

POLICING THE POLICE IN BOSNIA:

A FURTHER REFORM AGENDA

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POLICING THE POLICE IN BOSNIA: A FURTHER REFORM AGENDA

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Despite more than six years of increasingly intrusive reforms carried out at the behest of the UN Mission in Bosnia & Herzegovina (UNMIBH), the local police cannot yet be counted upon to enforce the law. Too often – like their opposite numbers in the judiciary – nationally partial, under-qualified, underpaid, and sometimes corrupt police officers uphold the law selectively, within a dysfunctional system still controlled by politicised and nationalised interior ministries.

The ‘long arm of the law’ is inconsistent and infirm, suffering from jurisdictional divisions that do not hinder organised crime and from national-political manipulations that ensure there is one law for well-connected members of majority populations and another for powerless minorities. Top-tier criminals ply their trades with relative impunity, ethnic violence is tolerated and corruption is widespread.

The role of the police is not seen as being to ‘serve and protect’ everyone, but to serve and protect ‘one’s own kind’, whether they be co-nationals, colleagues or political masters. The communist-era doctrine that the police exist to defend the regime persists, except that the working class has been replaced by the nation as the ostensible beneficiary. Even ‘moderate’ politicians expect – and are often allowed – to influence investigations, recruitment and budgetary allocations.

Citizens know they are not only unequal before the law, but unequal before its enforcers. Getting the police to investigate cases that involve the moneyed or powerful invariably requires international pressure and supervision. Even with international insistence and assistance, investigations are often

botched. Nowhere is this more evident than in cases involving the continuation or consolidation of wartime ‘achievements’: ‘ethnic cleansing’, the appropriation of public assets and the maintenance of national-territorial divisions. Violence against returning refugees and displaced persons waxes and wanes with the political cycle, but cases are frequently left unresolved after an initial show of serious concern. In similar vein, most war crimes suspects enjoy the effective protection of ‘their own’.

These unsophisticated but effective methods are symbolised and safeguarded by the continued employment of police officers who were complicit in war crimes. The law enforcement and criminal justice systems will remain compromised until these officers have been purged. Removal of these and other recidivist or obstructionist elements has been slow. It only takes place when ordered by the international community and, even then, is often circumvented by the domestic authorities. Those who are removed frequently switch jobs within the interior ministries, are rewarded with plum posts in publicly-owned companies, or gain elected office. Culpable individuals are rarely prosecuted.

Yet matters could be much worse. However halting the progress, the international community has taken police reform seriously from the outset – and certainly more seriously than it has heretofore taken judicial reform. At Dayton, the United Nations was tasked to reform police forces that had been part and parcel of their respective masters’ war machines. After initial disorientation and incapacity as it built up its resources and sought to flesh out its mandate, UNMIBH’s International Police Task Force (IPTF)

began in earnest: screening officers, de-authorising reprobates and war criminals among them, ensuring that ‘minority’ recruits are hired, seeking to depoliticise police commands, creating new, all-Bosnian law-enforcement bodies such as the State Border Service (SBS), and facilitating inter-entity and regional co-operation.

UNMIBH has latterly been active across a broad field and has initiated numerous remedial programs. After three years of intensified reform efforts, Bosnia’s police forces have begun to justify the decision taken at Dayton that they should be reformed rather than replaced. But the UNMIBH mandate expires at the end of 2002. The European Union (EU) decided in February 2002 to provide a follow-on mission. The EU Police Mission (EUPM) is charged with picking up where the UN will leave off. There is plenty of work still to be done, as many of the UN’s programs have not been fully implemented or have been subverted by obstructionist political elites and recalcitrant police officers.

If Bosnia & Herzegovina is eventually to have affordable and competent police forces that serve and protect all citizens, regardless of nationality or place of residence, from politically and ethnically motivated violence, persecution and ‘justice’ – as well as from rampant organised crime – then there must be no diminution of either oversight or reform. To make this happen, EUPM and the Office of the High Representative (OHR, to which EUPM will be subordinate) should consider the following, general recommendations. The full set of detailed recommendations is given in the Conclusion of this report.

RECOMMENDATIONS

TO THE INTERNATIONAL COMMUNITY

1. Whichever forum or OHR task force is designated to preside over the full range of rule of law reforms under the incoming High Representative, that body should ensure effective coordination among the organisations involved in order to:
 - (a) Standardise the terms and conditions under which police officers serve across Bosnia & Herzegovina;

- (b) Guarantee that sufficient resources are made available to support a depoliticised, honest, competent and cost-effective police service;
- (c) Provide a means for human rights monitors to participate directly in the oversight of the police, alongside the follow-on mission.

TO UNMIBH, EUPM AND OHR

2. Measures to enhance the accountability of Bosnia’s police forces should be put in train or reinforced. These should include:
 - (a) The establishment of an independent police complaints authority;
 - (b) The maintenance of the UN mission’s anti-trafficking and judicial assessment teams and its register of police personnel;
 - (c) The completion of in-depth audits of police commands and administrations and the establishment of an EUPM liaison office in The Hague.
3. The recruitment of ‘minority’ personnel to the entities’ police forces should be revamped in line with the implementation of the “Constituent Peoples” decision and according to targets based on the 1991 census.
4. EUPM will need to build on UNMIBH efforts to professionalise and de-politicise the BiH police, reviewing the operations of Professional Standards Units (PSUs), disciplinary procedures, police academies, and police commissioners. Given its strategy of upper-level co-location, it will also have to ensure that its own ranks are filled by officers and experts of the requisite calibre.
5. The screening and de-authorisation of serving Bosnian police officers and interior ministry employees should be extended and reinvigorated to eliminate war crimes suspects, those with bogus qualifications and already de-authorised officers who have been recycled into administrative or advisory positions.

6. EUPM should mandate operational-level information-sharing among Bosnia's police forces and work to facilitate such practical exchanges among the states of the region. It might also encourage greater citizen involvement in and identification with the fight against crime.
7. The rationalisation of Bosnia's police forces should be expedited while both international

financial assistance and supervisory mechanisms remain available. Not only should the overall complement of police officers be cut by some 20 per cent, but the opportunity should also be taken to reinforce state-level forces and to reconfigure those of the entities in line with contemporary needs.

Sarajevo/Brussels, 10 May 2002

POLICING THE POLICE IN BOSNIA: A FURTHER REFORM AGENDA

I. INTRODUCTION

A. CURRENT CONTEXT

The mandate of the United Nations Mission to Bosnia and Herzegovina (UNMIBH) will expire at the end of 2002. Lapsing with it will be the International Police Task Force (IPTF), the UN body charged with ensuring that Bosnia's post-war police operate "in accordance with internationally recognised standards and with respect for internationally recognised human rights and fundamental freedoms".¹ While UNMIBH/IPTF appears on target to achieve what its latest Mandate Implementation Plan terms "a technical baseline" of completion for its successor – and to meet a set of limited benchmarks – Bosnian police reform is far from complete.² This means that the follow-on mission to be led by the EU will still have much to do.³

In many parts of the country, the vigorous application of the UN's power to de-certify police officers remains the sole means of compelling local police forces to uphold the law professionally and without national or confessional bias. Yet as contributing states contemplate further cuts to their SFOR contingents and the EU gets ready to mount a slimmed down follow-on policing mission, the "safe

and secure environment" needed to sustain refugee return and other international peace-implementation tasks could be in jeopardy if the 'security gap' widens. The success of the follow-on mission will be judged in part by whether or not the local police can be made fit to assume more responsibility for filling that gap, and by whether the police can themselves be nationally integrated.

Bosnia's police forces suffer from several institutional weaknesses. The Dayton Peace Accords (DPA) confirmed the country's wartime division, endowing it with a dysfunctional and decentralised patchwork of authorities, including the police. Bosnia has fourteen separate police forces. They cooperate poorly when they cooperate at all. Weak collaboration among the police, prosecutors and judges also undermines the rule of law, particularly when it comes to prosecuting the organisers of ethnic violence or bringing corrupt officials to book. Public opinion polls carried out on behalf of SFOR show little public confidence in the police: only 48.1 per cent think the police are nowadays more professional than the pre-war *milicija*, and only 42.7 per cent think they treat all people equally.⁴

On the other hand, the Bosnian police have shown themselves to be effective against small-scale crime, able occasionally to manage riots and – with international direction and assistance – ready to tackle the threat of terrorism. Their control of the roads has also improved and, compared to Kosovo, Bosnia's traffic police are efficient, if also prone to take the occasional bribe or pocket the odd fine. The murder rate is no higher than elsewhere in Europe, even if the clear up rate is lower. However, the police remain largely impotent in the face of serious

¹ Dayton Peace Accords, Annex 4, Article III, 2 (c).

² UNMIBH Mandate Implementation Plan: Action Plan 2002 (MIP Map 2002), February 2002, p. 1.

³ OSCE and OHR itself were also in the running to take over the policing mission during the second half of 2001, but were eclipsed by the late-developing EU bid for the job. See ICG Balkans Report N°121, *Bosnia: Reshaping the International Machinery*, 29 November 2001.

⁴ Internal SFOR survey, 2 August 2001.

and organised crime,⁵ due both to their technical and professional deficiencies and to the obstacles represented by cantonal, entity and state frontiers. Nor can they be trusted to investigate crimes committed by men of power and wealth or for political and (ostensibly) national reasons. Taken together with the lack of employment opportunities, a generation is growing up seeing crime as an acceptable way of making a living.

The apparent incompetence of the police is often a strategy to mask the influence of well-connected individuals and nationalist agendas. The reliance of political elites on smuggling, corruption and financial manipulations means that hopes of changing the political and economic culture of BiH will come to naught if the police and the judiciary are not professionalised and freed from political direction.⁶ As the current head of Civil Affairs at UNMIBH recently noted, “the challenges should not be underestimated. For much of the past six years, a highly trained local political cadre – the nationalist kleptocracy – has sought to befuddle and manipulate a large number of enthusiastic but often inexperienced international personnel.”⁷

Such a bleak assessment neither detracts from UN achievements to date nor condemns the follow-on mission to failure. But it does underscore the formidable complexity and difficulty of effective police reform. The IPTF has been a major force for change. It has overseen a reduction in police numbers from 45,000 after the war to approximately 23,000 today. This verges on being an acceptable police-to-population ratio by regional standards. Police officers have been trained and registered, and have been or are still in the process of being screened. UNMIBH has finally begun to remove officers who worked in concentration

camp, covered-up ethnically motivated murders or committed other crimes during the war.

Several police training courses are nearing completion. The community policing program, for example, has been completed in 60 per cent of the Federation and 88 per cent of Republika Srpska.⁸ Equally, the Arrest and Custody Project has been one of UNMIBH’s unsung successes, ensuring that proper records are kept in regard to detainees. UNMIBH has also carried out reforms of the police academies in Sarajevo and Banja Luka. Extensive restructuring of the several police administrations is planned for 2002. The UN has also made significant strides in creating a single, multinational State Border Service (SBS), in promoting a State Information and Protection Agency (SIPA) and in integrating officers from ‘minority’ nations into largely mono-ethnic local police forces. Through the Police Commissioners Project, UNMIBH is seeking to curb political influences over the police.⁹

The follow-on mission will, therefore, have much on which to build. Yet it would be risky for the EU to take all the UN’s own assessments of its achievements as gospel. Institutional imperatives require UNMIBH to proclaim victory as it prepares to quit the battlefield. Moreover, the follow-on mission will need to ensure that the UN’s successes endure, that institutional memory is not lost, and that local police forces experience as little diminution of oversight as possible during the transition. Enemies of the rule of law in BiH must not be permitted to take advantage of any international disarray to roll back reforms, reinforce political influences, reinstate the police in organised crime webs, or reduce the already inadequate protection offered by the police to returning refugees. Undoubtedly, the planned appointment of EUPM Commissioner-designate Svend Frederiksen to replace the incumbent IPTF Commissioner when he leaves in May 2002 will promote continuity.¹⁰ Echoing this view, UNMIBH

⁵ To quote a U.S. diplomat: “Crime is not organised in Bosnia; it is institutionalised”. ICG interview, 2 March 2002.

⁶ This reliance is the explanation for what CAFAO describes as “the continuing lack of will and support by senior management for the customs enforcement concept and activities”. CAFAO Program to BiH; Customs and Tax Activities since 1996, 19 September 2001.

⁷ Presentation to EU Political and Security Committee by Jaque Grinberg, Head of Civil Affairs, UNMIBH, 18 January 2002. However, according to one of Grinberg’s colleagues, “Just as often, the robust recommendations of enthusiastic field staff get watered down by grey-haired men in headquarters who lack the political will to act”. ICG interview with UNMIBH official, 11 April 2002.

⁸ Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina (S/2001/571), 29 November 2001.

⁹ “From Joint to Unified Policing: Continuing Police Development in Central Bosnia”, UNMIBH Human Rights Office Public Report, September 1999.

¹⁰ Frederiksen has served before in both BiH and Kosovo. UNMIBH intends to reduce IPTF to approximately 480 IPTF officers, 50 Civil Affairs officials and twelve CJAU

Civil Affairs chief Jaque Grinberg has noted that “our message [to the Bosnians] should be this: the characters may change, but the plot stays the same”.¹¹

The EU General Affairs Council announced on 18 February 2002 its readiness to create an EU Police Mission (EUPM) to take over from IPTF on 1 January 2003.¹² The Peace Implementation Council (PIC), meeting in Brussels on 28 February, accepted the EU offer.¹³ The EUPM will likely comprise about 550 international and 300 local staff and cost Euro (€) 38 million per annum (not including either €14 million in start-up costs in 2002 or the salaries of seconded police officers and experts thereafter).¹⁴ Both the staff numbers and budget of the EUPM will be much smaller than those of IPTF, which deploys some 1,600 international police officers at a cost of U.S.\$ 121 million per annum.¹⁵

Given both its presumption that it will be building on success and its reduced complement of staff, EUPM plans to “co-locate” not so much in local police stations as in command centres and entity and cantonal interior ministries, where its personnel will mentor, monitor and inspect the managerial and operational capabilities of middle and senior level police officers.¹⁶ While worries have been expressed by SFOR about this reduced presence on the ground,¹⁷ it could work. But in order to compensate for the absence of police on neighbourhood patrol, the degree of expertise, experience, intellect, and tact of EUPM staff will need to be very high. In

officials immediately following the elections in October 2002. Internal UN report, 11 November 2001.

¹¹ Jaque Grinberg, “The Future Mission of SFOR: An UNMIBH Perspective”, Address to the NATO Policy Co-ordination Group, 16 November 2001.

¹² DG E IX, 6296/02, Annex, Draft Council Conclusions, 18 February 2002: EU Police Mission in Bosnia-Herzegovina.

¹³ OHR, Communiqué of the Steering Board of the Peace Implementation Council, 28 February 2002. (The PIC gives political guidance to the High Representative through its Steering Board, consisting of the G8 countries, the EU, EC, and the Organisation of the Islamic Conference.)

¹⁴ DG E IX, Draft Council Conclusions, 18 February 2002.

¹⁵ The UNMIBH budget as a whole for the period July 2001 – June 2002 is U.S.\$ 145 million. Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina, 29 November 2001 (S/2001/1132).

¹⁶ DG E IX, 6296/02, Annex, Draft Council Conclusions, 18 February 2002.

¹⁷ “What the police say to the individual returnees matters, and I wonder whether co-locating at the planned levels can ensure that infractions do not occur”. ICG interview with a senior SFOR officer, 18 February 2002.

particular, EUPM officers will need to have worked at comparable levels and in analogous positions to those with whom they co-locate.

Moreover, in the absence of widespread co-location, there will have to be a sure-fire means of evaluating whether the mentoring and monitoring of middle and senior ranks are being translated into improved performance in localities. Relying on the reports of middle and senior level policemen themselves will not do. Nor will it be possible for co-locators independently to inspect the actions of the police officers with whom they are working. This will mean that the mission will need to have the capacity to carry out local performance assessments, and that information sharing between EUPM, SFOR, OSCE, and other missions with a field presence will have to be enhanced. For if the security environment in BiH were to be threatened, it would be unlikely to begin with an order from on high, but with local incidents, either ignored or perpetrated by the police on the spot.

EUPM’s planners have thus far left open the exact number of officers they will require, reasoning either that the October 2002 elections or unpredictable events could occasion a security crisis necessitating a larger mission. As the EU fact-finding mission wrote, “We also strongly recommend that the appointed Police Commissioner be granted the authority to make changes in the organogram as deemed necessary and beneficial for the efficiency of the follow-on mission”.¹⁸

Whatever the exact composition of the EU follow-on mission, it will have its work cut out for it. The following tasks appear most pressing:

- While maintaining the threat of de-authorisation of dishonest or delinquent police officers, the follow-on mission must work to create incentives for the police to uphold the law and disincentives to fail in the performance of their duty. This will mean finding a way to ensure that police officers receive decent salaries and pensions – in the first instance by further reductions in their numbers, as well as tightening up on indigenous disciplinary mechanisms.

¹⁸ EU Council Secretariat, “Technical Police Fact Finding Report on Possible IPTF Follow-on Mission”, 16 January 2002.

- ❑ Oversee further reforms in police staffing, in particular by conducting more in depth screening of serving officers (including their frequently fraudulent educational qualifications), maintaining and updating UNMIBH's police registry, continuing with reform of the police academies, and pushing forward the process of minority police recruitment.
- ❑ Coordinate more closely with other international efforts to entrench the rule of law in the newly established OHR Task Force. The object of this coordination should be to ensure that the police have both the know-how and the will to work with prosecutors and the courts, especially in politically or nationally sensitive cases involving, for example, high-level corruption and hate crimes. It will also mean ensuring that police officers who commit crimes are prosecuted appropriately.
- ❑ Conduct in-depth structural and financial reforms to make the police more efficient and reduce the influence of official and unofficial power structures on their operations.
- ❑ Steer the process of improving cooperation among Bosnia's police forces (including the State Border Service), as well as with the police of neighbouring countries.
- ❑ Ensure that efforts to de-politicise the police, in particular through the Police Commissioners Project, are implemented in deed as well as word, and that they are extended to include mid-level police officers.

These are just some of the major tasks for the follow-on mission.¹⁹ This report analyses the state of police reform in Bosnia to date, enumerating in detail the issues which EUMP will need to address if it is to build on UNMIBH's legacy and itself leave behind police services fully fit to uphold the rule of law in the wake of the international community's eventual withdrawal.²⁰ Notwithstanding the need to

address the above-mentioned issues, success for the EUPM will only come if it dovetails its agenda with that of OHR and is backed politically by EU member states, especially those present in various capacities in Bosnia. This will require enhanced coordination between and among member states under the auspices of the EU Council of Ministers.

European diplomats have made clear to ICG that if EUPM succeeds, it could help jump-start the European Security and Defence Policy (ESDP) that the EU declared operational in December 2001 and boost the EU's credibility as a peace-keeping actor in the Balkans or elsewhere.²¹ But there are many hurdles yet to overcome.

B. THE ORIGINS OF UNMIBH/IPTF

The mandate of IPTF in BiH, like those of OSCE and OHR, owes more to bureaucratic and diplomatic wrangling than to deliberate design. The shifting balance of the war in 1995, the NATO bombing in August and September (Operation Deliberate Force), Richard Holbrooke's shuttle diplomacy, and the inter-state and inter-agency struggles, arguments and recriminations that preceded and accompanied them culminated at the Wright-Patterson Air Force Base in Dayton, Ohio, in November 1995. Numerous compromises were made to get to Dayton, and just as many were made there. IPTF was one such compromise.²²

Holbrooke and his colleagues in the U.S. State Department wanted strong mandates for both the NATO-led Implementation Force (IFOR) and the policing mission (IPTF). They quickly realised,

criminal justice system is a particularly crucial priority if the gains of a peacekeeping operation are to be consolidated and a relapse into conflict avoided." Gareth Evans, *Cooperating for Peace: The Global Agenda for the 1990s and Beyond* (St. Leonards, NSW: Allen and Unwin, 1993), p. 56.

²¹ See ICG Issues Briefing, *EU Crisis Response Capabilities: An Update*, Brussels, 29 April 2002.

²² For analyses of the 1992-95 war and its diplomacy, see Richard Holbrooke, *To End a War* (New York: Random House, 1998); Laura Silber and Allan Little, *Death of Yugoslavia* (Revised edition, London: Penguin, 1996); James Gow, *Triumph of the Lack of Will: International Diplomacy and the Yugoslav War* (London: Hurst, 1997); Susan L. Woodward, *Balkan Tragedy: Chaos and Dissolution after the Cold War* (Washington: The Brookings Institution, 1995); Steven L. Burg and Paul S. Shoup, *The War in Bosnia-Herzegovina: Ethnic Conflict and International Intervention* (Armonk: M.E. Sharpe, 1999).

¹⁹ Despite its length, this report is far from exhaustive. It seeks to evaluate those programs that have been most central to the UNMIBH effort or which have aroused keenest controversy. Hence some of UNMIBH's technical programs have been excluded from consideration.

²⁰ As ICG President and former Australian Foreign Minister Gareth Evans wrote in 1993, "The building of a functioning

however, that the former was not on, so sought the latter. The Pentagon wanted neither. Not only was it determined to restrict IFOR's mission to separating forces and securing external frontiers, but it was also loath to take on disarmament of the combatants, other than in the Zone of Separation where such action would constitute a "force protection" measure. Above all, the U.S. military wanted a crisp, clean mandate which could be fulfilled within a year and would allow them to avoid either "mission creep" or involvement in any policing functions. The first phobia stemmed from the 1993 debacle in Somalia and the second from disquiet over the otherwise successful intervention in Haiti in 1994.²³

If IFOR was to have a weak mandate, as NATO and the Pentagon successfully demanded, then IPTF must have one too. For if IPTF officers were to be armed either with police enforcement powers or with weapons, they would no doubt seek out and probably find trouble, from which IFOR would be summoned to rescue them.²⁴ In any case, the integration of police and military functions would necessarily contaminate the military's chain of command by involving the chief civilian (and non-American) peace implementation representative, High Representative Carl Bildt, or, even worse, the United Nations. The UN in general and UNPROFOR in particular had already become scapegoats for the powers' multiple embarrassments in the course of the Bosnian war. The U.S. aversion to entrusting the UN with any significant post-war responsibilities was thus shared by the Western Europeans.

Yet the Europeans also maintained their wartime resistance to strong mandates. France's representative at Dayton, Jacques Blot, argued that IPTF could not possibly enforce the law in Bosnia, as its officers would not know what that law was. And if IPTF were not to have enforcement powers, the British delegate at the talks, Pauline Neville-Jones, concluded, then it would have no need of arms.²⁵ Holbrooke tried to rescue a robust policing mandate by getting Washington to offer to meet more of the costs; but this proved impossible. The budget deadlock then prevailing between Congress and the White House meant that the U.S. could

provide no more than U.S.\$ 50 million for the police mission, a sum insufficient, in Holbrooke's words, to permit the U.S. "to write the rules".²⁶

The result was that IPTF was both endowed (in Annex 11 of the DPA) with a weak mandate giving it responsibility merely for assisting and monitoring the Bosnian police forces *and* entrusted to the UN to run. This was, as General Wesley Clark presciently observed to Holbrooke, "leaving a huge gap in the Bosnia food chain". Given the powers' original determination to exclude the discredited UN from peace implementation, Clark's metaphor was singularly apt.²⁷ The UN and IPTF were at the bottom.

It is no great exaggeration to say that the terms of the DPA charge the signatories (or "parties" who had waged the war) with everything that was expected or turned out to be difficult, while giving international agencies (and, IFOR, above all) responsibility for what seemed likely to be doable in relatively short order. Thus Annex 11 decrees that the "maintenance of a safe and secure environment for all persons" is the responsibility of the "parties". But to help them discharge this duty, the signatories "requested" the UN Security Council to create the IPTF to carry out the following functions:

- to monitor, observe and inspect judicial and law enforcement activities, including joint patrols with local police;
- to advise and train law enforcement personnel;
- to assess threats to public order and to advise government authorities on the effective organisation of their police forces; and
- to facilitate improvements in law enforcement within IPTF's remit.²⁸

²⁶ Holbrooke, *To End a War*, p. 251.

²⁷ *Ibid*, p. 252.

²⁸ This somewhat abbreviated list of IPTF tasks is based on those contained in Michael J. Dziedzic & Andrew Bair, "Bosnia and the International Police Task Force", in R. Oakley, M. Dziedzic & E. Goldberg (eds), *Policing the New World Disorder: Peace Operations and Public Security* (Washington: National Defence University Press, 1998, and www.ndu.edu/ndu/inss/books/policing/chapter8.html), p. 8, and Robert M. Perito, "A Critique of the OHR Report on a Police Follow-on Mission to UNMIBH and the UN International Police Task Force", UNDP, November 2001, p. 1. Security Council resolution 1088 of December 1996 entrusted the IPTF with the task of "investigating or assisting with investigations into human rights abuses by law enforcement personnel". For this aspect

²³ Wesley K. Clark, *Waging Modern War* (New York: Public Affairs, 2001), pp. 55-56; Karin von Hippel, *Democracy by Force: US Military Intervention in the Post-Cold War World* (Cambridge: Cambridge University Press, 2000).

²⁴ Holbrooke, *To End a War*, p. 251.

²⁵ Clark, *Waging Modern War*, p. 63.

The aim, then, was to help and encourage Bosnia's three nationally constituted and effectively paramilitary police forces to adopt modern, professional, non-political, and ethnically neutral standards of policing consonant with the highest international standards. These were among the last things the "parties" and their police wanted. They were not what their war had been about. Nor did they form any part of their separate agendas after the Dayton armistice.

Encountering, as he soon would, this disagreeable reality, the IPTF Commissioner could have recourse only to notifying either the High Representative or the IFOR Commander of his difficulties. They, in turn, might inform the "parties", the UN, the Joint Civilian Commission or relevant states. But no one was obliged actually to do anything, save the "parties" who were the source of the problem.

As if IPTF's lack of police powers, weapons and an automatic right to call upon those who had them were not bad enough, it was also saddled with vaguely defined responsibilities to monitor, observe and inspect "judicial organisations, structures and procedures" associated with law enforcement. Yet, as U.S. Institute of Peace official Robert Perito noted in a paper prepared for the UN Development Program, "There was no provision made for qualified judicial personnel, nor was it clear how policemen would be able to initiate judicial reform." Another shortcoming of Dayton identified by Perito was that IPTF had no access to funds with which to assist the police to become better than they were or wanted to be: that is, to co-opt them through providing modern equipment, better salaries and other resources.²⁹

This was no problem in IPTF's early days, since no thought was given to anything other than co-locating 1,721 monitors in 109 Bosnian police stations (according to a formula specifying one monitor for every 30 local policemen), though the number of stations was reduced to 54 even before deployment, in order to cut middle management layers. By March 1996, when the international community had confronted and apparently flunked its first great test during the chaotic transfer of the Sarajevo suburbs from Republika Srpska to the Federation, IPTF had

of IPTF's mandate, see Claudio Cordone, "Police Reform and Human Rights Investigations: The Experience of the UN Mission in Bosnia and Herzegovina", *International Peacekeeping*, Vol. 6, Nr. 4, Winter 1999.

²⁹ Perito, pp. 2-3.

just 392 monitors in country. Nor for the rest of the year did it have the vehicles, radio communications, health services, interpreters, and other logistical supports necessary to fulfil even its initially narrow conception of its flawed mandate.³⁰

Matters improved by 1997. Both IFOR's successor, the Stabilisation Force (SFOR), and IPTF accepted and acted upon the necessity for mission creep.³¹ This meant that IPTF would get more help from SFOR than it had received from IFOR, and would take a more expansive view of its mandate. The stage had been set in April 1996, with the signature of the so-called Petersberg Declaration, providing for a reduction of two-thirds in the Federation police establishment (to 11,500) and offering both savings and international funding for restructuring. (The RS held out against any equivalent cuts – or checks that serving policemen had not been indicted by the ICTY – until September 1997. And no detailed reform and restructuring agreement was signed until December 1998.)³²

Restructuring in the Federation required officers who were to be retained to undergo educational and background vetting, psychological and knowledge testing, and training in democratic policing, human rights and Federation police structures. Progress was sufficient by late 1996 for IPTF to conclude that its focus should shift decisively from monitoring to training and restructuring. This implied a change, too, in the skills IPTF sought in its own future recruits, as well as in its readiness to collaborate with bilateral donors in mounting training courses and seeking out equipment for the BiH police.³³

IPTF completed the provisional certification of Bosniak police officers in the Federation by the end of 1997, and started on that of Croats, who had

³⁰ Dziedzic & Bair, pp. 9-11.

³¹ Alice Hills, "International Peace Support Operations and CIVPOL: Should there be a Permanent Gendarmerie?", *International Peacekeeping*, Vol. 5, Nr. 3, Autumn 1998, p. 35.

³² Dziedzic & Bair, pp. 14-15. The RS insisted on parity of numbers, rejecting the IPTF formula envisaging a limit of 6,000 police officers. When it did sign a restructuring agreement, the RS successfully insisted that the national composition of its force should be based on the entity's post-war (and 'cleansed') population. The Federation, by contrast, had agreed to use the 1991 census as its point of reference for affirmative action programs of integration. See also, Perito, p. 3.

³³ Dziedzic & Bair, p. 16.

initially refused vetting. By mid 1997, IPTF had even managed to convince itself and others that it was making progress in integrating Bosniak and Croat officers in several cantons (including Mostar). It took more justifiable pride in enrolling its first (and multinational) class of cadets in the newly founded police academy in Sarajevo in December 1997. A start was also made in 1997 in giving some substance to UNMIBH's Dayton-mandated role in legal and judicial reform.³⁴

By 1998, IPTF had redefined its mission as the propagation and implementation of "democratic policing". This would entail working to make the police "realign" their purpose "from the protection of the state to the protection of citizens' rights" through "the articulation of specific, observable standards".³⁵ This strategy was refined further in a three point plan, published in January 1999 and calling for (1) more post-communist, post-paramilitary restructuring; (2) more rigorous training, selection, certification and de-certification procedures; and (3) more democratisation by establishing de-politicised, impartial, accountable, and multinational police forces dedicated to the principles of community policing.³⁶

As much as this might have represented an advance on the injunction in the DPA to promote "internationally accepted standards of policing", it remained to be seen whether IPTF could contrive to fill the enforcement, security and food chain "gaps" that had been built into its mandate. The sections below will discuss the results.

C. THE CASE FOR JOINED-UP POLICE REFORM

Although IPTF is the only body specifically charged by the DPA to work on reforming the police,

numerous other organisations and groups contribute to the effort. The list includes the U.S. Department of Justice's International Criminal Investigative Training Assistance Program (ICITAP), the EU's Immigration Pact (IMMPACT) Team, UNHCR, OHR's Anti-Fraud Department, the UN High Commissioner for Human Rights (OHCHR), SFOR, the International Organisation for Migration (IOM), the Organisation for Security and Cooperation in Europe (OSCE), the Southeast European Cooperative Initiative (SECI), the Stability Pact for South-eastern Europe, and many bilateral donors. A number of local and international NGOs are also involved. For example, the Serb Civic Council assists UNMIBH in identifying Republika Srpska policemen who might prove willing to transfer to the Federation.

