



## The Police Forces in BiH – Persistent Fragmentation and Increasing Politicization

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## ACRONYMS

BiH	Bosnia and Herzegovina
CJB	Center for Public Security
CPCC	Civilian Planning and Conduct Capability
CSDP	Common Security and Defense Policy
DG HOME	Directorate General for Migration and Home Affairs
DG NEAR	Directorate-General for Neighbourhood and Enlargement Negotiations
EEAS	European External Action Service
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
EUPM	European Union Police Mission
EUSR	European Union Special Representative
FUP	Federation Police
HAPS	Home Affairs and Public Security Section
HDZ BiH	Croatian Democratic Union of Bosnia and Herzegovina
ICITAP	International Criminal Investigative Technical Assistance Program
IPA	Instrument for Pre-Accession
IPTF	International Police Task Force
LES	Law Enforcement Section
LIA	Law on Internal Affairs
MAA	Law Enforcement Mutual Aid Agreement for Cooperation and Operational Assistance
MP	Member of Parliament
MUP	Ministry of Interior
OHR	Office of the High Representative
PSU	Police Standards Unit
RS	Republika Srpska
RS MUP	Republika Srpska Ministry of Interior
RSNA	Republika Srpska National Assembly
SAA	Stabilization and Association Agreement
SBB	Party for a Better Future
SDA	Party of Democratic Action
SDP	Social Democratic Party
SIPA	State Investigation and Protection Agency
SNSD	Alliance of Independent Social Democrats
US	United States

## PREFACE

This DPC-Atlantic Initiative Policy Note is one in a series of occasional thematic papers which collectively composes the second edition of DPC and the Atlantic Initiative's Security Risk Analysis. The first edition, published in October 2011, assessed a full spectrum of risk factors in BiH: the functionality of government institutions at all levels, political exploitation of conflict rhetoric in the media, privately-held weapons, private security companies, religious and ethnic radicalism, socio-economic strain, juvenile delinquency, and the posture of the international community.

This second edition assesses these same risk factors from the vantage point of the present day, and also incorporates information that was previously unavailable to the authors. These papers are not mere updates of the first edition; each Policy Note is a stand-alone assessment of the theme in question. However, where information from the 2011 edition remains relevant, it has been included.

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## EXECUTIVE SUMMARY AND RECOMMENDATIONS

The police forces of Bosnia and Herzegovina (BiH) are assigned a key role in maintaining public order and security and in preventing the re-emergence of any kind of violent interethnic conflict. The police represented one of the weakest points when the international community started to engage in supporting the reconstruction and democratic transformation of the state in post-war BiH. Pre-war, the police had been highly professional but lacked any tradition of independence from politics. During the war they underwent a process of deep de-professionalization and further politicization, even criminalization, as the interior ministry was divided into ethnic components and police were drafted into participating in ethnic cleansing and war crimes. Reforming the police – with the goal to decriminalize them, raise their professional level and shield them from political interference – became one of the top priorities of international efforts to restore public order and safety and support democratic consolidation. Under international leadership police officers were vetted, the number of police officers was reduced, the posts of police director and police commissioner were established at entity and cantonal levels, Independent Boards were created to select candidates, transparent rules for hiring and promotion of police officials were set, and training and education was modernized.

While these measures proved moderately successful, one crucial reform ultimately failed – the attempt to overcome the structural fragmentation of the country's police among the various levels of government and the concomitant lack of institutional hierarchy among the numerous police agencies. The collapse of police reform in 2007 marked the first major development that resulted from a policy shift by the West, now under European Union (EU) leadership, towards lowering conditionality in the face of domestic resistance to reform, in the futile hope that this would create reform momentum. The consequence of Brussels initialing a Stabilization and Association Agreement (SAA) in 2007 in return for a mere written commitment by political leaders to future police reform and the creation of a number of (impotent) agencies at the state level (first and foremost the Directorate for Coordination of Police Bodies of BiH) instead of actual agreement on police reform was that there was no reform; neither the political elites nor the EU ever revisited the reform commitment. In 2012 the EU closed its Police Mission (EUPM) despite not having completed its mandated task – quite the contrary: attempts in both entities to roll back reform in areas where EUPM had set closing benchmarks were in full swing.

The EU's disengagement from serious reform has meant that structural problems in both entities remain unaddressed. In the Republika Srpska (RS), the police remain both highly centralized and highly politicized. In the Federation, the police agencies remain fragmented. The Federation police agency remains weak, the ethnic Bosniak-Croat divide within cantonal police agencies in mixed cantons has not disappeared, and cooperation between Federation and cantonal police remains *ad-hoc* and dependent on goodwill. The state-level Ministry of Security and the Directorate for Coordination of Police Bodies of BiH exist in an institutional twilight zone; cooperation between them and among various other agencies depends on goodwill that is rarely forthcoming.

As a second consequence of the EU's reform disengagement, the police have faced massive reform rollback attempts by the ruling political elites since 2011, when the first general elections following the

shift in Western policy were held. In the RS, a new Law on Police Officials and a new Law on Internal Affairs (LIA) have further strengthened the political stranglehold over the police. Up until 2014, RS President Milorad Dodik had further secured political control over the police through an informal, parallel command structure bypassing the interior minister. Following the October 2014 elections that weakened the ruling Alliance of Independent Social Democrats (SNSD) of RS President Milorad Dodik, he picked a new interior minister whose political loyalty is beyond doubt, as part of his efforts to further strengthen his political grip over the police. In the Federation, an open conflict erupted between entity and cantonal interior ministers and heads of police at entity and cantonal levels, and between the two largest parties, the Party of Democratic Action (SDA) and the Social Democratic Party of BiH (SDP), over the latter's attempt to establish political control over the police by way of new cantonal and entity LIAs. The attempt failed in 2014 just as general elections and the end of the rule of the SDP were nearing; the Federation adopted an LIA version championed by the West. But attempts at re-politicization through new LIAs continue at the cantonal level; changes to the book of rules for the Federation police agency appear to have the same purpose. This massive push for stronger political control has prompted all levels of police forces, from the State Investigation and Protection Agency (SIPA) down to the cantonal police corps, to steer clear of organized crime and corruption cases that might implicate the ruling elites.

Since the Western policy shift of 2006, the international community's impact on policing has been extremely limited. The Office of the High Representative's (OHR) small public-security department has remained the most active international actor. The United States (US) Embassy is another important actor, although it has limited its leverage by focusing its attention over the last two years almost exclusively on foreign fighters. The EU substantially reduced its engagement with the closure of EUPM; its only remnant is a small sub-department on policing established in mid-2012 within the EU Special Representative's (EUSR) office that operates in a policy vacuum, its leverage dependent on practical cooperation with the OHR and the US Embassy. The biggest success of this informal cooperation has been to prevent the passage of LIAs in the Federation brought forward by the SDP.

A number of case studies have shown that the combination of persistent institutional fragmentation and continued politicization of police agencies in BiH constitutes an increasingly dangerous security risk. The police's underwhelming performance during a terrorist attack on the US Embassy in Sarajevo in November 2011 and during violent social protests in February 2014 demonstrated that the vacuum created by fragmented police agencies makes normally manageable security risks far more serious. The RS police's response to a fatal attack on a police station in Zvornik by a Bosniak returnee in April 2015 demonstrated the extent to which the RS leadership's anti-Islamic propaganda has shaped the work of the police; while the police have undertaken very little substantive effort to deal with the relatively small problem of Islamist extremism in the RS, the attack was blown out of proportion by the RS-controlled media and RS politicians, straining relations between the Serb majority and Bosniak returnees. A feeling of insecurity has spread among returnees, making them more susceptible to radicalization, and attacks on returnees have substantially increased this year. The ineffective police response to the February 2014 protests in the Federation suggests that senior police officials are reluctant to take responsibility and act accordingly within the scope of their mandate. This raises the question of how the police would have reacted if the protests had assumed a violent inter-ethnic character (as some politicians suggested they would). At best,

the police would have remained on the sidelines; more likely, the police would have taken sides along ethnic lines.

Finally, in the RS, the entity police appear to have been transformed over the years into a defensive force for the ruling parties. All available information suggests that the RS police were instructed in February 2014 to shoot protesters in the event social unrest spread from the Federation. In light of the recent RS opposition pledge to use its role in the BiH Council of Ministers and SIPA to investigate allegations of corruption by the RS leadership, including President Dodik, a future clash between SIPA and the RS police cannot be discounted.

In order to avert the prospect for such a scenario, domestic and international actors and decision-makers should adopt the following recommendations:

To domestic actors in BiH:

- Civil society must take an active role in monitoring and reporting on the work of police agencies and publicly advocating for police reform.
- Civil society must lobby for its representatives to be included on Independent Boards to ensure and safeguard their independence so they can become truly independent.

To the international community in BiH, especially the EU:

- The EU must tackle structural police reform issues as part of BiH's EU integration framework even though the *acquis* is thin on policing. Structural issues need to be addressed through the political criteria for EU integration, with individual member states taking the lead in shaping such a policy.
- Starting with the 2016 EC Report for BiH, the EU needs to introduce a separate section within the chapter on political criteria that analyzes the state of police agencies in BiH.
- The EUSR's Rule of Law section must start now to take a much more pro-active role in advancing specific aspects of police reform that can be dealt with in the immediate term, especially in addressing unresolved issues and new challenges related to reform rollback. The good cooperation with the US Embassy and the OHR on policing issues must be continued and expanded to ensure a greater chance of success in this effort.
- The EU must urgently begin to address the problem of the highly politicized RS police.
- The international community in BiH, including Western donors, must support civil society in becoming a serious actor on the issue of police reform.

