

RESEARCH ARTICLE

The Implementation of Police Reform in Bosnia and Herzegovina: Analysing UN and EU Efforts¹

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This article analyses the role of the main international actors involved in the implementation of police reform in post-conflict Bosnia and Herzegovina, notably that of the UN and the EU. Despite considerable efforts and resources deployed over 17 years, the implementation of police reform remains an 'unfinished business' that demonstrates the slow pace of implementing rule of law reforms in Bosnia's post-conflict setting, yet, in the long-term, remains vital for Bosnia's stability and post-conflict reconstruction process. Starting with a presentation of the status of the police before and after the conflict, UN reforms (1995–2002) are first discussed in order to set the stage for an analysis of the role of the EU in the implementation of police reform. Here, particular emphasis is placed on the institution-building actions of the EU police mission in Bosnia and Herzegovina deployed on the ground for almost a decade (2003–June 2012). The article concludes with an overall assessment of UN and EU efforts in post-conflict Bosnia and Herzegovina, including the remaining challenges encountered by the EU on the ground, as the current leader to police reform implementation efforts. More generally, the article highlights that for police reform to succeed in the long-term, from 2012-onwards, the EU should pay particular attention to the political level, where most of the stumbling blocks for the implementation of police reform lie.

Introduction

Since 1989, when the UN first engaged in Namibia, a multitude of international (and bilateral) actors have engaged in supporting police reform processes in countries emerging from conflict and their engagement has been on the rise ever since, covering different parts of the world (O'Neill 2005). This has come in recognition of the fact that police reform takes on special importance in the reconstruction of post-conflict societies, representing both an immediate as well as a long-term requirement in the transition from

war to peace. Bosnia makes no difference from this understanding and since the end of the conflict, in the mid-90s, has witnessed a long period of international engagement in assisting the reform of the police sector – a process that still continues to date.

The conflict in Bosnia and Herzegovina set Bosnian Croats and Muslims against Bosnian Serbs in a three-year conflagration (1992–1995). The Dayton peace agreement, which provided the settlement for ending the conflict, structured a federal Bosnian state composed of two entities – the (Bosnian-Croat) Federation of Bosnia and Herzegovina and the (Serb) Republika Srpska. However, the federal state had weak powers. As regards the police, this was left entirely in the hands

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of each entity, and no police institution was provided at the central, state-level (Dayton Peace Agreement 1995). Within this context, the UN took over the task of police reform in the aftermath of conflict (1995–2002). The EU follow-on after UN's departure (2003-present) and has since taken on a leading role among the international community in Bosnia but also beyond, in the wider Balkans region. What is particularly notable in the case of EU's involvement in the implementation of police reform in Bosnia is that this role marks EU's first engagement in crisis management. The EU Police Mission in Bosnia and Herzegovina (EUPM) was the first (civilian) crisis management mission ever launched by the EU and has therefore been a testing ground for EU crisis management capabilities. What is also particularly notable in the case of Bosnia, compared to other post-conflict settings, is that EU engagement here forms part of its wider enlargement policy. In other words, the EU offers countries in the Western Balkans the prospect of becoming EU members, on condition that they fulfil a set of technical and political criteria for accession (Council of the European Union 2003). In addition, by explicitly identifying police reform as one of the key requirement for moving forward the (long-term) process of EU integration (Bieber 2010), the EU has also linked politically the issue of the implementation of police reform to Bosnia's EU integration prospects.

This article analyses the role of the main international actors involved in the implementation of post-conflict police reform in Bosnia, notably that of the UN and the EU. The analysis covers the entire post-conflict period of Bosnia, from the moment the peace agreement was signed (1995) up to when the EU terminated its post-conflict involvement in the country, with the closure of its civilian crisis management mission – EUPM (2012). The aim is here to provide an overview analysis of UN and EU efforts in the implementation of police reform in Bosnia's post-conflict setting and to investigate how far the

implementation process has advanced as a result of those efforts. To that end, the article starts by presenting the status of the police before and after the conflict. It does so to highlight the inherent context for the police from which international reform efforts have started. This discussion also touches on the structure of the police that resulted from the constitutional arrangements provided by the Dayton Agreement to point to the importance that the provisions of the peace agreement hold in the subsequent evolution of police reform in Bosnia. UN reforms (1995–2002) are then first discussed in order to set the stage for an analysis of the role of the EU in the implementation of police reform. The article concludes with an overall assessment of UN and EU efforts in post-conflict Bosnia and Herzegovina, including the remaining challenges encountered by the EU on the ground, as the current leader to police reform implementation efforts.

The Police in Bosnia and Herzegovina: Before and After Conflict

Before the conflict, the police was part of the military. During as well as in the immediate aftermath of war, police forces were separated along ethnic lines, operating within the geographical coverage enjoyed by their ethnic group (ICG 2005). Moreover, the police were under the influence of the intelligence services and accountable politically given their subordination to the Ministers of Interior (Wisler 2005). While the Bosniak and the Croat police forces eventually merged under the umbrella of the Federation as a result of the Dayton Agreement, Republika Srpska has opposed reforms that would integrate Bosnian Serbs into the police structures of other ethnicities (ICG 2005). Subsequently, a broader ethnic separation remained as a general characteristic of the police in Bosnia. More recently, political/ party control over the police appears to still be the reality, and this in a country where ethnic divisions, more generally, continue to persist (Humphreys and Jelusic 2010).