As is too often the case in Bosnia, the wide variety of separately funded and narrowly focused organisations working in a given field makes coordination and exchange of information problematic. Apart from duplication of effort, the flow of information can be so constrained or confused that the policy-making process is compromised. Even at the highest level, region-wide agreements on fighting crime have been concluded without the necessary input from the relevant organisations. For example, the agreement among FRY, Croatia and BiH on implementation of a protocol on human trafficking was negotiated without reference to OHCHR. Indeed, UNMIBH appears never to have consulted its UN sister body on any of the agreements it has brokered, although such pacts and protocols have often contained provisions relating to human rights.³⁷

Instances of apparent duplication are also legion, especially when it comes to training. UNMIBH has begun to train entity police officers in riot and crowd control in cooperation with SFOR. But the U.S.-funded ICITAP, as well as France and Germany, have already paid for similar training. UNMIBH is likewise preparing to train the police in the use of firearms but, again, ICITAP has already done at least some of this.³⁸ The IMMPACT team, comprised of

³⁴ Ibid, pp. 16-18. For an account of halting international efforts in the realm of legal and judicial reform, see ICG Balkans Report N°127, *Courting Disaster: The Misrule of Law in Bosnia & Herzegovina*, 25 March 2002.

³⁵ Dziedzic & Bair, pp. 20, 28. See Peter Fitzgerald, *The Commissioner's Guidance for Democratic Policing in the Federation of Bosnia-Herzegovina* (Sarajevo: UNMIBH, May 1996).

³⁶ ICG Balkans Report N°80, *Is Dayton Failing? Bosnia Four Years after the Peace Agreement*, 28 October 1999, pp. 110-11. Chapter XIII provides a detailed assessment of Annex 11 implementation through the autumn of 1999.

³⁷ According to an OHCHR official, "UNMIBH have never consulted us on any of the agreements that they have brokered, afraid that we might want to change something no doubt!" ICG correspondence with OHCHR official, 16 January 2002.

³⁸ ICG interview with ICITAP official, 21 November 2001.

immigration specialists from the UK and Denmark³⁹, teaches State Border Service (SBS) officers how to interview potential illegal immigrants correctly; but so does UNHCR, and little co-ordination has taken place.⁴⁰ Moreover, a specialist from the U.S. Immigration and Naturalisation Service (INS) works directly with the SBS, and not through UNMIBH's Border Service Department (BSD).

The police may indeed require more training in a wide variety of areas, but such decisions ought to be based on certain knowledge of what training the police have already received. UNMIBH, however, does not seem to know. The police themselves should know, since ICITAP has purchased a database on their behalf that enables them to track the training courses attended by all their officers. If used effectively, this software should not only help to avoid superfluous training exercises, but also serve to develop general management systems. In such circumstances, it is important that offers by other organisations of their services to the follow-on mission, especially in the training sphere, should not be considered in isolation. It will be necessary to examine such offers in the light of possible inconsistency and redundancy.

Operations have also taken place without the requisite degree of cooperation among interested parties. According to the OHCHR report on "Operation Macro",⁴¹ UNMIBH "planned the action without consultation with their own Human Rights Office or with OHCHR".⁴² This, the report argues, "seems to have had a negative effect" on the protection of legal rights and, therefore, on the chances of mounting successful prosecutions of those apprehended. OHCHR's assessment is echoed by a number of IPTF officers.⁴³ CJAU officials, meanwhile, complained that they were

"asked to clean up the prosecutorial mess", especially in Prijedor.⁴⁴

The December 2001 meeting of the PIC endorsed OHR's scheme to establish a Rule of Law Task Force as one of the four core areas of international engagement in Bosnia to follow upon the "streamlining" of the international presence. More detailed proposals were prepared and approved at the PIC's 28 February 2002 meeting.⁴⁵ Although a radical shake-up in judicial, legal and court reform was agreed at this meeting – and the EU's offer to take over the policing mission was accepted – not all the relevant agencies had been happy in advance with the streamlining model proposed. In particular, fears were expressed that too many groups and organisations would now have a finger in the pie. Notwithstanding the personal and institutional self-interest that may have been behind some of the carping, it was not at all clear that the scheme envisaged would reduce rather than add to duplication, especially as Bosnian ministries and institutions are meant to be included.

Yet the establishment of a Working Group on Law Enforcement that embraces nearly all the organisations involved in policing, seems a positive development. This working group can, if need arises, be subdivided by specialty (training, reform, operations, etc.), though formal structures are not as important as effective ones. Certainly the working group will offer an appropriate forum for dealing with crucial issues such as police pay, which require the cooperation of the international financial institutions (IFIs) and OHR.

The EU has made clear its interest in having "a well-defined structure...with appropriate coordinating mechanisms with the Office of the High Representative".⁴⁶ But the EU has not yet formulated or presented details of what it has in mind, beyond double-hatting the next High Representative as a special EU envoy to whom the future EUPM commissioner will report. Differences in interpretation of the High Representative's role as EU special representative have already emerged

³⁹ Italy has recently signed an agreement with Bosnia to second immigration specialists to the IMMPACT Team.

⁴⁰ ICG interview with UNHCR official, 13 January 2002.

⁴¹ On 3 March 2001, 336 Federation police officers, 178 RS officers and nineteen officers of the Brcko District police, as well as officers from the State Border Service, carried out an operation involving simultaneous raids on 38 nightclubs suspected of serving as brothels across BiH. Complex, politically sensitive operations are normally subject to inter-agency discussions. Even so, things can go wrong.

⁴² "Report by the Office of the High Commissioner for Human Rights on the Effects of Operation 'Macro'", OHCHR, undated.

⁴³ ICG interview with IPTF officers, 10 October 2001.

⁴⁴ ICG interview with CJAU official, 11 April 2002.

⁴⁵ See OHR, Communiqué of the Steering Board of the Peace Implementation Council. Brussels, 28 February 2002.

⁴⁶ EU Council Secretariat, "Technical Police Fact-finding Report", 16 January 2002.

between the incoming High Representative, Lord Ashdown, and the Council Secretariat.

The expeditious clarification of the relationship between the police follow-on mission and OHR would go a long way to facilitate co-operation. The nature of the relationship also needs to be clarified in the field, where OHR departments will work side by side with the follow-on mission. Now it has been agreed that the EUPM commissioner will report to the High Representative, should EUPM regional commanders report in turn to OHR regional office heads? The clarification of relationships and of procedures for consultation will certainly help ensure that the effective cooperation that has prevailed in some areas in the past will spread elsewhere in future.

Moreover, the extent to which the follow-on mission will “outsource” some of its tasks needs to be decided. That is, will an EU-run mission make the OSCE responsible for regional co-operation, or entrust UNDP with finding a means to pay police officers adequately? The pros and cons of “outsourcing” can be argued either way, but such questions are also inherently political. Giving some such responsibility to the OSCE mission in BiH could be an astute consolation prize for its failure to win the right to run the entire follow-on mission. Such considerations must be balanced against the demand for effectiveness and clear lines of reporting.

II. POLICING STRUCTURES

A. FRAGMENTATION

Like Dayton Bosnia itself, the country’s police forces are divided. The two entities (the Federation of Bosnia and Herzegovina and Republika Srpska) maintain their own police forces under the control of their respective interior ministers. Authority over the police is further decentralised in the Federation, with each of the ten cantons also possessing a ministry of the interior or MUP (*Ministarstvo unutrašnjih poslova*).⁴⁷ While the RS police are merely subdivided geographically into regional Public Security Centres (PSCs) and local police stations, the chiefs of which remain directly accountable to the RS interior minister, the cantonal ministers of interior have significant autonomy vis-à-vis the Federation ministry.

The limited power of the Federation interior ministry is indicated by the short list of policing tasks that fall within its purview: coordinating inter-entity and inter-cantonal cooperation, especially in regard to terrorism and other serious and organised crimes, protecting VIPs and guarding diplomatic premises. The ten cantonal interior ministries are responsible for all other aspects of law enforcement, with each municipality having a police administration. The RS ministry of the interior, by contrast, is responsible for all crime prevention and enforcement in the entity.⁴⁸ Under the ministry of the interior there are

⁴⁷ In addition to its regular police forces, the Federation also has separate Court Police (under the authority of the Federation Supreme Court) and Finance Police (under the Ministry of Finance and, effectively, the OHR Anti-Fraud Department). The Federation Court Police are responsible for protecting trials, court buildings and witnesses, transporting prisoners, enforcing court-ordered evictions and carrying out court-ordered arrests, and (somewhat oddly) dealing with cases of child abduction. The Court Police are also mandated to assist the Federation Ombudsman, but have thus far lacked the resources to do so. The RS now has neither court police nor finance police. The latter were absorbed into the tax authority in autumn 2001. On the other hand, the current RS interior minister has expressed an interest in establishing a court police force. ICG interview with UNMIBH official, 8 February 2002.

⁴⁸ The unified RS command structure means that UNMIBH and OHR can reasonably hold the RS interior minister responsible for policing failures throughout the entity. This advantage has been pressed too infrequently. For example, the pattern of systematic indifference by the RS police

five Public Security Centres (PSC) that match the areas covered by district courts.

A second complication arising from the Federation's devolution of power to the cantons is the lack of consistent policing practices between and among cantons with Bosniak, Croat or no national majority populations. Croat majority cantons often coordinate their activities as if they were a third entity, while official Bosniak-Croat power sharing in mixed cantons (Cantons 6 and 7) has given rise to parallel structures within their MUPs.⁴⁹ In Canton 7, approximately 300 police officers are paid to 'stay at home', but in reality function as a parallel police whispered to be under the command of Major-General Zlatan Mijo Jelic (until recently the commander of the former HVO component of the Federation Army).⁵⁰

As if the discontinuities between and within the entities were not sufficiently labyrinthine, Brcko District has its own autonomous police force and structure. The director of police in Brcko reports to the mayor and provides monthly reports to the District Assembly. The Assembly, in turn, convenes a police supervisory committee.⁵¹

towards violence and intimidation directed at 'minority' returnees in many areas of the entity has rarely resulted in serious international pressure on the RS government. See ICG Balkans Report N°118, *The Wages of Sin: Confronting Bosnia's Republika Srpska*, 8 October 2001.

⁴⁹ Physical integration of the police has taken place in Canton 7 (Mostar) and the police now occupy the "Stone Building", ownership of which had been transferred illegally from the police to the municipality. (See Zvonimir Jukic, "Bosnia: Mostar Police Reunited", *IWPR Balkan Crisis Report*, 20 February 2002.) The Croat-controlled municipal administration has, however, recently filed a lawsuit against the police to retrieve the "Stone Building". While this action is likely to fail, it testifies to continuing opposition to police integration and reform. For although physical integration of Bosniak and Croat police officers is proceeding, their functional integration remains elusive. The Mostar police still operate according to a divided budget (like other institutions in Canton 7) and work according to nationally distinct lines of command. ICG interview with UNMIBH official, 22 February 2002.

⁵⁰ Internal UN report, 9 May 2001. Allegations have abounded that many of these 300 officers participated in the attacks on international officials during the raid on Hercegovacka Banka on 6 April 2001.

⁵¹ The committee is required to meet at least twice a year, but convenes more frequently should the need arise. The committee has proved a useful means of scrutinising the police and their attainment of established targets.

The weakest link in Bosnia's policing framework is the state. The BiH constitution (Annex 4 of the DPA) entrusts the state with responsibility for "international and inter-Entity criminal law enforcement, including relations with Interpol".⁵² OHR has sought latterly to provide the state with the institutions necessary to fulfil these tasks, usually in the face of determined opposition by one or both of the entities and occasionally by international organisations worried about footing the bill. The recently created State Investigation and Protection Agency (SIPA) will take responsibility for exchanging law enforcement information and providing protection for national institutions and representatives. SIPA is also meant to facilitate inter-entity and regional cooperation in the fight against organised crime, human trafficking and international terrorism.⁵³ The establishment of a Citizens Identity Protection System (CIPS), a state-level civil registry, will facilitate SIPA's work. CIPS will also create a state-level Network Operations Centre, containing a registry of 'black-listed' lawbreakers compiled by Interpol.

For its part, the State Border Service (SBS), established by order of the High Representative in 2000, is responsible both for controlling Bosnia's 1,666 kilometre-long frontiers and for pursuing border-related crimes throughout BiH. Its officers are not required to seek the consent of entity or cantonal authorities, but are obliged to notify them if they operate on their turf. The SBS is discussed in some detail below.

While the legislation establishing SIPA has not yet been passed, the agency plans to employ some 500 police officers, 400 of whom will be charged with protecting buildings and VIPs (Presidency and Council of Ministers members, Supreme Court justices and embassies). The other 100 will be investigators dealing with crimes committed against the state. SIPA is expected to facilitate inter-entity cooperation.

Finally, while the NATO-led SFOR troops stationed in Bosnia do not uphold the laws of the country, they

⁵² Dayton Peace Agreement, Annex 4, Article III/1(g). At present the state Ministry of Civil Works and Communications provides a home for an Interpol office.

⁵³ The RS has sought continually to thwart the establishment and/or operation of any state institutions that would realise the responsibilities and powers either allotted specifically to the state by the DPA or not mentioned in the accords, including SIPA.

do perform significant security tasks which local police are not always willing or able to carry out. Thus SFOR apprehends indicted war criminals on behalf of the Hague Tribunal and provides a measure of security – mostly of a preventive nature – for returnees to various parts of the country. Moreover, as part of the post-September 11 “war on terrorism”, American troops, operating independently of SFOR, have recently captured and ordered the apprehension or taken custody of suspected terrorists. As such, NATO troops must now also be seen as a part of the law enforcement establishment in Bosnia.

Reflecting as they do the national and political fault lines created by the war and confirmed by the peace settlement, the divisions among Bosnia's several police forces obviously facilitate the exercise of political influence and national bias. Of equal or greater concern is the fact that these forces cooperate either inadequately or not at all with one another, giving criminals all sorts of opportunities to operate with near-impunity across internal and international boundaries.

Non-cooperation between the entities, between the entities and Brcko District, and between the Federation and its cantons is the norm. In the first two cases, little information is shared, joint operations are rare and arrest warrants issued in one jurisdiction are not executed in another. One high-ranking police officer characterised the degree of co-operation between the entities as “more like that between countries than within a country”.⁵⁴ Until recently, Bosnian police forces have relied more on Interpol for the exchange of information than on direct contacts.⁵⁵ Even now, when a crime occurs, it can take eight hours before the police in one entity inform their opposite numbers in the other entity, if they inform them at all.⁵⁶

Cooperation between the Federation and cantonal MUPs can be almost as poor – and is sometimes even worse – than that between the entities.⁵⁷ Although the Federation MUP has official responsibility for tackling organised crime, drug

dealing, inter-cantonal crimes and terrorism, it must in practice rely upon the good will of the cantonal ministries. Attempts by the Federation ministry to place liaison officers in the cantons in order to improve communications have frequently been met with hostility or intransigence. In Mostar, for example, Federation MUP officers have been quartered in a fire station some three kilometres from the Canton 7 Ministry of Interior. To quote an UNMIBH memorandum, “this will create difficulties in duty performance”.⁵⁸ In other cantons Federation police officers may work alongside their cantonal counterparts, but still encounter animosity, especially in Croat-majority cantons.⁵⁹ Conversely, cantonal MUPs frequently complain about the negligence and/or undue political interference of the Federation MUP. A cantonal MUP official remonstrated to IPTF that no one from the Federation Ministry of Interior comes to arrest suspected criminals whose whereabouts have been established on its behalf.⁶⁰ On top of that, in Bihac, UNMIBH had to reject several Federation MUP candidates for attachment to the cantonal police because, as an UNMIBH official explained to ICG, the then SDA interior minister was “using the policy to place ‘plants’ in the cantonal MUP in order to obstruct the non-SDA cantonal minister of interior”.⁶¹

The jumbled structure of the police is compounded by discrepancies in legislation. For example, there are inconsistencies between cantonal laws on internal affairs and Federation criminal procedures, as well as between laws relating to identical crimes. The Federation has failed to make any serious legislative efforts to rationalise and restructure the relationships either between the Federation and the cantons or among the cantons. A draft law on internal affairs that aims to establish a clearer hierarchy of competencies has languished in parliament since 1998, blocked by deputies representing parties opposed to centralisation. Cantonal assemblies have likewise done their utmost to sabotage such measures. Nor have all OHR regional offices accorded a high enough priority to this legislation.

⁵⁴ ICG interview with senior BiH police officer, 21 January 2002.

⁵⁵ Until now, UNMIBH's Joint Task Force and the UNMIBH-chaired Ministerial Meeting on Police Matters have facilitated inter-entity cooperation.

⁵⁶ ICG interview with senior police officer, 21 January 2002.

⁵⁷ This is compounded by the fact that the police in the cantons are paid from cantonal budgets.

⁵⁸ Internal UNMIBH memorandum, 10 January 2002.

⁵⁹ ICG interview with senior BiH police officer, 21 January 2002.

⁶⁰ Internal UNMIBH memorandum, 10 January 2002.

⁶¹ ICG interview with UNMIBH official, 11 April 2002.

As long as policing structures remain flawed, providing for too much latitude at the local level and too little accountability to the centre, international efforts to clamp down on party political influences on the police will remain unavailing.⁶² EUPM should make a start, however, by seeking to ensure obligatory, operational-level sharing of information between and among the entity and Brcko District forces. The implementation of simplified reporting procedures would help.

B. NON-COOPERATION WITH THE JUDICIARY

The rule of law in Bosnia is undermined not only by the diversity of rival police forces, but also by inadequate cooperation among police, prosecutors and judges, all of whom expend considerable energy blaming one another for failing to tackle corruption, organised crime and ethnic violence. Fearful for their jobs or personal security – and vulnerable to extraneous pressures – supposed upholders of the law often pass responsibility for taking difficult decisions back and forth among one another like the proverbial hot potato.⁶³

For example, a locally notorious criminal family in Prijedor recently vandalised a local club, smashing equipment, assaulting guests and setting off tear gas canisters. According to media reports, the attack was part of the family's extortion of protection money from businesses in the area. Under pressure from IPTF, the local police later detained ten suspects and searched the family's business premises. Despite the violence of the attack, the investigative judge (who interviewed the suspects in police custody) did not order their continued detention. He claimed instead that the prosecutor should have filed a request for investigation and detention. The prosecutor, on the other hand, averred that it was for the investigating judge to order the suspects' detention, since he had sufficient evidence at his disposal. The prosecutor also explained that he could not issue a request for

detention because the police had not yet filed a crime report. According to an internal UNMIBH report, the Criminal Justice Advisory Unit (CJAU) monitor noted that "this incident represents yet another example of the local authorities exploiting weaknesses in the criminal procedure code to avoid apprehending dangerous criminals".⁶⁴

From the police side, intentional obstruction of the administration of justice falls into four identifiable categories: non-existent or inadequate preliminary investigations;⁶⁵ deliberate misuse of procedures; failure to cooperate with prosecutors;⁶⁶ and the provision of false or conflicting testimony in court. On top of this, the police misunderstand – or deliberately misconstrue – both their role and the criminal procedure codes.⁶⁷ Meanwhile, the protection of judges, prosecutors and witnesses remains inadequate or, in some cantons, non-existent. The retrial of the Liska Street incident in

⁶⁴ CJAU Contribution to the MHQ Weekly, 11 to 18 January 2001.

⁶⁵ In the preliminary investigation phase, the police are frequently negligent in making their enquiries, if they make them at all. Officers sometimes fail to file appropriate crime scene reports, to conduct relevant interviews and to follow up obvious leads. The police also frequently characterise crimes incorrectly, collect evidence for a single crime rather than for several similar crimes and fail to gather or seek tangible evidence (forensic reports, photographs etc.). Such failings make it difficult for prosecutors to make effective use of the evidence that is to hand.

⁶⁶ Sometimes, when the police do gather evidence of serious offences, they misdirect it to a minor offence court rather than to a prosecutor's office, thereby ensuring that misdemeanour, as opposed to criminal charges, are brought against the perpetrators. The police also often ignore requests by prosecutors to collect further information on a case. Another means by which the police ensure their reports do not result in prosecutions is by forwarding the details of a crime to a prosecutor, but without naming any suspects. This guarantees that the prosecutor will attach a low priority to the case. Internal UNMIBH memorandum, undated.

⁶⁷ When asked to apprehend three suspected organisers of the 5 May 2001 riot in Trebinje, the RS Ministry of Interior and the local PSC claimed that the three suspects were "mentally retarded". Even though such an assessment would be for the courts rather than the police to make – and UNMIBH informed the police accordingly – they have still not taken any action. Internal UNMIBH report, 5 July 2001. The contradictory nature of legislation in Bosnia facilitates abuse. For example, the Cantonal Law on Internal Affairs allows for the police to arrest a suspect and to keep him or her in custody for three days. According to Federation Criminal Procedures, however, the police can only arrest someone if they possess a court order.

⁶² ICG interview with a senior BiH police officer, 21 January 2002. See also "Advancing Balkan Stability", Address by Gareth Evans to The Trilateral Commission, 11 November 2001; and ICG Balkans Report N°108, *After Milosevic: A Practical Agenda for Lasting Balkans Peace*, 26 April 2001.

⁶³ As one IPTF officer noted, "Frequently the police know what to do, but do not do it out of fear for their jobs or their lives". ICG interview, 17 January 2002.

Mostar in 1997, where police officers opened fire on a Muslim religious procession killing one and wounding nineteen (three gravely), confirmed that witnesses were too frightened to give testimony.⁶⁸

One egregious example of apparently intentional bungling of a police investigation took place when a house belonging to a Bosniak returnee was blown up in Bratunac in September 2000. The RS police conducted no investigation at the time and tried to convince IPTF officers that the returnee had himself tripped a landmine laid during the war. Study of a photograph of the scene convinced IPTF officers, however, that the explosion had been caused by a recently laid device, thereby enabling them to put pressure on the police to conduct a proper investigation. The police began by checking whether other PSCs had arrested anyone with experience in explosives at the time of the Bratunac incident. The Bijeljina police responded that they were in fact holding an explosives expert in their prison, and that the individual had been granted 'home-leave' in Bratunac on the weekend when the explosion occurred. The Bratunac police did not follow this gold-plated lead any farther.⁶⁹

In other cases the police ignore requests from prosecutors for follow-up investigations. In November 2001, CJAU asked prosecutors in Canton 7 to provide a list of cases where action had been demanded of the police, but had not been taken. A list was forwarded to IPTF officers, who made enquiries as to the status of the cases. Some had been pending since 1998.⁷⁰ As a consequence of this tactic, up to 20 per cent of criminal cases in Canton 7 died without action having been taken within the statutory period.⁷¹ The RS public prosecutor has a

similar list of stalled cases, mostly dealing with official corruption, and many of which have mouldered in police files since the start of the war. Police stonewalling has also included ignoring prosecutors' summonses to testify, as when twelve Zvornik officers who had witnessed an attack on Bosniak returnees failed to heed the prosecutor's request to appear in court.⁷²

Finally, when the police do comply with a summons, they may resort to perjuring themselves – an offence for which they are rarely prosecuted or even disciplined. In Janja, for example, five policemen witnessed three people set fire to a house and duly reported the incident, including the names of the perpetrators. When the case reached court, four of the five officers contradicted their reports by claiming that, although they had observed the three men at the scene, they had not in fact seen what they were doing.⁷³ The four were clearly lying – and probably acting under duress, whether exerted from inside or outside the force.⁷⁴

The cases cited above either came to light or were subjected to some remedy because of the presence or exercise of selective pressure by UNMIBH. The UN mission has been able to identify and combat many flagrant cases of police incompetence because IPTF officers are "co-located" in local police stations and possess the power to recommend the "de-authorisation" of individual policemen. The follow-on mission will need to have equally effective means for keeping abreast of developments on the ground, as well as the sanction of dismissal. (Co-location and de-authorisation are discussed more fully below.)

UNMIBH's Mandate Implementation Plan pledges to "ensure that police institutions have the appropriate legal and procedural understanding and expertise to enable the judicial system to undertake successful prosecutions".⁷⁵ To do so, CJAU and the Human Rights Office (HRO) monitor cases and

⁶⁸ A CJAU official who monitored the retrial noted the "threatening presence of some twenty tough-looking people" and added that their presence was "very intimidating for the witnesses". Internal UNMIBH report, 9 May 2001. Another UN report notes: "The case has been plagued by irregularities, including the handling of the case by three different prosecutors, and the failure of 44 witnesses to identify the assailants, including the current Governor (former Minister of Interior), the Mufti, and the current and former Mayors". CJAU Contribution to the MHQ Weekly, 11 January 2002.

⁶⁹ ICG interview with UNMIBH official, 7 January 2002.

⁷⁰ CJAU Contribution to the MHQ Weekly, 23 November to 7 December 2001.

⁷¹ Mostar Regional Update on the Regional Implementation Plan, 10 May – 5 July 2001. Apart from the police, the forestry department, the customs and tax authorities, the

labour inspectorate, and health inspectors are empowered to file reports with prosecutors. These agencies, however, seldom exercise this right, and as the police have no jurisdiction in their respective spheres, few cases of tax evasion, illegal tree-felling, corruption, etc. reach the prosecutors.

⁷² ICG interview with UNMIBH official, 12 December 2001. The twelve police officers only showed up to testify after considerable pressure from UNMIBH.

⁷³ ICG interview with UNMIBH official, 12 December 2001.

⁷⁴ CJAU Contribution to the MHQ Weekly, 23 November to 7 December 2001.

⁷⁵ UNMIBH Mandate Implementation Plan 2000-2002, October 2001.

promote liaison between police and prosecutors.⁷⁶ Additionally, the Special Trafficking Operations Program (STOP) has frequently assisted police officers in taking testimony, so ensuring that victims' statements are admissible in court. In Zenica-Doboj Canton, STOP team officers intervened during a trial in order to ensure adequate protection for the witnesses from a threatening defendant. Such interventions are commonplace and somewhat controversial, as judges often question IPTF's mandate to interfere, and even international lawyers have voiced concern over IPTF officers' competence to do so.⁷⁷ Usually, though, the irregularities are so obvious that a law degree is scarcely required to recognise wrongdoing.⁷⁸ For the most part, however, UN reports reveal a more rudimentary form of intervention, such as the comment in one that "under substantial pressure from UNMIBH, the local prosecutor pursued an investigation".⁷⁹

ICITAP, for its part, has mounted courses on such subjects as "Major Organised Crime Case Management" and helped in the development of standardised reporting. These have aided prosecutors by making information both accessible and, given recent changes in the criminal code, admissible in court.⁸⁰ As one IPTF officer told ICG, the biggest

impediment to successful investigations and prosecutions remains the fact that "duty reports are often not filled out; and when they are written, they are often no longer than a couple of paragraphs".⁸¹

Following one recent training session, the Municipal Offence Court in Bosna-Podrinje noted that it was now receiving more information than it had ever expected to get from the police. ICITAP training has been complemented by a CJAU-organised course in which prosecutors have trained crime department officers in writing better reports.⁸²

Despite such programs, international efforts to improve the relationship between the police and the judiciary have been only intermittently successful. A principal obstacle to establishing more systematic cooperation between the police and the judiciary is the fact that, while the police have been subjected to considerable reform, equivalent and complementary reforms of the judiciary have been either ineffectual or late in starting. As Special Representative of the Secretary-General Jacques Paul Klein told the UN Security Council in September 2001, "through our Mandate Implementation Plan (MIP), UNMIBH is robustly undertaking one of the largest police reform and restructuring missions in history. But, as we have repeatedly noted, the judicial system remains largely dysfunctional".⁸³ Other critics of judicial reform have echoed this sentiment, noting that "the

⁷⁶ On the other hand, UNMIBH has never provided CJAU with the personnel it would need to monitor all significant criminal cases and the individual performance of policemen and prosecutors in a given region. By way of illustration, CJAU has just one international lawyer and one local lawyer per region. As a consequence of its thin presence on the ground, CJAU has been forced to forge working relationships with only a chosen few local prosecutors and criminal investigators, leaving the others virtually untouched. Likewise, CJAU is able to monitor only high profile criminal cases. ICG correspondence with UNMIBH official, 24 January 2002.

⁷⁷ ICG interview with UNMIBH official, 11 April 2002.

⁷⁸ In late 2001, after having received several complaints from judges, the International Judicial Commission (IJC) approached CJAU to discuss the possibility that a CJAU official accompany IPTF officers to all proceedings in order ensure professional monitoring. By early 2002, nothing had come of this. ICG interview with UNMIBH official, 11 April 2002.

⁷⁹ "Trafficking in Human Beings in Bosnia & Herzegovina: A Summary Report of the Joint Trafficking Project of the UN Mission in Bosnia & Herzegovina & the Office of the High Commissioner for Human Rights", May 2000.

⁸⁰ The new criminal code allows for police reports to be entered into evidence. This was not permitted under the old code.

⁸¹ ICG interview with IPTF officer, 27 November 2001. Strikingly, the police frequently leave out central details their in reports. When one of the organisers of the riot in Trebinje on 5 May 2001 admitted to the police when and where the planning of the riot took place, this information was not included in the crime report.

⁸² CJAU Contribution to the MHQ Weekly, 23 November to 7 December 2001. These courses have been co-organised and funded by the Central and East Europe Law Initiative (CEELI), which has also supported many other such projects. However, not all prosecutors have welcomed the courses. The prosecutor in Trebinje has claimed that the police needed no instruction as their reports "maintained good standards" and that her cooperation with the police was "excellent". Equally, the prosecutor in Siroki Brijeg rejected an invitation to attend, claiming that he does not receive criminal reports from the police because the court he services is acting as a second instance court. But this assertion is both against the facts and the law. UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

⁸³ Jacques Paul Klein, Security Council Briefing, 21 September 2001.

judicial reform process in BiH has been long on talk, good intentions and promises, but short on results”.⁸⁴

Yet blaming the judiciary for any and all policing failures ignores the often deliberate sabotage of the legal process by the police. Just as the police are too quick to blame judges and prosecutors when things go wrong, so the international agencies responsible for police reform hasten to reproach the custodians of judicial reform.

Now that the EU is poised to take over the police mission in 2003 within what is intended to be a consolidated Rule of Law Task Force under OHR, EUPM should inherit a more ‘joined up’ structure in which the EU in general enjoys political influence commensurate with its financial contribution.⁸⁵ Structures, however, are not as important as the uses to which they are put. Too much time has been and is being spent debating who should sit on what board and speak to and for whom. However it is composed, the Rule of Law Task Force will need to develop and coordinate a viable international strategy for making police, prosecutors and judges work together as competent, cohesive and responsible upholders of the law.⁸⁶ The IJC has maintained that it only has resources to conduct structural reform of the judiciary. But mechanisms for ensuring successful prosecutions have to be in place while the structural reform is going on.

⁸⁴ Charles Erdmann, “Assessment of the Current Mandate of the Independent Judicial Commission and a Review of the Judicial Reform Follow-on Mission for Bosnia and Herzegovina”, November 2001. See ICG Balkans Report N°127, *Courting Disaster: The Misrule of Law in Bosnia & Herzegovina*, 25 March 2002.

⁸⁵ As late as mid February 2002, however, one EC official expressed doubts about whether the Rule of Law Task Force would deliver the goods, noting that it “seems that the EC/EU has been extremely overlooked”. ICG correspondence with EC official, 14 February 2002.

⁸⁶ “Judicial reform is as vital as police reform, but so too is penal reform; therefore simultaneous progress on all three should be matched and coordinated”. Richard Monk, OSCE First Preliminary Report on a Follow-on Mission to UNMIBH and the UN International Police Task Force, October 2001.