## Introduction

In December 2007, Olli Rehn, the European Commissioner for Enlargement at the time, initiated a Stabilization and Association Agreement (SAA) with Bosnia and Herzegovina (BiH), following an assessment that the country's political leaders had achieved sufficient progress, notably on police reform. Yet what Brussels labeled as progress was in fact a surrender that ignominiously ended a three-year long police reform effort, led by the Office of the High Representative (OHR) and closely coordinated with the European Union (EU). The reform process saw the establishment of three police reform commissions, various analyses, and numerous rounds of international negotiations with domestic political leaders; it was focused on integrating the fragmented police agencies and on professionalizing them as a means of de-politicization, goals that were articulated by the European Commission in three principles for police reform. Police reform had been identified by the international community as a strategic state-building reform area that was crucial to ensure public safety, prevent future ethnic conflict, and generate sustainable progress towards a democratic state with a strong rule of law.<sup>1</sup>

The police reform effort fell victim to the West's 2006 policy shift, when the EU assumed undisputed international leadership in BiH with American support, and concurrently abandoned a state-building policy that relied on Dayton instruments in favor of a less interventionist approach based on the assumption that political elites in BiH would take full responsibility for, and actively pursue, continued democratic reforms in the framework of Euro-Atlantic integration. This policy ran into early difficulties with political leaders in BiH, which subsequently shaped the EU's integration policy approach during the period 2007-14: the lowering of reform conditionality in the face of local political resistance, in the hope that this retreat would create reform momentum. This policy produced seven years of stalemate in EU integration and related reforms, starting with the signing of the SAA. The signature had previously been made conditional on actual agreement on police reform. Upon failure to achieve that worthy goal, the SAA was signed to reward BiH political leaders for a mere written pledge for future reform in the form of the Mostar Declaration.<sup>2</sup> There has been no return to this political commitment in the 8 years since it was signed.

Instead, in 2011, EU member states decided to close down the last international instrument<sup>3</sup> left in the policing arena – the EU Police Mission (EUPM) – in a decision pushed through by the same member states that were shaping the overall EU approach to BiH during that period. EUPM ended its mission in June 2012 even though it had failed to meet the EU's explicit preconditions for closure. Since then, BiH police agencies have been subject to continued efforts to turn them into political tools.

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<sup>1</sup> Daniel Lindvall, *The Limits of the European Vision in BiH. An Analysis of the Police Reform Negotiations*, Stockholm 2009.

<sup>2</sup> On 28 October 2007 six BH political party leaders signed the so-called "Mostar Declaration" as a result of a meeting with then-High Representative Miroslav Lajcak. With their signatures they pledged their commitment to the implementation of police reform with the aim of initialing and signing the Stabilization and Association Agreement. On 22 November 2007 the party leaders signed the Action Plan for Implementation of the Mostar Declaration. The Action Plan provided for the future establishment of "single police structure of BiH, on the basis of the three principles of the European Commission, and which shall be established pursuant to the provisions of the Constitution of BiH to be elaborated in a constitutional reform process;" *ACTION PLAN FOR IMPLEMENTATION OF THE MOSTAR DECLARATION*, available at: [http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc-prc-other/default.asp?content\\_id=40959](http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc-prc-other/default.asp?content_id=40959).

<sup>3</sup> The EUPM was the formal successor to the UN's International Police Task Force (IPTF).

This paper aims to give an account of the current state of the police forces in BiH and to assess their level of professionalism in fulfilling their core function – to maintain public order and security. After an overview of the main elements, achievements, and shortcomings of the post-war transformation of the police, the paper focuses on developments since 2011, with special attention given to efforts to re-politicize police agencies and the continued reality of their fragmentation. Three case studies are used to illustrate the impact these two factors have had on the police’s performance: an attack on the United States (US) Embassy in Sarajevo in 2011; an attack in May 2015 on a police station in Zvornik; and violent social protests in February 2014. Finally, the paper looks at the role of key international actors in BiH (EU, OHR, US) in preserving the achievements of previous police reform efforts and in countering rollback attempts.

This account is based on an ongoing analysis of developments in policing in BiH since 2011; a dozen interviews conducted with police officials from various agencies in BiH and with representatives of international policing organizations in BiH; and public reports and confidential documents obtained by the author.

Examining the rationale for de-politicizing BiH’s police forces, for their operational autonomy from political interference, and for coordinated or integrated operations among the myriad police agencies at different levels of government is not merely an academic exercise. These factors will shape the police’s response in the event violent inter-ethnic conflict ever breaks out again.

### **Post-war police reform: measures, impact, shortcomings**

BiH’s post-war police forces were ill-prepared for the task of maintaining public order and security. They were burdened by the dual legacy of socialist Yugoslavia and the 1992-95 war: the police forces were transformed by their direct involvement in a policy of violent ethnicization during the war, and by the fragmentation of police agencies under the dysfunctional structural set-up of the post-war Dayton state.

The socialist police had operated effectively in combatting ordinary crime and maintaining public order, but were subordinated in a rigidly centralized system of republic policing in the framework of an otherwise comparatively liberal one-party system<sup>4</sup>. The police had no operational autonomy, with the republic’s interior minister acting as its operational director; the state security – the real political police – was organized in tandem with the regular police with no physical separation.<sup>5</sup> After the first multiparty elections in 1990 and during the breakup of Yugoslavia, the ethnic ruling parties engineered the ethnic split of the Ministry of Interior (MUP) as a first step in their violent seizure of power and territory and the establishment of mono-ethnic para-states. The use of both the ethnicized police forces and of criminal elements and paramilitary forces as political instruments fundamentally de-professionalized and politicized the police, with the demarcation line between crime and crime prevention getting blurred.<sup>6</sup>

As a consequence, the international community’s post-war efforts on police reform focused on de-

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<sup>4</sup> In comparison with the neighboring Soviet bloc and Albania.

<sup>5</sup> Ibid., p.64/65.; Budimir Babović, *Ljudska prava i policija u Jugoslaviji*, Belgrade 1999, pp.71-75.

<sup>6</sup> Bodo Weber, “Rethinking ethnic violence: paramilitary groups, collective violence and the ethnicisation of the Balkan societies in the 1990s”, in: *L’Europe en formation*, No.357 (autumn 2010), pp.75-90.

politicization, democratization, re-professionalization and the modernization of police agencies both operationally and in terms of management. These efforts were led by a Dayton-mandated UN police mission, the International Police Task Force (IPTF), together with the OHR; later, when BiH began its EU integration process and the High Representative served an additional function as EU Special Representative (EUSR), the EU fully supported and coordinated the police reform work of the OHR and the IPTF.

By far the largest police reform project was the IPTF-led international vetting of all police officers in BiH. Lasting from 1998 until the end of the IPTF mission in 2002, it encompassed the screening of professional skills and education as well as any wartime and post-war involvement in crimes, notably war crimes. Screened officers either received a certificate or were decertified and lost their jobs.<sup>7</sup> The reform represented one of the most important steps in decriminalizing and re-professionalizing the police. While only a few hundred police officers were in fact de-certified, the process as such had a strong disciplining effect on those who successfully passed the screening.<sup>8</sup> On the downside, the vetting process was completed in haste due to a purely political decision to close down the IPTF. In addition, administrative staff were *not* vetted, and the will of the UN Mission in BiH to deal with high-level police officials was limited.<sup>9</sup> As a result, the bulk of the police forces were *not* checked and the reform left in office a large number of police officers in both entities who had been involved in war crimes.<sup>10</sup>

Another core reform was the reduction of the very high staff numbers to a level in line with international standards. The ethnic fragmentation of the police during the war had led to a rise in the number of police officers from 15,000 in 1991 to 45,000 at the end of the war<sup>11</sup> – a drastic overstaffing and a heavy budgetary burden for the entities and cantons. Western assessments recommended a reduction to around 14,000.<sup>12</sup> By the end of 2003, the number of police officers was down to 17,000, while the number of civilian employees in the police and interior ministry administration stood at around 6,000. In 2011, the number of civilian employees had risen to an estimated 8,000 while that of police officers remained stable.<sup>13</sup> This increase in administrative staff by one-third corresponded with the overall rise in the public wage bill in BiH after 2004 – a key element of the political elites' extension of political patronage by way of political employment that occurred when the international community shifted its policy approach towards less interventionism in 2006. The lack of any further rationalization of the fragmented system created lasting budgetary problems, especially in chronically economically weak cantons in the Federation. The effects have included the lack of even basic equipment and resources for regular physical and weapons training and restrictions on fuel use for patrol cars. In addition, low salaries in some cantons

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<sup>7</sup> Timothy Donais, "The limits of post-conflict police reform", in: Michael A. Innes (Ed.), *Bosnian security after Dayton*, London/NY 2006, pp.177-178.

