform.²² A separate report, commissioned by the European Commission and based on a detailed audit of the BiH police agencies, listed numerous police deficiencies, including complex structures, cost, lack of central databases, and use of different information systems by different agencies, and concluded that all these hampered crime fighting. It praised the establishment of some state-level police institutions, such as the State Border Service and State Investigation and Protection Agency, but concluded that if Bosnia was to attack crime effectively, "further reform and enhanced State-level enforcement capacity are needed".²³

At the end of 2003, the OHR announced that reform of Bosnia's security structures would be one of its priorities in the next year, and the European Commission (EC) hired consultants to prepare a further review of the police. Published in June 2004, it focused primarily on professional and technical aspects and failed to consider the political side.²⁴ Nonetheless, it found gross deficiencies in organisation and concluded that the police were overstaffed, under-equipped and fragmented along ethnic lines.²⁵

Ethno-political organisation of the police has given rise to some clearly illogical situations. For example, each of the smaller units (whether public security centres in

RS or cantons in the Federation) have control rooms but they are under-used in some less populated areas. Thus, the control room in Gorazde canton (in the eastern Federation) handles only 1.6 interventions per day, while the one in Tuzla (north east Federation) has approximately 80 interventions per day.²⁶ The report argued convincingly that the system was unsustainable, and Bosnia's police should be organised in accordance with professional and technical, rather than ethnic criteria.

In order to make clear what was required to begin Stabilisation and Association negotiations, the EU gave explicit instructions that police reforms should adhere to three principles, which were laid out in 2004 and early 2005 in a series of letters by Messrs Patten, Solana and Rehn to the Bosnian authorities, as well as in subsequent meetings with the Police Reform Commission and during interviews with the Bosnian media.²⁷ The three criteria were: 1) exclusive competence (including legislative and budgetary) for all police matters at the state level; 2) no political interference in policing; and 3) Local Police Areas (regions) designed on the basis of technical, policing considerations, rather than politics.

B. THE POLICE RESTRUCTURING COMMISSION

In late June 2004, NATO rejected Bosnia as a candidate member of Partnership for Peace, largely because the RS had yet to arrest any Hague indictees. Ashdown, the High Representative, took measures against the RS political leadership, in his words "cleaning the rotten wood" that prevents Bosnia from fulfilling its international obligations and moving toward a European future.²⁸ He also announced creation of a Police Restructuring Commission (PRC), tasked with proposing a new organisation for the police in BiH that would substantially strengthen state structures. "Nothing will be ruled in, and nothing ruled out", he said.²⁹ The decision establishing the PRC listed numerous earlier calls by the international community's Peace Implementation Council³⁰ for voluntary changes that Bosnia's politicians had ignored.³¹

²² The other area is reform of the public broadcasting system. "Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilisation and Association Agreement with the European Union", COM (2003) 692, 18 November 2003.

²³ "Financial, organisational and administrative assessment of the BiH police forces and the state border service: Final Assessment Report, 2004", Sarajevo, 30 June 2004.

²⁴ The study's avoidance of politics led to some awkward gaps in its conclusions. For example, a table was included that showed the gender and ethnic breakdowns of police forces throughout BiH; the figures demonstrated both the under-representation of women and the ethnic imbalance but the comment next to the table noted only that "most forces need to improve the inclusion of female officers". "Functional Review of the BH Police Forces", Final Report, Sarajevo, July 2004, p. 63, available at: www.mpr.gov.ba/docs/bih_police_en.pdf.

²⁵ Ibid.

²⁶ Ibid.

²⁷ The letters were from European Commissioners Patten and Olli Rehn and the EU foreign policy chief, Javier Solana.

²⁸ Press conference of High Representative Paddy Ashdown, 30 June, 2004, Sarajevo.

²⁹ Ibid.

³⁰ The PIC members and participants are Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, China (resigned in May 2000), Croatia, Czech Republic, Denmark, Egypt, Federal Republic of Yugoslavia, Finland, Former Yugoslav Republic of Macedonia, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Jordan, Luxembourg, Malaysia,

The international community's powers of intervention are extensive, but not infinite. While Ashdown and his predecessors have sacked elected officials, imposed legislation, and amended the constitutions of entities and cantons, the High Representative does not have the right to change the constitution established at Dayton -- indeed his duty is to uphold it. The necessary changes to bring about a reformed police include amending the constitution, which can only be done by a resolution of the BiH parliament, with a two-thirds majority in the lower house. In addition, the European Commission insists that the Bosnian state, rather than its international guardians, take responsibility for reforming the police in order to demonstrate that the country's political structures are sufficiently mature and functional to engage in the European integration process.

The main task given to the PRC was to propose "a single structure of policing" for the whole of BiH, which would be "under the overall political oversight of a ministry or ministries in the Council of Ministers".³² It was to review the police and prepare necessary legislation, including if required, "amendments to constitutions". The OHR set twelve guiding principles, most importantly that Bosnia's central government must have authority over the police in a manner similar to other EU states, and its police should reflect the country's ethnic structure. These two principles meant, in effect, that the PRC should propose a truly multiethnic police under central government oversight.

Morocco, Netherlands, Norway, Oman, Pakistan, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom and United States of America; the High Representative, Council of Europe, European Bank for Reconstruction and Development (EBRD), European Commission, International Committee of the Red Cross (ICRC), International Criminal Tribunal for the former Yugoslavia (ICTY), International Monetary Fund (IMF), North Atlantic Treaty Organisation (NATO), Organisation for Security and Co-operation in Europe (OSCE), United Nations (UN), UN High Commissioner for Human Rights (UNHCHR), UN High Commissioner for Refugees (UNHCR) and the World Bank.

The PIC Steering Board consists of Canada, France, Germany, Italy, Japan, Russia, United Kingdom, United States, the Presidency of the European Union, the European Commission, and the Organisation of the Islamic Conference (OIC), which is represented by Turkey.

³¹ Establishment of multiethnic police was called for by the Peace Implementation Council (PIC) Ministerial on 9 June 1998 and repeated by the PIC on 16 December 1998. Similar calls for reforming the police to include an appropriate ethnic balance had been made at most PIC ministerial-level meetings over the previous three years, including Petersberg (1996) and Luxembourg (1997).