The Structure of the Police

Following Dayton, the police in Bosnia was structured according to different models in the two entities. In the Federation, the police follows a decentralised model, from the entity level downwards to its ten cantons, each with its own Ministry of Interior. In this system, the cantonal Ministries of Interior have considerable autonomy from the Federation Ministry of Interior, which furthermore maintains its own police force. The weak powers of the Federation Ministry of Interior largely centre on coordinating inter-entity and inter-cantonal cooperation (i.e. as regards terrorism/ organised crime) or protecting VIPs and diplomatic premises. Conversely, in Republika Srpska, the police is based on a centralised model, with regional subdivisions in the form of Public Security Centres and local police stations, both of which are answerable directly to the Republika Srpska Ministry of Interior. Compared to the weak central powers in the Federation, the Republika Srpska Ministry of Interior has full responsibility for crime prevention and enforcement throughout the entity (ICG 2002). Since 2000, the autonomous Brcko District added to the above structure its own multi-ethnic, police institution. Below the state-level, this structure has brought Bosnia's system up to 13 police agencies – that is eleven in the Federation, one in Republika Srpska and one in Brcko. On top of this fragmented structure, state-level police agencies, such as the State Border Police and the State Information and Protection Agency were created, as a result of the involvement of, firstly, the UN, and afterwards, the EU. In 2008, the Directorate for Police Coordination Bodies was created at the state level, as a result of the 2008 police laws, as will be explained later on. These state-level institutions have been placed under the oversight of the Bosnian Ministry of Security since its creation in 2003. All in all, this has brought Bosnia's police system up to 16 independent police agencies.

The Role of the UN: the International Police Task Force

The Dayton Agreement (1995) provided a new governance framework for Bosnia. It entrusted police reform to the UN, who at that time was the only international organisation with substantial experience in international policing (Merlingen and Ostrauskaite 2006). In addition, the agreement introduced the position of a High Representative on behalf of the international community, who was tasked to monitor the civilian implementation of the peace agreement. The UN International Police Task Force (IPTF) was mandated to assist the local authorities maintain 'civilian law enforcement agencies operating in accordance with internationally recognized standards and with respect for internationally recognized human rights and fundamental freedoms' (Dayton Peace Agreement 1995). The mission was to achieve this through a series of actions, such as 'monitoring, observing, and inspecting law enforcement activities and facilities, including associated judicial organizations, structures, and proceedings', advising and training law enforcement personnel or advising the Bosnian governmental authorities on the organisation of law enforcement agencies and their capacity to tackle observed public security threats (Dayton Peace Agreement 1995). The responsibility for designing and implementing the above police assistance programme rested with the head of mission, namely the IPTF Commissioner, who would then act under the overall guidance and coordination of the High Representative (Dayton Peace Agreement 1995).

Following the signature of the peace agreement, in 1995, the UN deployed a mission to Bosnia and Herzegovina (UNMIBH), which included the IPTF together with a UN Civilian Office (UNSC 1995b). The main headquarters for the UN presence was set in Sarajevo. In addition, a few regional IPTF offices were established within the entities so as to mirror the location of Bosnian law enforcement agencies, and in this way, facilitate

IPTF assistance with monitoring, observing, and inspecting law enforcement activities throughout the country (UNSC 1995a).

IPTF reforms (1995 – 2002)

The IPTF operated initially for a period of one year (1995–1996). Since then, its mandate (and that of UNMIBH) has been extended several times up to the end of 2002, after which police reform was hand-over to the EU. In line with its advisory nature, the IPTF was a non-executive mission in the sense that its police officers were unarmed and did not have arrest powers. Consequently, much of its focus rested on capacity and institution building activities (Merlingen and Ostrauskaite 2006). IPTF started its institution-building reforms with a focus on the individual, hence by addressing the more immediate requirements of training, code of conduct, recruitment and vetting. In time, the mission shifted its initial focus towards reforms emphasising the organisation level. While embracing the broader perspective of the reorganisation of Bosnia's police structures towards its mid and final engagement period, the IPTF overall aimed to address issues of democratisation and depoliticisation (Wisler 2005). Also from its earlier moments of engagement, IPTF worked towards creating multi-ethnic police forces that through the inclusion of minorities within their composition would serve in the return of refugees to pre-war areas, on the one hand, and to diffuse ethnic animosities among the police by creating a sense of unity within its ranks, on the other hand (Collantes Celador 2005). Given that the police was involved in human rights abuses, during the war, or in criminal activities, in the aftermath of conflict (Collantes Celador 2005, Aitchinson 2007), certifying police forces became necessary for post-conflict reconstruction and reconciliation. A certification process was thus carried out for all police forces in Bosnia. Generally aiming to sift those with 'unclean' backgrounds from the ranks of the police, according to a set of criteria based on international standards of professional

and personal integrity, certification² was the main pillar of UN efforts to raise public confidence in the police in the post-war period (Collantes Celador 2005, Aitchinson 2007, Wisler 2005, UNSC 2002). Furthermore, by providing guidelines for IPTF to assist and advise the local authorities in the restructuring process, particularly for investigations into human rights abuses by law enforcement personnel, Resolution 1088 of the UNSC strengthened IPTF involvement and authority in the certification exercise (UNSC 1996). Moreover, IPTF officials were empowered to make recommendations to the Bosnian authorities for dismissing any police officer 'failing to cooperate with the IPTF or adhere to democratic policing principles' (UNSC 1996). What is more, the High Representative acquired in 1997 powers to dismiss public officials that were impeding the implementation of the Dayton agreement (the so-called 'Bonn powers'). This in turn enabled the High Representative to impose laws that would contribute to the further transformation of the country (Wisler 2005). At the broader level of the administration, IPTF reforms were concerned with the accreditation of law enforcement agencies according to basic democratic policing³ standards – a process which was performed on the basis of a checklist of requirements, including for instance mechanisms to overcome police abuse or maladministration or to redress political interference in the work of the police by establishing independent police commissioners and police directors, at the cantonal and entity levels respectively (Merlingen and Ostrauskaite 2006, Aitchinson 2007, UNSC 2002). To aid in this process, IPTF used co-location at senior level across the various police structures in Bosnia, including ministries of interior at different levels in the Federation and the cantons, as well as the public security centres in Republika Srpska (Wisler 2005).