<sup>8</sup> Donais, "The limits of post-conflict police reform", pp.177-178.

<sup>9</sup> *Policing the police in Bosnia*, p.52.

<sup>10</sup> Interview with high-level RS police official.

<sup>11</sup> *Ibid.*, Lindvall, p. 65.

<sup>12</sup> *Financial, organizational and administrative assessment of the BiH police forces and the state border service. Final assessment report*, ICMPD, Sarajevo 2004.

<sup>13</sup> *Financial, organizational and administrative assessment of the BiH police forces and the state border service. Final assessment report*; Interview with high-level BiH police official, June 2011.

are a source of dissatisfaction and strikes.<sup>14</sup>

Another key measure aimed at institutionally protecting the police from political interference was the establishment of the post of police commissioner at the cantonal level, and the equivalent post of police director at the entity level. These positions were intended to head up the police as separate administrative units within the interior ministries, endowed with operational independence *vis-à-vis* the ministers. These changes were outlined in new harmonized laws on internal affairs (LIAs), while new laws on police officials defined the highest professional criteria and relevant experience required for candidates, and barred those who had previously held political office. These changes and the harmonization of the two basic laws across cantons and entities, were continued by the IPTF's successor mission, EUPM.

In addition, so-called Independent Boards were introduced at the level of the state down to the cantonal government level. The boards had authority to shortlist candidates for police commissioner or police director positions, leaving governments to select appointees from among a small number of candidates. The boards also had the power to investigate and sanction misconduct by appointees, including through suspension and dismissal. The board members were to be selected by parliaments from among independent individuals from civil society with diverse professional backgrounds. Finally, as part of this de-politicization reform package, police officers were banned from membership in political parties.<sup>15</sup>

These reforms set the foundation for the operational independence of the police, and thus created impediments to political interference. Yet they had their limits and proved only partially resistant to later attempts to roll back reform. Operational independence from the interior minister and the government remained incomplete, leaving commissioners and directors without authority over police budgets and support services. Legal changes that established budget authority succeeded a few years ago only in Tuzla and Goražde cantons – both of which have pressing budgetary problems. In addition, at the Federation level, the police director in 2014 gained legal authority over the budget through adoption of a new Law on Internal Affairs, authority he had held *de facto* but not *de jure* since 2005. Also, frequent conflicts between interior ministers and commissioners and directors have resulted in the application of political pressure on police administrations and their leaderships, amounting to intimidation. And despite the legal ban on party membership, (which lacked any enforcement mechanism), commissioners and directors as an unwritten rule remain linked to ruling parties, mostly as a result of the failure to insulate the selection process from political influence through the establishment of Independent Boards. The boards have demonstrated that genuine political independence is impossible in the absence of substantial democratic reform of the political system as a whole. Parliaments, as a rule, select 'independent' experts, academics, and civil society representatives that are in fact loyal to one of the three constituent peoples and the ruling parties. As a consequence, the selection of commissioners and directors follows the bargaining

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<sup>14</sup> Interviews with international police and Federation police officials, May-June 2011; "Problemi operativnog postupanja policijskih službenika u Zeničko-Dobojskom kantonu," available at: [http://atlantskainicijativa.org/index.php?option=com\\_content&view=article&id=624%3Aproblemi-operativnog-postupanja-policijskih-slubenika-u-zeniko-dobojskom-kantonu&catid=44%3Anewsletter&Itemid=131&lang=hr](http://atlantskainicijativa.org/index.php?option=com_content&view=article&id=624%3Aproblemi-operativnog-postupanja-policijskih-slubenika-u-zeniko-dobojskom-kantonu&catid=44%3Anewsletter&Itemid=131&lang=hr).

<sup>15</sup> *Policing the police in Bosnia: A further reform agenda*, International Crisis Group, May 2002, pp.33-36; interview with domestic police expert, June 2011.

agreement between the ruling parties no less than that of interior ministers.<sup>16</sup>

In order to curb widespread post-war corruption and other forms of misconduct among police officers, the international community also initiated the establishment of Police Standards Units (PSUs) and the harmonization of disciplinary practices and procedures across all police agencies. The effects of these reforms are difficult to assess. The overall level of corruption among rank-and-file officers seems to have dropped substantially, below the level of some other government institutions. Yet the institutional location of PSUs within police agencies remains inconsistent; some are under the strong control of the police commissioner or police director, which is one avenue for blocking sanctions for misconduct of police officials (especially senior ones) with links to a ruling party or based on other interests.<sup>17</sup>

Substantial international efforts have also been invested in training and management. The two entity police academies were modernized and consistent educational criteria for entry and promotion within the police agencies were developed, and attempts made to have them codified in laws on police officials. In addition, support was given to the modernization of administrations of interior ministries and police administration units. These efforts have produced cumulative progress in training, education, and management, albeit with certain limitations. Administrative modernization in particular remains constrained by a persistent socialist bureaucratic legacy and a weak tradition of strategic planning, while the creation of educational criteria for entry and promotion has become the object of reform rollback attempts in both entities in recent years.<sup>18</sup>

Finally, the one area in which the international community completely failed in its reform efforts was in integrating the policing system in BiH. Dayton set up 13 territorially-separated law enforcement agencies – two entity agencies, ten cantonal agencies, and one in Brčko District.<sup>19</sup> Entity agencies have no jurisdiction in the other entity, and the Federation police has only limited policing authority and none over cantonal police agencies. The wartime split into separate ethnic police found its post-war continuation in the informal coordination that takes place across police agencies of Croat-majority cantons and informal, parallel ethnic police structures within the ethnically mixed, Croat-Bosniak cantons.

Originally, there was no state-level agency (or state-level court jurisdiction). That changed with the establishment of the State Border Service in 1999, the State Investigation and Protection Agency (SIPA) in 2004, and a State Ministry of Security in 2002/03 which were meant to form the nucleus of a subsequent police reform effort. Police reform in BiH was defined by three EU principles: complete transfer of police competency to the state level, elimination of political interference, and territorial reorganization of police agencies according to functional instead of ethnic-political criteria.<sup>20</sup> The reform failed not due to its substance, but due to the consequences of the international community's policy shift in 2006, which led to heightened nationalist rhetoric and the breakdown of dialogue and compromise between the political leaders in BiH. In the end, it was the emerging Bosniak leader Haris Silajdžić who prevented an agreement,

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<sup>16</sup> Interviews with former and current heads of police administrations and international policing officials, 2011-2015.

<sup>17</sup> *Policing the police in Bosnia*, p.36-37; Interviews with BiH police officials and international policing officials, 2011-2015.

<sup>18</sup> *Ibid.*, pp.43/44; Interviews with BiH police officials, 2011-2015.

<sup>19</sup> Brčko District was established as a result of the post-Dayton Final Award in 1999. Police were among the independent municipal institutions created for the District.

<sup>20</sup> *Policing the police in Bosnia*, pp.9-10; Lindvall, pp.87-92.

while Milorad Dodik, the Republika Srpska (RS) Prime Minister at the time, essentially accepted the EU's demands but needed a face-saving deal. But Dodik learned a valuable lesson from the experience and subsequently shifted to an uncompromising nationalist policy of seeking to undermine all state-level institutions established after the war.<sup>21</sup>

The institutional fragmentation of the policing system in BiH and the disassociation of the various police agencies remain in place. Over the last decade or so, practical cooperation among agencies has substantially improved, but it is still based on personal relations and is neither institutionalized nor systemic.<sup>22</sup> At the state level, three agencies and the BiH Ministry of Security have been added to the original Dayton structure: in addition to the border police and SIPA, the Directorate for Coordination of Police Bodies of BiH has been established as part of a Potemkin police reform, based on the Mostar Declaration of 2007. Yet these institutions cannot compensate for the failure of police reform to harmonize the policing system. The division of competences between the state agencies and lower-level agencies remains unclear and blurred. The Ministry of Security has ended up in an institutional twilight zone.<sup>23</sup>

### **The state of policing in the two entities and the State**

In the **Federation**, the 11 police agencies remain institutionally highly fragmented. The harmonization of laws on internal affairs and on police officials between the entity and the cantons remains a work in progress and until 2010 was blocked politically. The Federation's policing portfolio remains limited to a few policing issues. The bulk of its jurisdiction, for so-called inter-cantonal crimes has been revived somewhat since Dragan Lukač became police director in 2010, but still remains constrained by bureaucratic inertia and inter-party relations across the various levels of governance in the entity. Important police tools are either non-existent or dysfunctional and a joint database of criminal files took six years to establish, but is not systematically updated by cantonal police agencies. A solid level of cooperation between cantonal police commissioners and the Federation police director has developed based on shared professional interests and their resistance to political interference in operational matters. The coordination among police agencies in Croat-majority cantons seems to have weakened while the parallel, para-institutional ethnic police structures in the two ethnically mixed cantons (Central Bosnia Canton and Mostar Canton) seem to have faded up until 2010. However, as inter-party conflict intensified in the Federation since the 2010 elections, there has been a resurgence of these practices. For example, in Central Bosnia Canton the current (Croat) police commissioner is informally reporting to the (Croatian Democratic Union of Bosnia and Herzegovina HDZ BiH) interior minister, bypassing the (Bosniak) police commissioner. In Mostar, the selection of police commissioners remains traditionally based on a deal between the HDZ BiH and the Party of Democratic Action (SDA), under which cantonal police concentrate on ordinary crime and refrain from dealing with the politically sensitive areas of organized

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<sup>21</sup> Daniel Lindvall, *The limits of the European vision in BiH. An analysis of the police reform negotiations*, Stockholm 2009.