³² Decision Establishing the Police Restructuring Commission, 5 July 2004, available at www.ohr.int.

The High Representative formally established the PRC on 2 July 2004, with Wilfried Martens, former Prime Minister of Belgium as chair³³ and David Blakey, a former UK inspector of police as his deputy. There were also ten regular³⁴ and seven associate members.³⁵ Although the OHR appointed most PRC members, local authorities were asked to name several. OHR provided a secretariat with twenty staff members, including representatives of the EUPM and the European Commission delegation. Although it was clear that the PRC was designed to remove entity control of the police, politicians and PRC members from the RS nonetheless participated in its work; at the time, the RS was under increasing international pressure over war crimes indictees, and it did not wish to be seen as obstructing the reform process. However, it was certain that anything the PRC recommended would require passage in BiH's several parliaments, giving Bosnian Serb leaders opportunities to obstruct, if need be, at a later stage.

The PRC held seven meetings over six months.³⁶ Although its inaugural session³⁷ was encouragingly business-like, it soon became evident that it would not be an impartial gathering of professionals, free from political influence. The RS members³⁸ questioned whether the PRC had the

³³ The Martens appointment was considered particularly appropriate in light of Belgium's own recent experience with major police reorganisation. After weaknesses in its municipality-based system were exposed in the aftermath of a notorious multi-murder case (the Dutroux affair), which came to light in 1996, reforms were agreed in 1998 but were not implemented until 2001, in part due to obstruction by police unions.

³⁴ The minister of security of Bosnia, minister of interior of RS, minister of interior of the federation, two ministers from cantons in the federation, one mayor from a city in the federation and a mayor from a city in RS, the mayor of the Brcko district, a representative of the Chairman of the Council of Ministers, and the EUPM Commissioner.

³⁵ The chief prosecutor of BiH, the director of the State Investigation and Protection Agency (SIPA), the director of the State Border Service (SBS), the director of the Office for Cooperation with Interpol, the director of the Federation Administration of Police, the director of police in RS, and a cantonal police commissioner.

³⁶ These were in Sarajevo on 22 July 2004; Banja Luka on 31 August; Mostar on 24 September; Sarajevo on 13 October; Brussels on 25 October; Brcko on 17 November; and Sarajevo on 13 December.

³⁷ The then European commissioner for external relations, Chris Patten, attended part of this session.

³⁸ There was, however, a noticeable difference of opinion among the Serb members of the Commission. Those representing RS government structures (primarily the minister of interior and his police director) were firmer in opposing any significant changes; those representing the Brcko District or

authority to propose constitutional changes. They reminded participants that under the constitution authority over police and all other competencies belonged to the entity governments unless explicitly granted to the central government.³⁹ The RS did present a proposal that would have placed a thin, state-level umbrella over current policing structures but was not in keeping with the PRC's mandate to come up with a single structure or the EU requirement that the state enjoy exclusive competence over police matters.

Bosniak members publicly encouraged the PRC to propose constitutional changes and spoke ambitiously about this as a means for unifying the country's police forces.⁴⁰ Bosnian Croat members were cautiously supportive of the mandate but made clear they would not sacrifice the cantonal police -- particularly in Croat majority cantons -- unless entity forces were also reformed.

The EU brought pressure to bear. In October 2004, its foreign policy chief, Javier Solana, declared, "you must be guided by what is needed for effective law enforcement, not by politics -- in the modern world we cannot afford anything less".⁴¹ The then European commissioner for external relations, Chris Patten, reminded the authorities in an open letter that if Bosnia was unable to combat crime effectively, there would be serious consequences for integration. Bosnia, he said, needed to have police at the state level, including laws and funding, similar to those in other European countries. He invited the PRC to propose "fundamental, systemic reforms...guided by what makes most sense for effective policing, not by political considerations".⁴²

As the PRC's work neared an end, Solana delivered an even more explicit message:

state-level institutions were more amenable to discussions on improving structures. Crisis Group interview with a member of the PRC, Sarajevo, 26 November 2004.

³⁹ Article 3a of the Constitution of BiH reads: "All governmental functions and powers not expressly assigned in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities". Other articles, however, provide the possibility for competencies to be transferred from the entities. Article 5a, for example, calls for establishment of such competencies at state level if they are "necessary to preserve the sovereignty, territorial integrity, political independence, and international personality" of Bosnia.

⁴⁰ This was contrary to an internal agreement among PRC members to refrain from public statements about their deliberations.

⁴¹ Remarks by Javier Solana, EU high representative for common foreign and security policy, at the session of the Police Restructuring Commission in Brussels, 28 October 2004.

⁴² Patten's letter to BiH authorities, 16 November 2004.

The job of the PRC is not to hide behind the current constitution, but to establish a functional model of police for the BiH. If that means changes in constitutions or changes in the competence that the constitution assigns, then the task of the Commission is to propose such measures. I know that your constitution does not exclude such a possibility. It actually provides foundations for such activities.⁴³

C. THE PROPOSALS

Before the PRC began its work, the European Union Police Mission (EUPM) developed a reform proposal that envisioned establishment of the position of police director, to be supervised by a state-level Ministry of Security, and creation of five police regions based on the following criteria: 1) the number of people in the region; 2) its geographical size; 3) the intensity of crime; 4) traffic and economic patterns; and 5) the ability to cooperate with other law enforcement partners. The EUPM concept, which served as the starting point for discussion in the PRC, explicitly stated that too few regions -- two or three -- would be too big for effective police control, while too many -- "ten or more" -- would cause coordination difficulties. It proposed Banja Luka, Sarajevo, Mostar, Tuzla and Zenica for the five regional centres. The five regions would cross entity and cantonal boundary lines.

PRC members from the Federation supported this proposal with slight modifications of regional borders. They offered, as a concession to the RS, that centres be located in Doboj in the RS and Brcko, a multi-ethnic district with a Serbian majority shared by the Federation and the RS, instead of the Bosniak-majority cities of Zenica and Tuzla.⁴⁴ Brcko representatives offered their own proposal of eight regions⁴⁵ that also respected the EUPM criteria for crossing entity and cantonal boundary lines.