IPTF targeted institution-building at the state level by setting up the State Border Police (SBS), in 2000, and the State Information and Protection Agency (SIPA), in 2002,

both of which were multi-ethnic bodies (ICG 2002). The SBS was created to provide the state-level with control over the entire territory of Bosnia. It drew on the border police officers of the entities, who received specialized training prior to their incorporation into this newly-established state-level institution (UNSC 1999a, UNSC 1999b). In addition to the SBS, IPTF worked to create SIPA, a body that would collect and analyse information at the state-level, facilitate the dissemination of information among the various national agencies and provide physical security for national institutions and high-level representatives (UNSC 2002, UNSC 2001). Initially, the creation of both institutions encountered the opposition of Republika Srpska given its view that strengthening institution-building at the central level would go against its statehood and vital interests (ICG 2002). Finally both institutions were imposed by a decision of the High Representative. The UN thus managed to complete the set-up of SBS and SIPA at the end of its mandate in 2002 (UNSC 2002).

Connection Police – Criminal Justice System Reforms

In light of the close connection between the police and the judiciary for effective rule of law enforcement, UNMIBH set up in 1998 the Judicial Assessment Programme. Viewed as a complement to IPTF, the programme monitored and assessed the Bosnian court system. The programme operated for two years, up to 2000, when direct responsibility was passed on to the Office of the High Representative (UNSC 2002). The results of the Judicial Assessment Programme showed that 'the entire judiciary is – to a greater or lesser degree – politically, professionally and structurally dysfunctional throughout Bosnia and Herzegovina' (UNSC 2002: 4). Despite the end of this programme, UNMIBH continued to maintain a supporting and advisory role to Bosnian authorities. The Criminal Justice Advisory Unit, subsequently set up within the mission, worked to improve the connection between the police and the

judiciary. It hence monitored some of the main court cases, provided legal advice to IPTF and trained local police officers on matters of criminal procedure. Trainings were also organised to improve the abilities of the police in drafting crime reports. Another area of action for UNMIBH has been the establishment of multi-ethnic court police forces, in both the Federation and Republika Srpska (UNSC 2002). Apart from that, IPTF also inspected prisons and weapons (UNMIBH 2003).

State of play after IPTF reforms

At the end of the UN mandate, work on the implementation of police reform still remained as many UN programmes have not been fully implemented, and at times, progress had been slower given the opposition of political elites as well as police officers (ICG 2002). Furthermore, as the International Crisis Group highlighted at that time:

'Despite more than six years of increasingly intrusive reforms carried out at the behest of the 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 rule of law selectively, within a dysfunctional system still controlled by politicised and nationalised interior ministries' (ICG 2002: page i).

Still, IPTF has shown positive results with the certification of police officers, having completed a very demanding process that was at the basis of UN institution-building reforms in the immediate post-conflict period in Bosnia. Thus, by the end of its mandate, IPTF screened 44.000 personnel, the total number for the police forces in Bosnia after the war (UNSC 2002), in a process that was highly resource-intensive for the UN. The shortcomings identified had to do with the way in which the UN approached the

certification exercise, which did not appear to be inclusive enough of local involvement in executing decertification decisions or integrating the certification process into domestic law. This posed challenges to the transition from an internationally driven process of certification to national selection and recruitment procedures (Mayer-Rieckh 2007). While it can be argued that a more intrusive approach to certification had benefits in the immediate post-conflict period in that it facilitated the process of certification throughout Bosnia and also helped the UN complete this task with relative speed, a mechanism of follow-up for contested cases of decertified officers should have been put in place after UN departure, as Alexander Mayer-Rieckh pointed out (Mayer-Rieckh 2007). For instance, the UN could have done that by leaving in Bosnia a small office to treat the appeals of decertified officers, after IPTF departure. The results of the appeals could have then been incorporated into domestic law. A specific reference could have clarified that in cases where police officers have been considered candidates for decertification twice, both during the UN certification exercise and the appeal procedure, UN decertifications are considered to be final without any possibility for reinstatement into the police services of Bosnia. Another possibility for the UN would have been to take care of certification appeals while still fully involved in Bosnia. Yet this might have implied extending the UN's presence in Bosnia beyond its seven years of operation, as has been the case. The advantages of having this specific mechanism in place would have rested with the fact that the implementation of certification results into national law would have rendered national legitimacy to UN certification results, considering the involvement of national parliaments in the process of law-making. Furthermore, IPTF also laid the foundations for further institution-building by accrediting the police agencies according to basic standards of democratic policing. However, what IPTF did not tackle at that time was the reform of Bosnia's

complicated police structure, an issue that the EU/ the international community tried to address later on, under the police restructuring negotiations with Bosnia's elites.

Transition IPTF – EUPM

The EU Police Mission (EUPM) followed-up from the UN at the beginning of 2003. To maintain continuity and ease the transition, the former IPTF Commissioner became the first head of mission of EUPM (Juncos 2007). At the same time, 119 IPTF police experts were retained to work for EUPM. However, maintaining part of previous UN personnel influenced EUPM's work, which at the beginning took on a similar approach to reform as previously done by IPTF. Some shortcomings were observed at the individual level too, in the sense that former UN personnel had difficulties in adapting to a new mandate, while new EU personnel had problems in developing their own identity. A distinction between the previous IPTF mission and EUPM had to be established, and even more so in light of EUPM's importance as the first crisis management mission of the EU. Building on previous IPTF reforms, EUPM further focused on statebuilding processes (Wisler 2005). Besides developing its own approach, in time, EUPM also worked on developing its identity by investing into communication campaigns and raising the profile of EUPM activities among the local population, e.g. by keeping a dedicated website with specific information on mission activities, creating hotlines for crime, anti-crime campaigns on TV etc. This was facilitated by the fact that communications activities have been allocated an appropriate budget among EUPM activities (personal interview, Sarajevo 2012).

Wisler argues that while IPTF worked during its mandate on improving the operational roles of the police, it remained for the EU to work on developing the support functions of the police (i.e. policy planning, budgeting and human resources) (Wisler 2005). UN invested extensively in training, especially in modernizing the education provided by police academies. Yet no training

for management functions or for those in management positions had been provided (Wisler 2005). Therefore, the decision to co-locate at medium and senior levels across the various police structures – ministries of interiors at entity and sub-entity levels – was taken by EUPM (Merlingen and Ostrauskaite 2006, Wisler 2005).