C. THE STATE BORDER SERVICE (SBS)

The establishment in 2000 of a state-level and genuinely multinational State Border Service (SBS)⁸⁷ was both a practically important contribution towards police reform in BiH,⁸⁸ and a politically significant step towards building a viable state. The state constitution provides for the state to have responsibility over customs policy; immigration, refugee, and asylum policy and regulation; and international and inter-entity law enforcement.⁸⁹ In addition, under Article III, “Bosnia and Herzegovina shall assume responsibility for such matters as are agreed by the Entities; are provided for in Annexes 5 through 8 of the General Framework Agreement; or are necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina.”⁹⁰ Control over frontiers is a *sine qua non* of territorial integrity and international legal personality, and the SBS has already gone a long way to shore up these attributes of Bosnia’s fledgling sovereignty.⁹¹

For this very reason, the SBS encountered formidable opposition from an RS political establishment committed to maximising the entity’s ‘statehood’ and minimising that of BiH, above all by denying it effective or potentially powerful central institutions. Even though the three-member Bosnian presidency agreed to establish the SBS when signing the “New York Declaration” in 1999,⁹² the High

⁸⁷ The SBS Directorate consists of three directors (one from each constituent people), and the force itself currently employs 37 per cent Bosniaks, 35 per cent Serbs, 24 per cent Croats and 4 per cent “others”. Yet UNMIBH has claimed that “It had been stressed throughout that ethnicity plays no part in this [recruiting] process at all”. Juan A. Pina, “BiH State Border Service inaugurated”, *SFOR Informer*, N°90, 21 June 2000.

⁸⁸ The idea of a Bosnian border police was raised initially at the December 1997 PIC meeting in Bonn and repeated at the June 1998 Luxembourg PIC.

⁸⁹ Article III, Paragraph 1, subparagraphs (c), (f) and (g).

⁹⁰ Article III, Paragraph 5, subparagraph (a).

⁹¹ Robert McMahon, “Bosnia-Herzegovina: Progress Noted but More Reforms Needed”, *Radio Free Europe*, 13 December 2000.

⁹² On the fourth anniversary of the Dayton Accords, the UN Security Council met with Bosnia’s three-man presidency and convinced them to sign on to the “New York Declaration” reaffirming the DPA. Richard Holbrooke called the agreement to establish the SBS the “most important [element] in the declaration”. Judy Alta, “Bosnia Presidency sets Goals in New York Declaration”, *Journal of Aerospace and Defence Industry News*, 19 November 1999.

Representative had to impose the law creating it on 13 January 2000.⁹³ The BiH Parliament only ratified the law in August 2001, long after the service had in fact taken control of major border crossings.⁹⁴

Under the stewardship of UNMIBH's Border Service Department (BSD), the SBS has become an established institution, controlling 88 per cent of Bosnia's frontiers and deploying 1,750 officers, a complement which is targeted to rise to 2,700 by the end of 2002.⁹⁵ In addition to BSD supervision, the SBS has benefited from immigration control training provided by the EU IMPACT team.⁹⁶ Although it has made considerable progress in sealing Bosnia's notoriously porous borders, expectations of the SBS have also risen since 11 September 2001.

Another intended benefit of SBS deployment is a reduction in customs evasion. Last year such evasion cost the budgets of the Federation and the RS an

⁹³ The High Representative's imposition was subsequently challenged before the BiH Constitutional Court by RS deputies in the state House of Representatives. After declaring itself competent to examine laws imposed by the High Representative, the Court declared both that the Law on the SBS was constitutional and that the state presidency had followed a correct procedure when later proposing it to parliament. For further details, see "Constitutional Watch: A country-by-country update on constitutional politics in Eastern Europe and the ex-USSR", *East European Constitutional Review*, Vol. 10, N°1, Winter 2001.

⁹⁴ At the inauguration of the SBS, the RS minister of the interior voiced his opposition: "I have to express my sincere regret that we have seen...the establishment of the State Border Service on the border with the Federal Republic of Yugoslavia". "Bosnia Serb Minister Unhappy with Border Service", Reuters, 4 August 2000.

⁹⁵ SBS Director Slavisa Vukovic announced on 24 April that coverage would rise from 75 to 88 per cent by the end of the month, and that 300 new border guards had been employed. Control over the remaining 12 per cent would follow by the end of September 2002. "Do kraja aprila pod kontrolom 88 posto drzavne granice", *Dnevni avaz*, 25 April 2002. The SBS and UN use percentages to measure the coverage of the SBS, that is, the percentage of border crossings manned by SBS officers. Manning, however, does not necessarily mean full control. According to Presidency Chairman Beriz Belkic, "The full functioning of this service will be questionable until it establishes control over the entire BiH state border". "BiH Presidency Discusses Work of State Border Service", *OHR Media Round-up*, quoting *Nezavisne novine*, 22 February 2002.

⁹⁶ The EU IMPACT team has trained approximately 350 SBS officers in detecting forgery and in interviewing and profiling. UNHCR has trained the SBS in the handling of asylum seekers and the appropriate application of the relevant laws.

estimated KM 300 million and KM 500 million, respectively.⁹⁷ The fact that government officials and political parties have often been complicit in backing or profiting from evasion partly explains their opposition to creating such a force. ICG has received reliable evidence supporting the accusations, originally levelled by former RS Premier Milorad Dodik, that an officially sanctioned, underground system of customs collection and taxation operates in the RS.⁹⁸ This parallel system even employs its own forms and procedures.⁹⁹ ICG has also received evidence that large numbers of police officers in Cantons 7 and 8 are moonlighting as smugglers.¹⁰⁰

The establishment of the SBS seems to have improved revenue collection at those crossings where it operates.¹⁰¹ Besides combating customs evasion on the import of legal goods, the SBS has proved central to curbing cross-border trafficking of weapons and other contraband. Its successes have included the arrest, on 16 October 2001, of a highly placed gang running guns from Bosnia to Kosovo.¹⁰² Between June and October 2001, the SBS seized illegally imported goods and currency worth about U.S.\$ 1 million.¹⁰³ Such seizures help replenish the entities' depleted coffers – and, by extension, those of the state.¹⁰⁴

The SBS is also needed to control the flow of illegal immigrants through Bosnia into Western Europe, to keep out potential terrorists and to prevent the trafficking of women into and through Bosnia. Since its formation, the number of people estimated to have used Bosnia as a transit route to

⁹⁷ KM are "convertible marks", once pegged at parity with the Deutschmark, but now trading at the rate of €1 = KM 1.956. See ICG Balkans Report N°155, *Bosnia's Precarious Economy: Still Not Open For Business*, 7 August 2001.

⁹⁸ "Ne plasim se poziva za razgovor u MUP-u", *Nezavisne novine*, 28 November 2001.

⁹⁹ ICG interview with intelligence official, 13 November 2002.

¹⁰⁰ ICG interview with intelligence official, 22 February 2002.

¹⁰¹ "Zapljenjena visokotarifna roba vrijedna 800 hiljada KM", *Oslobodenje*, 23 May 2001, and "Klopka za mafiju i korumpirane carinike", *Oslobodenje*, 25 December 2001.

¹⁰² Antonio Prlenda, "Bosnian Gun Smuggling Ring Exposed", *IWPR Balkan Crisis Report*, 16 October 2001.

¹⁰³ Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina (S/2001/571), 29 November 2001.

¹⁰⁴ The entities are obliged to pay a percentage of their revenues to the state.

EU countries has declined by approximately 60 per cent.¹⁰⁵ (The role of the SBS in fighting human trafficking is discussed below.)

Despite the obvious progress, some important frontier crossings (such as the frontier at Uvac, near Priboj) remain outside the control of the SBS. According to a CAFAO official, the borders in parts of the eastern RS are still “open for business – depending on who you are”.¹⁰⁶ A recent series of articles in *The Independent* (London), as well as earlier press stories,¹⁰⁷ have highlighted some of the problems. *The Independent* quoted an IPTF officer as saying, “the border is crossable anywhere. All 1,600 kilometres are passable, depending on how desperate you are to cross into the next country”. Equally, as Graham Leese, the IMMPACT team’s project manager, explained, “for the EU as a whole – and the UK in particular – the Balkan route has long been identified as the most productive route in terms of illegal migration flows. It’s quite easy to bribe border guards to turn a blind eye when you are smuggling across a lorry load of illegal immigrants”.¹⁰⁸ Although the SBS now controls major border crossings, those that it does not are staffed by regular entity police officers, and several minor crossings are totally unmanned.¹⁰⁹ SBS deployment has also been hampered by the continuing absence of border

delimitation agreements with Croatia and FRY (Montenegro).¹¹⁰

There is, moreover, considerable evidence testifying to the impotence of the SBS in the face of well organised and politically well connected smuggling operations. The existence of significant price differences for the same merchandise suggests that Bosnia remains rife with contraband. The same commodities are invariably cheaper in Cantons 10 and 8 than in Canton 9. ICG sampled the prices of household appliances and found price differentials ranging from 15 to 20 per cent. Household appliances from Slovenia’s Gorenje firm can, for example, be purchased in Vitez for prices lower than Gorenje itself can sell them in Bosnia.¹¹¹ And while the SBS has foiled some smugglers, its successes bear witness more to the vigour of the disease than to the efficacy of the cure. SBS officers may have been subjected to rigorous training and vetting, but either they, too, are fallible or the depths of Bosnia’s culture of smuggling have yet to be plumbed.¹¹²

More evidence of the SBS’s inadequacy is offered by the ease with which criminal suspects seem to be able to flee the country.¹¹³ When 250 demonstrators called out into the streets by the mayor of Bratunac forced the local police to free three suspected assailants of Bosniak returnees in March 2001, the suspects promptly escaped to FRY.¹¹⁴ There are also indications that paramilitary

¹⁰⁵ Beth Mapschor, “Paying for Porous Borders”, *Transitions Online*, 23 November 2001.

¹⁰⁶ ICG interview with CAFAO official, 15 February 2002.

¹⁰⁷ Among the latter, see Peter Beaumont, “Bosnia’s Corrupt Elite Grow Fat on Human Cargo Smuggled to the West”, *The Observer*, 28 January 2001, and “People Trade Makes Bosnia Rich”, *The Guardian*, 28 January 2001; Michael Brissenden, “Bosnia Provides Back Door for Illegal Immigrants”, *ABC Online*, 6 February 2001; Robert Fisk, “How Sarajevo Has Become the Springboard into Europe”, *The Independent*, 5 February 2001; and Alix Kroeger, “Bosnian Migration Targeted”, *BBC News*, 18 October 2001.

¹⁰⁸ Ian Burrell, “Sex, Drugs and Illegal Migrants: Sarajevo’s Export Trade to Britain”, *The Independent*, 21 January 2002. The IMMPACT team has since sought to dissociate itself from the views expressed in this article. IMMPACT team Press Release, undated. ICG was present, however, when some of the points cited by *The Independent* were made.

¹⁰⁹ ICG interview with U.S. diplomat, 24 January 2002. “BiH State Border Service currently controls 75 per cent of the BiH border, as the rest of the 25 per cent, which are illegal border crossings, is still used for smuggling and other illegal actions”, “BiH Presidency Discusses Work of State Border Service”, *OHR Media Round-up*, 22 February 2002.

¹¹⁰ UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

¹¹¹ ICG interview with FBiH official, 31 January 2002.

¹¹² Despite rigorous selection procedures for SBS officers, some unworthy characters have been able to slip through. In November 2001, SBS officers reputedly accepted bribes to turn a blind eye to the smuggling of sugar from BiH to Croatia. Two SBS officers were de-certified in January 2002. “Smijenjena cetvorica policajaca”, *Dnevni avaz*, 1 February 2002. In Mostar an SBS officer who had not been provisionally authorised to serve as a policeman managed, through connections in the SBS Selection Unit in Sarajevo, to get a job with the SBS in Neum. UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001. In Zvornik, when three SBS officers intercepted two Moldovan women attempting to cross the border from Serbia, instead of escorting them back across the Drina, the SBS officers sold the women to the nearest brothel. “Tri granicara prodavala zene iz istocne Evrope”, *Oslobodjenje*, 19 March 2002.

¹¹³ “SFOR zna gdje je Karadzic”, *Oslobodjenje*, 5 September 2001.

¹¹⁴ See ICG Balkans Report N°118, *The Wages of Sin: Confronting Bosnia’s Republika Srpska*, 8 October 2001.

groups linked to the Serbian Radical Party (SRS) and to veterans' associations cross into Bosnia from Serbia, whence they return after having intimidated or assaulted returnees.¹¹⁵

Continued problems in the collection of customs duties stem primarily from the poor working relationship between the better paid, state-level SBS and the entities' customs services. In particular, the SBS and customs officers have traded accusations of corruption. Evidence exists to support allegations against the officers of both services.¹¹⁶ But whichever may be the more culpable, the result is that the efficiency and thoroughness of border controls have suffered. Proposals to enhance and institutionalise cooperation have thus far come to naught, and co-operation will probably continue to stall until the collection of customs is transferred from the entity level to the state level and the two organisations are eventually merged.¹¹⁷

Despite its high profile, political significance and international support, the SBS has also lacked sufficient funds. The UN Secretary-General reported to the Security Council in November 2001 that the projected shortfall in SBS salaries for 2001-02 was U.S.\$ 16 million, while the equipment budget had a hole of some U.S.\$ 2.5 million. The IMF reportedly told the High Representative last autumn that Bosnia simply could not afford the SBS.¹¹⁸ Lack of funds obviously inhibits the ability of the SBS to do its job. For example, the SBS does not have the motorboats required to patrol Bosnia's Sava and Drina river borders with Croatia and FRY. Meanwhile, the SBS station in Trebinje is obliged to cover 190 kilometres of land frontiers with 110 officers, three vehicles, six radios, and a sparse assortment of shared weapons.¹¹⁹

¹¹⁵ These groups seem to be organised by SRS stalwarts in Bratunac. ICG interview with RS NGO leader, 9 October 2001.

¹¹⁶ "Klopka za mafiju i korumpirane carinike", *Oslobodjenje*, 25 December 2001.

¹¹⁷ Merging the agency responsible for policing the borders with that tasked with collecting customs is not a new idea and is currently being floated in the United States. See "Bush considers merging INS, Customs", *CNN*, 20 March 2002.

¹¹⁸ ICG interview with OHR official, 24 October 2001.

¹¹⁹ Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina (S/2001/571), 29 November 2001. The SBS budget for 2002 is expected to be KM 35.5 million, but with an additional KM 11 million in foreign donations. The state parliament, however, had not adopted a budget by May 2002. "Jugoslavenski ilegalni

On the other hand, the 11 September 2001 attacks on the U.S. have boosted Washington's support for an effective border service and accelerated the deployment of the SBS to areas it had not previously covered. Advance teams have taken over Mostar and Banja Luka airports, while Tuzla airport has been closed to international traffic following revelations that it was being used by Air Bosna as a soft entry point for its lucrative trade in illegal migrants from Istanbul.¹²⁰ The IMMPACT team has concluded, however, that Sarajevo Airport is no longer being used as a way station for illegal immigrants or dubious asylum seekers.¹²¹

SBS efforts to track potentially illegal movements have been aided by an ICITAP-funded project aimed at providing real-time information on all persons entering and leaving the country. As an IPTF officer told ICG, "training of SBS officers is still needed, but progress in dealing with immigrants is visible".¹²² Italy, too, has pledged to send immigration officers to work with the EU IMMPACT team, while the European Commission is dispatching a party of experts to examine the need – and possibility – of using funds from the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) program to support the SBS.¹²³

imigranti preuzeli primat od Kurda", *Oslobodjenje*, 25 April 2002.

¹²⁰ "Vracena grupa Turaka i Tunizana", *Nezavisne novine*, 11 August 2001; "Sve po propisima, a imigranti prolaze", *Nezavisne novine*, 9 August 2001; "S Aerodroma Tuzla jucer vracena 34 Turcina i dva Tunizanina" *Devni avaz*, 9 August 2001; "Imigranti iz Turske letjeli u pola cijene", *Oslobodjenje*, 11 August 2001.

¹²¹ "U avion se ne smije unijeti ni grickalica za nokte", *Oslobodjenje*, 24 February 2002. On the other hand, the likely effectiveness of the landing card system introduced in early 2002 as a highly visible anti-terrorism measure has been ridiculed by the IMMPACT team as superfluous in view of the efforts being made to computerise entry and exit data. ICG interview with IMMPACT team officer, 17 January 2002.

¹²² Similarly, an UNMIBH report noted: "IPTF OST personnel have provided basic training but a lot of work needs to be done in this area in Neum and Trebinje". UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

¹²³ ICG interview with European Commission official, 12 March 2002. The European Commission's CARDS program supports the participation of Albania, Bosnia & Herzegovina, Croatia, FRY and the former Yugoslav Republic of Macedonia in the Stabilisation and Association Process (SAP). The SAP is a strategy designed to help the region secure political and economic stabilisation while developing a closer association with the EU.

All things considered, the creation of the SBS has been one of the major achievements of the international community in general and of UNMIBH in particular. It has enhanced the authority of the state, boosted its revenues and made a real contribution to fighting cross-border crime. Nevertheless, the follow-on mission will need to strengthen the arm of the SBS and work to ensure that it is not hijacked by political interests. The EU has included support for the SBS in its plans for EUPM. This is a positive sign, because so much more remains to be done in establishing an effective border regime.

D. FAILURES OF REGIONAL POLICING

Criminals move faster than governments. And the states of south-eastern Europe – with inadequate human and organisational resources but a superabundance of phobias regarding potential threats to their newfound independence – have yet to appreciate that regional cooperation need not impinge on their sovereignty, nor imply a plot to recreate something like the old Yugoslavia, or even relegate them to a Balkan third division in Europe. As things stand, however, the region offers a veritable smorgasbord of criminal opportunities.

Most of the truly lucrative and possibly deadly crime in Bosnia – human trafficking, terrorism and smuggling – is regional, not local, in nature. As EU External Affairs Commissioner Chris Patten has noted, “this pernicious web of crime” feeds “nationalism and extremism – and vice versa – corrupting and emasculating public administrations”.¹²⁴ Recent press reports of the allegedly illicit dealings of SDA luminaries Hasan Cengic and Kemo Ademovic are cases in point.¹²⁵ Indeed, OHR’s Anti-Fraud Department is reported to maintain files on the links between political parties,

companies and criminal activities (particularly smuggling) in which the names of most prominent BiH politicians appear. Yet if the inter-state dimension of much Bosnian criminality requires a regional approach if it is to be effectively combated, BiH remains structurally handicapped in its efforts to do so by its fragmented law enforcement and judicial systems. Unless and until Bosnia’s several layers of government take steps to increase, institutionalise and, indeed, to mandate operational cooperation among the entity and cantonal police forces, Bosnia cannot hope to participate meaningfully in regional ventures.

Although Bosnia has affirmed its commitment to combating cross-border crime by signing a number of treaties and joining various multilateral organisations, many of the latter appear to offer little more than opportunities for the country’s diplomats and officials to accumulate air miles.¹²⁶ The UN, however, has actively promoted a regional approach.¹²⁷ Not only has UNMIBH sponsored and raised funds for the SBS, but it has also established and chaired, since May 2001, a regional task force composed of senior interior ministry officials from Croatia, FRY, the two BiH entities, and the SBS.¹²⁸ The task force aims to facilitate the exchange of information and to coordinate police activities wherever necessary. It has latterly concentrated on fighting the terrorist threat, initiating “Operation Common Purpose” on 1 December 2001. Scheduled to run through June 2002, this operation involves separate but parallel schemes for surveillance of potential terrorist organisations in the three states, tighter border security to detect weapons smuggling and illegal migration, and action against drug runners. The results thus far have been encouraging, with information passed on from Belgrade leading to arrests in the RS of human traffickers.¹²⁹ One UNMIBH official told ICG that the task force “works well” and that the UN chairman has

¹²⁴ “EU Strategy for the Balkans; Disengagement or Drawing New Borders is not the Right Answer”, speech by European Commissioner for External Affairs Chris Patten to ICG, Brussels, 10 July 2001 (available at www.crisisweb.org). Journalists and academics have frequently pointed to the link between crime and politics in BiH.

¹²⁵ “Cengic i Ademovic kolovode?”, *Oslobodjenje*, 10 January 2002. Cengic is a former deputy defence minister of militantly Islamist persuasion. He is also an SDA executive board member and business tycoon. Ademovic is the former head of what used to be the SDA’s secret service, the Agency for Information and Documentation (AID).

¹²⁶ A prime example is the Stability Pact for South-Eastern Europe. See below.

¹²⁷ “Zajednicki u borbi protiv kriminala”, *Oslobodjenje*, 14 May 2001.

¹²⁸ “Rampa kriminalu”, *Glas Srpski*, 5 February 2002. The chair and vice-chair of the Joint Entity Task Force represent the two entities, whereas the SBS effectively represents the state.

¹²⁹ Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina, 29 November 2001. Also, UNMIBH internal report, undated.

progressively yielded the initiative to the members, as they have proved willing and able to take it on.¹³⁰

According to UNMIBH officials, the high-level conclaves have spawned a range of operational-level meetings, and that “regional cooperation is progressing under new regimes in Zagreb [and] Belgrade”.¹³¹ Senior IPTF officers note, too, that the mere fact such meetings can now take place among former combatants is a measure of success.¹³² The criminal fraternity, however, is unlikely to be so sentimental.¹³³ Nor are other parties to whom ICG has spoken satisfied with the effectiveness of such meetings. Sources in the BiH police, in the Yugoslav interior ministry and in UNMIBH itself have called for fewer formal gatherings and more operationally relevant sessions.¹³⁴

For all the meetings, non-cooperation or failed exercises in cooperation remain more common than joint successes. The fault-lines in the regional approach to cross-border crime are still deep, and seem to preclude effective collaboration over such issues as immigration, trafficking of women, smuggling of high tariff goods, and the extradition of criminals. Failures in these areas usually pivot around the refusal to share intelligence or to mount enough combined operations. Behind these, in turn, lies a lack of political will to give life to the institutional frameworks for regional cooperation that have been endorsed, created and even staffed, but which remain largely decorative.

The Stability Pact has clearly fallen short of expectations that it would provide the means for squaring a number of circles. Its organised crime initiative (SPOC) has no law enforcement mechanisms, and coordination between the Pact and

other regional arrangements has been disappointing. Recent bids to combat illegal migration and cross-border crime have been organised outside Stability Pact (or EU) structures. Nor has the OSCE, despite its field-based strengths and region-wide representation, been accepted as an appropriate forum.¹³⁵ The Bucharest-based Regional Centre for Combating Transborder Crime, for example, was set up under the aegis of the Southeast European Cooperative Initiative (SECI).¹³⁶ This regional centre has notched up some successes in its first year of operation, but still has a long way to go to overcome regional resistance to multilateral cooperation.¹³⁷ The wish to ‘escape from the Balkans’ is probably the main reason behind many countries’ reluctance to cooperate on a regional basis. In any case, the funds earmarked by the EC’s

¹³⁰ ICG interview with UNMIBH official, 10 October 2001.

¹³¹ ICG correspondence with UNMIBH official, 11 February 2002.

¹³² In UNMIBH’s view, such problems as have arisen stem primarily from the constitutional dispute between Serbia and Montenegro. ICG interview with UNMIBH official, 10 October 2001.

¹³³ This has been recognised by the police themselves. Perica Bundalo, a former RS interior minister, noted that “criminals from the former Yugoslavia know each other well, but police officers from BiH know each other very little or not at all”. “Zajednicki u borbi protiv kriminala”, *Oslobodjenje*, 14 May 2001.

¹³⁴ ICG interviews with UNMIBH official (7 February 2002), FRY Interior Ministry official (10 February 2002), and senior BiH police officer (16 February 2002).

¹³⁵ The OSCE intends to strengthen its region-wide programs on combating trafficking. ICG interview with OSCE official, 13 February 2002.

¹³⁶ SECI is a forum assisted by the UN Economic Commission for Europe and was formed in 1996 to foster economic relations among Balkan states and to help them integrate with the EU. The Regional Centre for Combating Transborder Crime does not prosecute crimes but, like Interpol, coordinates intelligence and information exchange. After the terrorist attacks of 11 September 2001, the Centre expanded its operation to include a task force on terrorism. The Centre has been heavily supported by the U.S., which has established links between the Centre and the FBI, the Drug Enforcement Administration (DEA), the INS, and the Justice Department. In fact, SECI has suffered from a perception among European institutions that it is a U.S. initiative. See *Democracy, Security and the Future of the Stability Pact for South Eastern Europe: A Framework for Debate*, The East-West Institute in partnership with the European Stability Initiative, 4 April 2001; Gabriela Manea, “Policing the Balkans”, *Transitions Online*, 24 January 2002.

¹³⁷ In its first nine months of operation, the SECI Centre received more than 2,000 requests for assistance from participating states. In the first half of 2001, Romania – with SECI assistance – interdicted more illegal drug shipments than in the previous five years. Hungarian authorities, working with SECI, identified and dismantled a large drug-trafficking network with branches in Turkey, Macedonia, Bulgaria, Austria, Germany, Italy, and Switzerland. Furthermore, a “Memorandum of Understanding on Trade and Transport Facilitation in Southeast Europe” and an “International Convention on the Harmonisation of Frontier Controls of Goods” were negotiated and signed under SECI auspices. See Gabriela Manea, “Policing the Balkans”, *Transitions Online*, 24 January 2002. However, no SECI representative was present at a meeting of the Stability Pact’s Task Force on Trafficking in Human Beings on 14 December 2001. The reason given was “lack of travelling funds”. “Report from the Third Task Force Meeting”, 14 December 2001.

CARDS Program to strengthen Bosnia's border regime have yet to be made available.

Bosnia's regional crime dilemmas relate not only to the 'near abroad' of the other ex-Yugoslav republics, but also to the 'far abroad' of Bulgaria, Moldova, Romania, and Ukraine. According to an OHCHR report in 2000, "in not a single case dealt with by UNMIBH/ OHCHR/ IOM did the Bulgarian, Moldovan, Romanian or Ukrainian authorities take [the] initiative to work with BiH to...apprehend the perpetrators [of trafficking]".¹³⁸ Matters seem not to have improved in the meantime.¹³⁹ Such inaction reflects badly on the much-trumpeted national action plans and schemes for regional cooperation.

Non-cooperation is also often the norm when it comes to extradition. ICTY indictees aside, individuals wanted for crimes committed in BiH often find shelter in Croatia or FRY. Extradition requests are rarely heeded, and particularly in high-profile cases. Examples of the latter naturally generate widespread press coverage and controversy (e.g., the attempts to secure the extradition of Veselin "Batko" Vlahovic and Alija Delimustafic from FRY and of Fikret Abdic and Ivan Andabak from Croatia);¹⁴⁰ but even more routine applications are generally resisted. The requested extraditions of Pero Janjic, wanted in connection with a series of nationally motivated arson attacks in Srebrenica, and of Dr Dragomir Kerovic, convicted of forcibly aborting his mistress's eight-month-old foetus, remain unheeded by Belgrade.¹⁴¹

Both FRY and Croatia have argued that they – like a good many other countries – are constitutionally barred from extraditing their own citizens: a class of persons that can be made to cover many Bosnians who may have or be alleged to have dual citizenship. They can also cite the absence of extradition treaties with BiH as grounds for rejecting requests for the extradition of non-citizens. Yet the invocation of treaties in this context misses the point: it is the very absence of treaties (and the presence of restrictive constitutional provisions) that are symptomatic of the several countries' lack of a serious commitment to tackle cross-border crime. Whether this stance reflects defensive nationalist instincts or the self-interest of political elites widely regarded as important beneficiaries – if not godfathers – of organised crime, is debatable. In either case, the international community should press the states to enact the necessary legislation and conclude the appropriate treaties.

Bosnia is reported to suffer from – and to tolerate – more uncontrolled cross-border movements, smuggling operations and human trafficking than other countries in the Balkans. The attacks on the U.S. have now made the establishment of effective border controls even more important politically than they have long been in economic and juridical terms. As a joint EU Council/Commission report on the follow-on policing mission notes, "the establishment of the State Border Service [has] proved to be an appropriate answer".¹⁴² Yet it is far from being the whole answer.¹⁴³

¹³⁸ "Trafficking in Human Beings in Bosnia & Herzegovina: A Summary Report of the Joint Trafficking Project of the UN Mission in Bosnia & Herzegovina & the Office of the High Commissioner for Human Rights", May 2000.

¹³⁹ See Nizdara Ahmetasevic & Julie Poucher Harbin, "Thousands of Women Lured into Bosnian Brothels", IWPR Special Investigation (www.iwpr.net). Also published in two parts in *Oslobodjenje*, 22-23 April 2002.

¹⁴⁰ The extradition of wartime Bosnian interior minister and post-war banker Delimustafic on fraud charges is theoretically still pending, but is unlikely to happen. For the Vlahovic and Abdic cases, see "Extradition Request", *This Week in Bosnia*, 9 January 1999. Andabak is wanted in connection with the 2000 murder of Federation Deputy Interior Minister Jozo Leutar. He was released from Croatian custody in late 2001. CIAU Contribution to the MHQ Weekly, UNMIBH, 18-25 January 2002.

¹⁴¹ Another UNMIBH report notes that "a request for Janjic's extradition was reportedly sent to the FRY in February 2001, but it is unclear whether the authorities are taking this request seriously". UNMIBH Human Rights Weekly Report, 3-9 November 2001. Kerovic fled to FRY in

December 2001, after being sentenced to six and a half years in an RS prison.

¹⁴² "Report on a Possible Follow-on Mission to the UN IPTF", EU Council Secretariat, 21 December 2001.

¹⁴³ ICG interview with OHR official, 10 January 2002. ICG was told recently that senior SDA leaders successfully pressured Sarajevo Airport authorities to clear an Air Bosna plane for take off with unspecified cargo and passengers although the airport was closed on account of fog.

III. POLITICS AND POLICING

Throughout the communist era, the police were an instrument of political as well as criminal control, working to ensure conformity and stability for Yugoslavia's multinational but single-party regime. During the war, the respective Bosnian nationalist parties likewise took it for granted that the job of the police in the regions under their sway was to assert and maintain that control, but with the difference that the police were also required to contribute to the smuggling, gun running, black marketeering, and other criminal activities that kept the warlords afloat, not to mention the ethnic cleansing that comprised their goals.¹⁴⁴ Therefore, it is not surprising that the international community should have encountered formidable opposition in its efforts to extricate the police from this nexus of criminalised power and to create an independent institution dedicated to serving rather than abusing citizens and the rule of law.¹⁴⁵

¹⁴⁴ The transition from law enforcement to war-fighting was all the easier because the police (or *milicija*) had both a paramilitary role in the Yugoslav system of All People's National Defence and some heavy weaponry, including rocket-launchers, grenades, large calibre guns (e.g., mortars, anti-tank and anti-aircraft guns), armoured personnel carriers, and even light tanks. See Michael J. Dziedzic & Andrew Bair, "Bosnia and the IPTF" in *Policing the New World Disorder: Peace Operations and Public Security* (Washington: NDU Press, 1998).

¹⁴⁵ Although UNMIBH press releases hail continuing efforts to create a police "free from political interference and responsive to the needs of the people", reports from the field often testify to "a political rather than law enforcement agenda". "UNMIBH Will Not Allow External Pressure or Speculation to Influence the Police Commissioner Project", Press Release, 8 September 2001, and UNMIBH Six Monthly Strategy Paper for the Mostar Region. UNMIBH Civil Affairs chief Jaque Grinberg told the NATO Policy Coordination Group that "there is strong political penetration of police and police organisations". Jaque Grinberg, "The Future Mission of SFOR: An UNMIBH Perspective", Address at the NATO Policy Coordination Group, 16 November 2001. UNMIBH has also drawn attention to the continuing lack of personal accountability for upholding the law in Bosnian police culture: "The fundamental law enforcement concept that, as law enforcement officials, police officers are servants of the law and not government and therefore personally accountable for its implementation, no matter what the instructions from their chief, is completely absent in the culture of the police". UNMIBH Six Monthly Strategy Paper for the Mostar Region, undated paper from 2001.