The RS representatives were not prepared to countenance the disbandment of entity police forces or the creation of police regions that crossed entity boundaries. Nor were they willing to agree to the transfer of police competencies to the state level. At most they agreed to delegate some minor entity competencies to state-level institutions, permitting them overall political supervision, while the budget and day-to-day police work would

⁴³ Solana, cited in "Nuzne su radikalne reforme u policiji", *Dnevni Avaz*, 27 November 2004.

⁴⁴ This would have put two police centres in the RS, two in the Federation and one in the Brcko District.

⁴⁵ With centres in Sarajevo, Banja Luka, Mostar, Brcko, Tuzla, Travnik (or Zenica), Doboj, and Prijedor.

remain at the entity level. Toward the end of its work, the PRC received additional proposals on the number of police regions but failed to reach a consensus. A source close to the talks told Crisis Group that:

Everyone in the police restructuring commission, including professionals from Republika Srpska -- with the exception of the Minister of the Interior of RS -- acknowledged that they thought...this [proposed reform] represented a more effective system of policing, and they supported it from a professional standpoint. But they couldn't come out and say this, as they were bound by the conclusions of the Assembly of Republika Srpska.⁴⁶

The chairman, Martens, noted that there had been "professional consensus" on both police regions and state competencies but that "political restrictions placed by the Republika Srpska National Assembly on the PRC participants from the Republika Srpska prevented the full endorsement of the main recommendations".⁴⁷ Since the Commission as a whole -- due to the RS position -- was unable to sign on to the proposals, he published the report under his own authority, including three options -- the original EUPM plan with five local police regions; one with ten, and another with eleven -- leaving the High Representative, Ashdown, to decide.

In January 2005 he came out in favour of the ten-region option⁴⁸ and, in accordance with the PRC's final report, recommended that state institutions be vested with exclusive competence for all police matters, including legislation and the budget, while a state-level Ministry of Security supervised the unified structure, including a State Investigation and Protection Agency (SIPA), a State Border Service (SBS), and Local Police Services. The latter would operate in areas in which local police commissioners would be appointed. The size, shape and location of the ten regions identified by Ashdown (or "nine plus one" as it was conveniently termed) were determined entirely on the basis of technical police criteria and ignored boundary lines between existing entities, cantons and districts.⁴⁹

The OHR's choice itself, however, involved a considerable concession to politics, to the point where it may not fulfil the criteria set by the European Commission. The ten-region option was chosen almost entirely for political reasons. As noted, the original EUPM study, based

solely on technical criteria, had stated that too many regions -- "ten or more" -- would be hard to coordinate and inefficient. Not only did the OHR proposal envision more police regions than practical, but the multi-ethnic character of its proposed regions was significantly diluted, thereby defeating much of the original purpose.

D. BANJA LUKA'S RESPONSE

In response to increased international pressure over war crimes and police reform, a number of senior Bosnian Serb politicians resigned from office: RS Prime Minister Dragan Mikerevic and his government, followed by Minister of Foreign Affairs of Bosnia Mladen Ivanic, and Communication and Transportation Minister Branko Dokic. The remaining two Serb ministers in the state's Council of Ministers announced but did not tender their resignations.

All significant Serb political parties in the RS declared the proposed police reforms unacceptable. Even the least significant were portrayed as threats to Serb national interests and the existence of the RS. Echoing the tone once adopted by the entity's founder, Karadzic, President Dragan Cavic warned the High Representative that, "the RS is a result of a four-year fight of the Serb people...not a gift of the international community" and threatened that it might organise a referendum on its status within Bosnia.⁵⁰

RS leaders received strong backing from Serbia, whose prime minister, Vojislav Kostunica, deliberately misinterpreted Ashdown's proposal as tantamount to abolishing the RS and warned that "abolishing entities abolishes the Dayton agreement", thus destabilising the region.⁵¹ In a joint press statement, Kostunica, President Boris Tadic, and Parliament Speaker Predrag Markovic said that Ashdown "does not have the authority to dismiss officials, let alone to change the institutional framework defined by the Dayton Agreement".⁵² Leaders of the Serbian Orthodox Church also condemned Ashdown's measures, warning that they might force people in the RS "to lose every trust in democratic processes in [Bosnia]".⁵³

These pronouncements reflected a broadly held belief among much of Serbia's political and clerical elite that

⁴⁶ Crisis Group interview with international official.

⁴⁷ Chair's Report of the PRC, available at www.ohr.org.

⁴⁸ "OHR: Press Conference on Police Restructuring", FENA, 31 January 2005.

⁴⁹ The "plus one" refers to the multi-ethnic, non-entity Brcko District.

⁵⁰ "Cavic: Attempts to abolish RS will lead to referendum", FENA, 19 December 2004.

⁵¹ "Kostunica: Ashdown causing Instability in RS and all Bosnia", V. I. P. Daily News Report, 21 December 2004.

⁵² "Serbian leadership urges Ashdown to respect Dayton agreement", FENA, 23 December 2004.

⁵³ "SPC synod, RS and FBiH Bishops condemn Ashdown's decisions", FENA, 24 December 2004.

the RS will likely be annexed, following a decision on Kosovo's final status (which, most in Belgrade tacitly admit, will be some form of independence). Belgrade, therefore, often encourages RS politicians to be uncooperative. Most of Serbia's leading politicians, including Kostunica, have at one time or another said publicly that the RS should be joined to Serbia, most recently in June 2005, when Foreign Minister Vuk Draskovic provoked a sharp rebuke from Ashdown by linking the fates of Kosovo and the RS.⁵⁴

Unexpectedly, Russia -- a member of the Peace Implementation Council (PIC) that oversees the OHR -- joined in condemning Ashdown's actions. In a communication that hinted he had damaged the peace process in Bosnia and possibly overstepped his mandate, the Russian Ministry of Foreign Affairs demanded he "work in full awareness of his responsibility in accordance with the mandate that was entrusted to him by the UN Security Council and the Peace Implementation Council".⁵⁵ Other governments and institutions, including the U.S., UK, EU and NATO, supported Ashdown.⁵⁶

Following some deft political arm-twisting by the OHR and a satisfactory-to-all declaration from the PIC in Brussels on 3 February 2005, the crisis seemed to have subsided. The Serb ministers withdrew their resignations from the Council of Ministers, and the RS formed a new government. But Banja Luka's position on police reform remained unchanged.