The Role of the EU: the EU Police Mission in Bosnia and Herzegovina

EUPM has been a non-executive mission, fulfilling an advisory role to local authorities. Its presence in Bosnia spanned close to ten years, distributed around five consecutive mandates which incrementally extended the EU initial presence in Bosnia: EUPM I (2003–2005), EUPM II (2006–2007), EUPM III (2008–2009), EUPM IV (2010–2011) and EUPM V (2012 – 30 June 2012). At its inception, EUPM was instructed by the Council to 'establish sustainable policing arrangements under BiH ownership in accordance with best European and international practice, and thereby raising current BiH police standards'. To this end, it was entrusted with the authority to 'monitor, mentor and inspect' (Council of the European Union 2002). EUPM was to achieve these objectives by the end of 2005. In addition, the European Commission has complemented the work of EUPM by funding, through EU assistance programmes, related projects in the country. In the context of the second EUPM mandate, previous objectives were slightly refined. While keeping the 'mentoring, monitoring and inspecting' responsibilities, EUPM's second mandate placed additional emphasis on establishing a 'professional and multi-ethnic' police service. Concomitantly, the mandate was refocused on the fight against organised crime and corruption. In this respect, one specific task was to 'assist local authorities in planning and conducting major and organised crime investigations' (Council of the European Union 2005). Building on the above objectives, the third EUPM mandate extended the mission's responsibilities to 'contributing to an improved functioning of the whole criminal

justice system in general and enhancing police-prosecutor relations in particular' (Council of the European Union 2007). The fourth EUPM mandate reinforced the focus on organised crime and corruption, which was particularly targeted towards strengthening the operational capacities of the state police agencies but also towards developing the criminal investigative capacities in Bosnia. It also provided for the 'enhancement of the interaction between police and prosecutor and on regional and international cooperation' (Council of the European Union 2009). The fifth and the last foreseen EUPM mandate, which ran until 30 June 2012, built on the general aims of the previous mandate (Council of the European Union 2011).

EUPM Reforms and Challenges (2003–2012)

Reforming the police in Bosnia proved to be a challenging task for the EU. Evaluations of the first EUPM mandate (2003–2005), in terms of EU coherence and effectiveness revealed a number of initial difficulties that hampered the implementation of the mission's mandate (Juncos 2007, Penksa 2006, Merlingen and Ostrauskaite 2006). In terms of EU coherence of action, a number of problems were reflected by the fragmented EU presence on the ground and the poor coordination and communication between the various EU bodies (i.e. particularly between the EU police and military missions) for tackling organised crime as well as the lack of an overall strategy for engagement as the EU was just starting to develop its crisis management capabilities. The latter reason was also an obstacle for the effectiveness of the mission, together with the absence of adequate human and financial resources, including at times, the inexperience of personnel seconded from EU Member States (MS) and the short time they spent with the mission (i.e. usually around one year) (Juncos 2007, Penksa 2006). In addition, EUPM I was faced with the difficulty of implementing a broad and vague mandate (Juncos 2007, Penksa, 2006, Merlingen and Ostrauskaite 2006).

According to Penksa, some of the problems encountered by EUPM I were related to the confusion over the aims of the mandate, notably the requirement to 'mentor, monitor and inspect' and how this would be translated in practice by the mission (Penksa 2006). Another example is the mission's objective of bringing the Bosnian police in line with 'best European standards'. What this would mean in practice was blurred not only by the vague formulation of the mandate, which left considerable leeway for the mission to interpret its meaning, but also by the absence, at EU level, of a (unified) set of European standards for policing that weakened EU's standing vis-à-vis national counterparts. Yet as can also be observed from the evolution of mandates, the EU later adjusted the mission's objectives in order to take better account of its past experiences. Therefore, strengthening the inspecting and monitoring role of the mission, and concentrating further on combating organised crime became, broadly speaking, new and refocused priorities (Juncos 2007, Penksa 2006). In fact, throughout its presence, the mission pursued the objective of fighting organised crime and corruption, given that this phenomenon remained one of the main challenges the EU identified after the war.

To counteract problems posed by corruption among the police, EUPM focused on implementing an accountability mechanism that would make police officers answerable internally, to their own hierarchy, as well as externally, to the public at large. For that, EUPM established professional standards units as well as public complaints bureaux, where none existed, or pushed local authorities to complete the setting-up process where such structures were present but not yet fully operational (Merlingen and Ostrauskaite 2006). In addition, the mission worked on personnel policy seeking to limit political interference with nominations while at the same time increasing the motivation of police officials. This resulted in the creation of a new career development system that would recompense personnel based on merit and

set equivalent salary grids, while at the same time, do away with quick position advancements (Merlingen and Ostrauskaite 2006).

Furthermore, as part of its institution-building efforts, the mission relied extensively on co-location practices, placing EUPM personnel within Bosnian police administration structures so as to advise local counterparts. Co-location took place at all levels, including the state and the entities. Strengthening the state institutions, SIPA, SBS was helping to address the fragmentation of the police. Although theoretically set up by IPTF these institutions had weak powers and capabilities and existed largely on paper (Merlingen and Ostrauskaite 2006). Regarding the SBS (renamed in 2007 the Border Police)⁴ EUPM focused its efforts on capacity-building with the aim to fight transnational organised crime, especially the post-conflict problem of smuggling and trafficking of arms, but also on training to develop the management abilities of senior officers which were primarily supported by the German border guard agency (Merlingen and Ostrauskaite 2006). Capacity building provided by EUPM to SIPA included, for instance, advice on human resources management, including recruitment or on developing tactical capabilities for high-risk operations (EUPM 2006, EUPM 2012). The overall capabilities of the agency were also increased as the EUPM together with Office of the High Representative supported the development of the law underpinning SIPA. Starting off as the State Information and Protection Agency in 2002, SIPA acquired in 2004 added policing capabilities by becoming a police agency with investigative powers and changing its name to the State Investigation and Protection Agency. EUPM subsequently assisted SIPA in monitoring criminal investigations (EUPM 2012), thus continuing the process of mentoring and advising.