Political influence manifests itself in national bias in the enforcement of laws, in the ruling parties' use of the police against their political opponents, in police involvement in organised crime that is sanctioned by establishment figures, in police reluctance to pursue corruption in high places, even when they are not involved, and in ardent support among police officers for the nationalist or separatist agendas of their leaders.¹⁴⁶

Thus, when the SDA went down to defeat in the November 2000 general elections, Alija Izetbegovic was reportedly able to reassure confidants that, while "the elections may indeed be lost, power has not and will not be lost while we keep control over the police, the secret service and the judiciary".¹⁴⁷ In Livno, the assistant editor of an independent-minded radio station was arrested after broadcasting stories about corruption among HDZ politicians.¹⁴⁸ Throughout Croat-majority Canton 10, police officers still display the symbols of the supposedly defunct "Herceg-Bosna" and use administrative seals that the High Representative has banned. And although they were eventually coaxed back, police officers did quit en masse upon the proclamation of "Croat Self-Rule" by the HDZ-dominated Croat National Congress in March 2001.¹⁴⁹ Moreover, at least two police officers led the April 2001 riot in Mostar that accompanied the seizure of Hercegovacka Banka; while others did nothing to stop the violence.¹⁵⁰ UNMIBH has since purged self-admitted supporters of "Croat Self-Rule" from the ranks of the police and threatened further action, but a segment of the force – nobody knows how large – is still sympathetic to the aims of banned HDZ leader Ante Jelavic.

As ICG has previously argued in relation to the May 2001 anti-Bosniak riots in Trebinje and Banja Luka, "the unpreparedness, passivity and bungling of the police...on the day and their subsequent obstruction of investigations and their reluctance to press charges against the organisers and perpetrators suggested, at

¹⁴⁶ "Politicki pritisci na policiju i sudstvo", *Oslobodenje*, 16 February 2002.

¹⁴⁷ Senad Avdic, "Lagumdzijini vanjski, Izetbegovicevi unutrašnji poslovi!", *Slobodna Bosna*, 31 May 2001, p. 4.

¹⁴⁸ ICG interview with Radio N editor-in-chief, 12 November 2001.

¹⁴⁹ On this episode, see ICG Balkans Report N°106, *Turning Strife to Advantage: A Blueprint to Integrate the Croats in Bosnia and Herzegovina*, 15 March 2001.

¹⁵⁰ UNMIBH admits that police officers in Cantons 8 and 10 have refused to wear Federation badges for years.

the least, a cover-up on the part of influential elements".¹⁵¹ The organisers and perpetrators of the disturbances in Trebinje still roam freely, even though they have been identified by video recordings and witnesses.

While the responses of the Bosnian police to a range of crimes are inadequate, particular problems arise in cases of nationally motivated violence. When a mob attacked a convoy of Bosniak buses in Bratunac in May 2000, the police did not follow leads indicating that stones had been readied beforehand and that someone had organised the incident.¹⁵² The police therefore filed only misdemeanour charges against 30 people.

Similar things happen in the Federation. Following a brawl between Croat and Bosniak pupils in Stolac in November 2001, charges of illegally discharging a firearm at the school were filed against a Bosniak parent whose son had been involved and who was apparently seeking private justice.¹⁵³ But no charges were laid against a Croat for having made earlier threats to the watchman at the site where Stolac's historic mosque is being rebuilt, although the police had taken the watchman's statement *and* the prosecutor had ordered that further investigations should be carried out.¹⁵⁴ Undoubtedly, this was an example of 'ethnic' law enforcement and intentional incompetence. The police also failed to file reports

against the Croats involved in the brawl or its aftermath, but did so against the Bosniaks.¹⁵⁵ UNMIBH's draft of the 2001 Report of the UN Secretary-General noted that "while operational capacity to address outcroppings of violence have improved, the willingness and ability to investigate those who are ultimately responsible for patterns of violence remains inadequate".¹⁵⁶

In practice, according to one ICG source, "abuse of power is easily...applied on a discretionary basis through complicit staff networks that have been placed in positions for this purpose".¹⁵⁷ Attempts to skew recruitment are constant. Appointments and promotions are subject to political interference and police officers are often beholden to the parties in power locally rather than to the governments that employ them.¹⁵⁸ A UN reports notes: "the Minister appoints whoever he likes. This ensures that people loyal to the political party represented by the Minister are appointed".¹⁵⁹ Qualifications are less important than connections: the police chief in Gacko is a geologist; a former chief in Capljina was an agronomist; while another chief of police in Canton 7 used to be a butcher.¹⁶⁰ Attempts to circumvent recruitment procedures have been particularly evident in regard to high-paying positions in the SBS.

¹⁵¹ See ICG Balkans Report N°118, *The Wages of Sin: Confronting Bosnia's Republika Srpska*, 8 October 2001.

¹⁵² As an UNMIBH official told ICG, an impromptu gathering of 500 people in a town of some 5,000 inhabitants is highly unlikely. ICG interview with UNMIBH official, 12 November 2001.

¹⁵³ Stolac, admittedly, is notorious for Croat-Bosniak tension and the maintenance (by the dominant Croats) of a veritable educational apartheid. Three days before the brawl, Bosniak pupils were allowed into the school in question for the first time since the war. Before then, they had to be bussed 50 km to Mostar to attend classes. OHR has frequently condemned the situation, former Deputy High Representative Colin Munro noting that the "Croatian flag hoisted on the building, Tudjman's photograph with a mourning band across it on the entrance door and a big banner with 'Since the 7th Century' written on it in the school hall, are parts of the iconography in the Secondary School in Stolac". "Munro points to education apartheid in Stolac", *Vecernji list*, 7 September 2001.

¹⁵⁴ CIAU Contribution to the MHQ Weekly, 23 November to 7 December 2001. The police, in fact, simply watched the Croat brandish a gun. No attempt was made to subdue him and he was not arrested. "Serve and Protect Your Own", Anes Alic & Jen Tracy, *Transitions Online*, 28 November 2001.

¹⁵⁵ CIAU Contribution to the MHQ Weekly, 23 November to 7 December 2001. UNMIBH Mostar has asked UNMIBH HQ to consider non-compliance and non-performance reports against the police officers involved. The Federation MUP did suspend the police officers involved, pending an investigation. This appears to have been the first such suspension made without IPTF prompting. The practice of ethnically partial law enforcement is, of course, common in the RS. One UNMIBH official told ICG that the RS police "do not speak to Bosniak victims or Bosniak witnesses". ICG interview UNMIBH official, 12 February 2002.

¹⁵⁶ Draft Report of the Secretary-General. This section was not included in the final version of the Secretary-General's report to the Security Council of 29 November 2001.

¹⁵⁷ ICG interview with UNMIBH official, 25 November 2001

¹⁵⁸ Unfortunately, ICG has also been told of cases where IPTF officers intervened to ensure the preferment of unqualified officers. For example, a Serb police officer from Trebinje PSC with a record of obstruction and non-compliance was selected for the UN Mission to East Timor. Although Civil Affairs requested that the individual's case be reviewed, and the Human Rights Office subsequently struck him off the list, the IPTF station commander in Trebinje intervened to put him back on it. UNMIBH Mostar Region Update of the Regional Implementation Plan, 10 May to 5 July 2001.

¹⁵⁹ Internal UN report, 9 May 2002.

¹⁶⁰ UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

UNMIBH has, however, been able to thwart most of these efforts by instituting open and transparent procedures. But continuing supervision by EUPM will be necessary to prevent the ranks of the police being packed with the indulgent, the incompetent and the politically compromised.

The deficiencies of the police are manifested most frequently in their failure to conduct adequate investigations. "I don't know whether it is because of incompetence, failure to accept mistakes or politically motivated pressure", one IPTF officer told ICG, "but evidence frequently disappears from crime scenes, is sold off or even destroyed".¹⁶¹ In Pale, after a double homicide, the police cordoned off the crime scene but left it unguarded for 48 hours before commencing their investigations.¹⁶² Not surprisingly, little incriminating evidence was found. What appears as slipshod police work often turns out to be suspiciously convenient to somebody.

One way in which the police are manipulated is through their infiltration by the entity armies and security services. Not only do the intelligence services often share offices with the police (as in the "Stone Building" in Mostar), but police officers are in some places billeted in army barracks.¹⁶³ UNMIBH has worked physically to separate army, security and police officers. This has been accomplished in most areas, but the Federation MUP and AID still occupy the same headquarters in Sarajevo, while in Stolac the police station continues to house army personnel of the former HVO. In the latter town, the problem of "co-location" was supposedly solved when, pressured by UNMIBH, separate doors were installed for police and soldiers.

More important than physical propinquity is functional integration. The penetration of police and military intelligence in former Yugoslavia is difficult

to undo. One UNMIBH official told ICG that the Federation Crime Department is under the influence of the security services.¹⁶⁴ This is so despite the fact that the newly formed Criminal Intelligence Units are required to follow strict guidelines in the collection and dissemination of information.

The National Security Service (SNS), the intelligence service of the BiH Croats, has repeatedly interfered in investigations. In Livno, the SNS managed to obstruct the arrest of an individual wanted by Interpol in connection with fraud charges in Slovenia. When eventually arrested, he was not jailed but put in an office in the stationhouse, which someone from the MUP then ordered should be kept heated. The suspect was transferred to Mostar the next day, but returned to Livno ten days later. There is apparently no record of what happened to the individual while he was in Mostar, but plenty of reports that he is related to the former head of the SNS. Although new chiefs of both the SNS and AID were appointed in November 2001 with briefs to purge their respective services of HDZ and SDA cronies and, ultimately, to unify them, it will take considerable time to accomplish either task. ICG has been told that SNS maintains agents in the police.¹⁶⁵

The politicisation of the police is in any case encouraged by deals among coalition partners that allot certain ministries to specific parties. The party claiming the right to nominate and dismiss the interior minister is thus in a position to exercise considerable influence over the agenda of even an ostensibly non-party and professional appointee. In the current Federation government, the Party for BiH (SBiH) 'owns' the MUP. This has invited speculation that party leaders who were once members of the SDA and later in coalition with it are determined to avoid retrospective investigations of questionable wartime and post-war activities in which they may have been involved. It was thus predictable that SBiH's demand for Muhamed Besic's resignation as interior minister in October 2001 should have been widely interpreted as reflecting dissatisfaction with his reputed eagerness

¹⁶¹ ICG interview with IPTF officer, 27 November 2001. In one case, ballistics evidence was sent, first, to Belgrade and, second, to Zagreb, when it should have been sent to Copenhagen. The police, in fact, lied about having already sent the evidence to Belgrade in order to persuade the authorities in Zagreb to examine it.

¹⁶² The investigating magistrate did not arrive until 48 hours later because he had been "too busy". ICG interview with IPTF officer, 7 December 2001.

¹⁶³ The presence of intelligence service operatives on police premises is conducive to infiltration and/or mutual identification. In Trebinje, for example, police officers are housed in the local military barracks. See UNMIBH Mandate Implementation Plan.

¹⁶⁴ ICG interview with UNMIBH official, 14 November 2001.

¹⁶⁵ ICG interview with UNMIBH official, 23 February 2002. See also ICG Balkans Report N°119, *Bin Laden and the Balkans: The Politics of Anti-Terrorism*, 9 November 2001. The unification of the amorphous and protean SNS and AID structures and staffs is likely to take a long time.

to fight organised crime.¹⁶⁶ The maintenance under the Alliance for Change government – albeit in an attenuated form – of the system of parallel appointments on the basis of nationality also encourages suspicion that favouritism, connections and ethnicity count for more than do objective criteria in investigations (or non-investigations) of crime.¹⁶⁷

IV. THE POLICING GAP: LOCAL CAPABILITIES VS. INTERNATIONAL STANDARDS

A. PROVIDING SECURITY FOR RETURNEES AND ‘MINORITIES’

The return of refugees and displaced persons to their pre-war homes is a principal measure by which the international community’s stewardship in Bosnia & Herzegovina will be judged. Not only does Annex 7 of the DPA mandate efforts to roll back ethnic cleansing and, thereby, to exorcise the “collective spinelessness”¹⁶⁸ which characterised international intervention (and non-intervention) during the war; it also constitutes the heart of the peace settlement. All other DPA annexes either depend to some extent on the return of refugees or were formulated in order to encourage the process.¹⁶⁹ Indeed, without implementation of Annex 7 and respect for Article 2:5 of the BiH Constitution (which guarantees that “all refugees and displaced persons have the right freely to return to their homes of origin”), Bosnia’s peace will be precarious.

The extent to which entity and local governments uphold the right of refugees and displaced persons to return will also be a test of Bosnia’s progress in establishing the rule of law. Moreover, the success of UNMIBH and EUPM in forging domestic police forces willing and able to protect the safety and defend the rights of ‘minority’ communities will be crucial to completion of the return process, and one of the signals that serious NATO troop withdrawals are safe.¹⁷⁰

¹⁶⁸ Thomas G. Weiss, “Collective Spinelessness: UN Actions in the Former Yugoslavia”, in Richard H. Ullman (ed.), *The World and Yugoslavia's Wars* (New York: Council on Foreign Relations Press, 1996), p. 77.

¹⁶⁹ See ICG Balkans Report N°95, *Bosnia's Refugee Logjam Breaks: Is the International Community Ready?*, 30 May 2000.

¹⁷⁰ SFOR increasingly sees its role as maintaining both a safe and secure “micro-climate” necessary for sustaining refugee return and a “macro-climate” conducive to cooperation by indigenous political forces. The former is ensured by highly visible local patrols, the latter by retaining the capacity to show overwhelming force. ICG interviews with a senior SFOR officer (18 February 2002) and political adviser (23 April 2002). However, other ICG interlocutors have opined that SFOR’s presence on the ground is no longer everywhere needed to encourage and sustain refugee return. In Canton 7, for example, a Return and Reconstruction Task Force

¹⁶⁶ Ibid. See also, Vildana Selimbegovic’s interview with Besic, “Zasto sam smijenjen”, *Dani*, 2 November 2001, and Emir Habul, “Police Minister’s Resignation Angered the Americans”, *AIM Sarajevo*, 8 November 2001.

¹⁶⁷ This means that if a minister is a Bosniak, then the deputy minister will be a Croat – and vice versa. The completely separate parallel structures that characterised the SDA-HDZ condominium have gone, but old habits die hard.

By this standard, the international community's progress in reforming Bosnia's police forces has been variable. Violence against non-Serbs returning to their homes in the RS remains a problem. According to a June 2000 UNHCR survey, a majority of potential returnees to the RS listed security as the most important factor determining whether or not they would return.¹⁷¹ UNHCR concluded that this perceived lack of security "explains why minority returns to the RS have not occurred yet in large numbers".¹⁷²

When the rate of return *did* then accelerate in the second half of 2000 and during 2001, returnees met with increased – and increasingly reported – violence, particularly in the RS.¹⁷³ Although it is impossible to say conclusively whether returns would have been even greater had incidents been fewer, the apparent upsurge in violence testified to the salience of security fears on the part of would-be returnees. As the Human Rights Coordination Centre wrote in June 2001, "Whilst the rate of return to destroyed and previously occupied property continues to accelerate...the number of return-related violence [*sic*] incidents also continues to increase".¹⁷⁴ In the first nine months of 2001 there were 35 assaults on returnees to "Srpsko Sarajevo"

(RRTF) official argued that "it's a myth that SFOR is needed". ICG interview, 20 February 2002

¹⁷¹ "Returnee Monitoring Study: Minority Returnees to Republika Srpska, Bosnia and Herzegovina", UNHCR, June 2000. The availability of housing (or building materials), employment and education and health care facilities are also factors affecting return. See "Report from the Conference: Faster Return for a Better Life", NGO Forum Srebrenica, 10 October 2001.

¹⁷² "Returnee Monitoring Study", UNHCR, June 2000.

¹⁷³ The 2000 breakthrough saw UNHCR register 19,751 minority returns in the first half of 2000, as compared to 7,709 during the same period in 1999. The pace was sustained in 2001, with returns up by 65 per cent in the first nine months of the year. By December, 80,993 persons had registered their return. See UNHCR Statistics Package, 30 November 2001. These figures caused the High Representative to remark that "an unstoppable momentum in the pace of refugee return" was taking place. "Statement by the High Representative, Wolfgang Petritsch, to the Permanent Council of the OSCE", 18 September 2001. Indeed, UNHCR figures show that of the 1.8 million persons who were uprooted by the war, about 785,000 have returned to their pre-war homes. UNHCR Statistics Package, 30 November 2001.

¹⁷⁴ "HRCC Human Rights Report: 1 April to 30 June 2001", Human Rights Coordination Centre. See also "Analysis of the State of Human Rights in BiH", Helsinki Committee for Human Rights, 2001.

alone.¹⁷⁵ Statistics, however, do not convey the whole truth, as victims are often too frightened to report incidents to the police.

The insecurity felt by returnees is made more intense by the all too justified fear that the police have been, are and will be indifferent, biased against them or even complicit with the perpetrators of attacks.¹⁷⁶ This was demonstrated in late 2000, when UNMIBH gathered evidence that police officers in Stolac "came into contact with at least three of the suspects [of war crimes] on two separate occasions, but failed to arrest them".¹⁷⁷ Again, in summer 2001, the police intentionally 'failed' to arrest indicted war criminal Ivan Bakovic, even though he had been brought to the stationhouse following a late-night brawl in a bar.¹⁷⁸ The Chief of Uniformed Police, Rafael Pivic, claimed he had not received the warrant that had been hand-delivered to him by the then cantonal deputy interior minister.¹⁷⁹ Similarly, when the premier of Canton 7 asked police officers "voluntarily" to pledge 3 per cent of their salaries to the families of Croats awaiting trial in The Hague, hardly any objected. As an UNMIBH report noted, "no one understood" that there was any contradiction between supporting the families of indicted war criminals and impartial policing.¹⁸⁰

As is evidenced throughout this report, investigations of attacks on returnees often hang fire and are only pursued when the police are vigorously exhorted by IPTF. Thus a Human Rights Weekly Report notes in relation to the May 2001 riot in Trebinje: "The HRO [Human Rights Office] persuaded PSC officials to continue investigating the incident and also bring charges against the organisers of the violence".¹⁸¹

¹⁷⁵ UNMIBH Daily Log, 16 December 2001; Amra Kebo, "Bosnia: Sarajevo Serbs Under Pressure", *IWPR Balkan Crisis Report*, 25 January 2002. "Srpsko Sarajevo" is the RS name for the suburbs and country districts surrounding the capital that remained in the RS after Dayton.

¹⁷⁶ "Smijenjo deset policajaca", *Nezavisne novine*, 20 February 2002.

¹⁷⁷ ICG Interview with IPTF officer, 23 November 2001.

¹⁷⁸ ICG Interview with UNMIBH official, 12 April 2002.

¹⁷⁹ Ibid.

¹⁸⁰ UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

¹⁸¹ UNMIBH Human Rights Office, Weekly Report 30 June to 6 July, 2001. Although the RS government issued a report on the riots in Trebinje and Banja Luka, UNMIBH described it as "incomplete and in parts incorrect". The most striking omission is the absence of any condemnation of the riots.

Similarly, the riot in Banja Luka a few days later was only investigated after prodding by IPTF and the issuance of several non-performance and non-compliance reports. On some occasions police have gone on strike or demonstrated briefly on behalf of colleagues or superiors de-certified by IPTF for non-performance of their duty in regard to violence against returnees.¹⁸² The latest such demonstration took place on 29 November 2001 in Doboj.

The continuing presence of putative war criminals among police ranks adds to returning refugees' insecurity and saps any faith they may have that the police can or will carry out their responsibilities. Equally, occupancy by police officers of houses and flats vacated by those who were 'cleansed' has sent a powerful signal to would-be returnees that there is still no place for them in their home towns. UNMIBH has run a program to ensure that police officers do not occupy properties illegally; and the latest Mandate Implementation Plan notes that "Of some 2,000 police officers found to have unclear housing status in 2001, 1,436 have since vacated housing that they occupied illegally following strict enforcement of UNMIBH policies. The remainder have regularised their housing or been dismissed".¹⁸³ Yet in a number of cases where police officers vacated illegally occupied premises, UNHCR has discovered that, instead of allowing the owners to repossess their homes, policemen had installed their own family members instead.¹⁸⁴

Given the security gap perpetuated by partially reformed police forces, the international community has taken some steps to assure the safety of minority returnees. SFOR has increased its patrols in areas identified as problematic and IPTF has continued to monitor local police. But there is no question – given the number of incidents large and small that the police remain loath to prevent or pursue – that working to assure an environment conducive to safe and dignified return by refugees must rank high on the list of EUPM priorities. The likelihood of more SFOR troop cuts by the end of 2002 underscores the point. As the former Deputy Commander of Operations at SFOR told ICG, "Security for

returnees is what should make us stay and it is why a CivPol mission needs to stay."¹⁸⁵

B. WAR CRIMES ARRESTS

Police in both Republika Srpska and in Croat-majority areas of the Federation have proved unable or unwilling to arrest persons indicted for war crimes, whether by the ICTY or by domestic courts. To quote RS Interior Minister Dragomir Jovicic, his police do "not deem it necessary to take part in the search for these persons or in their possible arrest".¹⁸⁶ This is hardly surprising, given that local police forces participated actively in the war, including involvement in the gamut of activities associated with 'ethnic cleansing' and the operation of concentration and prison camps. Thus, until the process of police cadre reform is completed and political influence over police forces is reduced, international insistence – particularly by NATO – that "the apprehension of war criminals is a responsibility of the authorities in Bosnia" will ring hollow.¹⁸⁷

If the major – albeit failed – operations to capture Radovan Karadzic mounted by SFOR on 28 February and 1 March 2002 herald a welcome change of course, then perhaps SFOR will also resume its attempts to catch smaller fry. For not only would the arrest of Karadzic symbolically decapitate those RS political and police structures that continue to resist Dayton implementation, but arrests of lower-ranking indictees would make a big difference in the localities from which such persons are extracted, transforming the ambience from one hostile to refugee return to one that is tolerant.¹⁸⁸

UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

¹⁸² UNMIBH Incidents Report, 29 December 2001.

¹⁸³ UNMIBH Mandate Implementation Plan: Action Plan 2002, February 2002.

¹⁸⁴ ICG interview with UNHCR official, 23 February 2002.

¹⁸⁵ ICG interview with Major General John Kiszley, Deputy Commander Operations, SFOR, 5 November 2001.

¹⁸⁶ "RS Interior Ministry says it will not hunt down The Hague's indictees", OHR Media Round-up, 14 February 2002. The ICTY has issued 80 indictments for war crimes in BiH since 1995. As of February 2002, 49 of those indicted had been arrested and are facing or awaiting proceedings in The Hague. SFOR has arrested 23 of them. Although it very publicly tried and failed to capture Karadzic on 28 February and 1 March, SFOR's last success was the April 2001 arrest of Colonel Dragan Obrenovic, charged with war crimes in Srebrenica in 1995.

¹⁸⁷ "Bosnia and Herzegovina: Facts and Figures", www.nato.int/docu/facts/2000/bih-fnf.htm.

¹⁸⁸ Prijedor and Kozara are prime examples of the salutary effect the arrest of ICTY indictees can have on rates of refugee return. For the correlation between SFOR arrests,

As matters stand, however, SFOR's ambivalence about apprehending ICTY indictees both provides the police with an excuse not to act themselves and – in the case of Karadzic – renders such action impossible. Only when Karadzic is in The Hague will it be realistic to expect compliance from 'his' police.

As plans are laid for the establishment by 2004 of a war crimes court at state level to try both the war crimes suspects whom the ICTY will not be able to deal with and the several thousand persons indicted by domestic courts – mostly in the Federation and many already approved by the ICTY under the "Rules of the Road" agreement of 1996 – the capacity and reliability of Bosnia's police forces will be severely tested. The task before EUPM – and SFOR – is to mould and equip the police to act on these indictments, particularly against their current or former comrades and other members of their 'own' nation.¹⁸⁹

C. THE SCANDAL OF HUMAN TRAFFICKING

In May 2000 UNMIBH and the Office of the High Commissioner for Human Rights (OHCHR) published a report entitled *Trafficking in Human Beings in Bosnia and Herzegovina* which described BiH as "a significant destination for women trafficked from Eastern Europe".¹⁹⁰ Although precise

local policing and refugee return, see European Security Initiative (ESI), "Reshaping International Priorities in Bosnia and Herzegovina, Part Two: International Power in Bosnia", 30 March 2000. Available at <http://www.esiweb.org>

¹⁸⁹ The draft prepared by UNMIBH for the Secretary-General's November 2001 report to the Security Council noted that the presence of likely war criminals in police ranks poses "a challenge to domestic war crimes investigations, as well as to the safety of those who may testify in ICTY or domestic proceedings". Even when the police are multinational in composition, the pressure not to arrest suspects is considerable. The Zepce police are a mixed Croat-Bosniak force, but they were nonetheless attacked by a mob for attempting to carry out arrest warrants against the "Zepce Group" of Croats indicted for war crimes by the Zenica and Sarajevo courts. (See ICG Balkans Report N°127, *Courting Disaster: The Misrule of Law in Bosnia & Herzegovina*, 25 March 2002.) Latterly, RS Premier Minister Mladen Ivanic's feigned indignation that SFOR failed to inform his government about its planned operations to arrest Karadzic in February-March 2002 highlighted the refusal of the RS authorities to take the issue seriously.

¹⁹⁰ "Trafficking in Human Beings in Bosnia & Herzegovina: A Summary Report of the Joint Trafficking Project of the

figures on the number of trafficked women in BiH are understandably lacking, recent IOM estimates range from 6,000 to 10,000.¹⁹¹ An IPTF officer told ICG that one gang "admitted to having trafficked about 3,000 women into Bosnia".¹⁹²

Besides representing a gross abuse of human rights, the slave trade highlights several problems with the police and other institutions charged with upholding the law. As a UN report put it, "law enforcement is often complicit, either overtly or by silence and failure to act", and the approach of the police to trafficking is replete with "obstruction, obfuscation and simple passivity".¹⁹³ The extent of the problem also exposes the lack of effective cooperation among Bosnia's several police forces, the deficiencies of regional collaboration, the weakness of the State Border Service, and the general lack of police accountability – all reflecting and abetting an environment in which organised, cross-border crime can thrive.

An important weapon in UNMIBH's fight against human trafficking has been its Special Trafficking Operations Program (STOP), which seeks to guide and monitor the local police, to rescue women from sexual bondage and to keep UN staff on the straight and narrow. Since its establishment in July 2000, the number of girls and women identified as victims of

UN Mission in Bosnia & Herzegovina & the Office of the High Commissioner for Human Rights", May 2000.

¹⁹¹ Ahmetasevic & Harbin, "Thousands of Women Lured into Bosnian Brothels," IWPR Special Investigation, www.iwpr.net. Also published in *Oslobodjenje*, 22-23 April 2002.

¹⁹² ICG interview with IPTF officer, 12 December 2001. An IOM official told ICG that at least a quarter of the women questioned after raids on brothels claimed to be victims of trafficking. The proportion, in fact, is likely to be higher, since many trafficked women would be fearful of admitting the fact. ICG interview with IOM official, 12 December 2001. The ages of women identified as having been trafficked for prostitution range from thirteen to 36. They originate from Moldova (49 per cent), Romania (32 per cent) and Ukraine (16 per cent), with the remaining 2 per cent coming from Kazakhstan, Belarus, Hungary, Russia, and Serbia. IOM notes that trafficked women are usually lured or recruited by false promises of well-paid jobs in the West. A few are even abducted. "Report for the Population, Refugees and Migration Bureau of the U.S. State Department", IOM, 10 March 2001.

¹⁹³ "Trafficking in Human Beings in Bosnia & Herzegovina: A Summary Report of the Joint Trafficking Project of the UN Mission in Bosnia & Herzegovina & the Office of the High Commissioner of Human Rights", May 2000. Other organisations, including IOM, have echoed this assessment. See "Report for the Population, Refugees and Migration Bureau of the U.S. State Department", IOM, 10 March 2001.

trafficking who have been provided with the means to escape has risen in the RS from five in 1999 to 79 in 2001, and from five to 83 in the Federation.¹⁹⁴ During the period from 1 March to 25 July 2001, IPTF accompanied local police on more than 200 raids on brothels.¹⁹⁵ According to the UN, by December 2001 the program had assisted 90 victims to secure their freedom.¹⁹⁶

In addition to prompting and accompanying local police in raiding brothels, both the STOP team and CJAU have followed up on arrests by monitoring subsequent investigations and court proceedings.¹⁹⁷ Until recently, however, the local police focused almost solely on the crime of prostitution rather than on the offences committed against prostitutes by their traffickers. Deportations were often carried out in a manner that put the prostitutes at further risk of abuse. As OHCHR representative Madeleine Rees wrote in 1999, "mention the word 'prostitute' and effective legal protection evaporates".¹⁹⁸ Because prostitution and trafficking are widely regarded as synonymous in BiH, with foreign women allegedly servicing a predominantly foreign clientele to the financial benefit of locals, the issue has generated more prurient interest than indignation in the domestic and international media.

UN pressure is producing some improvement, though the number of convictions remains tiny and sentences are short. Since July 2001, seven people have been convicted of trafficking-related offences, receiving sentences of between four and 30 months' imprisonment and fines ranging from KM 1,200 to KM 10,000.¹⁹⁹ While these cases indicate that the

police and courts are capable of being persuaded that trafficked women are victims of crime rather than criminals, they remain exceptions.²⁰⁰ In any case, UN monitoring of court proceedings is neither comprehensive nor always welcome. It is not out of the ordinary for a judge, at the beginning of proceedings, to attempt to throw IPTF officers out of his courtroom.²⁰¹ In one recent case brought against the owner of the "Mlin" nightclub in the Zivinice municipal court, the judge three times postponed pronouncing a verdict and the prosecutor reported that she and her family had been threatened by the defendant.²⁰²

The complacency of local police is reflected in both the lead role assumed by foreigners in flagging and pursuing the trafficking issue and by the reluctance of the police to devote their own resources to it.²⁰³ One IPTF official told ICG that the police see efforts to combat trafficking as "yet another demand on their

running a bar for two years. CJAU Contribution to the MHQ Weekly, 18 to 25 January 2002.

²⁰⁰ While IPTF assists with the enforcement of laws against traffickers, other agencies address different aspects of the problem. OHCHR has worked with the authorities to elaborate a National Plan of Action that envisages the establishment of a government-run shelter for trafficked women (as opposed to the current UN-run safe house) and a legislative framework better designed to prosecute brothel owners and not prostitutes. IOM, for its part, has worked to expedite the repatriation of trafficked women. Between 1999 and 2002, 423 women were sent home. ICG interview with IOM official, 12 February 2002. IOM has also instigated a public information campaign, apparently with some success. One survey showed that almost 70 per cent of 2,500 respondents knew that a trafficking problem exists. "Report for the Population, Refugees and Migration Bureau of the U.S. State Department", IOM, 10 March 2001. Recent newspaper reports about AIDS-carrying prostitutes – and Bosnia's lack of appropriate treatment facilities – have also done their bit to raise public awareness. See "Tamo gdje SIDA pocinje", *Dani*, 30 November 2001. UNHCR has stepped up its efforts to educate the police and SBS regarding immigration legislation pertaining to trafficking.

²⁰¹ ICG interview with STOP team official, 12 December 2001.

²⁰² CJAU Contribution to the MHQ Weekly, 18 to 25 January 2002.

²⁰³ As a U.S. State Department report conceded, "The international organisations and the NGOs present in Bosnia, with the participation of many Bosnian officials, conduct most of the anti-trafficking efforts in the country." U.S. Department of State, "Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report", 2001. A STOP officer told ICG that while the IPTF is only mandated to "accompany" the local police on raids, in fact it prods them to organise and mount such raids.

¹⁹⁴ HRO Human Rights Investigations Desk Trafficking Project. Weekly Report for 2 to 9 November 2001.