<sup>22</sup> Interviews with BiH police officials and international policing officials, June 2011-2015.

<sup>23</sup> Interviews with BiH police officials and international policing officials, 2011-2015.

crime and corruption.<sup>24</sup>

The police in the **Republika Srpska** remain the least reformed of all agencies in the country – and therefore closest in structure to the previous socialist model. With its five Centers for Public Security (CJB) and policing regions organized under the authority of a single Ministry of Interior (MUP RS), the police in the RS are highly centralized. Political influence and control over the police administration remains considerable. The police director formally enjoys operational autonomy, but the legal separation between the director and the interior minister lacks consistency and he has no authority over the police budget. The interior minister and the police director traditionally are loyal to the ruling party, and, unlike in the Federation, no police director has ever stood up in public to defend the independence of the police. The politicized character of the RS police has further intensified since Milorad Dodik and his Alliance of Independent Social Democrats (SNSD) took power in 2006. The previous police director, Uroš Pena, praised by international officials for his professionalism and cooperation, left his post in 2009 out of frustration over political interference. His successor, Gojko Vasić, also a police professional, is politically obedient and has “no independent opinion on any policing issue,” according to close observers.<sup>25</sup> This assessment is confirmed by the fact that Vasić remains in office to this day, longer than any other currently-serving head of a police agency in BiH.

At the **State-level**, the State Information and Protection Agency was originally set up in 2002 to serve the Court of BiH and the Prosecutor’s Office of BiH. It evolved into the State Investigation and Protection Agency – a state-level agency with policing authority in the whole of the country organized as an administrative unit with operational autonomy inside the Ministry of Security of BiH. Its areas of authority parallel those of the Court of BiH. While its work in the area of war crimes developed relatively smoothly, its work on its other main portfolio – organized crime and corruption – provoked public controversy and massive political pressure, which affected performance in that politically-sensitive area. A criminal investigation into alleged corruption in the construction of the RS government building that included government officials and Dodik himself, launched by SIPA assistant director Dragan Lukač in 2008, brought then SIPA director Mirko Lujić – a Dodik loyalist – up against Lukač. Lukač later left SIPA and became the Federation police director. This episode marked the beginning of SIPA limiting itself to less politically sensitive policing activities. Lujić’s successor, Goran Zubac, is a police officer who revived SIPA’s work to some extent. But as he too was picked by the SNSD and is loyal to the government in Banja Luka, SIPA continues to skirt investigations or arrests in connection with organized crime and corruption that might have links with the government and its business partners in the RS, or with Banja Luka’s political allies in the Federation.<sup>26</sup>

Based on the 2007 Mostar Declaration, the state-level Directorate for Coordination of Police Bodies of BiH

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<sup>24</sup> Interviews with Federation and BiH police officials and international policing officials, 2011-2015.

<sup>25</sup> Interviews with high-level RS police official and international policing officials, June 2011.

<sup>26</sup> See chapter “State Investigation and Protection Agency (SIPA),” in: Denis Hadžović, *The OHR and Security Sector Reform in BiH*, Center for Security Studies BiH, February 2009, pp.63-65 and Wikileaks cable by then-US Ambassador to BiH Charles English, <http://wikileaks.org/cable/2009/04/09SARAJEVO513.html>; “SIPA izuzela dokumentaciju o izgradnji zgrade Vlade RS,” Deutsche Welle, November 26, 2011, <http://www.dw-world.de/dw/article/0,,3823001,00.html>; “Ako je ovako prošao Lukač, šta mogu očekivati drugi?!” *Oslobođenje*, October 4, 2009; “Kraj Milorada Barašina,” *BHDani*, January 7, 2011.

was established in 2010. Among other functions, it provides an institutional home for the coordination of the various police agencies, and the law that established the Directorate obliges the country's agencies to cooperate with it. Yet with no enforcement mechanisms, the Directorate lacks authority to the same extent that the Ministry of Security lacks authority, and remains dependent on goodwill.<sup>27</sup> In 2011, the Directorate took over from SIPA the protection of state-level government institutions and foreign diplomatic missions throughout the country. SIPA's roughly 800 police officers previously in charge of that function were transferred to the Directorate.

BiH's Ministry of Security, set up as part of the project for a unified police before it collapsed, thus remained in an institutional twilight zone – and still does today. With very few exclusive competences (asylum, migration, and foreigners), its role comes down to a coordinating function that remains insufficiently developed institutionally. The ministry's strategic plan for 2011-2013 referred to an "inadequate institutional set-up and equipment of the Ministry, the fragmentation and dysfunctionality of the existing security sector in BiH, as well as the unpredictability of its future shape."<sup>28</sup> When in 2012, after a reshuffling of the ruling coalition at the state level, the Party for a Better Future (SBB) joined the BiH Council of Ministers, its leader Fahrudin Radončić, a former media tycoon, became the new Minister of Security. Opposition media warned that this would have serious consequences given Radončić's alleged business links with organized crime. Radončić's obvious efforts to perform in a statesman-like manner convinced the US government and some international policing officials in Sarajevo to invest in a relationship with him. Yet initial positive judgments of Radončić's performance completely changed after his departure following the October 2014 elections, when it became clear that he had instrumentalized his ministerial position in the election campaign and had made no tangible impact during his two years in office.<sup>29</sup>

### **The entities: seeking to roll back reform achievements**

In 2006, the international community shifted its policy in BiH to a more hands-off approach. Political attention was focused elsewhere, and domestic political elites began to fill the political vacuum with sharpened nationalist rhetoric, undemocratic practices and, beginning with the RS, moves to undermine the constitutional order of the state. They encountered little pushback from either the EU or the US and concluded that the West was weak. Following the 2010 general elections, the ruling elites at the entity and cantonal levels began to roll back the achievements of post-war democratic police reforms.

In the **Republika Srpska**, those efforts by the SNSD-led government began with amending the RS Law on Police Officials. Following the introduction of a state-level Law on Police Officials, similar laws had been drafted and introduced at entity and cantonal levels with international support, regulating such important issues as entry into police service, promotions, educational criteria, and training. As was the case with other policy areas such as the judiciary, the RS attack followed a clear pattern: an RS MUP representative

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<sup>27</sup> Interview with a Directorate official, June 2011.

<sup>28</sup> *Strategic plan of the Ministry of security of BiH 2011-2013*, available at: <http://www.msb.gov.ba/docs/Strateski.plan.MSB.BiH.2010.pdf>

<sup>29</sup> Interviews with international policing officials, 2012 and 2015.

seemingly constructively participated in a consultative process organized by EUPM with experts from all police agencies aimed at simultaneously amending existing laws on police officials based on a decade of practical experience with the original laws. The exercise lasted from November 2010 to June 2011. But in May 2011, the RS Minister of Interior presented a draft amendment to the RS Law on Police Officials to the RS National Assembly (RSNA) that went against the proposals generated by the consultative process. The draft law was aimed at undoing major reform achievements which had de-politicized and professionalized the police in three areas. First, the proposed law would have enabled civilians to enter the police service at any rank without any formal educational requirements, based on a very vague definition of “special needs.” This presented an obvious opening for de-certified police officers, among others, to re-enter the police. Second, the law proposed to extend the existing, limited possibility of extraordinary promotions of police officers to all ranks inside the RS MUP, and the decision on such promotions was transferred from the authority of the police director to the interior minister. In the case of the highest rank, the chief inspector, this authority was given to the president of the RS, though it is not at all clear that the RS Constitution gives the president any competence over police (Dodik had moved into the presidential office after his election success in October 2010; what had been a largely ceremonial post had now been invested with real authority due to Dodik’s uncontested power based on his role as president of the ruling party). Third, another provision froze the benefits of RS police officials temporarily transferred outside the RS police, discouraging police officials from taking positions in state-level institutions or participating in international police missions.<sup>30</sup>

These proposed amendments provoked pushback from the OHR, forcing EUPM to also react. In separate letters to then-RS Minister of Interior Stanislav Čađo dated May 30, the heads of both international missions objected to the three regulations. EUPM Commissioner Stefan Feller reminded the minister of reform requirements related to the EU integration process, while Deputy High Representative Roderick Moore reminded the minister of the RS’s international legal commitment to not reverse the de-certification of police officials that derives from the UN-led police vetting process conducted between 1998 and 2002. On the eve of the final reading of the draft law in the RSNA, Feller and High Representative Valentin Inzko wrote to the Minister of Interior, the RSNA Speaker, and all MPs to demand that the draft law not be put to a vote, but instead be redrafted based on the points they had raised. Despite the pressure, the RSNA on July 20, 2011 briefly debated the draft law without a single MP referring to the international criticism, and then adopted it by an overwhelming majority. The RS Government’s disregard for Western pressure reflected its perceived weakness of the EU and the international Dayton institutions in BiH. This was not surprising, given that in the midst of the EUPM’s intense battle against the RS draft law, only six days before the Assembly vote, the EU member states that advocated terminating the international community’s Dayton instruments had managed to push through an EU decision to close the EUPM mission by mid-2012.<sup>31</sup>