The political environment in which EUPM set out to implement a technical mandate turned out to be highly challenging. Addressing the fragmentation of the police at the political level proved to be a delicate endeavour for the EU/ international community in

Bosnia. The debate around police restructuring formally kick-started in 2004, when the Office of the High Representative set up a Police Restructuring Commission to devise a plan that would provide for a new, single police structure for the whole country. Police restructuring was seen as a useful step for a number of reasons, including overcoming political interference in the operational work of the police, increasing the efficiency of the police to fight organised crime over the whole territory of the country or providing for a reduced size of the police so as to make the system more financially manageable (Muehlmann 2008). Yet the Police Restructuring Commission's plan was rejected by Republika Srpska, given Republika Srpska's perceived connection between statehood and police restructuring (Muehlmann 2008). Apart from that, police restructuring turned out to be a controversial topic given that a new, single structure for the police implied changes to the constitutional structure of the country. Therefore, for Bosnia's elites, police restructuring became more than a technical issue with a scope for functionality. Consequently, the result of the discussions on police restructuring watered down the initial requirements of the Office of the High Representative but achieved the minimum to satisfy the European Commission's requirements for police reform, which has been set by the EU as a pre-condition for the start of negotiations on a Stabilization and Association Agreement⁵ with Bosnia (Bieber 2010). Progress was regained in 2008, when the Bosnian Parliament passed two police laws. This in turn made the signing of the Stabilization and Association Agreement with the EU possible. Yet the EU did so on weaker terms than it initially pushed for.

Following the signature of the Stabilization and Association Agreement, EUPM worked on supporting the implementation of the 2008 police laws, which provided for a number of new state-level structures, such as the Directorate for Police Coordination Bodies, which would generally provide for communication, cooperation and coordination among

the police bodies of Bosnia; the Agency for Forensic Examinations and Expertise that would work on forensic aspects of police work such as DNA analysis, fingerprints analysis, biological examinations, to name a few; the Agency for Education and Advanced Training of Personnel, which would harmonize police training programs and develop new ones; and the Agency for Police Support that would provide for wider support to Bosnia's police institutions for a number of technical, legal and financial aspects (Official Gazette of Bosnia and Herzegovina 2008a). Next to these bodies, the 2008 police laws set up several supporting bodies meant to increase the accountability of the police, notably an Independent Board that would select the chiefs of Bosnia's police administrations, the Board for Complaints of Police Officials, designed to examine complaints by police officers against decision taking by police administrations in relation to their status and the Public Complaints that would process complaints by the public at large against the conduct of police officers (Official Gazette of Bosnia and Herzegovina 2008b). According to EUPM, these institutions reached their 'initial functionality' at the end of 2009, which in turn permitted the mission to go on in providing institutional support (EUPM 2012). Furthermore, following the impasses with police restructuring, EUPM worked on harmonizing the legislation for all of Bosnia's police forces (personal interview, Sarajevo, 2012). This approach aimed to provide for a common set of rules according to which all police agencies would operate and in this way, seek to make Bosnia's policing system function better as a whole, notably though improved coordination between the various police agencies. During its last two mandates in particular, EUPM repeatedly underlined, starting with the most senior levels of the mission, the importance of increasing the accountability of the police, which should be free from any political interference in its operational work as well as the need for coordination, cooperation and communication among the various agencies in order to increase the efficiency

and impact of police work in the country (Stefan Feller, Head of Mission 2012).

Connection Police-Criminal Justice System Reforms

Within its first mandate, EUPM ran the Criminal Justice Programme. Although operational only up to 2004, this programme included several projects that aimed primarily to establish a court police for the state, the two entities and the Brcko district that would lead to the police being able to support court orders by for example ensuring the safety of judges or order in the courtroom. The Criminal Justice Programme also aimed to improve the management of crime cases by the police, by providing adequate training, as well as to revamp the leadership abilities of senior police officers, criticised at times for their lack of vision (Merlingen and Ostrauskaite 2006). Following the closure of the Criminal Justice Programme in 2004, a new programme dealing with police education and training was launched by EUPM the same year. While the Police Education and Training Programme took over remaining projects from other programmes that fell within its remit, including projects that remained uncompleted at the moment of closure of the Criminal Justice Programme, it also systematized all training projects under one rooftop and developed further projects that increased EUPM's involvement by expanding the training areas covered: from previous education on management skills, drafting of investigative reports or the criminal procedure code to upgrading education within police academies through a series of organisation reforms (Merlingen and Ostrauskaite 2006). As from its third and fourth mandates, EUPM started paying increased attention to the criminal justice system, first of all through the co-location of criminal justice advisors within local structures. EUPM thus worked with local counterparts on harmonizing administrative forms that police (throughout Bosnia) use for criminal investigations and court proceedings, as part of efforts to facilitate the cooperation between police and the prosecutors (EUPM 2008a). In

addition, the mission organised a number of trainings on police-prosecutor cooperation, both in Bosnia and abroad through study visits to several EU Member States (i.e. Germany, Italy, Romania) (EUPM 2009c, EUPM 2010a). In addition, EUPM placed a customs expert with the Indirect Taxation Authority, Bosnia's state-level agency responsible for upholding the value-added tax system throughout the country, to help improve cooperation and coordination between ITA and other police agencies, since ITA had some investigative powers and could work jointly with the police through its law enforcement sector. Plus, the mission employed a prison expert who worked on the modernization of the prison system but also on motivating police-penitentiary cooperation through direct contacts with police and prison directors (Steven Goddard, Chief of Anti-Organised Crime Department, EUPM 2009b).

State of play after EUPM reforms

As part of its institution-building efforts, EUPM combined strategic, operational and legal approaches, including top-down, bottom-up and horizontal engagements, in an effort to have as wide an impact as possible. These approaches evolved in time as the mission adapted to conditions on the ground and followed EU objectives, so much so that at the end of its mandate, EUPM has had a comprehensive experience in exploring what would work best in Bosnia's setting.