¹⁹⁵ UNMIBH Anti-Trafficking Project Fact Sheet, undated. According to Ahmetasevic & Harbin, STOP teams participated in 279 raids on or inspections of 181 establishments between July 2000 and the end of February 2002. "Thousands of Women Lured into Bosnian Brothels", IWPR Special Investigation: www.iwpr.net

¹⁹⁶ "Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina", 29 November 2001.

¹⁹⁷ ICG interview with CJAU official, 19 November 2001.

¹⁹⁸ Madeleine Rees, "Markets, Migration and Forced Prostitution", *Relief and Rehabilitation Network Newsletter*, N°14, June 1999.

¹⁹⁹ The owner of the largest brothel in Canton 4 was recently convicted of a trafficking-related offence. UNMIBH Anti-Trafficking Project Fact Sheet, undated. In a case monitored by CJAU, the municipal court in Kalesija sentenced a trafficker to fourteen months in jail and banned him from

over-stretched resources”.²⁰⁴ Although police units devoted to trafficking-related crime have been set up – and currently employ 84 police officers across the country – they seem to operate in a logistical, organisational and political vacuum.²⁰⁵ Only a small minority of these officers works solely on trafficking-related crime, and their ranks are in any case depleted as transfers are made and no replacements follow. In at least one case, IPTF was able to persuade the police to transfer an officer back to working on trafficking after the officer had been redeployed and demoted without cause.²⁰⁶ Another weakness of the anti-trafficking units is that they contain only eight women. This is clearly inadequate for a job that demands an ability to win the confidence of victims.

Indifference on the part of the State Border Service is another problem. The SBS recently stopped a car containing a man and woman at a border crossing with Croatia. Suspecting that the woman was being trafficked, the SBS contacted IPTF in the expectation that a STOP team would deal with the pair. It was not prepared to handle the case itself.²⁰⁷ Habitual squabbling between the SBS and the police exacerbates matters. At a number of frontier crossings used by traffickers the police and the SBS do not talk to each other, communicating through IPTF officers when necessary.²⁰⁸ It seems that the police keep the cold war going, since they begrudge the higher salaries and status of the SBS officers recruited largely from their ranks. This situation needs to be remedied by the issuance and implementation of clear and obligatory guidelines on cooperation.

Worse than complacency and incompetence is complicity. ICG was told of cases where Romanian

women destined for Bosnian brothels were ferried across the river from Serbia with the assistance of RS police officers.²⁰⁹ The majority of prostitutes questioned by IPTF in the course of raids on RS “nightclubs” were found to possess both work permits issued by the Ministry for Veterans, Victims of War and Labour and residency authorisations granted by the local police. The women told of being provided with documents, work permits and visas by their traffickers. All this suggests the complicity of government officials in organising this multimillion-dollar trade.²¹⁰ A UN official described finding a cabinet in one RS police station containing index cards listing the details of young female bar workers from Moldova, Ukraine and Romania.

It has long been rumoured that the RS Ministries of Interior and Veterans, Victims of War and Labour insist on health checks – including HIV tests – before approving the issuance, respectively, of residence and work permits to women hired to work in bars. The rumours are true. The RS Ministry of Health and Social Welfare has issued a directive ordering sanitary inspectors to require all employers of “girls offering entertainment services” to provide evidence of monthly HIV tests of these women.²¹¹ While acknowledging the illegality of trafficking for the purposes of prostitution, the RS Health Inspector implicates the RS MUP and Ministry of Veterans, Victims of War and Labour in this industry. The message of the correspondence seen by ICG is clear: keep your trafficked women healthy, and we will help you stay in business.²¹²

There have been numerous instances in the Federation – notably Sarajevo – of planned raids on brothels being vetoed by cantonal interior

²⁰⁴ ICG interview with IPTF officer, 12 December 2001.

²⁰⁵ ICG interview with STOP official, 13 December 2001. Ahmetasevic & Harbin report, however, that 50 IPTF officers work with 140 Bosnian police. IWPR Special Investigation, op. cit., at www.iwpr.net

²⁰⁶ The case of the officer whom IPTF was able to have reinstated took place in Kiseljak. ICG correspondence with STOP officer, 11 December 2001. Police officers assigned to anti-trafficking work also suffer from lack of funds, especially for the purchase of equipment and vehicles. Speaking to United Press International, an IPTF officer lamented: “You should write that when we find good cops to work with on an important mission, we have to find them a car”. Quoted in P. Mitchell Prothero, “Raid saves young trafficked girls”, United Press International, 31 January 2002.

²⁰⁷ ICG interview with STOP official, 11 December 2001.

²⁰⁸ Ibid.

²⁰⁹ ICG interview with human trafficker, 9 December 2001.

According to Bosnian women’s groups, most of the women intended for the sex trade in BiH are bought at what amount to slave markets in Novi Sad and Belgrade, and are subsequently sold on at Brcko’s Arizona Market. ICG interview with international non-governmental organisation, 12 March 2002. See also Alix Kroeger, “Victims of Bosnia’s sex trade”, *BBC News*, 22 March 2002, and Ahmetasevic & Harbin, IWPR Special Investigation, www.iwpr.net.

²¹⁰ See ICG Balkans Report N°118, *The Wages of Sin: Confronting Bosnia’s Republika Srpska*, 8 October 2001.

²¹¹ This policy was apparently triggered when one such “dancer” was found to be HIV-positive in 1997 and summarily repatriated to Ukraine. ICG interview with OHR official, 20 December 2001, and letter from RS Sanitary Inspector to all municipal sanitary inspectors, 4 January 2000.

²¹² Ibid.

ministries.²¹³ On occasions when raids do take place, the managers or owners appear to have been tipped off in advance. Large-scale operations that the media have been invited to cover have thus ended in very public failure.²¹⁴ This is what happened in the case of “Operation Macro”. Hailed initially by UNMIBH as a success, it later turned out to have been a flop. OHCHR reports that prostitutes (and especially the underage girls among them) were spirited away in cars and vans from premises that the police and IPTF were about to raid. Moreover, the swoops were not properly coordinated and, in some cases, legitimate bars rather than brothels were targeted.²¹⁵ IPTF officers subsequently commented that brothel owners “had clearly been warned in advance”.²¹⁶ Moreover, women taken in for questioning had evidently been coached on what to tell the police and had all their documents ready for inspection.²¹⁷

An IOM report notes that “approximately 90 per cent of the trafficked women assisted by IOM state that their customers were from the local community, with the local police being one of the major user groups”.²¹⁸ According to an internal UNMIBH memorandum from March 2001, an interpreter then working for IPTF in the eastern RS was both related to police officers in the Crime Department and connected to the organisers of a prostitution ring. The prostitutes, for their part, had confided that interpreters and police officers were among their clients. The writer of the memo complained that

although an IPTF investigation had been promised, nothing had been done at the time of writing.²¹⁹

The international media have periodically reported alleged instances of IPTF and other foreign officials in Bosnia either using prostitutes or actually conniving in the trade. The *Washington Post* published a lengthy expose of IPTF officers forced to resign under suspicion of abetting prostitution in May 2001.²²⁰ John McGhie of Britain’s Channel 4 News “saw and filmed EUMM vehicles parked outside a well known brothel in Sarajevo, and saw UN vehicles outside other brothels”.²²¹ More seriously, ICG has seen internal UN documents and letters from IPTF employees implicating even quite senior officers in Bijeljina, Dobož and elsewhere in abetting or benefiting from prostitution. In one case IPTF officers were reported not only to have impeded investigations, but also to have threatened prostitutes.²²² An IPTF officer who was twice stationed in Bosnia (in 1995 and 2001) described the working environment at the UN as “increasingly criminalised”.²²³ The *Washington Post* followed up its initial story with an article in January 2002 about a supposed cover-up in the UN aimed at protecting IPTF officers.²²⁴

²¹³ ICG interview with STOP official, 13 December 2001.

²¹⁴ Not far from OHR and across the street from the IJC in Sarajevo there is a brothel owned by a well-connected soldier-turned-pimp. When this establishment was raided by the police and IPTF, no evidence of prostitution was found, although – as one officer told ICG – “there were burning cigarettes with lipstick in the ashtrays”. When IPTF and the police proposed raiding the place again, the MUP demurred, arguing that once was enough.

²¹⁵ “Report by the Office of the High Commissioner for Human Rights in The Effects on Operation ‘Macro’”, undated.

²¹⁶ ICG interview with IPTF officer, 13 December 2002. See also Aida Cerkez-Robinson, “A Futile Attempt to Stop Sex Trade in Bosnia”, Associated Press, 31 March 2002; and P. Mitchell Prothero, “Raid saves young trafficked girls”, United Press International, 31 January 2002.

²¹⁷ Ibid.

²¹⁸ “Focus on the Balkans”, *Trafficking in Migrants*, IOM, Autumn 2000. Ahmetasevic & Harbin allege, on the other hand, that “The main customers fuelling local politicians.” IWPR Special Investigation, www.iwpr.net

²¹⁹ UN interoffice memorandum, 20 March 2001.

²²⁰ Colum Lynch, “Misconduct, Corruption by U.S. Police Mar Bosnia Mission”, *The Washington Post*, 29 May 2001.

²²¹ John McGhie, “UN Implicated in Sex Slavery”, *Channel 4*, 8 June 2000. EUMM is the European Union Monitoring Mission.

²²² ICG interview with STOP team officer, 11 December 2001.

²²³ UNMIBH interoffice memorandum, 20 March 2001. The treatment meted out to would-be whistleblowers seems to have been discouraging. Sources tell ICG that Kathryn Bolkovac, an IPTF officer who sent an interoffice e-mail alleging that IPTF officers were frequenting prostitutes, was later dismissed. Others who have spoken out about the involvement of IPTF officers in prostitution have reportedly been threatened or passed over for promotion. UN interoffice memorandum, 20 March 2001. One former IPTF officer told ICG he had been “disgusted and would never go on another UN mission again”. ICG interview with former IPTF officer, 4 November 2001.

²²⁴ Colum Lynch, “U.N. Halted Probe of Officers’ Alleged Role in Sex Trafficking”, *Washington Post*, 7 January 2002. For a racy follow-up to the *Post*’s story, see Wendy McElroy, “Is the U.N. Running Brothels in Bosnia?”, *Fox News*, 22 January 2002. UNMIBH has dismissed the accusations. As SRSG Klein wrote to the *Post*, “I reject the claim that we have conducted a cover-up of the involvement of U.N. personnel in trafficking”. “Misconduct and the U.N. Mission”, *Washington Post*, 24 January 2002. Addressing the Security Council in March 2002, Klein said: “We have

Although a few such scandals should not overshadow UNMIBH's contribution to fighting trafficking, the follow-on mission will need to bear in mind that irresponsible behaviour by a few – especially if they are seen 'to get away with it' – can diminish its credibility. One way to avert this would be for EUPM officers to face administrative or legal consequences in their home countries for any offences committed in BiH.²²⁵ Alternatively, officers suspected of crimes might be stripped of their diplomatic immunity, charged by the local police and prosecuted. In any case, provisions regulating the treatment of disciplinary or legal infractions should be included in the agreements signed by EUPM with the countries contributing officers to the mission.

Trafficking is significant both as a human rights issue and because it is symptomatic of the weak institutional links connecting Bosnia's legal and law enforcement systems. The problem is not confined, however, to the absence of appropriate legislation, which is what the Secretary-General appeared to argue in his November 2001 report on UNMIBH. Some relevant statutes are two decades old. Pushing through real and lasting reforms in the way the police handle human trafficking and other cross-border crime will not only demand close attention by an EU mission equipped with robust powers, it will also require coordinated efforts by the Rule of Law Task Force. For even when traffickers are caught and charges proved, punishments tend not to fit the crime.

Moreover, to judge by the EU's "Technical Fact-Finding Report", the planners of EUPM do not envisage the maintenance of something like the STOP team. If so, this is an error that should be

investigated every single claim of alleged involvement by the International Police Task Force members in trafficking. Despite media sensationalism, not one allegation has been substantiated and no additional information has been forthcoming". Further on the UN's denial of involvement in human trafficking, see Irwin Arieff, "U.N. Insists No Police Ties to Bosnia Prostitution", *Reuters*, 5 March 2002.

²²⁵ No uniform system of punishments exists for UN employees who transgress. Although 24 IPTF officers have been dismissed for alleged procurement of prostitutes, others have been allowed simply to resign. Contributing countries do not often take a harsh view of improprieties committed abroad. Of the eight IPTF officers sent back to the United States, none has been prosecuted. According to the *Post*, "the most serious punishment imposed...on an officer was dismissal and the loss of a U.S.\$ 4,600 bonus". Colum Lynch, "Misconduct, Corruption by U.S. Police Mar Bosnia Mission", *Washington Post*, 29 May 2001.

corrected. EUPM will need to build on UNMIBH's efforts to tackle both trafficking and the circumstances that allow it to flourish. At the same time, there should be initiatives on a regional scale to help the countries of south-eastern Europe harmonise their laws on trafficking in human beings.

V. PROFESSIONALISING THE POLICE

A. TRAINING

All police officers in BiH have been obliged to undergo training courses organised, conducted or supervised by UNMIBH. Standard courses include training in “human dignity”, “community policing”, “traffic awareness”, “management for supervisors”, computers, and a “transitional course”. In addition, CJAU has provided training in writing reports; UNHCR has offered courses in the treatment of asylum seekers; and the EU IMPACT team has trained SBS officers. The Council of Europe has covered human rights issues. ICITAP has trained Federation and RS police in riot control, forensics, internal investigations, fingerprinting, and traffic investigations. OSCE has offered training in media relations for police and MUP spokespersons. Perhaps most importantly, IPTF’s “Co-Locator Program” has provided on-going, on-the-job mentoring for the police, particularly in the improvement of their work routines.

Outside UNMIBH’s remit, OHR’s Anti-Fraud Department has worked with the Federation Financial Police to tackle fraud, money laundering and large-scale corruption. A number of bilateral donors have provided modern equipment or paid for specialised training. For example, the Swedish International Development Agency financed training for fifteen RS and 25 Federation instructors in conflict resolution, while the Norwegian government is currently considering funding a police dog training centre. ICITAP and the EC are also considering further training to prepare the police for the structural changes created by the new criminal code.

All this training has not gone unnoticed. Nearly 45 per cent of the population feels that the police are better trained than before the war.²²⁶ However, insiders to whom ICG has spoken criticise the fact that police officers have not received the same basic training across BiH, and also contend that the training itself has been inadequate. In some cases, basic courses have lasted only a few weeks.²²⁷ Insufficient management-level training has been given to police officers occupying middle and senior posts. The follow-on mission would do well to make

²²⁶ Internal SFOR survey, 2 August 2001.

²²⁷ ICG interview with former IPTF officer, 12 February 2002.

independent assessments of the training the police have received.

B. IPTF POLICE COMMISSIONERS PROJECT

Political interference in the work of the police has until recently been facilitated by the wide authority vested in interior ministers at the entity and cantonal levels. Far from observing the conventional Western niceties regarding the respective spheres of ministers (who make policy) and civil servants (who execute it), Bosnia’s interior ministers have taken for granted that they should involve themselves in micro-management, down to individual candidates for preferment, recruitment and discipline. The exercise of such pervasive administrative authority over the police by political appointees was standard practice in the old Yugoslavia, and has been carried over into post-war legislation and administrative regulations in both entities. For example, the 1996 Federation Law on Internal Affairs gives the minister control over virtually all functions and procedures in the FBiH MUP. Article 24 states, *inter alia*, that the minister can “decide on the resources for the work of the Ministry” and “on the rights and duties of Ministry employees”.

The sweeping powers afforded to ministers of the interior have been abused to justify payments in money or in kind to persons who are not in the employ of the governments. In one case, police officers were assigned to work as bodyguards to officials of the Party for BiH. Similarly, in 2000, a flat owned by the Federation MUP was transferred to a former interior minister of Canton 5.²²⁸ In fact, Article 24 of the Federation Law on Internal Affairs can be invoked to cover just about anything a minister wants to do. The legal department will be instructed to prepare a justification, which can then be used to order the finance and budget department to carry out the minister’s wishes.²²⁹ A new Federation internal affairs law that should prevent such abuses has been drafted, but is still awaiting enactment by parliament.

²²⁸ The MUP legal department advised that such a transfer of ownership was illegal, but staff were threatened with dismissal if they did not carry out orders. ICG interview with FMUP Legal Department official, 11 February 2002.

²²⁹ ICG interview with FMUP Finance and Budget Department official, 11 February 2002.

As is discussed below, interior ministers have also used the Professional Standards Units (PSUs) established under IPTF auspices to investigate individuals for political reasons. Such manipulation – even of a new system designed to enhance police accountability – means that it remains unclear whether the police, in the words of an UNMIBH report, “follow a political or a law enforcement agenda”.²³⁰

In order both to separate policy-making from its execution and to promote the professionalisation of the police, UNMIBH recommended in 1999 “the creation of a Senior Ministry official with no political role who would direct day-to-day operations”.²³¹ This was the genesis of what was to become known as “the Police Commissioners Project”. From its birth in 2000, the project has aimed to establish in both law and fact the positions of “Director of Police” in the two entities’ interior ministries and “Police Commissioners” in each of the ten cantonal MUPs of the Federation. Those appointed were to be non-political and functionally independent professionals.²³² In the words of Robert Gravelle, the senior UNMIBH official who chairs ministerial meetings on police matters, “the Police Commissioner Project is fundamental in ensuring that there is an independent and apolitical police service throughout Bosnia and Herzegovina, serving the people and ensuring that the law is applicable equally to all citizens and not special interests”.²³³

While interior ministers were to retain overall responsibility for policy and management – and to represent their ministries in government – the directors or commissioners were to be accountable for the everyday work of the police.²³⁴ After examining precedents and legal opinions from New Zealand and Northern Ireland, UNMIBH sought to

define the responsibilities of ministers and directors or commissioners of police in such a way as to provide the latter with “operational independence”.²³⁵

In 2001 UNMIBH produced a two-pronged implementation strategy. First, it planned to install interim directors and commissioners, most of whom it expected to be confirmed in four-year terms once the necessary legislation had been passed. Second, UNMIBH pressed the various parliamentary assemblies to adopt the necessary legislation. Although UNMIBH drafted a template for such legislation, it allowed the various parliaments to amend it. Problems were to arise from this liberality.

UNMIBH’s aim was to build a firewall between politicians and professionals, reducing the opportunities for the former to manipulate the latter. But it also needed to recruit experienced and reputable commissioners. Independent review boards, composed of non-political members, were set up to appoint permanent commissioners and oversee their work.²³⁶

Both prongs of the strategy quickly ran into opposition. Federation political parties both objected to the legislation necessary to create commissioners and proposed unsuitable candidates for the interim posts. According to an UNMIBH official, Interior Minister Muhamed Besic made plain his opposition to the entire scheme “from the outset, precisely because of the requisite reduction in ministerial authority”.²³⁷ He and the SBiH even threatened in early 2001 to bring down the new Alliance for Change government if UNMIBH insisted on proceeding with the project.²³⁸ While the threat proved to be mere bluster, it illustrated the depth of resistance in the Federation.²³⁹ One UNMIBH

²³⁰ UNMIBH Six-Monthly Strategy in Mostar Region, undated.

²³¹ “From Joint to Unified Policing: Continuing Police Development in Central Bosnia”, UNMIBH Human Rights Office Public Report, September 1999.

²³² Internal UN policy paper (IPTF-p06/2001), 2001.

²³³ “Post of Director of Policing at FMUP”, UNMIBH Note to File, 5 February 2002.

²³⁴ According to an internal UN policy paper (IPTF-p06/2001), the Police Commissioner must have “a relevant university degree, a minimum of ten years police experience, a minimum of four years of senior management experience and demonstrated ability to manage large-scale operations.” Furthermore, the Police Commissioner must “not hold political office or represent a political party”.

²³⁵ Ibid.

²³⁶ Ibid.

²³⁷ ICG correspondence with UNMIBH official, 12 February 2002. For Besic’s denials, see “Teroristi pripremili atentat na ministru Tomislava Limova”, *Oslobodjenje*, 8 July 2001. For background on the ructions in the FMUP, see Vildana Selimbegovic, “Svi Zilicevi kvadrati”, *Dani*, 27 April 2001, pp. 16-17.

²³⁸ ICG interview with UNMIBH official, 12 February 2002.

²³⁹ On the other hand, there was little or no opposition to the police commissioners project in the RS, where the centralisation of the police means that political control over the force would be little affected by the installation of a single director of police. In fact, the RS Interior Ministry supported the project in one document shown to ICG, arguing that the scheme would create “significant conditions

official told ICG he feared the opposition was so great that in future, “whoever will be appointed minister of interior will probably be pressured to dismiss the director of police”.²⁴⁰ While Federation law was duly amended to provide for a director of police – and the IPTF candidate, Dragan Lukac, was appointed to the post in April 2001 – rearguard resistance to the entire project continues.

Opposition to the police commissioner project has been even more acute in the cantons, especially where Croats form a majority. In Canton 7, one candidate for commissioner was discovered to have doctored evidence in a past case against a fellow Croat policeman.²⁴¹ No suitable candidate was fielded in Canton 10; whereas in Cantons 6 and 8 there was only one in each case. He was duly appointed in Canton 6, but the Canton 8 government refused to make an appointment. Although three cantons came close to meeting the deadline for enacting the required amendments to the Law on Internal Affairs, the others did not.²⁴² In Canton 9 – which was meant to be the model for the others – the SBiH continuously obstructed passage of the necessary legislation and, when the law was eventually passed, impeded the selection of an individual with the necessary professional and apolitical qualifications. By early 2001, the IPTF Commissioner had to suspend the project and begin anew because of “concerns that the selection process had become deeply politicised”.²⁴³

In an attempt to salvage the project, UNMIBH accepted candidates who were less than ideal in order to get commissioners in place. In Canton 8, for

for better cooperation between the Crime Department and the Uniformed Police”. Internal RS Ministry of Interior report, undated.

²⁴⁰ ICG interview with UNMIBH official, 21 February 2002. UNMIBH contends that the resistance is primarily national in origin, stemming from a desire to ensure that a Bosniak director of police always reports to a Bosniak interior minister. It would be equally plausible to suggest, however, that the issue is as much political and criminal. That is, a Bosniak director could be expected to be lenient towards – and even defer to – Bosniak politicians and parties under investigation for corruption and other criminal activities. In any case – and as an UNMIBH official remarked to ICG – “under the new minister [Ramo Maslesa], parallel chains of command have re-emerged, parallel in the sense of Bosniak/Croat”. ICG correspondence with UNMIBH official, 16 February 2002.

²⁴¹ ICG interview with UNMIBH official, 21 February 2002.

²⁴² ICG interviews with UNMIBH officials, 8 February and 29 April 2002.

²⁴³ “Guidelines for internal UNMIBH/IPTF use only”, UNMIBH, undated.

example, sources told ICG that legislation had only been passed because the then interior minister, who had not been accepted by OHR, wanted to put his own candidate in the post.²⁴⁴ This tug-of-war means there is still no interim commissioner.²⁴⁵

In other cantons, the assemblies tried to whittle down the remit of the police commissioner.²⁴⁶ Again, UNMIBH accepted some such ‘compromises’ to keep the project alive. For example, in Canton 1, the interior minister retains control of the PSUs and the Disciplinary Committee.²⁴⁷ Unhappy with this abuse of the PSUs and the Disciplinary Committee – which are meant to be independent of political control – the interim commissioner installed by UNMIBH has threatened to resign.²⁴⁸ Similarly in Canton 7, the minister has kept the power to recruit MUP employees and the government has asserted its right to veto candidates nominated for the police commissionership by the Independent Review Board. As one UNMIBH official told ICG, the law in Canton 7 “has overlapping provisions, is too vague and will therefore probably encourage slippage in implementation”.²⁴⁹

The potential effectiveness of the Police Commissioners Project has also been undermined by the appointment of advisers to the interior ministers or other power brokers who are tasked with circumventing police commissioners and maintaining informal chains of command. In Trebinje, the PSC Chief who failed to carry out his duties during and after the May 2001 riot, and who was subsequently dismissed by the RS minister of

²⁴⁴ ICG interview with UNMIBH official, 21 February 2002.

Although the UN bureaucracy disputes this, ICG has learned that in at least one canton an effort was made to enforce an international appointment of an interim commissioner, despite the fact that UNMIBH does not have the legal authority to do so.

²⁴⁵ Correspondence with UNMIBH official, 18 March 2002.

²⁴⁶ This tactic was facilitated by the fact that UNMIBH did not draft the legislation, but only required that the legislation be shaped in a certain way. “Valuable time was lost”, an UNMIBH official told ICG. ICG interview, 12 February 2002.

²⁴⁷ ICG interview with IPTF officer, 7 February 2002

²⁴⁸ Ibid.

²⁴⁹ ICG interviews with UNMIBH officials, 12 and 21 February 2002. According to one UNMIBH staff member, the “biggest battle [within UNMIBH] is now internal re[garding] the various Federation, RS and cantonal laws on internal affairs, specifically re[garding] the extent of ‘consistency’ required among/between Police Commissioner legislation.” ICG correspondence with UNMIBH official, 25 March 2002.

interior under pressure from UNMIBH, was rewarded with a new appointment as head of the Legal and Personnel Section of the ministry.²⁵⁰

A year after the inauguration of the project, some of the problems have been overcome, but others continue to jeopardise its chances of success. Two meetings of the interim commissioners have been held in the Federation and, according to an UNMIBH official, "Cantonal Police Commissioners are looking to the Federation Director of Police for leadership in some form".²⁵¹ This indicates that constituencies, networks and interests are coalescing around the positions, which is a precondition for both the posts and their incumbents to outlast UNMIBH.²⁵² However, the system remains asymmetrical. Both entities will have directors of police and the cantons will have police commissioners, but the selection of RS PSC chiefs and Federation chiefs of police remains non-transparent, and based largely on cronyism, nepotism and explicitly political criteria. The Police Commissioners Project could yet succeed, but if so, the principle of non-political appointments must be extended further down the hierarchy, and include all senior and mid-level posts. This is another task for EUPM.

C. CREATING INDIGENOUS ACCOUNTABILITY: PROFESSIONAL STANDARDS UNITS (PSUS)

When the international community leaves Bosnia, effective mechanisms must exist to hold police officers accountable for their conduct. As Richard Monk writes, "to enable people to thrive, they must feel secure and confident that the law will protect them against abuse of police authority and confident that they are able to seek redress".²⁵³ This is especially the case in post-conflict societies like

Bosnia, where suspicions of the police run deep and are often justified.

In particular, the presence of putative war criminals in the police impedes the return of refugees. Conducting interviews in and around Prijedor in early 2002, American journalist Chuck Sudetic found that returning Bosniaks had not only been influenced by the early SFOR arrests of indicted war criminals in the area, but also felt more comfortable once IPTF began de-authorising police officers who had served in the Omarska prison camp.²⁵⁴

In sum, police officers must be held accountable in three ways: by the police force itself, by the judicial system and by the public. These are separate but interdependent arenas in which the police should be tested. To quote a report by the Geneva-based Centre for the Democratic Control of Armed Forces, "policing entails responsiveness 'downwards' to the community's needs for security and assistance (rather than 'upwards' toward a political party or the regime against its opponents) and accountability to multiple audiences, including the community via multiple oversight and control mechanisms".²⁵⁵

At present, however, the police rarely scrutinise themselves; the judiciary prefers not to get involved, even if disciplinary proceedings call for it; and the public is drip-fed some titbits of scandal, but is generally kept in the dark.

UNMIBH and ICITAP have helped to form local Professional Standards Units (PSUs),²⁵⁶ co-located in regional police stations, and have sought to develop uniform disciplinary practices in the Federation and Republika Srpska. With the guidance of ICITAP, the PSU chiefs have begun meeting regularly, exchanging information and experiences.²⁵⁷ New procedures for dealing with complaints against the police have also been designed to track all aspects of a complaint and the subsequent actions. According to ICITAP, these are currently under review by the RS MUP.

²⁵⁰ When questioned by UNMIBH why the individual had been re-hired, the RS Ministry of Interior claimed it had "never dismissed him, only removed him from his position". UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

²⁵¹ ICG correspondence with UNMIBH official, 12 February 2002.

²⁵² Needless to say, this development also bodes well for cooperation between the Federation and the cantons, but cannot, in and of itself, paper over the structural obstacles to cooperation.

²⁵³ Richard Monk, OSCE First Preliminary Report on a Follow-on Mission to UNMIBH and the UN International Police Task Force, October 2001.

²⁵⁴ ICG conversation with Chuck Sudetic, 13 February 2002.

²⁵⁵ Marina Caparini, "Democratic Control of the Police and Police Reform in the Federal Republic of Yugoslavia and Serbia", *Working Papers*, CDCAF, March 2002, p. 2.

²⁵⁶ This report will use the terms "PSUs" and "Internal Control Units" interchangeably.

²⁵⁷ ICG interview with ICITAP official, 12 November 2001.

Unfortunately, the PSUs and the disciplinary procedures they are intended to oversee continue to be ignored. For example, ICG was told of an occasion in Drvar when a judge was arrested by police officers after having called them to assist her in executing a court-ordered eviction. When quizzed, the local police chief simply explained that the officers involved were “young and inexperienced”.²⁵⁸ The PSU was not involved and no further action was taken in this blatant obstruction of property law implementation.

PSUs and the disciplinary procedures continue to be vehicles for manipulating the police. PSU reports are often thrown away or not forwarded to prosecutors. Alternatively, the PSUs are not informed of cases that might fall within their jurisdiction. An American report notes, “Although Ministers and Deputy Ministers are appointed by their governments and cannot officially be investigated by their PSU, they sometimes request the PSU to conduct an investigation of the allegations. When the determined facts do not exonerate the official, retaliatory actions might occur”.²⁵⁹ According to an internal UNMIBH report, “Based on the IPTF audit of the Canton 10 police internal control, the local police have submitted crime reports against seven former and three current Drvar police officers”.²⁶⁰ Without IPTF intervention, the cases would have been dropped. UNMIBH’s CJAU and Human Right’s Office are currently examining court and police records to identify police officers accused of crimes, but who have remained on the force. Again, this should have been done by the PSUs. In a review of the Doboj Basic Court’s records alone, CJAU found that seven police officers had been indicted for crimes, but that no investigations or proceedings had taken place thereafter.²⁶¹

On the other hand, PSUs are also frequently overburdened with cases that do not fall within their remit in order to distract them or, indeed, to use them for political or other nefarious purposes. For example, the PSU in the Federation MUP is sometimes asked to investigate infractions committed in the cantons that do not lie within its jurisdiction.

Police officers still go unpunished, even if they have violated the law or committed disciplinary offences. When called to account, punishments can be either disproportionately slight in comparison to the offence or simply reflect the personal whim of the local chief.²⁶² Leniency seems especially prevalent in cases of internal complaints – as opposed to those originating with the public – and when forces are asked to investigate and discipline ‘their own’ nationals. As UNMIBH spokesman Stefo Lehmann noted, “We would like nothing more than for the local interior ministry to investigate their own people. However, they are reluctant to investigate people of their own ethnic background”.²⁶³ Late last year, Doboj District Court confirmed the convictions of six police officers for violations of human dignity by abusing their official positions. The sentences ranged from three months (for three officers), to two months (for one officer) and suspended sentences for the remaining two.²⁶⁴

A well-placed source told ICG that, while the PSU in Mostar is one of the more successful multi-ethnic ventures in that divided city, “it had to be monitored constantly to ensure investigations were being handled fairly and without the negative influence of ethnic politics”.²⁶⁵ An UNMIBH internal memo notes that in Canton 8, “as in Canton 7, the Internal Control Unit of the Ministry of Interior has repeatedly failed to make impartial investigations of police abuse”.²⁶⁶ The lack of investigations into return related incidents in Mostar is a sign of the PSU’s continuing inadequacy.