Banja Luka's response suggests a fundamental failure of the RS, and the SDS in particular, to understand the transformation underway in the country from peace implementation-led reform -- the dominant theme of political struggle for much of the past decade -- to the dynamics of EU integration. The frequency with which the RS has ignored or dismissed letters from the European Commission indicates it believes that because the OHR will not impose police reforms, it can stonewall until the fuss blows over. It fails to recognise the consequences of ignoring the EU. Many countries have had to alter constitutions in order to join the EU, and given the nature of its Dayton inheritance, this will certainly be required of Bosnia. It is questionable whether the SDS is capable of leaving war-time politics behind and adapting to the EU ground rules but at some point the RS will need to accept that it cannot dictate its own entry criteria.

E. THE LATEST EFFORTS

Even before the presentation of the PRC's final report it was obvious that more negotiations with Bosnia's leading political parties would be necessary in order to overcome RS resistance. At its 7 April 2005 Steering Board Meeting, the PIC "reiterated that the three principles set out in Commissioner Rehn's letter of 21 February⁵⁷ must be met if reform of the police is to be successful and if BiH is to have an effective single structure of police in line with European best practice". It demanded that the reforms be agreed by the end of May.⁵⁸ In an attempt to reassure the RS, the Steering Board stated that "police restructuring is about giving the people of BiH efficient and effective crime fighting police. It is not a surreptitious attempt to abolish the Entities. The existence of the Entities is guaranteed under Dayton and is not in question".

The OHR organised a new round of talks with the leaders of eleven political parties at Mt. Vlasic in late April 2005, with the PRC report as the starting point. The Bosniaks, Croats and Serbs in state level institutions supported the "concept paper" -- chapter three of the PRC report minus the maps -- but RS officials continued to oppose it. That opposition stemmed in part from the 21 April session of the entity's National Assembly (RSNA), which Ashdown had addressed and at which a significant number of speakers had voiced disapproval of police reform. The RSNA accepted the RS government's report on the talks and asked it to prepare a further report on a final concept for police reform. Although no vote was taken on police reform per se, it was clear that the RSNA did not favour police districts that crossed entity boundaries and removal of police power from the entities.

The parties discussed and reached provisional agreement at Mt. Vlasic on a police board that would secure entity and cantonal participation in policy making at the state level, as well as measures to ensure that community oversight councils would include entity representation, and the director of local police would have two deputies to provide cooperation and command local police commissioners for cross-district operations. This would essentially place a third layer of bureaucracy over the police by ensuring a significant "consultative" role for entity police representatives with both the national level police board and community oversight councils, as well

⁵⁴ "Nezavisnost KiM opasna", B92, 19 June 2005. OHR press release, 27 June 2005.

⁵⁵ "Russian federation declares that Ashdown's measures are damaging to the peace process", FENA, 22 December 2004.

⁵⁶ Several senior Bosnian politicians spread rumours in the media that France believed police districts should not cross entity lines. The French ambassador to BiH denied this.

⁵⁷ In a letter to BiH Prime Minister Adnan Terzic in February 2005, Olli Rehn, the EU Commissioner for Enlargement, specified that police reform must satisfy the following conditions: 1) all competencies -- budgetary and legislative -- to be at the state level; 2) police districts based on technical, not political criteria; and 3) no political interference in operational policing.

⁵⁸ Communiqué of PIC Steering Board, 7 April 2005.

as with the local police commissioners and directors of local police.⁵⁹ All these were significant concessions to the RS.

The OHR and the European Commission (EC) do not seem to view these concessions as violating the principle of removing entity control and believe that entity representatives in the office of the state-level director of local police would actually be co-opted, while the local police councils would give the new police structures popular legitimacy.⁶⁰ Crisis Group believes these provisions would in fact permit the entities to maintain control over the police forces on their respective territories, and consequently the watered-down proposal that emerged from the Vlasic talks falls short on two of the three European Commission criteria: the number and nature of police regions and continued entity control.

The Vlasic meeting was broken off rather abruptly, though a statement with four annexes was issued, and it appeared most of the task had been completed, apart from drawing the boundaries of the police regions. A working group was formed to agree on those boundaries but its RS members claimed that they did not have a mandate from the RSNA to discuss anything that would violate the Inter Entity Boundary Line (IEBL). The final statement expressed the participants' willingness for police structures to meet the European Commission criteria but did not commit to specifics.⁶¹

Despite these optimistic pronouncements, a new round of negotiations in Konak broke down on 16 May, once again over RS insistence that the constitution gave the entities sole competence over police, and this principle could not be changed. RS President Cavic and Foreign Minister Ivanic both said they lacked authority from the RSNA to negotiate cross-IEBL boundaries, though Cavic promised to ask for it. In an effort to break the logjam, Ashdown sought and received a commitment from Cavic that he would favour the proposed police reforms and urge the RSNA to approve them. When the RSNA met on 30 May, Michael Humphries, European Commission Ambassador to Bosnia, addressed it to urge approval of the police reforms in order to fulfil the European Commission criteria. Cavic, however, reneged on his promise to support them,⁶² and the RSNA resolved that "any kind of model of organisation of police in BiH whose local police regions cross entity boundary lines is

unacceptable".⁶³ The European Commission refused, therefore, to start negotiations with Bosnia on the SAA.

By now the OHR had lost patience with the RS though it still hoped diplomatic pressure rather than the threat of sanctions might be sufficient to restart talks.⁶⁴ Pressure continued to come from other quarters. In its 24 June communiqué, the PIC blamed failure to reform the police on "the decision by the RS authorities, led by the SDS-led RS Government, to block police restructuring" and said that "if the RS continues to choose isolation over integration, the consequences of this will be grave. Bosnia and Herzegovina's road to Europe would remain blocked. This would result in BiH falling behind the other countries in the region".⁶⁵ When there was no RS response, the European Commission reiterated on 1 July that police reform was the single remaining obstacle to beginning negotiations on an SAA.