Strategically, EUPM's engagement with mentoring at the highest levels of seniority (Stefan Feller, Head of Mission, 2012) was appropriate to Bosnia's context, if taking into account the more advanced level of institution-building achieved during EUPM's involvement, which was not anymore in an incipient phase, as when the UN stepped in. Notwithstanding the caveats associated with the politics surrounding the way in which managers in Bosnia may take decisions, engagement at the most senior levels of the administration made sense for the further development of institutions, on which senior managers may have an important influence,

shaping the policies and practices of the institutions they represent. In addition, this approach was appropriate to Bosnia's context also from the perspective that senior managers have been at times among the few employees of newly created institutions, which have generally been understaffed.

Operationally, capacity-building has represented a large part of the mission's technical efforts. While trainings and expertise development have been useful to further professionalise the police and bring them closer to EU standards, it should be noted that capacity-building efforts for the police did not start from zero in Bosnia. Even from UN times, the skills of police in Bosnia were considered reasonably good. Professionalising the police had then to do more with systemic issues, such as the integrity of individuals staffing the service (Mayer Rieckh 2007). So from a capabilities perspective, Bosnia's police agencies would be able in 2012 to fulfill their role and functions independently of external support, although there can always be room for improvement (personal interviews, Sarajevo 2012). The main impediments for local ownership are financial, in the sense that the current system is financially burdensome for Bosnia, and political, in the sense that politics influence the way in which the police may take decisions. According to an international practitioner on the ground, when thinking in comparative terms about the capabilities of the entities' police services, Republika Srpska has perhaps the best police service in the country, in which they continue to invest (personal interview, Sarajevo 2012). This stands in contrast to Republika Srpska's lower investment in the state police agencies. Moreover, the informal arrangements between Bosnia's elites for the management of SIPA, in that the director of SIPA comes from Republika Srpska, contributes to 'keeping Republika Srpska tentatively engaged with SIPA' (personal interview, Sarajevo 2012) and at the state-level, more broadly.

Legally, the main strategy adopted by the mission following the impasse with police

restructuring was based on a top-down approach, through the implementation of 2008 police laws and on a bottom-up approach, through harmonization of legislation and procedures for Bosnia's police agencies, as highlighted earlier. EUPM, in collaboration with the European Commission and the Office of the High Representative, worked with local authorities to develop an overall legal framework that would serve both institutional and individual levels. For instance, EUPM contributed to the new law on the Border Police, as well as to related laws, such as the law concerning border control. Furthermore, EUPM's contribution to the drafting of the law transforming SIPA into an investigative agency also forms part of this approach. Although since Dayton the state had competencies for inter-entity criminal law enforcement matters (Dayton Peace Agreement 1995), the first SIPA (2002–2004) was an information agency, with responsibilities limited to collecting information. This situation meant that the entities were also conducting investigations on those issues on which the state had competency. The second SIPA (2004 – present) changed that balance, by transforming SIPA into an investigative agency (personal interview, Sarajevo, 2012) capable of conducting investigations over the whole territory of Bosnia. From this perspective, the new SIPA law brought in line the competencies of SIPA with those of the state level in Bosnia. At the individual level, EUPM launched, together with the Office of the High Representative, the drafting process for the Law on Police Officials, to regulate employment matters for police officials. The aim was to have a sufficient legal framework on employment matters for police officials, given that before that those issues were regulated only through by-laws, such as Presidency decisions (personal interview, Sarajevo, 2012). In addition, by harmonising the legislation between state-level, entity and cantonal levels, EUPM aimed to further create multi-ethnic institutions, a process that was started by the UN, who, in a first instance, paid attention to including

minorities in the police services, as part of its personnel reform. Yet filling in the ethnic quotas provided for within institutions proved difficult given that not many police officers were open to working further away from home, in areas with a different ethnic balance than their own (Vincenzo Coppolla, EUPM Head of Mission, 2008). Within this context, the Law on Police Officials, promoted by EUPM, aimed to increase mobility between institutions through similar employment legislation. Nevertheless, the effects of the Law on Police Officials in increasing mobility of personnel remain to be observed in time, as an assessment at this stage remains premature.

Furthermore, as part of addressing the implementation of the 2008 police laws, EUPM focused its attention on the newly created Directorate for Police Coordination Bodies. Already envisaged as an institution under the police restructuring negotiations (Police Restructuring Commission 2004), the Directorate for Police Coordination Bodies was meant to alleviate the cooperation and coordination problems among the many police agencies in Bosnia and bring an overall unity under the envisaged single police system, overseeing the implementation of police restructuring arrangements. However, as explained earlier, the 2008 police laws were the result of a compromise between the international community/ the EU and local elites, which had implications for the formation of the Directorate. Despite the intention to provide the Directorate with a coordination function for all of the police agencies in Bosnia, the result provided the Directorate with competence for coordinating the work of the state-level police agencies, SIPA and the Border Police, only. The key aspect resided with the language included in the law, notably the Directorate's competency. As one practitioner explained, 'of' rather than 'in' (i.e. 'police bodies of Bosnia' vs. 'police bodies in Bosnia') (personal interview, Sarajevo 2012) subsequently made the difference in how far the Directorate would be able to

reach in practice, placing it with the purview of the state. As a result, the Directorate can currently collect and analyse information solely on those issues on which the state has competency – e.g. intelligence, inter-entity and inter-agency criminal law enforcement (personal interview, Sarajevo 2012). However, as a new institution, the Directorate still needs to develop within Bosnia's institutional landscape. Nevertheless, in the short term, the creation of the Directorate can have the potential to facilitate SIPA's work. By taking over SIPA's previous responsibility for protecting VIPs and diplomatic premises, the Directorate provides an opportunity for SIPA to now focus much better on its main aim - fighting organised crime and corruption (personal interview, Sarajevo, 2012).