The fact that successful investigations have taken place in Mostar does not alter another fact: that too many incidents have been insufficiently investigated. According to an UNMIBH report, the city’s PSU “remains divided and fails to discipline police officers of their own ethnicity”. The report goes on

²⁵⁸ ICG interview with Federation Ombudsman, 12 December 2001.

²⁵⁹ Internal US report, June 2001.

²⁶⁰ CJAU contribution to the MHQ weekly, 11 to 18 January 2002.

²⁶¹ Ibid.

²⁶² For example, a police officer who fell asleep on duty had his pay cut by 20 per cent, the same punishment given to another officer against whom serious human rights abuses had been proved. UNMIBH Mostar Region Update of the Regional Implementation Plan, 10 May 2000 to 5 July 2001.

²⁶³ Anes Alic & Jen Tracy “Serve and Protect Your Own”, *Transitions Online*, 28 November 2001.

²⁶⁴ CJAU Contribution to the MHQ Weekly, 23 November to 7 December 2001.

²⁶⁵ ICG interview with international official, 22 November 2001.

²⁶⁶ UNMIBH internal report, undated.

to say that the PSUs “are completely under the control of the Minister [of Interior in Canton 7] and do not even give an appearance of impartiality”.²⁶⁷ The weekly report of the Human Rights Office for 3-9 November 2001 notes that “two officers who had unjustly assaulted a juvenile in 1999 were never properly disciplined by PSC officials, despite having been found criminally liable in court”.²⁶⁸

The law also requires the suspension (on 80 per cent pay) of police officers under criminal investigation if the allegations are such that they bring the force into disrepute.²⁶⁹ UNMIBH has found, however, that all ministries of interior are abusing their discretion to a greater or lesser extent by allowing police officers to work regardless of allegations against them.²⁷⁰ Following this discovery, UNMIBH has had to put pressure on the interior ministries of Cantons 1 (Unsko-Sanski) and 3 (Tuzlanski) to suspend officers under investigation. On 5 April 2002, UNMIBH officials joined Tuzla MUP functionaries at a press conference to announce the suspension of ten officers under investigation.²⁷¹ However, UNMIBH is not consistent in this regard. In the much-publicised Hadzici (also known as Zujevina) case in Sarajevo Canton, none of eighteen police officers under investigation for human rights abuses has been suspended.²⁷² There are, in fact, sufficient examples of failures by the PSUs to maintain disciplinary standards – both in the Federation and the RS – to conclude that the only way to ensure discipline is through the use of non-compliance reports and dismissals by UNMIBH.

When PSUs do conduct proper investigations and refer cases to disciplinary committees, they in turn can become venues for manipulations of one sort or another. Excessive leniency, the invocation of family connections and delays resulting in the expiry of cases seem common. In the case of a policeman whose supposed uncle was a candidate to become a cantonal police commissioner, several of these factors were alleged to have been at work. The Disciplinary Committee simply let the case expire, even after it had received a reminder from the PSU. Although the interior minister had approved the case against the nephew, the Disciplinary Committee argued that it had not “received the relevant report” and was too busy to request it from the PSU for four months. The UNMIBH report on the matter observes that this officer’s treatment was “a clear case of obstruction based on FMUP official privilege, discretionary manipulation of PSU procedures and Cabinet ability to do so”.²⁷³

The same November 2001 report notes how the chief of staff of the FMUP had repeatedly obstructed the PSU and the disciplinary committee.²⁷⁴ His activities included concealing the findings of the PSU from the minister until, after a year, the statute of limitations had run out. This occurred in at least seven cases in the period 1999 to 2000, including one related to allegations of drug trafficking. UNMIBH concluded that “this hide-and-seek game is possible because the internal mail system is ... slow and complicated, involving numerous approvals and transmittals”.²⁷⁵ PSU reports have also been returned to the PSU without comment from the minister, which means that no further action can be taken.

Not all administrative procedures – even if they lead to disciplinary sanctions – need to result in criminal investigations and charges. But some cases do. It seems, however, that the PSUs have not developed

²⁶⁷ UNMIBH six-monthly report for Mostar region, undated.

²⁶⁸ Weekly Report from UNMIBH’s Human Right’s Office covering the period 3 to 9 November 2001.

²⁶⁹ The law varies from entity to entity and canton to canton, and the discretionary powers of the Minister of Interior thus vary. For example, the Law on Employment and Salaries of Officials in the Federal Administrative bodies in the Federation B&H states: “an employee against whom an investigation is initiated or detention ordered because of committed crime, or who is serving an imprisonment sentence up to six months, shall be suspended pending completion of the investigation, release from detention or release from prison”.

²⁷⁰ ICG interview with UNMIBH official, 11 April 2002.

²⁷¹ “Suspendovano deset policajaca”, *Oslobodjenje*, 6 April 2002.

²⁷² ICG interview with UNMIBH official, 9 April 2002. Eighteen police officers stand accused of serious human rights violations while on duty.

²⁷³ UN internal report, 23 November 2000. It seems, however, that the only connection between the “uncle” and “nephew” was a common surname.

²⁷⁴ Ibid. PSU investigations are required in response to every complaint received. The interior minister can, however, also initiate investigations. After the investigation, recommendations are sent to the minister. He or she can then agree or disagree with the findings. If the minister believes that the PSU has found sufficient evidence to sustain the accusation, a disciplinary committee is convened. It is the only body that can decide on sanctions.

²⁷⁵ Ibid.

good relationships with the judiciary, and very few officers who have been disciplined or dismissed have also been prosecuted. ICITAP noted that “in some instances, investigations were forwarded to the Crime Police and no follow-up reports were received by the PSU documenting their status”.²⁷⁶

Nor have the PSUs yet won the respect of police officers or enhanced the image of the police among citizens. When officers are dismissed, they complain to the minister of interior or sue the MUP. As one UNMIBH report notes, “It is of interest to mention that officers do not complain to the PSUs”.²⁷⁷ The public seems unimpressed as well. In a survey conducted in August 2001, only 16.7 per cent of 2,500 respondents *did not think* that corruption in the police was a problem. When asked why the police favour some people over others, the preferred response was money, while the second-place explanation was that personal and social connections made all the difference.²⁷⁸

EUPM should review the operation of PSUs and the effectiveness of disciplinary procedures. It should ensure that PSUs (or Internal Affairs Units) do not cohabit with or work alongside the forces they are supposed to investigate. PSUs and Disciplinary Committees should be placed under the authority of the police commissioners rather than the various ministers of the interior and gradually assume a role in EUPM’s own consideration of de-authorisations and de-certifications. Police officers under investigation for any transgression or dereliction of duty should normally be suspended pending the outcome of the enquiry. Finally, these internal processes should be complemented by the establishment of external and independent police complaints authorities at entity level.

D. ‘MINORITY’ POLICE RECRUITMENT

UNMIBH’s efforts to enlist so-called ‘minorities’ in the police forces of BiH is a corollary to Annex 7 of the DPA. The “Framework on Police Restructuring Agreement, Reform and Democratization in the Republika Srpska” from December 1998 and the “Agreement on Restructuring the Police of the Federation of Bosnia and Herzegovina” from April

1996 established the bases for ‘minority recruitment’ in the police. In the words of the latter agreement, “the composition of the police shall reflect that of the population, according to the 1991 census”. But in the pact with the RS, the police are only obliged to set targets in line with the various constituent peoples’ participation in the 1997 municipal elections.²⁷⁹

The aim of minority recruitment is to help roll back ‘ethnic cleansing’ by offering returnees and would-be returnees some assurance that ‘their’ people are represented among the guardians of law and order in their former towns and villages. “Security”, as UNHCR notes, “is considered a significant factor” when refugees and displaced persons think about going home.²⁸⁰ However, creating a multinational police force is not only an issue of reconciliation or human rights, but also one of economics. It is, in effect, one of the few areas in which the international community can enforce integration of the labour market by making it possible for returnees to sustain themselves and their families in areas where jobs are scarce and likely to remain so for the foreseeable future.

The encouragement – like the target – is obviously greater in the case of the Federation than in that of the RS, where the 1997 baseline represents a population structure which had not yet even begun to reflect significant returns. But the benchmarks for minority recruitment do at least stipulate that representation – whether based on the pre-war or the 1997 voting populations – should reflect the figures for individual municipalities, rather than those of the entities as a whole. This means that since Serbs represented 18.5 per cent of the population of Bugojno in 1991, the 2001 target for the police force was 18 per cent. Yet it also means that absentee ballots cast by Bosniaks in RS municipalities otherwise ‘cleansed’ of Bosniaks would at least give scope for some recruitment in those areas.

Since signing the original agreements with the entities, UNMIBH has worked hard to recruit minority police officers. It has organised courses to help policemen who left the force before the war

²⁷⁶ ICITAP internal report, 19 March 2001.

²⁷⁷ UN internal report, 27 November 2001.

²⁷⁸ Internal SFOR survey, 2 August 2001.

²⁷⁹ Article 8, Framework Agreement on Police Restructuring, Reform and Democratization in the Republika Srpska, December 1998.

²⁸⁰ “Returnee Monitoring Study: Minority Returnees to Republika Srpska, Bosnia and Herzegovina”, UNHCR, June 2000.

return to the service.²⁸¹ Taking a proactive approach, Minority Recruitment Groups, established in each UNMIBH region, have canvassed their areas in order to find candidates for the courses and to persuade their graduates to apply for jobs.²⁸² A list of potential applicants is handed over to the interior ministries each month at the Ministerial Committee on Police Matters chaired by UNMIBH.

The police academies have also been used to ensure that current 'minorities' are again represented in the police; and each year the numbers of both 'minorities' and women completing the courses have risen. Indeed, the national (and sexual) composition of recently graduated classes of cadets offers hope that the targets will be achieved some day. Of the 117 cadets graduated from the police academy in Banja Luka in 2001, 24 were Serbs, five were Croats, 84 were Bosniaks, and four were "others".²⁸³ In Sarajevo in 2001, of 115 graduating cadets, there were 73 Serbs, fifteen Croats, 24 Bosniaks, and nine "others". Publicity campaigns featuring billboards and radio and television spots have supported the effort to recruit multinational forces.²⁸⁴ Although progress is being made, it will take many years to create police forces representative of the communities they are meant to serve.

Even in the short term, UNMIBH's targets are most unlikely to be realised before it departs. These currently specify that 28 per cent of the Federation force and 20 per cent of the RS force should be composed of 'minorities'. At present, only 5.15 per cent of the police in the Federation and 4.01 per cent in the RS fall into this category.²⁸⁵ In some

areas that have been plagued by ethnic violence, such as Trebinje and Visegrad, there are virtually no 'minority' officers.²⁸⁶

The fact that the police in most areas are not representative of the make-up of the population – whether of 1991 or of today – reflects some miscalculations and a range of disincentives. The former include the failure to take boundary changes into account when setting targets. For example, border adjustments between Cantons 7 and 8 mean that the two cantons now have inappropriate targets. Moreover, assuming that the category of "others" automatically excludes the three constituent peoples ignores the calculations of advantage made by some people since 1991 in declaring their national identities. In certain areas this tactic inflated (and in others deflated) the number of "others". IPTF has set a target of 105 "others" in Canton 7, but subsequent estimates place the number of "others" actually required at 85.²⁸⁷

As for disincentives, these are especially strong in the RS and in areas of the Federation under HDZ control. They include low salaries, personal risk, political obstruction, too few places in police academies,²⁸⁸ and lack of housing.²⁸⁹ In the eastern RS, the homes of minority police officers have been attacked and damaged. According to OHCHR, a Bosniak police officer working in Vlasenica admitted during an assessment of the town in August 2001 that "he only felt secure if he is living and working with other Bosniak police officers".²⁹⁰

²⁸¹ Correspondence with UNMIBH official, 11 February 2002.

²⁸² These efforts have been supplemented by NGOs that have sought to attract former police officers from among Bosnian refugees abroad. ICG interview with NGO official, 9 November 2001.

²⁸³ Bosnia's Dayton constitution recognises three "constituent peoples" – Bosniaks, Croats and Serbs – and "others" as possessing collective rights. The "others" are members of some 25 national minority groups, people who formerly identified themselves as "Yugoslavs" and citizens who reject national labels. In 1991, these "others" constituted some 8 per cent of the population.

²⁸⁴ The PR campaign, in particular, has generated some enthusiasm, with audiences clapping when promotional films were shown during the 2001 Sarajevo Film Festival.

²⁸⁵ ICG correspondence with UNMIBH official, 2 April 2002. See also, UNMIBH Implementation Plan, October 2001, and Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina (S/2001/571),

29 November 2001. Even current 'minority' numbers may be inflated by the fact that officers working for the more thoroughly integrated SBS have been included.

²⁸⁶ UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

²⁸⁷ ICG interview with UNMIBH official, 21 February 2002. At this stage in its mission, IPTF HQ is more interested in the overall boosting of 'minority' recruitment than in rectifying individual municipality targets.

²⁸⁸ Due to limited space in the Sarajevo police academy, Canton 7 was only able to send eleven Serb recruits for training in 2000. In addition, of the 161 applicants in that canton, many failed either their physical or psychological tests. Since there was no time to find more recruits, ten places allotted to Canton 7 were not taken up. Interview with UNMIBH official, 21 February 2002.

²⁸⁹ While some UNMIBH officials have negotiated 'package deals', including housing, schooling, etc., for minority police officers who wish to return, this is not a matter of policy.

²⁹⁰ "OHCHR Municipal Assessment Program. Municipality Vlasenica: Factors Influencing Conditions for Safe and Dignified Return", August 2001.

Besides outright attacks and intimidation, police behaviour in many areas directly discourages minorities, including police officers, from returning. In Kupres, the police expanded the local stationhouse by demolishing three flats belonging to returnees. The police have now returned the premises, but only thanks to pressure by OSCE and OHR. The flats, however, are uninhabitable, as they had been converted to offices. Unsurprisingly, no Serbs have applied to join the Croat-controlled police force in Kupres.²⁹¹

The police also impede the recruitment of 'minority' police officers by finding bogus medical excuses. Thus, the former PSC chief in Trebinje, currently a refugee in Denmark, attended a refresher course in May 2001. While he excelled in his written test, he failed his medical exam because he had varicose veins in his legs. This was odd, as the individual worked in a factory in Copenhagen and was, in any case, unlikely to have been assigned to patrol duty had he returned.²⁹² Of the eight 'minority' candidates who had applied to join the Trebinje force by early 2002, only four were invited for testing and only one passed.

Because the police often served as instruments of repression and agents of 'ethnic cleansing' during the war, it is difficult to persuade members of new 'minority' groups to consider working alongside officers who may have been implicated, if only by association, in wartime abuses. The psychological disincentive for potential minority recruits is particularly strong in Srebrenica, where many Bosniaks have changed their minds about accepting jobs in the local police, despite offers of support in the reconstruction of houses and salaries equivalent to those in the Federation.²⁹³ Ibro Jahic, who was appointed an inspector in the Crime Department, only stayed in Srebrenica as long as it took to open the new stationhouse. However, with the recent

appointment of a Bosniak, Alija Hasic, as deputy station commander in Srebrenica, a significant step towards creating a multi-ethnic police force has been taken.²⁹⁴

When minority recruits do make it into the police, they often find themselves the victims of both gross and petty forms of discrimination. The Helsinki Committee for Human Rights reports that hand grenades have been thrown at the houses of Bosniak police officers in Zvornik and Vlasenica.²⁹⁵ Returnees to the RS are particularly reluctant to stick their necks out. A Bosniak officer recently refused to testify against a Serb colleague, although he had witnessed the latter assault several civilians.²⁹⁶

The practice of not issuing firearms to 'minority' officers appears to be widespread. In Vlasenica, where there are 83 Serb police officers and four Bosniaks, none of the latter has received side arms. The RS MUP argues that this is due to lack of funds, but has rejected a suggestion by IPTF to rotate firearms among officers on duty.²⁹⁷ Similarly, in Ljubuski, it took more than six months before Bosniak officers were issued with police badges.²⁹⁸

In addition to encountering hostility from the authorities in the areas to which they do return, would-be minority recruits are also subjected to pressure from their own side not to do so. Since disgruntled refugees and DPs represent a significant number of votes for the nationalist political parties, they are often loath to see them return to their homes in the other entity, especially if it means putting on the uniform of that entity's police. An UNMIBH paper points out that "there is evidence of intimidation from peers in Republika Srpska of those police officers who have shown interest in returning to the Federation".²⁹⁹ ICG has also learned of a

²⁹¹ Serbs constituted 50.7 per cent and Croats 36.9 per cent of the population of Kupres in 1991.

²⁹² ICG interview with UNMIBH official, 22 February 2002.

²⁹³ ICG was told that only eight out of 24 Bosniak police officers accepted offers of jobs in Srebrenica. The 'sweeteners' offered to Bosniaks can, of course, create difficulties with their colleagues-to-be. Serbs are also reluctant to return to the Federation. In December 2001, two officers living in Pale declined positions in the FMUP Operational Surveillance and Intelligence Unit at the last minute, leading to speculation that they had been subjected to some pressure. Internal UNMIBH memorandum, 6 December 2001.

²⁹⁴ The six 'minority' police officers now serving in Srebrenica are reportedly experiencing few difficulties. But the fact remains that only about 200 Bosniaks have returned to the municipality, out of a pre-war population of some 36,000, 75.2 per cent of which was Bosniak.

²⁹⁵ "Analysis of the State of Human Rights in BiH", Helsinki Committee for Human Rights, 2001.

²⁹⁶ ICG interview with UNMIBH official, 8 February 2002.

²⁹⁷ "OHCHR Municipal Assessment Program. Municipality Vlasenica: Factors Influencing Conditions for Safe and Dignified Return", August 2001.

²⁹⁸ ICG interview with IPTF officer, 15 February 2002.

²⁹⁹ UNMIBH Six Months Strategy Paper for the Mostar Region, undated. Commendably, UNMIBH has solicited the help of Sarajevo's Serb Civic Forum in quietly identifying

group of 25 police officers in the Tuzla region who were prepared to return to the RS, but were dissuaded from doing so by representatives of the SDA.³⁰⁰

Although successes thus far have been limited, EUPM will need to keep up the pressure on local police forces to increase ‘minority’ representation. This is particularly crucial in the RS, where returning Bosniaks still find themselves on the receiving end of nationally motivated violence. While improvements in the investigation and prosecution of return-related crimes are noticeable,³⁰¹ police in both entities still fail to conduct dependably prompt and thorough investigations. The murder of sixteen-year-old Meliha Duric in the village of Dzamdici (near Vlasenica) on 12 July 2001 remained unsolved until April 2002;³⁰² while the death of Ibrahim Ramolic, whose body was discovered in a dustbin in Prijedor on 7 November 2001, remains unexplained. Multinational police forces would at least serve to ensure that such policing failures are not attributed to intentional negligence.

Recruitment targets would be more readily achieved, especially in the RS, if some of the rules were changed. The 1998 Framework Agreement not only sets targets based on 1997 election results, but limits applications to individuals who previously resided on RS territory.³⁰³ This limitation obviously impedes UNMIBH’s aspiration to create police forces that better reflect “the ethnic composition of the communities they serve”.³⁰⁴ Despite the disincentives, police officers from the Federation have reportedly voiced an interest in moving to the

RS, but have been denied the chance because they did not live in what is now the RS before 1992.³⁰⁵

In those areas where minority recruitment benchmarks have been attained, police officers have been employed who do not live locally, but commute from communities where their nation is in the majority. For example, Bosniak police officers commute to Stolac, Capljina, Prozor, Neum, and west Mostar; while Croats commute to Konjic, Jablanica and east Mostar.³⁰⁶ Such arrangements are, of course, better than having no minority representation, but not as good as having officers living – and wanting to live – in the communities they police.

The halting progress in achieving recruitment targets has led some to argue that the exercise is unrealistic, particularly the use of 1991 baselines in the Federation. As one diplomat told ICG, “We cannot go on living in the past”.³⁰⁷ Certainly the war accelerated some processes – such as population movements from the village to the city – that were happening anyway and cannot be reversed. But fatalistic acceptance of the effects of ‘ethnic cleansing’ ignores the fact that most of its victims have not yet had proper opportunities to exercise their right of return, whether because property law implementation remains under 40 per cent in the RS or because the absence of economic recovery means that people have little hope of sustaining themselves if they were to go home

In any case, there is scope for improvement in minority recruitment policies. Deployment of mixed teams of recently graduated police cadets to problem areas throughout BiH for limited tours of duty might serve either to jump-start or to reinforce minority recruitment. Furthermore, integration policies should be extended to administrative personnel. A multinational administration is necessary to consolidate efforts to put ‘minority’ officers on the beat, particularly as it is administrative employees who usually provide the primary interface between citizens and the police, issuing documents such as driving licences, licence plates, ID cards, passports, weapons’ permits, etc.

Serbs who might prove ready to return to the Federation to take jobs in the police.

³⁰⁰ ICG interview with NGO official, 9 November 2001.

³⁰¹ “Bosnia-Herzegovina: Violence against minorities in Republika Srpska must stop”, Amnesty International, Press Release, 10 November 2001.

³⁰² Ballistics evidence sent to France for testing resulted in the recent arrest of one of the 66 persons interviewed after the crime. ICG interview with IPTF officer, 29 April 2002, and UNMIBH Incident Report, August 2001.

³⁰³ “Republika Srpska agrees that any person whose name appears on the 1991 census as resident in the territory of the Republika Srpska and who indicates his or her willingness to establish Republika Srpska citizenship, shall also be eligible to apply for any position as a police officer.” Framework Agreement on Police Restructuring, Reform and Democratisation in the Republika Srpska, December 1998.

³⁰⁴ UNMIBH Mandate Implementation Plan, October 2001.

³⁰⁵ ICG interview with UNMIBH official, 15 November 2001.

³⁰⁶ UNMIBH Six Months Strategy Paper for the Mostar Region, undated.

³⁰⁷ ICG interview with senior U.S. diplomat, 8 November 2002.

E. POLICE ACADEMIES

Bosnia's police academies have long been rumoured to serve – in the words of one former UNMIBH official – as “breeding grounds for the security services”.³⁰⁸ According to the same source, promising cadets in the police academies in Sarajevo and Banja Luka are talent-spotted and sent on further training courses. In the case of RS recruits, that means to Belgrade. Upon their return to the police, they are slotted into middle or senior-level posts.³⁰⁹ The supposition is that such officers are intended to subvert the reform and decriminalisation of the police by providing an alternative and secret command structure. If true, this rearguard action to preserve non-accountable and, indeed, foreign control over the entity's forces makes a mockery of UNMIBH's efforts to weed out delinquent or criminal police officers through de-certification.

The reality seems less alarming, albeit still offering cause for some concern. Cadets from the police academy in Banja Luka are certainly sent to the police academy in Belgrade. But the RS authorities are open about this. The director of the police academy in Belgrade has repeatedly visited the police academy in Banja Luka and even solicited the help of ICITAP in reforming his own institution.³¹⁰ The problem, therefore, is not necessarily the fact that RS cadets go to Serbia, but that the courses they attend and the links they forge remain matters of mystery.³¹¹ Serbia's own MUP continues to avoid subordination to democratic control; while its various “special forces” – as well as army intelligence – have repeatedly and successfully resisted reform.³¹² The Police Academy in Belgrade occupies part of the military secondary school in Dedinje and uses the shooting ranges of the military

academy. Police cadets also study military subjects, although (or because) they are exempted from conscription. Therefore, links between Belgrade and Banja Luka need at the very least to be formalised and made transparent if they are deemed to be necessary at all.³¹³

ICG has been told of an unofficial agreement between Republika Srpska and IPTF whereby at least 20 per cent of cadets enrolled in the RS police academy must be Serbs.³¹⁴ Moreover, the reopened RS Police College, which is intended to train high-ranking police officers, is reputed to ignore both the 1991 census and the 1998 Framework Agreement in selecting high-flyers. An analogous circumvention of minority recruitment procedures occurs in the Federation by virtue of a scheme permitting criminology students from Sarajevo University to enter the police through a conversion course to which no minority quotas apply.³¹⁵ Arrangements such as these undermine ‘minority’ representation by preserving top positions for ‘majority’ officers.³¹⁶

UNMIBH pressure has compelled the entity police academies to harmonise both their curricula and selection procedures. Norway is underwriting a scheme to coordinate police training in the Balkans through the Stability Pact and the Association of European Police Colleges.³¹⁷ This scheme could be used to formalise contacts and, perhaps, be expanded to embrace the general reform of the region's police academies. EUPM might explore this possibility. It

³⁰⁸ ICG interview with former UNMIBH official, 13 February 2002.

³⁰⁹ ICG interview with former IPTF officer, 6 November 2001.

³¹⁰ “The Dean of the Police Academy in Serbia is committed to the reform of police on a comparative and rational basis”. Richard Monk, “Report on Policing in the Federal Republic of Yugoslavia”, OSCE, July 2001.

³¹¹ Ibid.

³¹² Both the Yugoslav Army (VJ) and the Serbian MUP maintain numerous “special forces” such as the MUP's Unit for Special Operations (JSO), Special Anti-Terrorist Unit (SAJ), and Gendarmerie, and the VJ's 63rd Parachute regiment, 72nd regiment (Hawks), 82nd Naval Diversion Unit, 7th Military Police Battalion, and the ‘Cobras’.

³¹³ For an exposé of security sector reform (or lack thereof) in Serbia, see ICG Balkans Report N°126, *Belgrade's Lagging Reform: Cause for International Concern*, 7 March 2002; Dragan Stojkovic, “Policing the Police”, *Transitions Online*, 21 January 2002; and Dragan Stojkovic “Police Demonstration Ends”, *Transitions Online*, 19 November 2001.

³¹⁴ ICG interview with former UNMIBH official, 28 January 2001.

³¹⁵ ICG correspondence with former UNMIBH official, 30 January 2002.

³¹⁶ Perhaps just as worrying, some instructors at the Banja Luka police academy appear to be connected with hard-line elements in the SDS.

³¹⁷ The AEPC links EU states' police academies. Its Working Group on Regional Civilian Police Training in Southeast Europe is already planning to provide training to several police forces in the Balkans. See Richard Monk, “Report on Policing in the Federal Republic of Yugoslavia”, OSCE, July 2001, and Tor Tanke Holm and Kari Margrethe Olsand, “Regional Civilian Police Training in Southeast Europe”, Norwegian Institute of International Affairs, 12 December 2000.

will certainly be necessary for the mission to monitor against backsliding.

F. PAYING THE POLICE

Police salaries are both very low and, more often than not, paid in arrears. The delay in payment can be by as much as six months in some areas, and commonly ranges from two to three months in others. The problem is particularly acute in the RS, where the average police officer's salary is just KM 455 per month, with a regional police chief earning KM 820.³¹⁸ Moreover, the RS police have received no pay rise since March 1999.³¹⁹ The Federation police do a bit better, with an average monthly wage of KM 530 in 2001, a figure that does at least exceed the price of a basket of consumables needed to keep a family of four (KM 441). As in the RS, however, inflation and wage freezes have combined to erode police incomes in real terms.³²⁰ Given Bosnia's high unemployment rate – estimated at 47 per cent – it would be a rare police family that enjoyed the luxury of having more than one breadwinner.³²¹

Salaries vary not only between the entities, but also among cantons in the Federation and even between police officers of different national identities in single cantons. In Mostar, Croat police officers are paid, on average, KM 100 more per month than their Bosniak colleagues. Their respective salaries are drawn from different budgets.³²² Even if the

rates of pay are the same, the perks and allowances can be different. Bosniak cadets receive a hot meal in Canton 7, but Croat cadets do not.³²³ Far more seriously, cantonal police officers are currently not covered by social security and medical insurance, as some of the cantons are in arrears on their contributions to the Pensions and Invalids' Fund (*Penzijnsko-invalidsko osiguranje*). For example, in Canton 6, police officers have not been covered by the Fund since September 2001.³²⁴

Police pay is significantly higher in the internationally supervised Brcko District,³²⁵ and higher again in the State Border Service, where officers earn KM 400-500 more per month than do regular policemen in the Federation.³²⁶ The SBS is part-financed by Dutch and British government subsidies of approximately KM 11 million per annum. The World Bank, however, has recently voiced concern over international funding of the SBS, and it seems that this arrangement can only be temporary.³²⁷

As SRSK Klein has observed, "The ability of an individual police officer to identify his or her work as a means of building a future is severely hampered as long as their salaries remain less than a 'living wage', with frequent delays in payment."³²⁸ Like all employees, police officers have every right to expect not only a living wage, but also a salary that rises as they assume more responsibility, permits them to hold up their heads in their communities and to look forward to a pension paid out on time and in full.

³¹⁸ ICG correspondence with RS MUP, 22 January 2002.

³¹⁹ UNDP Early Warning System, *Quarterly Report*, July-September, 2001.

³²⁰ Police officers earn less on the force than they would in the private security sector, where ex-policemen work as security guards or bodyguards. Security firms like CIPOS pay their employees between KM 600 and 1,500 per month. ICG correspondence with CIPOS, 12 January 2002.

³²¹ Of course income generated from the 'grey economy' is not covered by official statistics. But if members of a police officer's family work 'on the side', there is clearly a conflict of interest. Real incomes, however, are larger than official statistics suggest. UNDP estimates that real incomes exceed official figures by some 35 per cent. See UNDP Early Warning System, *Annual Report*, 2000.

³²² The budgets of all institutions in Canton 7, including the Ministry of Interior, are divided along ethnic lines. The Croat payment system is called ZAP and the Bosniak payment system is called ZPP. UNMIBH and OHR have tried to unify the MUP budget, and have prepared proposals accordingly, but have thus far had slight success due to the fall-out from Hercegovacka Banka operation. ICG interview

with IPTF officer, 8 February 2002. Quarterly Report of Civil Affairs Mostar Region, July to September 2000.

³²³ UNMIBH Mostar Region Update of the Regional Implementation Plan, 1 December 2000 to 9 May 2001.

³²⁴ "Policajci rade na crno", *Nesavisne novine*, 19 February 2002. Tongue-in-cheek, the article points out that as payments to the Pensions and Invalids' Fund is a requirement for all employers in Bosnia according to the 1998 Federation Law on Fees, the cantons that are in arrears are acting 'illegally' and the police officers actually work 'illegally'.

³²⁵ Police officers in Brcko earned KM 805 per month in 2001, and their chief received KM 2,992. The chief will receive KM 3,458 per month in 2002. ICG interview with senior police officer in the Brcko District, 21 January 2002.

³²⁶ Beth Kampschror, "Paying for Porous Borders", *Transitions Online*, 23 November 2001.

³²⁷ Ibid. UNMIBH spokesman Stefo Lehman commented: "It is doubtful whether foreign donors will continue to finance the SBS the way they have been."

³²⁸ Address by Jacques Paul Klein to the RS National Assembly, 3 July 2001.