The mounting pressure convinced the new RS premier, Pero Bukejlovic, to announce one week later that the RS would again participate in talks. Based on Cavic's suggestion for a meeting of all political parties to form working groups, Ashdown and BiH Prime Minister Adnan Terzic sent invitations for 26 July. But no representatives from the SDS or the SNSD of Milorad Dodik appeared, not even Cavic or his deputy, who were both allegedly away. After frantic telephone calls, the OHR finally found Borislav Paravac, the Serb member of the Bosnian presidency, who merely read the RSNA refusal of cross-IEBL police districts. The failure of the SDS to appear was viewed as an insult by the OHR.⁶⁶

Several days later RS Interior Minister Darko Matijasevic told a Serbian daily that, "we maintain our view that the RS is -- according to its own organisation -- one large police region that has a centralised system of police organisation".⁶⁷ In other words, there was no change in the Serb stance, nor a sign that RS representatives or the RSNA were genuinely willing to embrace any substantive police reform that would endanger the structures they run, founded on violence and ethnic cleansing. The RS refused to accept even the watered-down Vlasic agreement.

New negotiations with a new emphasis have been underway since the start of August 2005. Previous talks

⁵⁹ OHR Power Point document, "Collective Political Oversight", 26 April 2005.

⁶⁰ Crisis Group interview with international community official in Bosnia.

⁶¹ Vlasic Joint Statement, 27 April 2005.

⁶² Crisis Group interviews with OHR officials.

⁶³ Conclusions of the RSNA, 30 May 2005.

⁶⁴ Crisis Group interviews with OHR officials.

⁶⁵ Communiqué of PIC Steering Board, 24 June 2005.

⁶⁶ "Neuspješan sastanak o reformi policije u BiH", *Nezavisne Novine*, 27 July 2005; Crisis Group interview with international community official.

⁶⁷ "Intervju: Ministar MUP RS Darko Matijašević o reformi policije", *Danas*, 28 July 2005; "Darko Matijašević, ministar unutrašnjih poslova RS", *Nezavisne Novine*, 28 July 2005.

-- at OHR insistence -- had been between Bosnia's political parties. However, Cavic and Sulejman Tihic, the Bosniak member of Bosnia's presidency, agreed that the entity government structures and the state-level government should have their opportunity. The three largest RS parties agreed, and the first meeting took place at Mrakovic on 17 August.⁶⁸ The meeting reached no conclusions but the participants endorsed the concept of direct negotiations between the several governments and agreed to resume on 23 August in Capljina. The next evening, 18 August, Ashdown met with the SDS leadership on Mt. Jahorina and renewed pressure for an agreement.⁶⁹ Nevertheless, the RS government essentially ruled out the possibility of agreement on cross-entity police districts before the negotiations began by announcing that its delegation would act consistent with the RSNA conclusions.⁷⁰

Ashdown was invited by the participants to attend lunch at the Capljina meeting with the entity premiers, as well as representatives of the cabinets of the two entity governments and the state level Council of Ministers. Following the talks, BiH Prime Minister Terzic announced that some progress had been made, and "we are opening the package on the police reform a piece at a time".⁷¹ He said the talks "cannot fail" and would probably be continued the following week at Bjelasnica, when expert opinions would be sought. However, he also said that the RS representatives were holding to the RSNA position.⁷² At the same time, RS Premier Bukejlovic told the media there were significant differences between him and Cavic.⁷³

Even should the parties reach an agreement on the basis of the draft that has been under discussion, it could well fail to meet the European Commission criteria for police regions based on technical criteria and central control over police structures. However, in the most recent meeting on Mt. Bjelasnica on 2 September, Premier Terzic -- with support from Ashdown and Cavic -- proposed that the parties merely renew publicly their earlier agreement to the EC's three reform principles and commit to draw up maps of new police regions by 31 March 2006. This would essentially be nothing more

than an agreement to agree at a later date -- and a date implausibly in the middle of an election year at that. Some participants -- most notably Bukejlovic -- seemed to think that such a soft agreement would satisfy Brussels.⁷⁴ But the SDS still appears set against any cross-IEBL police regions, and there was no acceptance even of Terzic's proposal. New talks were scheduled in a week's time in Sarajevo.

F. THE SDS PROBLEM

The success of the current talks depends entirely on the RS. The entity's politics, although ideologically narrow, are not monolithic. There are politicians who believe that the best way to ensure the survival of the RS is for Bosnia to enter the EU. Those who favour preserving the RS through European integration, as opposed to separation, include Cavic, Ivanic and Milorad Dodik. However, Dodik is in opposition; neither he nor Ivanic exerts any influence over the ruling party, the SDS, while Cavic appears to fear the party hard-liners, with whom his differences are so great that he has publicly speculated about withdrawing from politics.⁷⁵

The highest-ranking SDS hard-liner appears to be Premier Bukejlovic, who receives strong support from party structures in the eastern RS,⁷⁶ bordering Serbia and Montenegro, where hopes are highest for eventual annexation by Belgrade. Differences between him and Cavic continue to emerge in the RS media.⁷⁷ Interior Minister Matijasevic -- although not an SDS member -- is closely associated with the party and appears to share Bukejlovic's views. At a series of meetings on 25 and 26 August, he received full support from the party leaders for his negotiating stance. The members of the party's General Board from eastern RS have subsequently let it be known that they remain firmly opposed to any reforms that would create cross-IEBL police regions and remove police control from the entity governments. That position appears to have the support of some 70 per cent of the party hierarchy.⁷⁸

⁶⁸ "SDS, SNSD i DNS pismeno podržale nastavak pregovora o reformi policije", *Nezavisne Novine*, 28 July 2005.

⁶⁹ "Ešdaun pritišće SDS", *Nezavisne Novine*, 19 August 2005.

⁷⁰ "Pregovori u skladu sa skupštinskim stavovima", *Nezavisne Novine*, 21 August 2005.

⁷¹ "SDS će biti kriva ako pregovori propadnu", *Nezavisne Novine*, 24 August 2005; SRNA News Service, 23 August 2005.

⁷² SRNA News Service, 23 August 2005.

⁷³ "SDS će biti kriva ako pregovori propadnu", *Nezavisne Novine*, 24 August 2005; SRNA News Service, 23 August 2005.