As mentioned previously, EUPM's main approach to advising local authorities rested on co-location of EUPM experts within national structures, which reveals some interesting aspects of EU engagement. On a personal level, age and position have been highlighted as pre-requisites for obtaining the respect and acceptance of local counterparts (personal interview, Sarajevo 2012). In general, international-local interactions have in turn been motivated more by good inter-personal relations, rather than by professional relations, considering the difficult, politicised context in which police reform was being implemented. Therefore, it should be highlighted that the frequent changes of personnel working on the ground, both in EUPM regional offices but also in EUPM headquarters, have been an impediment to the efficiency of the co-location practice, let alone to the impact of the mission per se. Mostly, this has come out of a lack of enough time for co-locators to establish personal relations with their local counterparts. To illustrate, within the one year reference time of a co-locator, six months would be spent with setting up shop, getting accustomed to Bosnia's context and forming inter-personal relations, while the remaining six months would be spent on actual co-location work,

with a certain degree of impact. Another shortcoming of co-location had to do with the placement of EUPM experts throughout the country, especially in more remote places where the geographical distance to central management in headquarters posed a problem of alienation. As remarked by a senior practitioner on the ground, this aspect raised questions as to balancing the use of co-location regionally with the centralisation of experts (personal interview, Sarajevo 2012). In fact, in some cases, there has been a risk that co-locators were being socialised into the way of thinking of their local counterparts. Sometimes, this did not really fit with EU's vision of how to implement police reform in Bosnia (personal interview, Sarajevo 2012). In general, it should be recognised that the phenomenon of 'going local' can be a natural consequence of an individual living within a certain community over a longer period of time. What mission management has done in such cases has been to seek to maintain strong contacts with personnel co-located in the field. Nevertheless, given that this issue can take a wider application, outside of Bosnia's context exclusively, mission managers could consider some additional solutions. For instance, managers could take a critical view on the perspectives of personnel co-located throughout the country, given that they might provide valuable insight into local perspectives that in turn can contribute to the mission's efforts to better implement its mandate. Throughout the co-location process managers could remind co-located personnel of the mandate and the wider aims of reforms, beyond the benefits of the specific community in which they have been placed. To further aid in this respect, the mission could employ (internationally-recruited) psychologists to help co-located personnel deal with the difficulties encountered in their respective field locations. This would of course depend on the resources devoted to a crisis management mission, and the possibility to employ additional, non-core personnel. In the extreme case that everything

else fails, and mission management notices a wide discrepancy between the views of co-located personnel and the aims of the mission, whose mandate they are ultimately responsible to uphold, then replacement can be a final solution.

EU's Transition: From EUPM to the EU Delegation/ Office of the EU Special Representative

EUPM terminated its operations in June 2012. The last mandate of the mission provided for the transition of EUPM responsibilities to the reinforced EU presence formed jointly by the EU Delegation/ EU Special Representative in Bosnia. The transition took place at two levels: first, the office of the EU Special Representative employed four law enforcement experts to advise local authorities at the political and strategic level while the EU Delegation started managing a larger project of pre-accession assistance (Peter Sorensen, EU Special Representative to Bosnia/ EU Head of Delegation 2012) with the aim to transfer knowledge and to bring Bosnia's police agencies up to the level required for EU accession. Funded under the Instrument for Pre-Accession, the law enforcement project provided for a reduced presence, formed of a team of project experts, together with a focus on issues that were considered key to advancing the implementation of police reform. While continuing to target institution-building at all levels of Bosnia's administration, thematically, the project focuses on organised crime and corruption as well as on police-prosecutor cooperation (personal interview, Sarajevo, 2012). With the transition, the EU has sought to change the political landscape of its involvement in Bosnia. The strategic aim of EU's approach has been to place greater responsibility in the hands of Bosnia's political elites to take ownership of the police reform process. While the timing of EU's transition strategy can be debated, the EU needed to have the political courage as to deciding over the termination of EUPM as well as changing EU's approach in Bosnia.

Concluding remarks

This article has provided an overview of UN and EU efforts in the implementation of police reform in Bosnia and has investigated how far the implementation of police reform has advanced as a result of those efforts. The analysis has shown that the post-conflict environment in Bosnia, although generally stable as to the chances for a relapse into conflict, is still reminiscent of some of the conflict and post-conflict legacies. Seventeen years after Dayton, persistent ethnic/political divisions continue to be one of the main stumbling blocks to statebuilding in Bosnia, which in turn also reflects on the pace of the implementation of police reform to date. Despite UN and EU involvement to date, problems with institution-building reforms continue to persist at the political level. In Bosnia, some of these problems are reflected in the way local politicians seek to control the pace of institution-building by controlling the adoption of (and therefore the distribution) of budgets as well as the staffing levels of institutions, including the appointment of police directors for newly created institutions, which sometimes have seen delays. Within this context, the political resistance from the local level remains difficult to overcome.

Starting the implementation of police reform, IPTF carried out considerable work through the certification of police forces and the accreditation of law enforcement agencies. The UN did police reform at large placing priority on the reform needs arising in the immediate post-conflict phase, while at the same time keeping a broader approach to rule of law reform as a whole. In that, IPTF was aided by being part of a larger UN mission, with connected responsibilities. IPTF's focus on capacity and institution-building activities has been continued by EUPM, which placed added emphasis on institution-building at all levels of governance, within the entities but also at the state-level, strengthening the state-level institutions initially set up by the UN (e.g. Border Police, SIPA). Yet, since

Dayton, strengthening central level institutions has been a slow process marred by political compromises. Moreover, at the end of the UN period, Bosnia's context was still in an immediate post-conflict phase as regards the pace of implemented reforms. Only with time could EUPM go further into addressing the more systemic issues of institution-building. This shows the necessity of a long-term presence and constant and devoted efforts over the long run, for international actors to start to make an impact on the more systemic issues that lie at the heart of police reform. In fact, EU's experience in the implementation of police reform has been formed through a 'learning by doing' but also 'muddling through' approach, which has happened when the EU encountered the resistance of local elites and has had to creatively seek ways out: for instance, in the case of police restructuring negotiations or the acceptance of 2008 police laws. In the absence of a single police structure for the country, EUPM's approach of legal harmonization has been a second best solution. Despite the difficulties encountered in the implementation of police reform, this approach managed to drive the process forward, irrespective of its pace. In addition, the EU has perceived organised crime in BiH, as well as in the wider Balkans region, as a main post-conflict issue (Merlingen and Otrauskaite 2006). To date, the EU continues to focus its police reform efforts in this area.