Low pay can encourage police officers to look for other ways to make ends meet: by taking bribes, turning a blind eye to smuggling or participating in crime themselves. ICG was told that the police frequently look the other way when cars are stolen and the thieves then offer to hand them back to their owners at a price, a percentage of which is given to the police.³²⁹ Poor salaries also encourage police officers and civilian employees to fiddle police budgets and accounts. ICG has heard that MUP staff frequently receive travel expenses, although they travelled nowhere on official business.³³⁰

Not only do such extra-curricular activities serve to criminalise the police, but they help perpetuate ethnic separation by reinforcing unofficial, nationally-based systems of patronage. The defections from the police when the HDZ proclaimed "Croat Self-Rule" in March 2001 were, at least in part, explained by the HDZ's promise to increase officers' pay by 20 per cent. Adequate and timely remuneration is thus necessary to reduce both political and criminal influences over the police. As matters stand, the widespread perception that the police can be bought undermines efforts to stimulate investment and economic growth by highlighting the unreliability of property rights and the ubiquity of corruption in BiH.³³¹

The inadequacy and irregularity of pay make it difficult to hire and retain the requisite number of high-calibre police officers.³³² For example, the Crime Department of the Federation MUP is currently less than half strength, with only about 100 of its complement of 220 officers on the job. In Brcko, there are 280 police officers, a shortfall of

eleven from what IPTF regards as necessary.³³³ Such problems are replicated throughout the cantonal interior ministries. When, after the 11 September attacks on the United States, the Federation MUP was authorised to hire 150 officers for its VIP protection unit,³³⁴ only 43 officers applied for the positions. According to Federation Director of Police Dragan Lukac, "it is not possible to attract skilled and experienced police officers. And the reason is the salary."³³⁵ Low salaries also affect morale and motivation: at a meeting of the Federation Police Union, one police officer apparently called for a 'go slow' or 'work-to-rule' in protest over poor pay.³³⁶

The inability to hire the requisite number of officers also undermines efforts to integrate the force. The under-representation of Croats in the Federation MUP makes cooperation with some cantons difficult. According to Lukac, "Unless the teams are multi-ethnic, they cannot be sent to Cantons 7, 8 and 10".³³⁷ Low salaries also make it difficult to encourage officers from one city to transfer to another. For even if salaries remain notionally the same, they vary considerably in real terms, both because the cost of living differs from town to town and because officers who accept transfer can no longer draw on the support networks offered by family and friends.³³⁸ Some cantons offer supplements to officers working for the Federation MUP, but this practice invites abuses.³³⁹

Finding a means to pay the police adequately and on time will probably be the single most important issue inherited by EUPM. To some extent, all other

³²⁹ ICG interview with senior police officer, 16 February 2002.

³³⁰ ICG correspondence with UNMIBH official, 11 December 2002.

³³¹ It is estimated that Bosnia loses KM 500 million in duties through cigarette smuggling every year. "Policy Recommendations for Sustainable Post-Conflict Reconstruction in South Eastern Europe", Address by Elizabeth Sellwood, ISIS Conference, 7 December 2001. Also see ICG Balkans Report N°64, *Why will No-one Invest in Bosnia and Herzegovina?*, 21 April 1999, and Robert Barry, "The Economics of Peace in Bosnia", *Financial Times*, 22 October 1999.

³³² "Zbog niskih plata policajci u BiH napustaju sluzbu", *Oslobodjenje*, 4 February 2002.

³³³ The Brcko Police themselves, however, have stated that a force of 280 would be sufficient. ICG interview with senior police officer, 21 January 2002.

³³⁴ The VIP Unit currently has 743 police officers to protect embassies and entity, state and international buildings.

³³⁵ ICG interview with Dragan Lukac, 21 January 2002. The problem is similar in Republika Srpska. There were recently fourteen vacancies in the RS Ministry of Interior and, after weeks of advertising, only one application had been lodged. ICG interview with UNMIBH official, 8 February 2002.

³³⁶ UNMIBH Mostar Region Update of the Regional Implementation Plan, 10 May 2000 to 5 July 2001.

³³⁷ ICG interview with Dragan Lukac, 21 January 2002.

³³⁸ Transfers are rare and variations in the cost of living are real. For example, the cost of the basket of essential consumables was KM 477 in Livno in August 2001, while in Zenica it was KM 398.

³³⁹ ICG interview with high-ranking police official, 21 January 2002.

policing problems depend upon the satisfactory resolution of this one. Moreover, any solution must be sustainable as foreign subventions fade away. Although UNMIBH has regularly flagged the issue, it has generally been seen in exclusively budgetary terms: that is, making sure the entities or international donors provide the requisite funding. In fact, it is also a national-political question. Not only has withholding police salaries been used as a means of punishing or manipulating the police, but the fact that Bosniak and Croat officers in the Federation are paid from separate budgets has served to ensure their ethnic – as opposed to professional – allegiance.

The World Bank, the EU and other donors will need to address with OHR, EUPM, the MUPs and police commissioners both short-term subsidies for and equalisation of police salaries, as well as their long-term assurance. One possibility that should be examined is earmarking of certain tax revenues. Some experts have suggested that the early introduction of value added tax (VAT) would provide the necessary funds for such essential state-building institutions as the international community reduces its contributions.³⁴⁰

G. SHRINKING AND RESHAPING THE POLICE

Bosnia & Herzegovina has both too many and too few police officers. Although overall numbers are not now far in excess of the limits set by the Bonn-Petersberg and Framework agreements – and by the subsequent review by the IPTF Commissioner which they mandated – they remain beyond the county's means and ill-suited to its needs. The IPTF Commissioner set upper limits of 10,603 officers in the Federation and 7,835 in the RS. At present there are some 11,500 officers in the Federation, 6,800 in Republika Srpska and 280 in Brcko.³⁴¹ An additional 2,700 officers are due to be employed by the SBS and approximately 500 by SIPA. Although most of these will be recruited from the ranks of ordinary policemen, that will not solve the mismatch between

professional skills and numbers, on the one hand, and resources and sustainability, on the other.

Bosnia's population is estimated at 3.72 million.³⁴² This means that there is (or soon will be) one police officer for every 171 citizens. In some parts of the country the ratio is more like 1:80.³⁴³ The European standard is usually taken to be one police officer for every 330 residents.³⁴⁴ In Kosovo, where the international community both took over policing and started to build an indigenous police service from scratch in 1999, there are approximately 9,000 police officers (UNMIK and Kosovo Police Service combined) for 1.8 million inhabitants: a ratio of about 1:200.³⁴⁵ However special its circumstances, BiH cannot afford either its current or authorised complement of police officers. This is especially true of those cantons where problems of revenue collection persist.³⁴⁶

Ironically, Bosnia's police forces are also woefully under-staffed in certain respects. When the Sarajevo police had to deal with disturbances threatened by the handover to the Americans of six Algerians suspected of terrorist connections in January 2002, they were compelled to summon help from Zenica, since they did not have the requisite riot control capability. Nonetheless, sources within the police

³⁴⁰ ICG correspondence with tax consultant Georg Ranchev, 12 October 2001.

³⁴¹ Of serving Federation officers, 9,236 had been registered and provisionally authorised by IPTF by late March 2002. In the RS, the figure was 6,429. ICG correspondence with UNMIBH official, 25 March 2002. As has been the case with the entities' armies until recently, governments have been reluctant to cut police numbers lest they boost unemployment and diminish their own patronage powers.

³⁴² UNDP, "Early Warning System 2001: Quarterly Report, October–December 2001". The estimate is for 1999. See also Drazen Simic, "How Many Inhabitants does Bosnia Have? The only Country without a Population Census", *AIM Sarajevo*, 28 April 2001.

³⁴³ ICG interview with IPTF officer, 22 November 2001. In reference to the number of police officers, an UNMIBH official noted, "Whatever way you look at it, the ratio here is still too high. But it is a dramatic improvement from the 40,000 at the end of the war!" ICG correspondence, 18 February 2002.

³⁴⁴ Susan L. Somers and Thomas Reeves, "A Functional Review of the Criminal Justice System in Bosnia and Herzegovina", unpublished joint study conducted by ICITAP and CJ-CIMIC, Sarajevo, 28 October 1996. In the English Midlands county of Warwickshire the police-to-citizen ratio is 1:543; while in metropolitan areas of Australia it is 1:641. "Annual Report for 2001 of the Western Australia Police Service" and "Warwickshire Police Fact Sheet". However, comparing the police-to-population ratio in BiH to what prevails elsewhere can be misleading because no exact population figure is available for Bosnia and, in any case, the country's needs are far from comparable with those of more settled and rationally structured states.

³⁴⁵ ICG interview with UNMIK official, 18 February 2002.

³⁴⁶ ICG interview with IFI official, 26 February 2002.

have told ICG that a countrywide cut of 20 per cent would be appropriate.³⁴⁷

It will thus be necessary for the follow-on mission to assess anew the number of police officers required and to make cuts accordingly. Both the Bonn-Petersberg and Framework agreements provide for reassessments of needs. For example, the former notes that police strength should be adjusted in line with European norms as the Federation moves towards a peaceable democracy.³⁴⁸

UNMIBH recently initiated a program to check whether serving police officers have the proper educational qualifications and have not falsified documents to obtain employment.³⁴⁹ Results are not yet available, but sources tell ICG that UNMIBH expects to find that up to 20 per cent of officers had lied on their application forms, thereby committing documentary fraud (a criminal offence). Numbers are expected to be particularly high in Mostar and the RS.³⁵⁰

Although – in theory – this program will provide a welcome opportunity to make cuts that are required in any case, the likelihood that dismissals will be necessary in the ‘wrong’ areas and prompt resistance has caused some UNMIBH officials to worry that IPTF “has bitten off more than it can chew”.³⁵¹ However, both the criminal nature of the deception, and the fact that police officers who forged or bought documents testifying to their attainments are liable to be blackmailed as a consequence, mean that UNMIBH has no alternative but to press ahead, and that EUPM will have to finish the job. UNMIBH will not complete processing the results of its checks before its mandate runs out, but it ought to complete verification of the 800 most senior officers. This, coupled with the Police Commissioners Project and

the ongoing authorisation process, should ensure that the country’s top cadre of police is composed of genuine professionals.

As with concurrent reductions in the entity armies, police downsizing will need to be accompanied by schemes to help those made redundant – if not those dismissed for having acquired their jobs by deception – to find employment in the private sector. On the other hand, it might be socially wise and politically expedient to include sacked officers in any retraining program, lest these disgruntled former policemen turn to crime or join anti-Dayton groups.

H. AUDITING THE POLICE

Many of Bosnia’s policing weaknesses reflect the forces’ dysfunctional organisation. A hotchpotch of administrative structures, rules and procedures have been superimposed on national and political fault lines. For example, the original post-war Federation Law on Internal Affairs (1996) co-exists with a Federation Book of Rules that contains provisions anticipating a new Federation Law on Internal Affairs that still awaits enactment. Thus the structures in place serve as often to blur as to clarify lines of authority, mission statements, requirements for the exchange of information, and areas of responsibility. Unclear lines of authority permeate an opaque structure, leaving police chiefs in neighbouring municipalities such as Konjic and Jablanica free to abjure any cooperation.

In Canton 7, deputy positions exist to facilitate the maintenance of separate and parallel Bosniak and Croat police structures. That is, if there is a Croat interior minister, the deputy minister will be a Bosniak,³⁵² and if there is a Bosniak police chief, a Croat will be deputy chief (although titles can vary).

³⁴⁷ ICG interview with high-ranking police official, 21 January 2002.

³⁴⁸ Basic Commitments, Paragraph 4, Bonn-Petersberg Agreement, 25 April 1996. The 1998 Framework Agreement on Police Restructuring, Reform and Democratisation in Republika Srpska states in Article 5 that the size of the police in the RS must “be adjusted as circumstances require”.

³⁴⁹ After the war, many decommissioned soldiers were enrolled in the police on the basis of personal or family connections, falsified papers or their status as “war heroes”. For example, in Mostar the Faculty of Agronomy was known to have supplied falsified diplomas to ex-soldiers. ICG interview with intelligence official, 21 February 2002.

³⁵⁰ ICG interview with UNMIBH official 25 January 2002.

³⁵¹ ICG interview with UNMIBH official, 27 February 2002.

³⁵² The position of deputy is usually filled by a ‘minority’ officer and exists at almost all levels of the police. UNMIBH has found that deputies are usually bypassed, do not attend important meetings and do not direct subordinates. The deputy’s role is particularly hollow in Croat-majority cantons and police administrations, where Bosniak deputies are rarely invited to attend meetings, do not sign official correspondence and do not assume the responsibility of acting minister or acting chief in the absence of their principals. In Bosniak-majority areas, on the other hand, Croat deputies do sometimes act and are accepted as such. But there are also instances of Croat deputies themselves seeming to prefer a purely decorative role. UNMIBH Six Monthly Strategy Paper for the Mostar Region, undated.

This system serves to perpetuate ethno-political control and manipulation. Police officers in Canton 7 report to their 'own' superiors, and not to their titular superiors, regardless of the chain of command.³⁵³

Ill-defined structures also make it easy to manipulate the system for personal gain. As directives are traditionally verbal rather than written, decisions can be readily covered-up. Ministers of interior have been able to appoint numerous advisers who work without a clear and transparent remit, as well as to make ad hoc personnel changes. The nomination of Munir Alibabic as the reforming director of AID in November 2001 was tainted by the consequent appointment of his predecessor, Kemal Ademovic, as an adviser to the Federation interior minister.³⁵⁴ The post of "territorial section leader" in the Federation MUP illustrates the pork barrelling and confusion created by the current system. As an UNMIBH report notes, "The position of the Territorial Sector Chief is superfluous because it overburdens the law enforcement dispensation by creating confusion in the chain of command, duplicating efforts and, more importantly, reinforcing the twin system of policing".³⁵⁵

Such appointments are conducive neither to operational nor to financial efficiency. Writing about the Canton 7 MUP, an internal UNMIBH report opines that "The structure as it exists in the Ministry is completely untenable. There are a large number of supervisors within the structure who are not empowered to assume authority".³⁵⁶ Yet there are no bodies that regularly assess performance accountability, staffing levels or job descriptions. In short, there is no internal system for auditing the effectiveness and efficiency of the police. Having examined fuel receipts, payrolls and insurance receipts in Cantons 7 and 8, UNMIBH found that at least 34 police cars were unaccounted for, that eighteen mobile phones were being used by individuals not in the employ of the police and that several police cars apparently used petrol one day and diesel the next.³⁵⁷ In Canton 8, 24 police

vehicles were found to have incurred an astronomical KM 539,964 in maintenance costs during 2000. Similarly, many former and dismissed police officers were found still to be on the payroll, including an officer sacked in September 2000 after having gone on a shooting spree in Croatia and being arrested in Split.³⁵⁸ Indeed, keeping ex-policemen and former MUP ministers on the payroll appears to be common throughout Bosnia. Few police administrations and PSCs seem to have spending guidelines. Rather, they are simply instructed to take care of all financial commitments in their areas of responsibility.

Only recently has UNMIBH begun to concentrate on the fiscal and organisational reform of the police. Heretofore, its focus was primarily on what the UNMIBH Human Rights Office has termed "personal integrity" and "personal capacity": that is, ensuring that police officers have appropriate personal histories and are equipped with the necessary skills. Little time was devoted to making systematic assessments of the capacity and sustainability of policing structures. But as an UNMIBH official told ICG, "it is necessary to certify institutions as well as individuals".³⁵⁹ Although UNMIBH has throughout its tenure sought to remedy deficiencies and to encourage institutional change with schemes such as the Police Commissioners Project, it has eschewed systemic assessments.

Making up for lost time, however, UNMIBH has now initiated audits of all the interior ministries and PSCs.³⁶⁰ While there is some disagreement within UNMIBH about the likelihood of completing the audits before the UN departs,³⁶¹ it is important that the work be concluded and that the follow-on mission should take up where UNMIBH leaves off should this prove necessary. The relevant question, however, is not so much whether the UN will finish the job. It is whether the current audits are sufficiently thorough and substantial. The

revealed the existence of a so-called "Solidarity Fund" in the Croat budget in the Ministry of Interior from which "loans" of KM 40-50,000 had been made to senior police officers. Curiously, the "loans" stipulated that repayments had to be "in kind". ICG interview with UNMIBH official, 22 February 2002.

³⁵⁸ Ibid.

³⁵⁹ ICG interview with UNMIBH official, 22 February 2002.

³⁶⁰ "Policija pod lupon", *Nezavisne novine*, 25 January 2002.

³⁶¹ Some UNMIBH officials have said that they are convinced the work will be finished, while others are equally certain that it will not. ICG interviews with UNMIBH officials, 7 January 2002.

³⁵³ ICG interview with IPTF officer, 4 October 2001.

³⁵⁴ ICG interview with UNMIBH official, 17 January 2002.

³⁵⁵ Internal UN report, October 2001.

³⁵⁶ Ibid.

³⁵⁷ One police car was found to be "owned" by the head of the War Widows' Association, while the Croat intelligence service, the SNS, was revealed as "owning" other vehicles. The majority of the cars unaccounted for proved to be luxury marques such as BMWs and Mercedes. Assessments also

comprehensive audits in Cantons 7 and 8 took several months and examined structural and financial issues in great detail. But the audits currently proceeding will only take a few weeks to complete in each case, and it is uncertain whether they will actually illuminate malpractices hidden in the details or make sufficiently comprehensive and detailed recommendations to be of much use to the individual police administrations.

EUPM should, therefore, both assess the efficacy of UNMIBH's 'systems analysis' of police administrations and commands, and consider (a) the establishment by them of central repositories of good practices in order to facilitate information sharing and research; (b) the elaboration of 'mission statements' by the entity and cantonal interior ministries; and (c) comprehensive staffing reviews by each MUP in order to determine both what is and is not required of post holders.

VI. INTERNATIONAL OVERSIGHT

A. CO-LOCATION

The inability of Bosnia's police establishments either to delegate responsibility or to encourage individual officers to take the initiative on the job continues to afflict the system. Few police officers exhibit much self-critical awareness, and fewer still take any interest in their collective progress towards achieving locally or internationally established goals. The assessment of their performance is left to their superiors, the PSUs, Disciplinary Committees and to IPTF. Officers manifest little inclination to ask themselves why they do things in a particular way, whether they need to do them at all, or if they could be more effective and efficient. The prevailing professional lethargy is epitomised by an IPTF officer's description of a crime scene: "We stood around staring at a corpse for an hour until the Investigative Magistrate arrived. Before he arrived, nobody wanted to do anything. We just stood there".³⁶²

This lack of resourcefulness seems to typify all branches of the police. An IMMPACT officer told ICG that SBS officers are just as inhibited: "Decisions are always pushed upwards. And on week-ends, when senior-level and middle-level officers are not there, the necessary decisions are simply not taken".³⁶³

As the product of cultural and political traditions that stress obedience over enterprise, such habits are only beginning to change. There is unlikely to be any cultural revolution before the international community quits Bosnia. This is unfortunate, especially because the new Federation Criminal Code will abolish the office of the investigating judge or magistrate and invest prosecutors with responsibility for directing and supervising criminal investigations. This, in effect, will require more initiative on the part of the police, since they will no longer be shepherded through investigations or be able to deflect the blame for botched or inadequate enquiries. As matters stand, the police frequently attribute responsibility for failed investigations to

³⁶² ICG interview with IPTF officers, 25 December 2001.

³⁶³ ICG interview with IMMPACT officer, 11 February 2002.

lack of guidance by investigating magistrates.³⁶⁴
This cop-out will no longer be available.

Almost from its inception, UNMIBH's solution to police inertia – as to other deficiencies – has been *co-location*. Co-location has ranged from placing UNMIBH officials in the interior ministries to having IPTF officers accompany local police on patrols. Assessing the overall effectiveness of the “Co-Locator Program” is difficult, however, because experiences have varied widely over time and place. To work, co-location demands a great deal of both sides. IPTF officers must have experience, enthusiasm, leadership and teaching skills, as well as a well-developed sense of cultural differences. ICG was told of IPTF officers, however, particularly from the Netherlands, who co-locate with the SBS but use their own countries' rule books rather than that of the SBS.³⁶⁵ On the other hand, one UNMIBH official told ICG that “some IPTF officers have suffered from a mild case of the Stockholm syndrome”, whereby a hostage (or co-locator) begins to identify with and support the aims of his or her captor (or host).³⁶⁶ Bosnian police officers, for their part, need to be open to new approaches, keen to develop their professional abilities and interested in more than pulling the wool over the eyes of their foreign co-locators.

Furthermore, the Co-Locator Program has not been as widespread as it should have been. For example, the 600-strong VIP Unit at the FMUP had no co-locators until recently. Nor did the Budget and Legal Departments. The results of this absence of supervision are sometimes clear. According to one UNMIBH official, “the Legal Department's technical proficiency is manipulated to justify inappropriate verbal or written ministerial decisions”, and “the exercise of power is also abused by the Finance and Budget Department on ministerial and affiliates' instructions”.³⁶⁷ However, the presence of IPTF co-locators is no guarantee against bungled investigations. In what was meant to be the first investigation in Bosnia involving DNA-testing, UNMIBH arranged for the evidence to be

sent to Denmark for evaluation. But the police sent it instead to Croatia.³⁶⁸

Most external assessments of co-location have been positive. UNDP's autumn 2001 analysis of the OHR and Monk reports on a follow-on mission noted that “the current IPTF ‘Co-Locator Program’... has enjoyed considerable success”.³⁶⁹ ICG's interlocutors have also been generally upbeat, albeit warning of the need for continuing vigilance – and a form of co-location – for many years.

The suggested agenda for the follow-on mission assumes the continuation of co-location, but with the focus shifted to “ministerial and senior command level assistance”.³⁷⁰ More specifically, “the aim should be to offer strategic and tactical oversight and guidance to middle and senior ranking commanders only”.³⁷¹ The EU's own fact-finding mission and UNDP have accepted this conclusion, although the latter organisation's analysis observes erroneously that “such assistance would expand upon the current IPTF ‘Co-Locator Program’”.³⁷² In fact, high-level mentoring is to replace, not expand upon, the present scheme.

The decision to shift from low-level co-location to middle and senior-level supervision is both understandable and justifiable, even if motivated in part by budgetary exigencies. As an IPTF officer remarked, “We don't need people, co-locators, sitting around drinking coffee and teaching the police to greet citizens on the street.”³⁷³ In any case, inept and inadequate policing on the ground can often be traced to middle and senior management, if not to ministers. This is especially true in cases involving powerful personages or those that have national-political connotations, such as the assassination of Federation Deputy Minister of Interior Jozo Leutar. “It's the people in pivotal positions who can make a

³⁶⁴ ICG interview with UNMIBH official, 16 December 2001.

³⁶⁵ ICG interview with UNHCR official, 14 January 2002.

³⁶⁶ ICG interview with UNMIBH official, 21 February 2002. The UNMIBH official indicated that co-locators were protecting the police officers they were meant to mentor.

³⁶⁷ Correspondence with UNMIBH official, 12 November 2001.

³⁶⁸ ICG interview with IPTF officer, 12 November 2001.

³⁶⁹ Robert M. Perito, “A Critique of the OHR Report on a Police Follow-on Mission to UNMIBH and the UN International Police Task Force”, undated report for UNDP.

³⁷⁰ Richard Monk, “OSCE First Preliminary Report on a Follow-on Mission to UNMIBH and the UN International Police Task Force”, October 2001.

³⁷¹ Richard Monk, Tor Tanke Holm and Serge Rumin, “Report on a Police Follow-on Mission to UNMIBH and the UN International Police Task Force”, OHR, November 2001.

³⁷² Perito, “A Critique of the OHR Report on a Police Follow-on Mission to UNMIBH and the UN International Police Task Force”, undated UNDP report.

³⁷³ ICG interview with IPTF officer, 15 December 2001.

difference”, one UNMIBH official observed, “not the current and improved system, which is still subverted by a critical mass whose intentions are to retain control”.³⁷⁴

Only a few UNMIBH officials and IPTF officers have thus far been assigned to the Federation and RS interior ministries, and even fewer to the cantonal MUPs. Their relative absence has made it easier for policy-makers to pursue ethno-political and personal objectives. Yet since part of the rationale behind the proposed shift to middle and senior-level co-location is to save money, there cannot but be some doubt whether the new positioning of international experts will suffice. Monk envisages the creation of mobile teams that would be able, at short notice, to co-locate temporarily with lower-level police units should the need arise. This may not prove an adequate remedy. Given the tendency of the police to revert to their bad old ways whenever the opportunity arises, the permanent removal of most international field officers will surely encourage such recidivism. EUPM will have to be prepared to re-jig its strategy and structure in the course of its mission if the standards set for local police command performance are not achieved through co-location at higher levels.

As noted above, co-location is a two-way process that demands much of both parties if it is to achieve anything. It will be necessary to ensure that police officers and experts selected for the follow-on mission have the expertise, background and temperament required for co-location, even if that means ‘cherry-picking’ among candidates offered by participating states. The UN has not had this option, but a smaller-scale and higher-level EU mission must be able to exercise greater selectivity.³⁷⁵

The coherence of the rule of law task force would also be enhanced – and further failures by UNMIBH to take full advantage of its own and other human rights monitors avoided – if such monitors were themselves to be co-located with EUPM. Human rights officers should be participants in police reform and oversight, not referees prone to call foul from the sidelines.

³⁷⁴ ICG correspondence with UNMIBH official, 7 November 2001.

³⁷⁵ This might prove difficult because Article 8 of the EU Council Joint Action of 11 March 2002 invites non-EU NATO members, EU candidate states, and non-EU OSCE states that are currently providing staff to IPTF also to contribute to EUPM.

B. DE-AUTHORISATION AND SCREENING

Under Dayton and subsequent agreements, UNMIBH has established its authority to revoke the rights of individual police officers to “exercise police powers”. This is done both on an *ad hoc* basis, when an officer commits a “serious violation of duty or law”,³⁷⁶ and through a countrywide process of screening Bosnia’s police forces. The screening effort has been led by UNMIBH’s Human Rights Office, which relies upon ICTY representatives in BiH to ‘clear’ police officers of any suspicion of involvement in war crimes. In addition, UNMIBH officials have travelled occasionally to The Hague to liaise with investigators. EUPM should regularise this cooperation with the ICTY by stationing lawyers permanently in The Hague.

In the case of officers who commit an offence, the IPTF Commissioner issues a “non-compliance report” in regard to particular acts of misconduct and initiates “de-authorisation” proceedings if the officer receives two or more such reports.³⁷⁷ This *ad hoc* power has become the most important weapon in

³⁷⁶ UNMIBH Performance Assessment Policy, IPTF-P05/2001, effective 15 February 2001. This policy document enumerates possible types of violation resulting in a non-compliance report, including: human rights violations (e.g. arbitrary arrest and detention, ill-treatment during questioning or detention, failure adequately to investigate human rights violations); serious violations of the Criminal Code, the Criminal Procedure Code or disciplinary rules; refusal to allow IPTF immediate and full access to any site, person, activity or record; serious violations of IPTF policies, in particular the Policy on Registration, Provisional Authorisation and Certification (e.g. allowing non-authorised persons to exercise police powers); serious threats to a member of an international organisation; failure to meet the responsibilities and obligations of the DPA; and ordering a subordinate to commit any such acts, or failing to intervene when such acts are committed.

³⁷⁷ Unfortunately, UNMIBH’s Non-Compliance Unit continues to receive relatively few non-performance and non-compliance reports from IPTF co-locators. According to UNMIBH’s Human Rights Office, “as the IPTF Policy 05/2001 mechanisms for evaluating local police officers are not being properly used, the LPRS [Local Police Registry Section] has to redouble its efforts”. UNMIBH Human Rights Office, Weekly Report 30/6 – 6/7/2001. The inadequate use of non-performance and non-compliance reports makes the process of eventual de-authorisation more difficult. After the Trebinje riot, sixteen police officers were mistakenly subjected to non-performance reports instead of non-compliance reports. Once the non-performance reports had been issued, non-compliance reports could not be made. ICG interview with UNMIBH official, 22 February 2002.

UNMIBH's arsenal for enforcing reform and compelling police officers to uphold the law against powerful individuals, to protect the rights of people from 'minority' nations and to facilitate the goals of the peace process. For example, when the head of the criminal investigations department in Trebinje flatly refused to open an investigation into the anti-Muslim riot in the town in May 2001, UNMIBH de-authorised him, forcing his successor to carry out this responsibility.³⁷⁸ The threat of de-authorisation has also been used to make the police uphold the right of 'minority' individuals to re-possess the properties from which they were harried during the war by assisting in the eviction of illegal occupants. According to an IPTF officer in Mostar, "without the power to de-authorise, we would never be able get the police to do what we want them to do".³⁷⁹

Nevertheless, de-authorisations have not proved totally effective, in part because of the limitation built into the UNMIBH mandate that gives it authority only over individuals "exercising police powers", and not over those occupying administrative and other positions within the police or MUPs. Exploiting this loophole, many de-authorised officers have simply been slotted into administrative jobs.³⁸⁰ Particularly in the case of formerly high-ranking police officers, UNMIBH officials have expressed concern that officers who have been de-certified continue to wield informal power from positions in the administration.

In Canton 8, the interior ministry issues ID cards to police officers in addition to those provided by UNMIBH. When police officers are de-authorised, they have to return their UN-issued ID cards, but can keep the MUP-issued cards – and so carry on working.³⁸¹ The former chief of police

administration, deputy chief of police and chief of the crime department in Grude have all flouted the system in this manner. As for the former chief of police administration in Siroki Brijeg, who was de-authorised on 15 February 2000, he had returned neither his UN nor MUP ID card by April 2002.³⁸²

Another problem with de-authorisation has been lack of follow-through by the judicial system. De-authorisations based on negligent or criminal behaviour need to be reinforced by criminal charges. Yet these do not necessarily follow. For example, 'majority' police officers de-certified for assaulting 'minority' police officers in front of IPTF officers in 1998 were only removed in 2002, and have still not been prosecuted.³⁸³

In any case, de-authorisations of officers low on the chain of command represent a failure by middle and senior managers to prevent or react to misconduct or law breaking by officers in their charge. UNMIBH has equipped management with the Professional Standard Units (PSUs), Disciplinary Procedures and the discretionary authority to deal with misbehaviour by police officers. Resort to de-authorisation is thus proof that middle and senior ranks are not using the tools at their disposal. Their inaction can be attributed either to incompetence or to complicity. Although UNMIBH has occasionally de-authorised higher-ranking officers, it has generally been content to go after the lowly perpetrators of any particular offence.³⁸⁴ As one IPTF officer explained, "with regard to Hercegovacka Banka, it is clear that low-level police officers are being made to take the rap for the negligence or collusion of high-level police officers".³⁸⁵

Finally, removing 'bad apples' when they step out of line is no substitute for a comprehensive screening

³⁷⁸ According to UNMIBH officials, this officer had already received a number of non-compliance reports.

³⁷⁹ ICG interview with IPTF officers, 22 November 2001.

³⁸⁰ Internal reassignments of de-certified officers have been made all the easier because positions and job descriptions have not been clearly established. Organisational charts with codified mission statements and line management responsibilities do not exist. This naturally allows for the manipulation of the system by recycling de-authorised personnel into administrative posts and creating confusion over who is in charge of what. This loophole needs to be closed. As noted above, UNMIBH has made a start, but EUPM will need to finish the job.

³⁸¹ ICG interview with IPTF officer, 27 March 2002, and UNMIBH internal memorandum, 21 March 2002. The

Canton 8 police have also issued ID cards to persons who are neither registered nor provisionally authorised by IPTF.

³⁸² Ibid.

³⁸³ ICG interview with UNMIBH official, 22 February 2002.

³⁸⁴ ICG interview with IPTF officer, 27 November 2001.

³⁸⁵ ICG interview with IPTF officer, 27 November 2001.