After the defeat, the OHR worked behind the scenes to repair at least a part of the problematic regulations

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<sup>30</sup> *Draft 2011 RS Law on Police Officials.*

<sup>31</sup> Interviews with international policing officials, Sarajevo 2011; *Letters by EUPM Head of Mission Stefan Feller and Principal Deputy High Representative Roderick W. Moore to RS interior minister Stanislav Čađo, May 30, 2011; Letter by EUPM HoM Feller to Čađo, Letter by High Representative Valentin Inzko to RSNA speaker Igor Radojičić, both Sarajevo July 13, 2011.*

in the amended law. In 2012, then-Minister of Interior Radislav Jovičić, agreed to seal the opening for the return of de-certified police officers through a change of the RS police book of rules. By limiting the possibility of civilians who lacked the necessary qualifications to enter police service to the entry level, the group of formerly ousted policemen *de facto* lost the opportunity that the regulation of the amended law had offered. This happened despite OHR's drastically weakened authority *vis-à-vis* the RS MUP because the attempt to help de-certified policemen was "a complete PR stunt: the minister had no vested interest in that issue," according to one source.<sup>32</sup> On the EU side, the head of EUPM, Commissioner Feller, a German police official, surrendered on the fight against the law as his government had been the driving force behind the decision to close down the mission. He kept the matter off the public radar until EUPM's closure, and since then the EU has not revisited the issue. Subsequently, the regulations in the RS law that enabled a re-politicization of the police were never addressed again.<sup>33</sup> In 2014, the RSNA passed a new Law on Internal Affairs that further strengthened the role of the interior minister *vis-à-vis* the police administration and the police director.<sup>34</sup>

As the SNSD government weakened and began to lose votes in elections in 2012 and 2014, the party and its leader further tightened their already strong political grip on the RS MUP. Dodik had limited trust in Minister of Interior Radoslav Jovičić (in office from 2010-14) and established a line of direct communication and command with the police director and the top echelon of the police administration through a new presidential advisor for security, Miloš Čubrilović, a former bodyguard of Dodik's.<sup>35</sup> That development intensified after the partial electoral defeat of the SNSD in the general elections in October 2014, leaving the party out of government at state level. The RS Government reshuffle included a last-minute change of the interior minister. The new minister, Dragan Lukač (not to be confused with the Federation police director of the same name), is a police officer whose political obedience is without question. He was an ideal candidate given his professional biography, and most notably his demotion from a high-level police post to municipal police commander after a botched war crimes arrest under his command in Višegrad in 2004, which left several people dead. As one international police official put it, "there is no need for Dodik any more to uphold any parallel command structures. Taken together with several other staff reshuffles that took place within the RS police administration recently, this means that the SNSD is getting even deeper into the police hierarchy."<sup>36</sup>

In the **Federation**, the main winner of the 2010 elections, the Social Democratic Party (SDP), appointed Predrag Kurteš, one of the most senior police officials of the country, who had been in various top police jobs for a decade and a half, as interior minister. The police director, Lukač, is close to the SDA, the SDP's then-coalition partner in the Federation Government, which was subsequently ejected from the coalition by the SDP in 2012. As part of a deal between Kurteš and Lukač, whom international policing officials characterize as "a good operator, but a terrible manager," Lukač abolished the Federation police (FUP) section for economic crimes, which had previously investigated a corruption case against the SDP

<sup>32</sup> Interview with international policing official, Sarajevo 2012.

<sup>33</sup> Interviews with international policing officials and EU representatives, Sarajevo 2012, 2013 & 2015.

<sup>34</sup> 2014 RS Law on Internal Affairs.

<sup>35</sup> Interview with European intelligence officials in BiH, 2015.

<sup>36</sup> Interviews with international policing officials and RS interlocutors, Sarajevo and Banja Luka, 2015.

leadership. The second part of the original 2011 SDP-SDA deal within the interior ministry was the change of the Federation (and subsequently also the cantonal) Law on Internal Affairs, which soon became the object of an inter-party and intra-MUP fight for control over the police in the Federation.<sup>37</sup>

In June 2011, a group of three cantonal interior ministers from the SDP, headed by Sarajevo Canton Minister of Interior Muhamed Budimlić, presented a draft Law on Internal Affairs that was meant as a harmonized law for all cantons as well as the basis for a new Federation law. Though they presented the draft as being in line with EUPM's harmonization initiative and respecting the operational autonomy of police commissioners and police administrations, it was in fact drafted to facilitate the opposite – undercutting the autonomy of the police and shifting authority from commissioners back to ministers. The draft law demoted the existing “administration unit within the ministry” to a mere “basic organizational unit” and shifted authority over appointments of heads of sections back to the minister and the supervision of the police's internal control organs, the PSUs, from the commissioner to the minister's cabinet – even though this is a mere advisory body. Worse yet, the draft proposed abolition of the Independent Boards without replacing them with clearly defined and transparent new rules for the selection of commissioners. It also suggested a transitional, three-year reduction of requirements for commissioner candidates – without any explanation as to why such a provision might be needed.<sup>38</sup>

The attempt provoked joint resistance from police commissioners and the Federation police director, and from EUPM and the OHR. It also permanently damaged the relationship between the director and commissioners on the one hand and ministers on the other, especially in Sarajevo Canton, where the police commissioner accused the initiators of planning to return the police to the early Stalinist era of Yugoslav socialism. After a meeting between the police commissioners and the police director at the end of June 2011, along with Western pressure, the attempt to repoliticize the police came to a halt – for the time being.<sup>39</sup> But the draft law, in unchanged form, was brought up again by Sarajevo Canton Minister of Interior Budimlić in 2012. At the same time, Federation Minister of Interior Kurteš came up with a similar Federation Law on Police Officials. The draft law divided the Federation Government with SDA voting against sending it to parliament at a government session in January and its MPs subsequently joining parts of the opposition in their “No”-vote against the law in the first reading. One international policing official thought that the SDA's motives were split: “75% to prevent SDP control over the police and 25% truly democratic.” In 2013, the Sarajevo Canton Government sent the LIA for the first reading to parliament. This was accompanied by government members and SDP MPs launching vociferous attacks against OHR staff. In a meeting on September 20, 2013, between High Representative Inzko and EUSR policing official Richard Wood on the international side, and Budimlić, Kurteš, and the high-level SDP official Damir Hadžić on the domestic side, the SDP backed down and agreed to drop the draft cantonal laws and to wait until

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<sup>37</sup> Interviews with Federation Police official, 2015.

<sup>38</sup> Draft 2011 *Cantonal law on police officials*, interviews with international policing officials, 2011.

<sup>39</sup> Interviews with international policing officials; EUPM, *Considerations on the template draft Laws on Internal Affairs*, Sarajevo June 27, 2011; *Draft Cantonal Law on Internal Affairs*; *Letter by Sarajevo Canton police commissioner Vahid Ćosić to the cantonal interior minister concerning the draft Law on Internal Affairs*, Sarajevo June 28, 2011.

the forthcoming Federation LIA was passed so they could be harmonized with it.<sup>40</sup>

With the October 2014 elections looming, the SDP and its Minister of Interior Kurteš finally backed down. A new Federation Law on Internal Affairs was passed in parliament in the summer and took effect in October. It was described by an international official involved in the years-long struggle as a “100% OHR-EUSR-US Embassy product.” “Kurteš and the SDP made a U-turn, wanted to make a good impression before losing power,” the source said. “Kurteš anyway had never been vested in it, just acted as a party soldier.”<sup>41</sup> The international community, however, made one concession in the law – it agreed to shift the final decision on appointing the Federation police director from the Independent Board to the government. This amounted to an admission that the concept of an Independent Board staffed by truly independent members was unrealistic, given the overall reversal of BiH’s democratic transformation after 2006. At present, the international community’s efforts to harmonize cantonal LIAs with the new Federation law are ongoing. At the same time, countering regular roll-back attempts remains a constant struggle.<sup>42</sup>

Following the entry into force of the new Federation LIA, a legal battle erupted between the SDP-led government and the Independent Board in the Federation when the board re-appointed Lukač as police director in the autumn of 2014. The selection procedure started ten days before the entry into force of the new law, under which Lukač met the conditions for retirement. In the legal battle over whether the old or the new law was applicable, the outgoing government annulled Lukač’s appointment and forced him into retirement, but a first instance court returned him to his position. As the new Federation Government is currently awaiting the second instance decision, it seems that the police director’s fate will depend on a deal between the new coalition partners, SDA and HDZ, over a package appointment of Federation police director and the vacant post of Herzegovina-Neretva Canton commissioner.<sup>43</sup>

Within the Federation MUP now, the new Minister, Aljoša Čampara, comes from the SDA and the police director, Dragan Lukač, is affiliated with the party. The two have revised the internal organizational structure of the police, creating new sectors and units within sectors and replacing almost the entire operational leadership. At the same time, a newly-issued internal book of rules on promotions, approved by the Minister, gives the police director position almost unlimited discretionary authority in promotions, removing the internal police commissions from the process of applying objective and transparent criteria to assess candidates. The rulebook has not been made public, which means that this attempt to reverse reform at the level of internal regulations has remained below the radar of the international community.<sup>44</sup>

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<sup>40</sup> “Preglasani ministri iz SDA,” *Oslobođenje*, January 25, 2012; “Policija podijelila Parlament,” *Oslobođenje*, March 2, 2012; *Letter by High Representative Valentin Inzko to Sarajevo Canton Prime Minister Fikret Musić and Minister of Interior Muhamed Budimlić*; interview with international policing official, Sarajevo 2012.