More broadly, EUPM has also sought to pay general attention to supporting the connections between the police and the wider criminal justice system, an important link in order to substantiate police reform efforts. However, EUPM has not pursued this approach from the very beginning of its engagement in Bosnia. The particular tasks of strengthening police-prosecutor cooperation and police-penitentiary system cooperation have been added gradually by its third, and fourth mandate respectively. This was nevertheless due to the initial inexperience and ongoing development of EU crisis management

Actors/ Timeline	Main focus areas
UN (1995–2002)	<ul style="list-style-type: none"> - Certification of police officers - Accreditation of police agencies - Raising the accountability of the police (2 years) - Political link: recourse to the 'Bonn powers' of the High Representative
EU (2003–2012)	<ul style="list-style-type: none"> - Fighting organised crime and corruption - Police restructuring: redesigning the structure of the police for the whole country - Police reform: legal approximation and capacity-building - Raising the accountability of the police (9 years) - Political link: 'EU conditionality': police reform as a pre-condition for EU accession

UN and EU efforts in the implementation of police reform in Bosnia: main focus areas (1995 – 2012)

policies, but which have further developed in recent years – as also shown by the evolution of EUPM mandates, which became more targeted in time and as the mission evolved. The initial and more in-depth focus of EUPM on police reform rather than rule of law at a more comprehensive level, also demonstrated that police reform has been a difficult and long lasting endeavour in Bosnia. In fact, the experience with rule of law reform in Bosnia seems to have served as a lesson learned for EU, which later highlighted the importance of building the police and the judiciary in tandem in the context of its crisis management policies (Kees Klompenhouwer, Civilian Operations Commander, EUPM 2008b). The EU should continue on this path and seek to implement reforms that pay increased attention to addressing the connection between the police and the criminal justice system. Pursuing in parallel the reform of the judiciary but also that of the penitentiary could have an additional spill-over effect on police reform and increase the efficiency of the police. The EU has the ability to pursue this approach in a comprehensive manner by combining the efforts of different EU actors and instruments at its disposal.

Furthermore, the work performed by both IPTF and EUPM on technical reforms further indicated that advancing reforms at the technical level has been a more approachable task in Bosnia than EU's attempt to

reform the structure of the police system, a task touching largely on the high politics of statehood. The constitutional structure set at Dayton could not be changed in Bosnia. So the EU worked around this structure. The compromise reached with the signing of the 2008 police laws, did not simplify but rather complicated Bosnia's police structure, by creating a number of additional police agencies at the state level. Given that these institutions are still at an initial stage of functionality (EUPM 2012), it remains to be seen whether the 2008 police laws can prove to be an effective compromise in Bosnia's context and whether it can lead to more active police activity and inter-agency cooperation, as initially intended.

Therefore, the EU's experience in Bosnia shows that the local elites' will to cooperate is a central element to police reform/ state-building efforts. At the same time, the capabilities of the local authorities' to implement reforms become equally important. While the EU recognises these aspects as important elements in the implementation of police reform, main challenges continue to be posed by the financial sustainability of the police framework, the continued fragmentation of the police system and the lack of independence of the police from politics. The EU crisis management experience in Bosnia, of which the operation of EUPM forms an integral part, has served in the transition process

and has helped the EU Delegation/ EU Special Representative to further prioritise areas of engagement in the implementation of police reform. To overcome remaining challenges and to ensure that police reform succeeds in the long-term, from 2012-onwards, the EU should pay particular attention to the political level, where most of the stumbling blocks for the implementation of police reform lie. This becomes all the more important as after years of UN and EU capacity-building, the technical capacities of institutions seem to have reached an acceptable stage (personal interviews, Sarajevo 2012). Political will/ consensus among Bosnia's elites is now required to further drive institution-building and achieve the implementation of police reform, more generally. Combining technical and political expertise under one rooftop, the EU Delegation/ Office of the EU Special Representative is in a good position to address these aspects. With the closure of EUPM, the EU has now abandoned classical crisis management tasks and continues its involvement with the local elite through an approach based on reinforcing Bosnia's prospects of EU membership, and therefore, on reinvigorating EU efforts in the implementation of police reform in Bosnia and Herzegovina.

Notes

- ¹ The views expressed are solely those of the author and may not, in any circumstances, be regarded as stating the position of the institutions for which the author is or has been working. Furthermore, the author would like to thank all those who made themselves available during her field research to Bosnia and Herzegovina in 2012. All the interviews have been provided in a personal capacity.
- ² During the certification process, IPTF checked the wartime backgrounds, professional performance, legality of housing, education credentials, completion of IPTF compulsory training, proof of citizenship and criminal records of Bosnian police officers. Certification started with registering police officers. Screening fol-

lowed with a first general check-up and was finalised with an in-depth assessment leading to full certification (UNSC 2002).

- ³ IPTF view of 'democratic policing' was based on three pillars: 1) more post-communist, post-paramilitary restructuring; 2) more rigorous training, selection, certification and de-certification procedures; 3) more democratization by establishing depoliticized, impartial, accountable, and multinational police forces dedicated to the principles of democratic policing (Wisler 2005).
- ⁴ The State Border Service became Bosnia's Border Police in 2007, when the law governing this state-level agency was amended. Therefore, any follow-on text will refer to the Border Police.
- ⁵ The signature of a Stabilisation and Association Agreement between Bosnia and the EU represents a first step towards Bosnia's accession to the EU, recognising Bosnia as a potential candidate country.

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