⁷⁴ "Dogovoreno formiranje centra za obuku i instituta za forenziku", *Nezavisne Novine*, 3 September 2005.

⁷⁵ "Dragan Čavić, predsjednik Republike Srpske i SDS-a", *Nezavisne Novine*, 18 August 2005; "SDS će biti kriva ako pregovori propadnu", *Nezavisne Novine*, 24 August 2005.

⁷⁶ "Delegati SDS-a s istoka RS protiv Čavićevog prijedloga", *Nezavisne Novine*, 24 August 2005.

⁷⁷ "Bukejlović : Hoću da vjerujem da Čavić ima isto mišljenje kao i Vlada", *Nezavisne Novine*, 23 August 2003.

⁷⁸ "Delegati SDS-a s istoka RS protiv Čavićevog prijedloga", *Nezavisne Novine*, 24 August 2005. See also "Mape regija naknadno bi crtali direktor policije i pomoćnici", *Dnevni Avaz*, 3 September 2005.

The international community should not expect the RS and RSNA to reverse themselves on police reform as long as the SDS is the dominant political factor in the entity. Yet, many members do not agree with the party's hard-line ideology; they remain in the fold due largely to fear of losing their livelihood or source of patronage. Many in the international community have hoped to take advantage of these differences, not realising that the hard-liners control most of the party's economic assets and patronage networks. As a result, efforts to split the SDS over police reform have failed, and it is highly probable they will continue to fail, given the financial and economic hold the party exerts over its members.

Crisis Group has argued previously for a ban on the SDS.⁷⁹ The party has no real incentive to give in on the policing issue, which would remove one of its key levers of power. It remains a support centre for war criminals and encourages thinking about the break-up of Bosnia. If the SDS does not agree to the police reforms which are essential for Bosnia's future, the international community should make its deepest -- and probably its last -- direct intervention into Bosnian politics by disbanding the party and barring those of its officials who have been most obstructive from holding office. This would clear the way for more constructive elements currently cowed by the hardliners to form coalitions with the more reform-minded members of the Bosnian Serb opposition and implement the reform that their country (and indeed their entity) needs.⁸⁰

IV. THE EU'S FLAWED POLICE MISSION

Even should the OHR succeed in getting the RS to agree to police reform measures that meet the European Commission criteria, they would still have to be implemented. Annex 11 of the Dayton Peace Accords established the UN-led International Police Task Force (IPTF) to supervise Bosnia's police. While the IPTF had many image problems, it was a major force for change in the war-torn country, managing to halve police numbers, install training courses and begin to remove officers implicated in war- and ethnically-related crimes. The IPTF's mandate expired at the end of 2002, and the EU established the European Police Mission (EUPM) as a follow-on agency with a three-year mandate to oversee police reform. In spite of the IPTF's successes, much remained to be done on the eve of the handover, primarily with regard to the structure of the police forces, their financing, and their relationship to the courts.⁸¹ As the IPTF packed up to leave, the local police still could not be counted upon to enforce the law.

No matter what criteria are used to assess EUPM performance, the indicators are depressing.⁸² A weak mandate has been interpreted in the narrowest possible fashion, permitting it to avoid many responsibilities. The mission is deployed around the country rather arbitrarily.⁸³ It tasks police officers to design and run public administration reform, an area where few have relevant training or experience. It often receives under-qualified officers from contributing countries, who arrive without proper training or any introduction to the mission. Frequently personnel lack sufficient English, the official language of the mission. Perhaps most damningly, Bosnian police in both entities regard the EUPM as a laughing stock.⁸⁴

EUPM was supposed to make local police more efficient crime fighters. Yet, Crisis Group has found that statistics collected by the entity police forces indicate that crime

⁷⁹ Crisis Group Report, *War Criminals in Bosnia's Republika Srpska*, op. cit.

⁸⁰ "SDS, SNSD i DNS pismeno podržale nastavak pregovora o reformi policije", *Nezavisne Novine*, 28 July 2005.

⁸¹ For a full analysis of the IPTF, see Crisis Group Europe Report N°130, *Policing the Police in Bosnia: A Further Reform Agenda*, 10 May 2002.

⁸² Crisis Group addressed EUPM shortcomings in Crisis Group Europe Report N°160, *EU Crisis Response Capability Revisited*, 17 January 2005.

⁸³ For example, the EUPM has sixteen officers/monitors in charge of the 1,600-strong Sarajevo cantonal police force but only four fewer to deal with a force of 200 in Gorazde canton. Crisis Group interview with EUPM officials, 2 December 2003.

⁸⁴ Crisis Group interviews with Bosnian police of both entities.

has risen significantly since EUPM's mandate began.⁸⁵ According to the latest data, crime in the RS increased by 22 per cent in 2004 and in the Federation by 32 per cent.⁸⁶ Although the statistical methods that entity police use may not be entirely reliable, as EUPM emphasises, the data is gathered by the same methodology as in previous years.⁸⁷ War criminals are also an ongoing problem.⁸⁸ Although the RS government's Srebrenica Report listed hundreds of individuals who took part in that massacre as still active duty officers, EUPM has not removed them or otherwise followed up.

The EUPM can claim formation of the state-level police agency, SIPA, as a success, though one that must be shared with the OHR and the UK government. Otherwise, it has not contributed significantly to security sector reform or supervision.⁸⁹ As a result of institutional mistrust, OHR and EUPM often fail to forward important information to each other.