IPTF has interviewed four police officers in Canton 7 who might be willing to implicate their seniors. OHR organised two series of raids on the Mostar headquarters and many branches of Hercegovacka Banka in April 2001, the aims of which were to take control of the bank from the HDZ and to uncover evidence of that party's extra-legal networks of political and financial control. The first raid misfired when police, politicians and populace rallied to the defence of "their" bank and forced some of the international auditor teams and their inadequate SFOR protectors to beat a retreat.

of police personnel, especially in the wake of a bloody war in which the police were heavily engaged. UNMIBH is currently subjecting Bosnia's police forces to a three-phase process of registration, provisional authorisation and final certification. Both new recruits and serving officers are registered and given a preliminary screening, based primarily on information provided by the officers themselves. In addition, officers are required to satisfy sets of both positive criteria, including passing a police standards test, and negative criteria that would automatically disqualify them from exercising police powers. The latter include a public indictment for war crimes by the ICTY or a domestic court, a criminal record, lying during the registration process, or previous de-authorisation by the IPTF Commissioner.³⁸⁶ After clearing these relatively undemanding hurdles, an officer is merely "provisionally" authorised and, at least in theory, a "comprehensive assessment process", including background checks, will follow.³⁸⁷

The first steps of registering and provisionally authorising police personnel have already proved an invaluable mechanism of quality control. As of October 2001, UNMIBH could report that "[a]ll 25,828 personnel working in law enforcement agencies have been included in the UNMIBH Law Enforcement Personnel Registry".³⁸⁸ The UN's selection of candidates for the SBS demonstrated both the usefulness of the police registry and the importance for the follow-on mission of taking it over and keeping it up to date. An IPTF officer working on SBS appointments told ICG that she often had to reject candidates whom UNMIBH had previously deemed unsuitable for police functions, including former paramilitaries. "I also frequently came across candidates whose application forms had been slipped into the pile by relatives in the police. I was able to discard those immediately with

the help of UNMIBH's registry".³⁸⁹ Nevertheless, the police registry remains incomplete, lacking, for example, information on persons working in police administration.

According to UNMIBH, no police officers will receive "final certification" until a lengthy process of background checks has been completed. Given the facts that UNMIBH only started to register and screen some 25,000 officers in early 2000, and that the definition of "background checks" is still evolving, UNMIBH cannot be expected to complete the job before its mandate expires. And it would be most unwise simply to declare the "final certification" of Bosnia's police personnel.

UNMIBH pledges in its mandate implementation plan to conduct "basic background checks" of all police officers and in-depth vetting of high-ranking officers, including checks on corruption, complicity in war crimes and past criminal records, before quitting Bosnia. These checks are still "in progress", and an UNMIBH official has estimated that between 1,500 and 2,000 serving officers will probably have to be de-authorised for falling foul of UNMIBH criteria.³⁹⁰ For some time in early 2002, however, all de-authorisations were put on hold because of arguments within the mission over the absence of a proper appeals procedure for officers slated for dismissal.³⁹¹ (This issue is discussed below.)

Among those likely to face de-authorisation are a not inconsiderable number of officers whose wartime pasts render them unfit to serve as policemen. UNMIBH only recently began to remove officers of dubious pedigree, despite revelations by ICG and others in 2000 that the RS force employed men who had worked as concentration camp interrogators, fought in paramilitary units or occupied other inappropriate positions during the war.³⁹² According to an

³⁸⁶ United Nations Mission in Bosnia and Herzegovina Policy, Registration, Provisional Authorisation and Certification, IPTF-P02/2000, Effective 15 May 2000.

³⁸⁷ Ibid.

³⁸⁸ UNMIBH "Mandate Implementation Plan 2000-2002", Report – October 2001. Judicial reform in BiH has heretofore been undermined by the absence of any equivalent vetting process, as well as by a system of peer review that placed the burden of proof on the reviewers rather than on the judges and prosecutors being considered for reappointment. UNMIBH required police officers to demonstrate their fitness. See ICG Balkans Report N°127, *Courting Disaster: The Misrule of Law in Bosnia & Herzegovina*, 25 March 2002.

³⁸⁹ ICG interview with UNMIBH official, 22 November 2001. Another UNMIBH official told ICG that the selection of candidates for the SBS was particularly fraught: "candidates with connections are ushered forward; the applications of other candidates are mysteriously lost. This was especially the case in Republika Srpska".

³⁹⁰ ICG interview with UNMIBH official, 22 November 2001. See also "Zlocinci u specijalnim postrojbama policije RS", *Oslobodjenje*, 19 January 2002.

³⁹¹ ICG interview with UNMIBH official, 12 February 2002.

³⁹² See ICG Balkans Report N°103, *War Criminals in Bosnia's Republika Srpska*, 2 November 2000. Predictably,

internal draft of the Secretary-General's November 2001 report on UNMIBH to the Security Council, there are still "approximately 190 law enforcement officials who are suspected of having committed crimes against humanity during the war".³⁹³

But even if UNMIBH fulfils the targets set in its mandate implementation plan by the end of the year, that will not mean that it has also completed a definitive screening of Bosnia's police. Rather – and as a senior UNMIBH official put it to ICG – it will represent a "technical completion". This is because, in the rush to finish the job, some criteria have been dropped, including proper scrutiny of officers' educational qualifications. Moreover, UNMIBH has lacked the authority to screen administrative personnel, advisers to the MUPs and other categories of police staff that do not officially exercise "police functions". Equally, de-certified police officers, as opposed to public officials sacked by the High Representative, are not barred from future employment in the public service, including state-owned companies.³⁹⁴ Indeed, police officers who are about to be de-authorised, but resign before the procedure is instigated, will be able, in the words of a UN report, "to come back to the police force when

local authorities have not welcomed investigations of wartime activities. When IPTF de-certified several Prijedor police officers in 2001, the RS interior minister wrote to Commissioner Vincent Coeurderoy to complain that, although the officers had indeed worked at the Omarska camp, they had merely "interviewed" inmates in a professional manner. According to an UNMIBH official interviewed by ICG on 26 January 2002, "this Commissioner has stood by the procedure and has not relented in the face of pressure".

³⁹³ This passage did not make it into the final version of the Secretary-General's report. Insufficient attention has been paid to the issue of "duty violations" by serving police officers during the war. Officers who neither participated in war crimes nor held command responsibility may nonetheless have neglected to carry out their duty to report on and react to such war crimes as they may have observed. Duty violations can also carry criminal liability and should justify de-authorisation. UNMIBH does not, however, have the capacity to investigate such matters.

³⁹⁴ When the PSC Deputy Chief in Bileca was de-authorised after shooting a man in a nightclub while drunk he quickly found employment with RS Elektroprivreda. His case is in no way unique. An UNMIBH report notes: "Elektroprivredas in the RS and [the] Herceg-Bosna parallel utility seem to be the preferred choice of employment for dismissed police officers." The report goes on to call the companies "a safe haven for criminals and others who are unemployable elsewhere." The Mostar Region Update of the Regional Implementation Plan, 10 May 2001 to 5 July 2001.

the IPTF leaves BiH" or even to hold elective or appointed office.³⁹⁵

The High Representative's recent "Decisions on Eligibility of Candidates to Run for Elected Office" that amended the state election law do not seem to apply to individuals de-authorised by IPTF and who currently hold an elective office not subject to re-election in October.³⁹⁶ In other words, the decision does not appear to apply retroactively.³⁹⁷ Nor does OHR have a systematic approach to checking whether ex-police officers now serving as elected or appointed officials had been de-authorised.

Thus, despite UNMIBH's achievement in registering all and provisionally authorising most police officers, it seems clear that EUPM will need to continue making background checks and pushing forward with other aspects of the "comprehensive assessment process", including the assignment of lawyers to work with the ICTY.

In the meantime, the authorisation and de-authorisation processes provoked a debate between lawyers and police officers in UNMIBH. Some of the former argued that an appeals process should be available to officers who had de-authorised, citing both the need to anchor notions of due process in Bosnian practice and Annex 11 of the DPA, which states that IPTF must act in accord with respect "for internationally recognised human rights and fundamental freedoms and shall respect, consistent with the IPTF's responsibilities, the laws and customs of the host country". De-authorised police officers were able to challenge their dismissals before the Human Rights Chamber, but some UNMIBH officials contended that an internal appeals process was also required. On the other hand, an *ad hoc* process did exist, since de-authorised officers could seek redress from the IPTF Commissioner.³⁹⁸

³⁹⁵ Internal UN report, 5 April 2002. It is not uncommon for police officers to resign before being suspended or de-authorised. For example, in March 2002 the police chief in Kresovo resigned to avoid suspension by the Canton 6 Minister of Interior.

³⁹⁶ High Representative's "Decision amending the BiH Election Law", 28 March 2002.

³⁹⁷ Equally, the IPTF Commissioner does not only remove police officers for having obstructed Dayton, but for a range of "offences". But the High Representative's decision only applies to those who, in the words of the decision, "have obstructed the implementation of the General Framework Agreement for Peace".

³⁹⁸ ICG interview with UNMIBH official, 12 April 2002.

Although de-authorisations were suspended while the question of an appeals procedure was referred to the UN Department of Peacekeeping Operations in New York, the IPTF Commissioner resumed issuing them after New York ruled that an appeals mechanism was required. It was duly established. On 25 April 2002 the UN announced that Commissioner Vincent Coeurderoy had de-authorized four policemen because of their suspected involvement in war crimes.³⁹⁹ Meanwhile, the EU's Technical Fact-Finding Report had recommended that the commissioner of an EU follow-on mission should be vested with the power not only to de-authorise police officers, but also to dismiss all police and MUP employees. No policy for an appeals procedure seems as yet to have been decided by the EU.

The status quo gives rise to an important point and a number of questions. If UNMIBH or its bosses in New York again develop reservations about proceeding speedily with de-authorisations, EUPM may inherit a much larger number of 'bad apples' than had been previously assumed. Given the apparent conflict between due process and the EU's professed determination that its police mission should exercise enhanced powers of dismissal, how should the situation be resolved? An appeals procedure will presumably need to be elaborated, but it should also be connected – however loosely – with the PSUs and the existing Disciplinary Procedures in order to ensure that these mechanisms can be transferred to the local authorities when the time is right.

EUPM should bear in mind, however, that the rules that apply in an established democracy do not necessarily obtain where the conditions for democracy are being created. This understanding is implicit in the authority granted to the High Representative by the Bonn-Petersberg powers. While Dayton implementation continues and international organisations retain their right to intervene and impose, neither the Bosnian state nor its citizens do yet enjoy the complete range of legal protections that would or should be available in a fully-fledged democracy. It is DPA implementation itself that will ultimately make this possible – and one vital aspect of that implementation is purging the police of bullies, crooks, incompetents, and war criminals.

³⁹⁹ "IPTF otpustio policajce koji su u ratu mucili civile", *Oslobodjenje*, 26 April 2002.

So while it will also be necessary for EUPM to have an appeals procedure, the High Representative should decree that all police de-authorisations, once ratified by that appeals process, should have the same legal force as his dismissals under the Bonn-Petersberg powers. Any legal challenges could then be dealt with at the same time as those expected to result from Bosnia's accession to the Council of Europe.⁴⁰⁰ On the other hand, UNMIBH should move to establish – and EUPM to support and maintain – an external and independent police complaints authority. Such a body would reinforce internal control procedures, assist in promoting police accountability, and provide a bridge towards the day when Bosnians themselves will oversee the integrity of their policing structures.

The policy actors and EUPM should also explore other ways to engage and identify police and public. Examples could include telephone hotlines to elicit information from the public about both crimes and police malpractices; or the sponsorship of a popular television program like BBC TV's "Crimewatch" series in which viewers see reconstructions of unsolved crimes and are invited to phone in information.

⁴⁰⁰ The de facto HDZ leader, Ante Jelavic, has repeatedly declared his intention to appeal to the European Court of Human Rights in Strasbourg against his sacking and ban from public life by the High Representative in 2001. "Strasbourg cemo zatrpali tuzbama", *Slobodna Dalmacija*, 30 January 2002.

VII. SFOR, IPTF AND THE SECURITY GAP

Mounting international dissatisfaction with the continuing weaknesses of the local police and increasing pressure to reduce NATO troop deployments in BiH led to a brief flowering of American-inspired suggestions that EUPM should be armed. The idea was to detach the Multinational Specialised Units (MSUs) from SFOR and attach them instead to EUPM under a new name: International Strike Force (ISF).⁴⁰¹ Similar proposals had been made and rejected when IPTF was invented at Dayton. Although an armed international police force would indeed have been appropriate to the circumstances of 1995-96, it is hard to see how it could work in 2002, even if it were now possible for the powers concerned to agree on a radical escalation so much at odds with their prevailing doctrines of “ownership”, “partnership” and disengagement.

Thus, while both Richard Holbrooke and other experts have latterly acknowledged that it was “a tragic mistake” to have endowed IPTF with a mandate merely to reform the existing police forces rather than to create a new one (as was to be done in Kosovo in 1999), such was the decision.⁴⁰² It is now too late to start afresh. Not only would all the time, effort and money put into police reform appear to have been wasted – and the emergent capabilities of the resulting forces jeopardised – but EUPM would also be saddled with an incoherent and virtually impossible mission. An armed EUPM would need to have an executive mandate that would be at odds with its continuing role as the reformer of Bosnia’s police. Grafting on gendarmes from the MSUs would complicate matters further, but offer no guarantee that it would provide compensatory muscle.⁴⁰³ In any case, no would-be participants in a

follow-on mission were any more prepared in 2001-02 than they had been in 1995 to entertain the idea of arming their police officers or providing them with law enforcement powers. The EU General Affairs Council thus dismissed any idea of creating an international strike force.⁴⁰⁴

EUPM will thus need to persevere with the international strategy which has prevailed to date: working to make the entity police forces fit to serve the citizens of a multinational democracy and establishing such state-level forces as can be contrived and afforded in order to square Bosnia’s Dayton circle. The SBS is already one such force. SIPA should be another. With SFOR help, UNMIBH has also been providing joint advanced training in riot control to selected entity police officers. The creation of another special state-level force to combat organised crime is now being canvassed as part of the international community’s – and the new High Representative’s – reinforced commitment to rule of law issues.

But perseverance by EUPM implies the perpetuation of SFOR in numbers sufficient to prevent the security gap from opening wide. SFOR’s presence and direct assistance have proved invaluable in UNMIBH’s work to reform the police: whether in disarming dismissed police officers who refuse to hand over their weapons, or conducting weapons checks in police stations or supplying intelligence. UNHCR’s job would also have become impossible in the absence of SFOR. To quote Jaque Grinberg of UNMIBH, “it is the view of the seven IPTF Regional Commanders that minority returns would be reversed within weeks in all areas except Brcko District if SFOR ceases to provide a regular presence in remote locations and back-up support for IPTF”.⁴⁰⁵ In this light, it remains important that there should also be a visible and credible U.S. contribution to SFOR.⁴⁰⁶

SFOR’s political role has also been significant. As UNMIBH official Robert Gravelle has noted,

⁴⁰¹ ICG Interview with UNMIBH official, 12 February 2002.

⁴⁰² Andrew F. Tully, “Kosova and Bosnia: A Tale of Two Police Forces”, *RFE/RL Balkan Report*, Vol 5, N°64, 11 September 2001.

⁴⁰³ The suggestion that MSUs might be attached to the follow-on mission is akin to taking a bad idea and making it worse. Analysts have always lamented the disjunction between the ‘inner shell’ of security provided by the police and the ‘outer shell’ provided by SFOR. This is the so-called enforcement gap. Yet contrary to prevailing hopes in NATO circles in late 2000 and early 2001, MSUs have not been able to plug this gap, owing to their restrictive rules of engagement and the reluctance of their contributing countries to see these loosened. The impotence of the MSUs during the events surrounding the seizure of Hercegovacka Banka confirmed this.

⁴⁰⁴ ICG interview with international official, 16 March 2002.

⁴⁰⁵ Jaque Grinberg, “The Future Mission of SFOR: An UNMIBH Perspective”, Address at the NATO Policy Co-ordination Group, 16 November 2001.

⁴⁰⁶ See ICG Balkans Report N°110, *No Early Exit: NATO’s Continuing Challenge in Bosnia*, 22 May 2001; Gareth Evans, “Sorry, the boys should darn well stay in Bosnia”, *International Herald Tribune*, 25 May 2001; and Barry Wood, “Holbrooke: U.S. Task Not Over in Balkans”, *Voice of America*, 27 February 2002.

“SFOR presence at joint political representations can also be crucial. We would not have been able to physically co-locate the Croat and Bosniak police forces in Mostar were it not for the participation of SFOR in a joint demarche to Croat leaders, with the implication that force might be used to ensure compliance.”⁴⁰⁷ On the other hand, SFOR’s three Multinational Divisions (and their component units) do not always maintain a consistent interpretation of what constitutes a “safe and secure environment” across BiH.⁴⁰⁸ One IPTF officer told ICG that “Cooperation between IPTF and SFOR depends on who’s in charge of the MND [Multinational Division]. The last general was helpful; this one is less so.”⁴⁰⁹ Putting this right will require consistent guidelines from the various defence ministries, not just local mechanisms for cooperation between SFOR and EUPM.⁴¹⁰

Bosnia continues to need an engaged and committed NATO presence. Whether NATO chooses, for budgetary reasons, to reshuffle the administrative and logistical structure of its Balkan deployments is, however, of little concern so long as NATO remains committed to assisting peace implementation in BiH. But in order to assist EUPM and to make an eventual military withdrawal possible, the boundary between acceptable administrative modifications (such as seasonal rotations) and unacceptable structural changes (such as removal of the SFOR command to NATO Headquarters South in Naples) should be observed.

The forthcoming implementation of the Constitutional Court’s decision on the “constituent peoples”,⁴¹¹ the arrival of a new High Representative and the October 2002 general elections mean that BiH is in for a testing time. An EU policing mission one-third the size of IPTF will need to be able to rely on SFOR to help it and the police keep the peace.

VIII. CONCLUSION

The international community failed to provide IPTF with adequate resources and powers in the Dayton Peace Accords. IFOR and SFOR then proved reluctant for several years to assist IPTF wholeheartedly. It took UNMIBH/IPTF three years before it could begin serious reforms of the police, and five years passed before it produced a mission implementation plan. Nonetheless, UNMIBH has accomplished much, and certainly the police have been put on track for thoroughgoing reform. The pace may have been slow, but in comparison to that of judicial and legal reform, it appears almost speedy.

Yet as this report has made clear, the agenda ahead for the follow-on mission should not be underestimated by policy-makers keen to score an early success for the EU’s nascent European Security and Defence Policy. The challenges the mission will face are formidable. Not only has the UN left some tasks undone: it has also deferred or ignored others. By definition, these tend to be the more difficult or time-consuming jobs. Failure to address them swiftly and adequately will postpone Dayton implementation even further.

The outstanding tasks relate to the structure of the police forces, their financing and their relationship to the courts, as well as to their responsibilities under the law and the DPA. The EU mission can expect several more years during which international interest in and funding for BiH remain sufficient to permit a fairly large-scale operation like EUPM to achieve what it can. Of course, the EU and the international financial institutions will – unlike OHR, NATO, U.S. agencies or various NGOs – remain involved thereafter, but the political, military and financial tools at their disposal for breaking deadlocks, ensuring security and undertaking big projects will be much reduced as the years pass. That leaves little time to deal with the agenda outlined above and the detailed recommendations summarised below. Bosnia’s recalcitrant political classes and burgeoning criminal establishments know this well. There are already signs that they are ‘hunkering down’ or changing tactics while waiting for the foreigners to decamp. EUPM will therefore need not only to evaluate the UN’s accomplishments critically, but also to craft a non-negotiable and hard-hitting strategy for completing police reform. For their part, the Council and other EU institutions will

⁴⁰⁷ Robert Gravelle, Coordinator and Senior Adviser on Police Matters, “The Role of SFOR in Bosnia and Herzegovina”, Remarks at the 47th Atlantic Treaty Association General Assembly, 5 October 2001.

⁴⁰⁸ Ibid.

⁴⁰⁹ ICG interview with IPTF officers, 12 November 2001.

⁴¹⁰ Jamie Woodbridge, “Putting ESDP to the Test: The EU’s Police Mission to Bosnia-Herzegovina”, *European Security Review*, Number 11, March 2002.

⁴¹¹ See ICG Balkans Report N°128, *Implementing Equality: The “Constituent Peoples” Decision in Bosnia & Herzegovina*, 16 April 2002.

have to coordinate political and financial support for the EUPM without succumbing to the temptation to micro-manage. The same will go for OHR.

As many have noted, peace does not consist merely of the absence of war. In the case of Bosnia & Herzegovina, it is a process based on the restoration and assertion of justice, which cannot be accomplished without a reformed police.

DETAILED RECOMMENDATIONS

TO THE INTERNATIONAL COMMUNITY

1. Coordination among international organisations involved in police reform should be intensified, regardless of which forum or OHR task force may be designated to supervise the full range of rule of law matters.
2. Police officers' salaries, entitlements and pensions should be equalised throughout BiH, both between and inside the entities. In particular, 'ethnic' differentials should be eliminated.
 - (a) A conference of bilateral and multilateral donors should be called by OHR/EUPM to develop a comprehensive plan for supplementary funding of the police and finding sustainable means of supporting the police – possibly through the hypothecation of certain tax revenues – as international aid declines.
 - (b) A system for paying salaries in full and on time should be developed by international financial institutions (IFIs).
3. If all international activities in the field of human rights' monitoring are gathered in one task force, human rights officers should assume responsibility for these issues as they pertain to the police and be co-located with EUPM.

TO UNMIBH, EUPM AND OHR

4. As a matter of urgency, UNMIBH should establish and EUPM maintain an external and independent police complaints authority, possessing strong powers of oversight and intervention, in both entities.

5. EUPM must safeguard and build upon the work of UNMIBH's successful programs and units. In particular:
 - (a) The anti-trafficking STOP teams and the Criminal Justice Advisory Unit (CJAU) should be maintained in substance if not in name. The latter could be expanded using funds from the European Commission's CARDS program.
 - (b) The Local Police Registry should be continuously updated by EUPM throughout its mandate.
 - (c) UNMIBH's ad hoc liaison with the ICTY should be regularised by the establishment of an EUPM office, staffed by lawyers, in The Hague.
6. EUPM should assess UNMIBH's 'systems analysis' of police administrations and commands and, if need be, make audits in greater depth. Moreover:
 - (a) A central repository of good practices should be established in the entities' police headquarters to provide information and facilitate research on problem solving in all aspects of policing.
 - (b) A 'vision for policing' or 'mission statement' should be produced in all entity and cantonal interior ministries.
 - (c) All ministries of interior should implement a comprehensive staffing review to identify the skills required in various posts, as well as the positions no longer required.

'Minority' representation

7. 'Minority' recruitment targets should be the same for both entities, based on the 1991 census and in line with the 27 March 2002 Sarajevo Agreement's interpretation of the Constitutional Court's "Constituent Peoples" decision. As such, EUPM should negotiate a new Framework Agreement with Republika Srpska (RS) that will facilitate rather than impede minority recruitment. Furthermore:
 - (a) Miscalculations of 'minority' recruitment targets should be rectified.

- (b) Discriminatory practices that disadvantage 'minority' police officers should be monitored and halted.
- (c) Quotas for the recruitment of 'majority' officers from one or another nation should be discontinued at police academies and university faculties providing direct access to the police service.
- (d) Benefits' packages – including housing and schooling for police officers' children – should be formalised for 'minority' officers aiming to return to their pre-war homes.
- (e) Police administrations – supervisors, clerks, secretaries, etc. – should also be integrated to include 'minority' staff.
- (f) Placements of 'minority' recruits in areas to which refugees are returning should be made obligatory for periods of between six and twelve months.

Professionalisation

- 8. Since the success of EUPM will depend in large part on the quality of the police officers seconded by EU member states and other contributors, it will be vital that:
 - (a) Contributing states should ensure that police officers and experts seconded to the follow-on mission have the necessary skills, background and enthusiasm.
 - (b) Rigorous job descriptions for participating police officers should be produced and a system to evaluate the effectiveness of co-location should be constructed.
 - (c) Any misbehaviour by EUPM officers in BiH should have administrative and/or legal consequences in Bosnia or their home countries. If necessary, such liabilities should be stipulated in the agreements with contributing countries.
 - 9. EUPM should review the operation of Professional Standards Units (Internal Affairs Units) and the effectiveness of Disciplinary Procedures, reforming them if required. Namely:
 - (a) Professional Standards Units (PSUs) should not cohabit with or work alongside the police forces they are supposed to investigate.
 - (b) PSUs and Disciplinary Committees should be placed under the purview of police commissioners rather than ministers of the interior.
 - (c) Strengthened PSUs and Disciplinary Committees should be gradually involved in de-certifications and de-authorisations in order to pave the way for an eventual 'hand-over'.
10. EUPM should scrutinise links between police academies in BiH and those in the Federal Republic of Yugoslavia (FRY) and Croatia in order to ensure that courses offered in these countries to cadets from BiH are appropriate, and not a means of enlisting secret agents.

Screening and de-authorisation

- 11. EUPM should overhaul the process of screening and de-authorisation as follows:
 - (a) All police employees and all interior ministry staff that deal with policing matters should fall within the ambit of Annex 11 of the Dayton Peace Accords (DPA), requiring their registration and certification and, hence, their liability to possible de-authorisation.
 - (b) EUPM should retain IPTF's power to de-authorise police officers, but OHR should grant Bonn-Petersberg status to such de-authorisations, thereby rendering those affected ineligible for further public service.
 - (c) Individuals de-authorised by the IPTF/EUPM Commissioner should not be allowed to hold elected office (even though their mandates may not be up for renewal) or to be employed in publicly owned companies.
 - (d) All police officers under investigation for any transgression or dereliction of duty should be suspended pending the outcome of the enquiry.
 - (e) As a rule, criminal charges should be brought against all police officers who have been de-authorised because of criminal activities.
 - (f) If police officers are de-authorised, an investigation should be mounted by EUPM to discover why their superiors

- did not themselves take appropriate action.
- (g) EUPM should continue and complete UNMIBH checks on police officers for possible fraud related to secondary schooling qualifications and de-authorise officers found to have committed documentary fraud.
 - (h) EUPM should scrutinise carefully the issuance of non-performance and non-compliance reports by co-locators, with an eye to increasing their use.
 - (i) EUPM should ensure that police officers up for final certification were not complicit in any way (including 'duty violations') with the commission or facilitation of war crimes.

Information

- 12. EUPM should seek to ensure obligatory, operational-level sharing of information between the police forces of the entities and Brcko District, in the first instance through the implementation of simplified reporting procedures.
- 13. Building upon the high-level meetings that take place regularly under UNMIBH auspices, the exchange of operational information among the police forces of BiH, Croatia and FRY – or its successor ("Serbia and Montenegro") – should be facilitated by EUPM, particularly at the operational level

where cooperation can be most relevant and effective.

- 14. EUPM should explore the use of telephone hotlines to elicit information from the public about crime, including police malpractice. It might investigate, too, the sponsorship of a popular television program like BBC TV's "Crime Watch" series in which viewers see reconstructions of unsolved crimes and are invited to contribute information.

Rationalisation

- 15. Because Bosnia's police are both too numerous to be afforded and inappropriately configured, EUPM should ensure that:
 - (a) Police force numbers are brought in line both with real needs and the country's capacity to pay, ideally by cutting their overall strength by some 20 per cent.
 - (b) A program is established – akin to that for demobilised soldiers – to assist redundant police officers to find employment in the private sector.
 - (c) The results of background checks on police officers who may have committed fraud to obtain their jobs are used to shrink the police further.
 - (d) Work proceeds on enhancing the capacity and sustainability of state-level forces such as the SBS and SIPA.

Sarajevo/Brussels, 10 May 2002

APPENDIX A

GLOSSARY OF ABBREVIATIONS

ABA/CEELI	American Bar Association / Central and Eastern European Law Initiative	HRO	UNMIBH Human Rights Office
AEPC	Association of European Police Colleges	ICITAP	U.S. Department of Justice International Criminal Investigative Training Assistance Program
AID	Agency for Information and Documentation (Bosniak intelligence service)	ICTY	International Criminal Tribunal for Former Yugoslavia
BiH	Bosnia & Herzegovina	IFIs	International Financial Institutions
CARDS	European Commission Community Assistance for Reconstruction, Development and Stabilisation	IJC	Independent Judicial Commission
CJAU	Criminal Justice Advisory Unit (within UNMIBH)	IMPACT	EU Immigration Pact Team
CoE	Council of Europe	INS	U.S. Immigration and Naturalisation Service
CoM	Council of Ministers	IOM	International Organisation of Migration
CIPS	Citizens Identity Protection System	IPTF	International Police Task Force
DCAF	Geneva Centre for the Democratic Control of Armed Forces	ISF	International Strike Force
DPA	Dayton Peace Accords	KM	<i>Konvertibilna Marka</i> , or Convertible Mark (€1 = KM 1.956)
ECHR	European Court of Human Rights	MIP MAP	UNMIBH Mandate Implementation Plan
EC	European Commission	MND	SFOR Multinational Division
EU	European Union	MUP	Ministry of Interior (<i>Ministarstvo unutrašnjih poslova</i>)
EUPM	European Union Police Mission	OHR	Office of the High Representative
GTZ	German Society for Technical Cooperation (<i>Deutsche Gesellschaft für Technische Zusammenarbeit</i>)	OSCE	Organisation for Security and Cooperation in Europe
HDZ	Croat Democratic Union (<i>Hrvatska demokratska zajednica BiH</i>)	PIC	Peace Implementation Council
HRC	BiH Human Rights Chamber	PSC	Public Security Centre

PSU	Professional Standards Unit (Internal Affairs)	SNS	BiH Croat National Security Service (<i>Sluzba narodne sigurnosti</i>)
RS	Republika Srpska	SRS	Serb Radical Party
SBS	State Border Service	SRSG	Special Representative of the UN Secretary-General
SDA	Party of Democratic Action (<i>Stranka demokratske akcije</i>)	STOP	UNMIBH Special Trafficking Operations Program
SDP	Social Democratic Party	SBiH	Party for Bosnia & Herzegovina
SDS	Serb Democratic Party	OHCHR	Office of the High Commissioner for Human Rights
SECI	Southeast European Cooperative Initiative	UNMIBH	United Nations Mission in Bosnia & Herzegovina
SFOR	NATO-led Stabilisation Force in BiH	UNMIK	United Nations Mission in Kosovo
SIPA	State Information and Protection Agency	UNJSAP	UN Judicial System Assessment Program

APPENDIX B

MAP OF BOSNIA



APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is a private, multinational organisation committed to strengthening the capacity of the international community to anticipate, understand and act to prevent and contain conflict.

ICG'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, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, www.crisisweb.org. ICG 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 ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

ICG's international headquarters are at Brussels, with advocacy offices in Washington DC, New

York and Paris and a media liaison office in London. The organisation currently operates eleven field offices with analysts working in nearly 30 crisis-affected countries and territories and across four continents.

In *Africa*, those locations include Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone-Liberia-Guinea, Somalia, Sudan and Zimbabwe; in *Asia*, Indonesia, Myanmar, Kyrgyzstan, Tajikistan, Uzbekistan, Pakistan and Afghanistan; in *Europe*, Albania, Bosnia, Kosovo, Macedonia, Montenegro and Serbia; in the *Middle East* Algeria and the whole region from Egypt to Iran; and in *Latin America*, Colombia.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Canada, Denmark, Finland, France, Germany, Ireland, Luxembourg, the Netherlands, Norway, the Republic of China (Taiwan), Sweden, Switzerland and the United Kingdom.

Foundation and private sector donors include The Ansary Foundation, The Atlantic Philanthropies, Bill and Melinda Gates Foundation, Carnegie Corporation of New York, Charles Stewart Mott Foundation, Ford Foundation, John D. and Catherine T. MacArthur Foundation, John Merck Fund, Open Society Institute, Ploughshares Fund, Ruben and Elisabeth Rausing Trust, Sasakawa Peace Foundation, and William and Flora Hewlett Foundation.

May 2002

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