<sup>41</sup> Interview with international policing official, 2015.

<sup>42</sup> Interviews with international policing officials, 2012-2015; *2014 Federation Law on Internal Affairs*.

<sup>43</sup> Federation government statement “O izboru kandidata za direktora Federalne Uprave Policije,” January 8, 2015; interviews with international policing officials, 2015.

<sup>44</sup> Interviews with Federation police officials, 2015.

## Fragmentation and politicization of police as a threat to public security: case studies

### *The 2011 attack on the US Embassy*

On October 28, 2011, Mevlid Jašarević, a young Bosniak from the Serbian part of the Sandžak region with close ties to extremist Islamist circles in the Western Balkans, attacked the US Embassy in Sarajevo with an assault rifle. Jašarević injured a policeman who stood guard outside the Embassy, inflicting minimal physical damage to the building – worryingly, he was stopped by police only after several hours, when a police sniper disabled him. The incident exposed the weak internal security architecture in BiH. The fragmentation of the police produced confusion as to which of the various agencies present in Sarajevo – cantonal, entity or state – was in fact in charge of responding to attacks on foreign diplomatic missions or government institutions. At the time, the protection of Embassy buildings was being transferred from SIPA to the Police Directorate. As a result, police reacted only after a delay of several hours.

The incident proved the worrying impact of the fragmentation of the police in BiH in two respects: First, the total institutional disassociation of police at different levels of governance leaves no basis for legal regulation of cooperation or coordination, or a clear-cut division of competences. This has a particularly negative impact in Sarajevo, where police agencies from all governance levels (except the RS) have authority. And second, the fragmented and politicized nature of police agencies leaves them handicapped in facing new and complex security challenges such as Islamist terrorism – however limited the Islamist threat may be in the country.<sup>45</sup> As a consequence, the public warning sent by the incident neither led to any lasting improvement in cooperation among the various police agencies nor to a more effective fight against Islamist extremism, as later incidents would prove. Notably, the only concrete reaction to the attack was that the US Embassy signed an agreement with SIPA providing for one of the agency's three intervention squads to be assigned permanently to protect the Embassy.<sup>46</sup>

### *The April 2015 attack on Zvornik police station*

On April 28, 2015, 24-year-old Nerdin Ibrić, a Bosniak returnee to Zvornik, a town in northeastern RS on the Drina River, attacked the local police headquarters with automatic weapons, killing one and injuring another two Serb policemen. The attacker was killed in a shootout with police. Since he reportedly shouted “Allahu akbar” when he began shooting, the incident was quickly labeled an act of Islamist terrorism, the first since the 2011 US Embassy attack and the first post-war terrorist attack in the RS. There are also indications of an element of personal revenge: Ibrić's father had been killed by Serb police in Zvornik in the first days of the war in 1992, at the beginning of the ethnic cleansing of the Bosnian Muslim population in eastern Bosnia. But since the attacker was killed in the incident, his true motivations remain somewhat opaque.

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<sup>45</sup> See: Vlado Azinović/ Muhamed Jusić, *The Lure of the Syrian War – The Foreign Fighters' Bosnian Contingent*, Atlantic Initiative, Sarajevo 2015, available at:

[http://atlanticinitiative.org/images/THE\\_LURE\\_OF\\_THE\\_SYRIAN\\_WAR\\_THE\\_FOREIGN\\_FIGHTERS\\_BOSNIAN\\_CONTINGENT/The\\_Lure\\_of\\_the\\_Syrian\\_War\\_-\\_The\\_Foreign\\_Fighters\\_Bosnian\\_Contingent.pdf](http://atlanticinitiative.org/images/THE_LURE_OF_THE_SYRIAN_WAR_THE_FOREIGN_FIGHTERS_BOSNIAN_CONTINGENT/The_Lure_of_the_Syrian_War_-_The_Foreign_Fighters_Bosnian_Contingent.pdf).

<sup>46</sup> “Temeljita istraga,” and “Bosna i Hercegovina nije teroristička zemlja,” *Oslobođenje*, October 29, 2011, p.3&5; interviews with international policing officials, 2015.

In response to the attack, on May 6 the RS Police carried out raids across the entity as part of an operation code-named 'Ruben'. As part of Operation Ruben, which was claimed to be necessary as a pre-emptive action in the wake of the Zvornik attack, the RS police searched 31 locations and arrested 32 persons, mainly of Bosniak origin. Of these, 11 were handed over to the RS Special Prosecutor's Office while the others were released; in the end the Special Prosecutor's Office had enough evidence to keep just two in custody. They, too, were ultimately released and indicted on minor charges. The action was criticized in the Federation as constituting an arbitrary act of intimidation directed at Bosniak returnees.<sup>47</sup>

The incident and the response from the RS MUP demonstrate the potentially dangerous consequences of the fragmentation of police agencies and of the politicization of the interior ministry. While Minister Lukač joined RS government officials and the media in their inflammatory anti-Muslim rhetoric, the actions of RS police lacked any operational substance. The RS police were the first responders on the scene of the incident and forwarded the findings of its investigation to the RS Special Prosecutor's Office, but already on the evening of the attack, SIPA had taken over. A joint anti-terrorism task force made up of SIPA, RS MUP, FUP, and the Prosecutor's Office of BiH was established. Nevertheless, with Operation Ruben, the RS MUP had acted completely on its own and pursued political rather than policing goals. As an international police official interviewed for this paper put it, "the action was meant to send a public signal that the RS MUP is in full control of the situation – nothing more." Asked by the BiH Minister of Security to explain its role in Operation Ruben, FUP and all state-level agencies rushed to declare that they had neither been involved nor informed by the RS MUP.<sup>48</sup> The Federation police offered the RS MUP assistance and the opportunity to share information on Islamist extremists in BiH, but that offer was never accepted by Banja Luka. As a consequence of the Zvornik attack, the RS police elevated the existing anti-terrorism unit of the entity criminal police to the level of a section. Yet it still seems to lack real policing expertise on Islamist extremism and terrorism. As one FUP expert on terrorism explained to the author, "there exists no Islamist extremism problem in the RS, only in the Federation. As a consequence, they [in the RS] lack expertise and resources... We regularly receive these dispatches from there, their screening of social media. They send us pictures from Facebook pages of Bosnian citizens that are allegedly from Syria... we check the source and it turns out this is from a totally different Arab country, [and there is] no Islamist link at all." An international police official explained, three months after Zvornik, that there was still no real cooperation or synergy between the agencies; the participation of RS representatives in the BiH working group on terrorism, which recently drafted a counter-terrorism strategy for 2015-2020, appears to be without real commitment. At the same time, the anti-terrorism task force was in limbo, "the initial energy has disappeared, we are back to the same old situation," the official concluded<sup>49</sup>

### *February 2014 social unrest*

Social protests expanded on February 7, 2014 from Tuzla across the Federation and quickly turned violent,

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<sup>47</sup> "Otvoreni lov na povratnike," *Oslobođenje*, May 8, 2015, pp.4-5.

<sup>48</sup> BiH Ministry of Security, "Information on the attack on the Zvornik police station and recent arrests on the territory of the RS," Bo. 01-06-04-2-3063, Sarajevo May 25, 2015.

<sup>49</sup> Interviews with international policing officials and Federation police officials, August 2015.

most notably in Sarajevo and Mostar. They presented a challenge to BiH's police that was unique in the country's post-war history. In addition to the operational problems they encountered, the police found themselves squeezed between a desperate, angry citizenry and a political elite in shock from this popular rejection of the political class as a whole.

The underperformance of cantonal, entity, and state-level police agencies in handling this challenge reflected all the deficiencies of a deeply fragmented and politicized public security sector in BiH. In Sarajevo, the performance of, and interaction among, the various police agencies in facing violent demonstrations which peaked in the torching of the BiH Presidency building were shaped by the continuing institutional vacuum in coordinating among agencies and by insufficient equipment and training in riot control.