The EUPM mandate, only to "monitor, mentor and inspect", was premature. A more authoritative mandate -- similar to what the IPTF had -- was needed to kick the Bosnian forces into shape. While it is empowered to request the EU Senior Representative (the double-hatted Ashdown) to remove obstructionist police officers, this has proved such a cumbersome and protracted process that the EUPM has never exercised the power.⁹⁰ A senior EUPM official told Crisis Group categorically that the

current mandate "is not working" and would only have been suitable in perhaps five years time.⁹¹

From the outset, the mission was heralded as "police reform by police officers". Yet, in reality the challenge facing the EU at the beginning of 2003 was much wider. Supervising each and every policeman in the country, as the IPTF was charged to do, may be termed a "police mission". However, the design and management of projects to monitor the police at the most senior levels call for the more demanding job of public administration reform.⁹² This in turn requires highly experienced civilians with expertise in finance and project management and an understanding of the complexities of post-war development in Bosnia and the pervasive influence that ethnic politics has in all spheres of public life, particularly in police matters.⁹³

Keen to score an early success for its nascent European Security and Defence Policy, the Union underestimated both the size and the complexity of the task in Bosnia. The EUPM took over poorly prepared, lacking inspiration and expertise on how to devise a hard-hitting and non-negotiable strategy for "Europeanising" the police. With only a few months left in its mandate, little has actually been done to establish a tightly structured, effective, and well-financed police. As an EU Council Secretariat candidly acknowledged, "achieving the desired end-state of the Mission...is a daunting task. We are clearly not there yet".⁹⁴

It appears certain that the EU will be charged with supervising the implementation of any agreed police reforms. Brussels apparently plans to renew the EUPM's mandate when it expires at the end of 2005, broadening it only slightly to include police reform and restructuring

⁸⁵ When asked by Crisis Group to provide crime statistics, the responsible EUPM official initially declined, admitting that those figures might indicate EUPM was a failure, which, he said, would be misleading. Crisis Group interview with John Erik Jensen, Chief of Quality Control of EUPM, 17 December 2004. Pressed further, Mr Jensen said crime had risen approximately 40 per cent since EUPM began but that the statistics used by local police agencies are extremely unreliable.

⁸⁶ Crisis Group correspondence with the two entity police directorates, December 2004 through February 2005.

⁸⁷ See also the Bosnian government's "Security Report for 2004", which confirms a sharp increase in criminal activity throughout the country.

⁸⁸ Crisis Group Report, *War Criminals in Bosnia's Republika Srpska*, op. cit.

⁸⁹ Other achievements pointed to by the EUPM appear to involve continuation by the mission of peripheral projects that were started and run by other agencies. Information from EU Council Secretariat, 1 September 2005.

⁹⁰ When questioned on this point, Police Commissioner Carty suggested that some officers may have been removed under his predecessor. Crisis Group interview with Commissioner Carty, 15 October 2004. In fact, not a single police officer has been removed since EUPM took up its mandate. An EU official informed Crisis Group that there had been one EUPM recommendation to remove a police officer but OHR did not accept it for political reasons.

⁹¹ Without executive power, the mandate is "a post-Bonn-powers mandate imposed at the height of the Bonn-powers era." Crisis Group interview with senior EUPM official in Sarajevo, 27 October 2004.

⁹² The majority of the tasks the EUPM has engaged in fall clearly into the category of public administration. These include working with police budgets, the Ministry of Security, SIPA, SBS, and the Forensic Service. Information from EU Council Secretariat, 1 September 2005.

⁹³ Local politicians cannot be expected to give up control of the police -- one of their instruments of power -- willingly. Several senior wartime police leaders have since been indicted by the Hague Tribunal for participation in "joint criminal enterprises". Many of their subordinates are still actively engaged in police work and may yet be implicated in war crimes, as indicated by the Srebrenica Report. Such officers will resist any serious reform of the police without concerted outside pressure.

⁹⁴ Information from EU Council Secretariat, 1 September 2005.

and the fight against organised crime.⁹⁵ In fact, the EUPM has proven so ineffective and has acquired such a negative reputation among both Bosnians and internationals that it should not be extended. Rather, the EU should scrap the old mission and replace it with an organisation that could begin with a clean slate. It would be essential that this new police mission receive a far more robust mandate similar to that of the IPTF, with the expectation that it would be used to remove recalcitrant police officials.

V. CONCLUSION

It is quite probable that RS obstruction of police reform will prevent Bosnia from beginning negotiations on an SAA. The High Representative has stated on a number of occasions that he will not and cannot impose police restructuring, because it must be the choice of the country's politicians if it is to satisfy the EU Feasibility Study requirement. Moreover, since the constitution explicitly gives competence for policing to the entities, he would not have the power to do so.

Reform is so fundamental, complex and demanding that it cannot possibly be imposed without full cooperation of all relevant bodies in Bosnia, including the RS. However, the RS establishment has clearly declared that the proposed police reform is unacceptable, and it will refuse to accept anything that removes control from the entity level. The rest of Bosnia fully supports the proposed reform concepts, though the proposal currently on the table may well be insufficient to meet EU requirements.

Some in the international community favour compromising with RS hard-liners, as has been attempted in the present watered-down proposal. The argument for this is that the limited willingness to cooperate recently demonstrated by the RS leadership should not be endangered by insisting on too much police reform. Readiness to admit the truth on Srebrenica and surrender some war-time commanders and officials to The Hague Tribunal are quoted as evidence of a meaningful alteration of RS policies.

However, both acceptance of the Srebrenica Report⁹⁶ and surrender of a few Hague indictees were cosmetic concessions to the pressures of the moment, rather than a genuine change of political thinking.⁹⁷ The international community should bear in mind this behavioural pattern -- repeated many times -- when deciding on its policies. The RS has agreed at last to important defence reform, it

⁹⁶ This report, commissioned by the RS government after much pressure from the OHR, officially established the figure of non-Serb victims during the RS attack on the UN safe area in July 1995 at 7,900. It explained that most were civilians executed after the enclave fell under control of the RS army. Until its publication, RS officials had publicly denounced such a high figure, while claiming that the operation was a legitimate military one. Since publication, both the RS government and RS president have publicly apologised for the massacre.

⁹⁷ Hague indictees who surrender voluntarily are treated as heroes. They receive a cash award from the RS government of 50,000 KM (approximately €25,000), and their families are entitled to additional government benefits. Refugees who have returned to the RS thus pay taxes that are partly used to subsidise those who drove them out during the war.

⁹⁵ Crisis Group interviews with EU officials in Brussels, August 2005.

is true, but in a criminalised political system it is more important to control the police than the army.

It is quite likely that RS officials will continue to portray police reform as an attack on the foundation of entity "sovereignty" and Serb vital national interests. This is nothing new. Since the end of the war, they have often used similar rhetoric, for example, about introduction of joint car license plates and the single currency. The international community needs to stand firm in its intention to achieve police reform. As the then EU Commissioner for External Relations Chris Patten stated, the police situation in Bosnia matters for Europe, and the EU has a stake. Bosnia should not be allowed to start negotiations for an SAA if these reforms are not accepted.