The two police agencies formally in charge, the Sarajevo Canton Police and the Directorate for Coordination of Police Bodies of BiH, suffered from limited capacities. The Directorate initially had 69 officers in the Presidency building in charge of its protection and brought in reinforcements during the day, ending up with a force of 200 (out of a total 700). While these officers had extensive training and were well equipped thanks to support from several Western governments, they lacked the capacity to deal with large-scale riots. As a consequence, 43 officers were injured. Sarajevo Cantonal Police did what they could, but they had no special riot-control units and their equipment was outdated. They quickly ran out of tear gas and rubber bullets. Their plastic shields were so old that they were easily shattered by stone-throwing protesters. Their body armor did not cover the lower parts of their legs; protesters soon targeted those body parts, causing many injuries. The Federation police has a 150-strong, specially-trained, and well-equipped riot-control unit, but it was sent in by police director Lukač only late in the day, after three and-a-half hours. According to a Federation police officer interviewed, "right when the demonstrations began, we left our offices and mingled with the protesters. We pulled out violent protesters, handcuffed them. We did not wait for an order by the director to move out – in the end these were our co-citizens, family members demonstrating." According to this high-level officer, Lukač did not order his riot police to act even though Sarajevo Canton commissioner Vahid Čosić made several calls begging his colleague for help. "Only at the moment when in the attack on the Presidency building the Federation president's security was threatened, too," did the order come, according to this source. The official believed that a long-lasting antagonism between the two top police officials might have played a role in Lukač's hesitation. SIPA director Goran Zubac, on the other hand, openly rejected a formal request for assistance from the director of the Police Directorate; one of SIPA's intervention units, a section of its Special Support Unit that was waiting near the Presidency building received no orders and did not intervene at all.<sup>50</sup>

In Mostar, police stood by out of insecurity, impotence, and lack of leadership and watched as demonstrators burned the offices of political parties and government institutions. (In Tuzla, by contrast, the same factors led to excessive use of force by police during still-peaceful demonstrations on February 5 and 6, which in turn contributed to protests turning violent on February 7.) In Mostar, the inaction had a specific political and policing background. In Herzegovina-Neretva Canton, all ruling parties wanted to

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<sup>50</sup> Interviews with international policing officials and Federation police officials, 2015.

get rid of the police commissioner, and the Independent Board in 2013 selected Dragan Brkić as the most suitable candidate to replace him. However, the cantonal SDA blocked his nomination, without any legal basis, because Brkić was of the “wrong” ethnic affiliation. Subsequently, on February 7, 2014, the cantonal police, which had traditionally avoided dealing with sensitive police issues, had only an acting police commissioner who was reluctant to send his officers into a violent situation.<sup>51</sup>

The incompetent handling of the protests has not led to *any* individual or institution being held accountable; there have been *no* sanctions for police misconduct or ineffective performance; no official analysis has been undertaken to establish what really happened; and there has been no follow-up on the alleged involvement of particular political parties in the organization of the violence. According to Federation police officials interviewed who were involved in initial investigations into the organizers of the violence, soccer fans from the two Sarajevo clubs were involved in Sarajevo, and two motel owners were identified as possible organizers, one of them a Swedish citizen of BiH origin. Seven persons plus the Swedish citizen were initially charged with terrorism and attacking the constitutional order of the state. In the end, only one out of the seven, who was identified as throwing a Molotov cocktail at the Presidency building, and the Swedish citizen were indicted by the Court of BiH, but due to a lack of evidence the charge was re-qualified as an attack on a government building. According to one interviewee, FUP caught on tape six politicians from a party that at the time was a member of the state-level ruling coalition, discussing how they had guided violent protesters via their mobile phones. But as the tapes did not catch the actual instructions the politicians conveyed by phone, the investigation into an alleged political backdrop to the protests went nowhere.<sup>52</sup>

In the end, only one police official was sanctioned – SIPA director Goran Zubac, who was sentenced by the Court of BiH in July 2015 for professional malpractice and subsequently dismissed from his post by the Independent Board. He was sentenced for having refused to deploy SIPA’s Special Support Unit to help protect the Presidency of BiH building as requested by the director of the Directorate for Coordination of Police Bodies of BiH.<sup>53</sup> Yet the decision was criticized by some international policing officials interviewed from a professional point of view. On February 7, out of the three sections of SIPA’s Special Support Unit just one was available: one was in the field making an arrest, and another was permanently occupied with protecting the US Embassy. In relation to the one available unit, Zubac did indeed have the legal authority to dispatch it to the protests. But these sections are intervention units, primarily tasked to arrest high risk suspects as well as for some forms of physical protection: they include snipers and are not trained and equipped for riot control, and indeed not tasked with it. As the interlocutor noted, “Zubac did not want to take responsibility for his unit shooting protesters.” The interlocutor described the court ruling as “a travesty of justice.” “The fact that one section was protecting the US Embassy was used by the court against Zubac,” according to the interviewee. “What will be the impact of the ruling? Zubac was fully cooperating with the West. Now nobody will want to take on that job. The lesson Zubac and others will draw from this is that while he was working with the West, he was brought

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<sup>51</sup> Interviews with international policing officials and Federation police officials, 2015.

<sup>52</sup> Interviews with Federation police officials, 2015.

<sup>53</sup> “Goran Zubac sentenced to 1 year in prison suspended,” Court of BiH, March 5, 2015, available at: <http://www.sudbih.gov.ba/index.php?id=3861&jezik=e>.

down by the domestic political elites without the West jumping to his defense.”<sup>54</sup>

Based on the Sarajevo protests experience, the US Embassy in Sarajevo - that is, the US international police support agency ICITAP (International Criminal Investigative Training Assistance Program) - facilitated the signing of a Law Enforcement Mutual Aid Agreement for Cooperation and Operational Assistance (MAA) by all the police agencies active in Sarajevo. Yet again, in the current fragmented institutional setting, the MAA will only improve cooperation if there is the political will to do so.<sup>55</sup>

While the performance of police agencies during the violent protests in the Federation was highly problematic, the RS MUP performance in the aftermath of February 7 was no less a source of concern. In the RS the government and the president were visibly afraid of a spillover of large-scale social protests to the entity. A massive propaganda effort was mounted to discredit the Federation protests and the limited small protests by civil society and parts of veterans’ organizations in the RS, combined with massive intimidation of organizers and participants of previous students and citizens’ protest in the entity’s capital.<sup>56</sup> According to information collected by security experts of one international mission in BiH based on field observation and corroborated by information from the Federation police, the RS minister of interior and RS police director toured police stations across the entity in the weeks following the Federation protests. They gave local subordinates clear instructions to promptly address any larger-scale protest that might occur in the RS, instructions that were out of line with the way police agencies would normally prepare to handle potential protests. Patrol cars fully-equipped with machine guns were deployed across the entity.<sup>57</sup> This clearly indicates that the police are expected to defend the regime at any price.

### **The police: a tool in the looming RS showdown?**

When the RS opposition Alliance for Change<sup>58</sup> entered the state-level Council of Ministers after the October 2014 elections and nominated Dragan Mektić as the new Minister of Security of BiH, they also publicly announced that they would appoint a new SIPA director loyal to them who would go after the RS Government and president by pursuing alleged high-level corruption within the ruling elite in Banja Luka. With SIPA director Zubac forced out of office after the court ruling, the Alliance’s representatives, including Dragan Mektić, amplified this messaging. According to an international police official interviewed during the summer of 2015, “on the Independent Board that includes three Serb, three Croat, and three Bosniak members, two of the Serbs have switched sides and are now loyal to the SDS. Only the board president, Živko Krunić, remains loyal to the SNSD. The SDS has gained the support of BiH Chief

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<sup>54</sup> Interviews with international police officials, 2015

<sup>55</sup> *Law Enforcement Mutual Aid Agreement for Cooperation and Operational Assistance (MAA)*, Sarajevo May 2015.

<sup>56</sup> Interviews with RS civic activists and Western diplomats, BiH 2014-15; on the propaganda efforts, see Bodo Weber, *Inflammatory political rhetoric and hate speech in Bosnia and Herzegovina: political elites and the media*, DPC-AI Bosnia & Herzegovina Security Risk Analysis Study Paper Series Policy Note #1, available at: [http://www.democratizationpolicy.org/uimages/AI-DPC BiH Security Risk Analysis Paper Series 1 Hate Speech.pdf](http://www.democratizationpolicy.org/uimages/AI-DPC%20BiH%20Security%20Risk%20Analysis%20Paper%20Series%201%20Hate%20Speech.pdf)

<sup>57</sup> Interviews with officials from an international organization and with Federation police officials, 2014-2015.

<sup>58</sup> The *Savez za Promjene* coalition includes the Serb Democratic Party (SDS), the Party for Democratic Progress (PDP), the People’s Democratic Movement (NDP), and a few other, minor parties.

Prosecutor Goran Salihović to go after Dodik together with SIPA.” For months it was not clear whether the SDS-led opposition could at all succeed in gaining control over SIPA. It was particularly unclear whether HDZ BiH leader Dragan Čović would support an opposition Serb candidate for the post of SIPA director, given his long-term political alliance with Dodik. The appointment required the support of the three Croat members of the Independent Board – all loyal to HDZ BiH. At the beginning of November the Council of Ministers of BiH finally appointed Perica Stanić, Minister Mektić’s choice, to the post after Krunić, the Independent Board president, had also shifted sides and the HDZ BiH gave up on defending the interest of the ruling party in the RS on the issue. There still remains, however, one unknown in this scenario: Even if SIPA were to now go after Dodik and other senior RS officials, it remains an open question whether the RS police would indeed use force to defend the leadership in Banja Luka – a task for which the RS MUP has been transformed over the last decade. Interlocutors in the RS interviewed about this scenario have come to divergent conclusions.<sup>59</sup>

### **The international community and policing in BiH: the EU, the OHR, and the US**

The closure of EUPM in June 2012 amidst major international defeats *vis-à-vis* reform and reform rollback in both entities marked a sad epilogue to a mission even given that it had previously been under massive criticism for its limited impact. The establishment of EUPM as a successor to the IPTF was intended as a shift to a less “intrusive” approach. Its participation in the OHR-led police reform process lent it some indirect executive authority that ended when the OHR was prevented from using its Bonn Powers after 2006. After that, EUPM concentrated on getting basic policing laws such as the laws on police officials and the laws on internal affairs improved and harmonized throughout the country. Important EU member states, notably Germany and France, began questioning the need for the mission, and after 2008 EUPM became increasingly torn between the need to get support from the entity interior ministers as an important advocacy tool *vis-à-vis* Berlin and Paris for the annual extension of its mandate, and its determination to thwart attempts to roll back reform originating from the very same ministries. This led to growing frustration within EUPM and an inconsistent and weak performance. In 2011, Germany and France strong-armed the UK into agreeing to close down EUPM in return for a six-month extension. When EUPM closed in June 2012, Head of Mission Feller announced the completion of the mission, which hardly reflected the reality on the ground.<sup>60</sup>

In order not to leave the impression that the EU would entirely check-out of policing issues in BiH, the EU decided to establish a policing unit within the EU Special Representative’s office in Sarajevo. Following EUPM’S closure, a unit initially made up of just two police experts was established, first called the Law

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<sup>59</sup> Interviews with international police officials, RS politicians and policy analysts, Sarajevo and Banja Luka 2015; “Krsmanović: Ako dođemo na čelo SIPA-e, brzo će raditi ‘brezova metla’,” *Dnevni Avaz*, December 6, 2014, available at: <http://www.avaz.ba/clanak/150876/krsmanovic-ako-dodem-na-celo-sipa-e-radit-ce-brezova-metla?url=clanak/150876/krsmanovic-ako-dodem-na-celo-sipa-e-radit-ce-brezova-metla> ; “Mektić traži smjenu Krunića zbog Zubca,” *klix.ba*, June 18, 2015, available at: <http://www.klix.ba/vijesti/bih/mektic-trazi-smjenu-krunica-zbog-zubca/150618067>, “Perica Stanić imenovan za novog direktora SIPA-e,” *Klix.ba*, November 5, 2015, available at: <http://www.klix.ba/vijesti/bih/perica-stanic-imenovan-za-novog-direktora-sipa-e/151105074>.

<sup>60</sup> Interviews with international policing officials and domestic police officials; Isabelle Maras, “Exploring EU-assisted police reform in BiH. A preliminary assessment of EUPM to date”; EUPM, *Mission Mag*, No. 55, 22 December 2008, p.2.

Enforcement Section (LES) and then the Home Affairs and Public Security Section (HAPS). In July 2015, HAPS was merged with the EUSR Judiciary Unit into the Rule of Law Section. The policing part of the new section consists of three international and three local staff, out of a total of five international and five local staff for the whole section. Its institutional positioning in the EU's structure in Brussels is unclear. Staff members are part of the EUSR's office, hence linked to the European External Action Service (EEAS). But in the EEAS, the EUSR staff communicates with the Civilian Planning and Conduct Capability (CPCC), which is slightly odd since the CPCC manages foreign EU police missions such as the policing part of the EU's rule of law mission in Kosovo, EULEX. At the same time, the policing part of the Rule of Law Section also communicates with the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), and to a lesser extent the Directorate-General for Migration and Home Affairs (DG Home), even though these are departments of the European Commission rather than of the EEAS.

The EUSR police component also lacks a clear mandate. When EUPM was closed, the member states behind the decision did not want to make a complete break, but had no concrete ideas on what the new unit should actually do. "We received very general directions from Brussels, so we basically defined our terms of references on our own," an official from the unit explained in an interview. The unit essentially adopted the same issues EUPM had already dealt with and identified a few additional tasks including anti-corruption, terrorism, harmonization of police legislation, and data protection. As a unit that, unlike EUPM, is *not* a Common Security and Defense Policy (CSDP) mission, its representatives see themselves bound to the limited *acquis* on structural policing issues as contained in accession Chapters 23 and 24. As the same official put it, "we are limited in our authority, thus we approach from the output side. This means our focus is on good policing with good outputs, disregarding the fragmented institutional-constitutional structure of police agencies in BiH." He added that they used cooperation with the OHR to reach beyond the limits set by the *acquis* on institutional issues. But when questioned by the author if this is a means to extend their authority, the EUSR official insisted that "still our cooperation with the OHR is marginal." The policing unit is also engaged in Instrument for Pre-Accession (IPA) projects that target the policing area by making recommendations to the EU Delegation to BiH concerning strategic funding priorities and through regular communication with IPA project managers. One project financed under the previous IPA I program in which the unit was actively involved in one segment aimed at introducing data protection standards to BiH's police agencies. "In the end we got the 13 police agencies to agree on a set of data protection principles, then the project ended," the official said. "Since then we have seen very little movement by the interior ministries to follow up with building the principles into existing legislation."<sup>61</sup>

Apart from the EU's small policing unit, the OHR still maintains a public-security department that monitors the police agencies. It is staffed by the longest-serving international and local policing experts in all of BiH. While the OHR's leverage has drastically shrunk since 2006, the department draws its influence from its capacity as the only institutional memory of post-war police reform and as a guardian of legal obligations taken over by the state, the entities, and the cantons during those reforms. In addition to the newly-established cooperation with EUSR policing officials, the department draws additional leverage from its

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<sup>61</sup> Interview with EUSR policing unit official, Sarajevo August 2015.

close cooperation with the US Embassy in Sarajevo. At the Embassy, the officer in charge of public security has for the last two years mostly focused on the issue of foreign fighters. ICITAP remains active in BiH but has recently shifted to classical capacity-building activities such as riot control training and the delivery of riot control equipment to police agencies following the 2014 unrest.<sup>62</sup>

## Conclusions & Recommendations

The police in BiH operate very differently today compared with in the immediate aftermath of the war. They have come a long way towards re-professionalization, modernization, and democratization, thanks mostly to post-war Western police reform efforts. By and large, the police have ceased presenting an immediate security threat.

But since 2011, the development of police agencies and interior ministries in BiH has been moving in the wrong direction. The police are being squeezed by constant efforts to roll back reforms and by increasing political pressure to relinquish its still-fragile and incomplete operational autonomy and submit to ethnic party loyalties. In the RS, where autonomy had never been attained, political control has further tightened.

The international community, particularly the European Union, has a great deal of responsibility for this overall turn for the worse. The EU twice sacrificed important police reform aims and achievements: in 2007 it gave up on its police reform efforts in order to end its resource-intensive Dayton engagement; and in 2011 it surrendered to RS President Dodik in the fight against the RS Law on Police Officials so it could close down the EU Police Mission. Brussels has clearly been reluctant to seriously engage with structural and institutional policing issues in BiH, using the limited *acquis* in policing as an excuse for inaction. There is a certain irony in the fact that EUPM's successor police unit within the EUSR office is making use of the OHR's executive mandate leverage to extend its own limited leverage – and at the same time is downplaying this cooperation. The experience with IPA-funded policing projects demonstrates that the EU's avoidance of structural issues that lie beyond the *acquis* will leave the Union with ever-more limited leverage and lead to a waste of money.

The persisting fragmentation and forced re-politicization of the police in BiH in an increasingly unstable political and socio-economic environment presents a growing potential security risk – as is evident from incidents such as the 2011 attack on the US Embassy in Sarajevo, the 2015 attack on a police station in Zvornik, and especially the police's handling of the social unrest in February 2014. As was the case five years ago, nothing suggests that the police in today's BiH would be able to maintain public safety and order were serious violent inter-ethnic incidents to occur; rather, they would likely split along ethnic lines. Finally, with the announcement by the RS opposition of its intention to use the new SIPA director and the state-level police agency he oversees to go after the ruling elite in the RS, the potential for a clash between SIPA and the RS MUP cannot be discounted.

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<sup>62</sup> Interviews with international policing officials, Sarajevo 2015.

In order to avoid any such scenario, domestic and international decision-makers should consider the following recommendations:

To domestic actors in BiH:

- Civil society must take an active role in monitoring and reporting on the work of police agencies and publicly advocating for police reform.
- Civil society must lobby for its representatives to be included on Independent Boards to ensure and safeguard their independence so they can become truly independent.

To the international community in BiH, especially the EU:

- The EU must tackle structural police reform issues as part of BiH's EU integration framework even though the *acquis* is thin on policing. Structural issues need to be addressed through the political criteria for EU integration, with individual member states taking the lead in shaping such a policy.
- Starting with the 2016 EC Report for BiH, the EU needs to introduce a separate section within the chapter on political criteria that analyzes the state of police agencies in BiH.
- The EUSR's Rule of Law section must start now to take a much more pro-active role in advancing specific aspects of police reform that can be dealt with in the immediate term, especially in addressing unresolved issues and new challenges related to reform rollback. The good cooperation with the US Embassy and the OHR on policing issues must be continued and expanded to ensure a greater chance of success in this effort.
- The EU must urgently begin to address the problem of the highly politicized RS police.
- The international community in BiH, including Western donors, must support civil society in becoming a serious actor on the issue of police reform.