Yet, the whole country should not be punished for RS behaviour. The measures applied in the all-too-likely event that police reform fails need to be selective. A comprehensive package is required that includes incentives and rewards that can make a tangible difference for those parts of Bosnia that support European standards, as opposed to those that deliberately defy them.

It would be wrong to leave this issue to domestic political players to decide, as some internationals in Sarajevo seem to think. No matter how much the international community longs to disengage from its expensive and prolonged involvement in Bosnia, police reform is of crucial importance and needs the full commitment of the entire international machinery there. It is probably the last big job that needs to be completed, and if it is to succeed, it must be implemented properly. If it is left unfinished, ethnic chieftains will retain control of the instruments of state violence, and the potential for new hostilities will remain. If any lesson has been learned, it must surely be that prevention is better than cure.

If it is to push police reform through, the international community will need to take four steps in order to tackle the main obstacles to reform: the Serbian Democratic Party and the government of the Republic of Serbia in Belgrade. First and foremost, it will have to ban the SDS from political life and its officials from holding office. Should the SDS be banned, in all likelihood its members would form not a single new political party, but several, based largely on the fragmented criminal and economic interests within the old party. Some members would take their resources and join existing parties. All this would radically change RS politics, since ethnic cleansers would no longer control the single largest and most influential party and its resources. Not only would this substantially

weaken the support networks of Radovan Karadzic and other war crimes indictees, but it would also create a new political dynamic less wedded to preserving the gains made through ethnic cleansing and more based on the real political needs of the country.

Secondly, the UN Security Council, the EU and the U.S. in particular need to apply strong pressure on the Kostunica government in Belgrade to abandon its Greater Serbia territorial aspirations and stop supporting forces within the army, security services and Church who are working towards annexation of the RS. The EU can exert significant pressure on Serbia's government through the SAA negotiations that are about to begin with Belgrade. Specifically, the Kostunica government should be told that its own integration process with the EU will be suspended if it does not use its influence with the RS to encourage adoption of the meaningful police reforms that Bosnia needs in order to begin SAA negotiations.

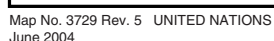
Thirdly, the international community will need to place its own house in order, including creation of an entirely new EU policing mission with a mandate at least equal to that enjoyed by the IPTF. Should the EU fail to do this, police reform is unlikely to succeed.

Finally, the OHR and Bosnia's political parties should scrap the current proposal and return to the original police restructuring concept of five regions. Otherwise they risk passing a plan that would fail to meet two of the three European Commission criteria and would permit the entities to retain control of their separate, ethnically clean forces.

Each day that passes sees Bosnia fall further behind its neighbours and makes change harder. Comprehensive police reform by the country's politicians, on the other hand, would represent the most significant change in post-Dayton Bosnia and could mark a new era in its political development and maturity. It would complete the post-war security agenda, enabling the international community to wind down the protectorate structure and allow Bosnians to make their own decisions. Should the international community shirk its responsibility and take half measures, however, the ethnic cleansers will remain firmly in power, war criminals will not be arrested, the RS will become the target of an annexation campaign as part of Belgrade's reaction to a Kosovo final status settlement, and conflict might yet be renewed, with no end in sight for the quasi-protectorate.

Sarajevo/Brussels, 6 September 2005

MAP OF BOSNIA-HERZEGOVINA



APPENDIX B

ETHNIC BREAKDOWN OF POLICE FORCE

Administrative Unit -- Ethnic Breakdown of Police Force (In Percentage of Total)⁹⁸

	Bosniaks	Serbs	Croats	Others
REPUBLIKA SRPSKA	6.40	92.20	0.90	0.50
BRCKO DISTRICT	39.30	44.80	14.70	1.10
FEDERATION POLICE	68.80	9.90	19.20	2.00
Sarajevo	72.72	11.00	8.14	8.14
Tuzla	82.50	6.80	7.40	3.30
Zenica	73.90	6.20	18.40	1.50
Mostar	44.10	8.50	47.10	0.30
Travnik	51.90	4.90	43.00	0.20
Bihac	85.80	10.60	3.40	1.20
Gorazde	80.10	19.90	0.00	0.00
Orasje	12.90	10.60	75.30	1.20
Livno	3.00	16.60	80.40	0.00
Ljubuski	0.80	0.00	99.20	0.00

⁹⁸ The data on the ethnic breakdown of police officers throughout Bosnia in the "Functional Review of the BH Police Forces", Final Report prepared by consultants for the European Commission, was unreliable. Crisis Group, therefore, collected its own data from the country's thirteen police forces.

APPENDIX C

GLOSSARY OF ABBREVIATIONS AND ACRONYMS

BiH	Bosnia and Herzegovina
EU	European Union
EUFOR	European Union Force in Bosnia and Herzegovina
EUPM	EU Police Mission
ICTY	International Criminal Tribunal for the Former Yugoslavia
IEBL	Inter Entity Boundary Line
IPTF	International Police Task Force
NATO	North Atlantic Treaty Organisation
OHR	Office of the High Representative
PDP	Party of Democratic Progress, coalition partner of the SDS, led by Mladen Ivanic
PfP	NATO's Partnership for Peace
PIC	Peace Implementation Council
PRC	Police Restructuring Commission
RS	Republika Srpska
RSNA	National Assembly of the Republika Srpska
SAA	Stabilisation and Association Agreement
SBS	State Border Service
SDS	Serbian Democratic Party, the leading party in the RS, originally led by Radovan Karadzic
SIPA	State Investigation and Protection Agency
SNSD	Party of Independent Social Democrats, main opposition party in the RS, led by former Prime Minister Milorad Dodik
UK	United Kingdom
U.S.	United States
UN	United Nations
VRS	Army of Republika Srpska

APPENDIX D

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Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board -- which includes prominent figures from the fields of politics, diplomacy, business and the media -- is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by Lord Patten of Barnes, former European Commissioner for External Relations. President and Chief Executive since January 2000 is former Australian Foreign Minister Gareth Evans.

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