

The Worst in Class: How the International Protectorate Hurts the European Future of Bosnia and Herzegovina

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Introduction

On 7 November 2007 the deputy prime minister of Serbia travelled to Brussels to initial a Stabilisation and Association Agreement (SAA) with the European Union. A few days earlier (31 October) the European Union had announced that the same would not be possible for Bosnia and Herzegovina because of the country's failure to agree on a police reform that would conform to 'European standards' defined by the Office of the High Representative (OHR). As a result of yesterday's development Bosnia now finds itself at the very end of the queue moving towards distant EU membership: behind Croatia, Turkey, Macedonia, but also behind Albania, Montenegro and Serbia.

For the international authorities in Bosnia it is clear who is to blame for this: everybody but themselves. Those guilty for Bosnia's failures include the country's obstructionist politicians, nationalist voters who have repeatedly given such politicians a mandate, and politicians outside Bosnia, in particular the current government in Serbia as well as the Russian Federation. The consequences of being worst in class were recently explained to the Bosnian public by the UK ambassador to the country, Matthew Rycroft: reduced external support ('the closer to actually joining the EU a country comes, the greater the prospects of significant funding from the EU') and ever growing isolation ('Croatia will want to join Schengen as soon as it can after joining the EU. Without similar progress, Bosnian citizens will find themselves living very close to the external Schengen border, but unable to travel freely across it') (Rycroft 2007). Other negative consequences include lower credit ratings and a negative image among potential foreign investors.

At this stage, however, a clarification is necessary. For most Europeans the words 'crisis' and 'Bosnia' in one sentence bring obvious and misleading associations: images of burning mosques and churches, of violence against returnees, of armed paramilitaries. Such associations are reinforced by comments made recently by the German commander of the EU's military mission in Bosnia who warned that 'we can again intervene in case a new war breaks out' (Latal 2007). However, today there are no troops marching, no radical nationalists beating up returnees, no houses being torched. Conducting research across the country in recent months we found Bosniacs, Croats and Serbs above all concerned about their living conditions. 12 years after the end of the war most Bosnians live normal lives. They pray in reconstructed religious buildings for a better future for their children, complain about the lack of jobs, and try to put the history of the war which

ended 12 years ago behind them. This is as true for minority returnees in Central Bosnia (with its war-time history of bitter clashes between Croats and Bosniacs) as it is for Bosniacs who live again in their homes in Republika Srpska.¹ A large number of Bosniac returnees in Dobojska municipality have told ESI that they feel fully protected by the local (majority-Serb) police.

In security terms the transformation of the country in recent years has been nothing if not revolutionary. The most striking difference between Bosnia today and Bosnia one decade or even five years ago concerns the presence of the military. At the end of the war there were three largely mono-ethnic armies, with an estimated total of 419,000 soldiers.² There were also some 60,000 international troops. Today, Bosnia has a single army. Conscription has been abolished on 1 January 2006. The number of soldiers has fallen to less than 10,000 professionals and 5,000 reservists under a single command. Bosnian soldiers participate(d) in UN missions in Congo, Sierra Leone, Ethiopia and Eritrea, Liberia and East Timor (SPBH 2006: 7). Reflecting this dramatic demilitarisation of society the number of international troops has been reduced to an almost invisible 2,500.

The current emphasis on the failures of 'police reform' in the country also suggests a country with a major internal security problem. This too is a wrong impression. In the immediate post-war period Bosnia's police forces were mono-ethnic. They included numerous demobilised paramilitaries and people suspected of direct involvement in war crimes. However, in the years immediately after the war a large and ambitious UN mission oversaw a thorough restructuring process. This included multi-ethnic recruitment across the country, internal reorganisation of police management structures and an extensive vetting process (see ESI 2007). Bosnian police forces – today about 17,000 police officers – have been ethnically mixed for many years: most so in Central Bosnia, Neretva-Herzegovina cantons and Brčko district.³

Recent years have also seen the development of a police force at the level of the central state whose core mandate is to fight organised crime. New institutions at the central level include the State Border Service (now State Border Police), the State Information and Protection Agency (SIPA), an Interpol office, a state-level Ministry for Security and an integrated intelligence and security agency (*obavjestajno-sigurnosna agencija*). This comes in addition to a state-level (indirect) tax authority and customs service. The trend in the past years was to increase resources for these institutions, so that the SBP, which took control of Bosnia's borders in 2003, now has more than 2,000 officers. SIPA employs more than 1,200. Together this accounts for almost 20 percent of the total number of police officers in the country.

The best police reform efforts are worth little if they do not result in an improvement of the situation for ordinary citizens. In fact, Bosnians enjoy a high degree

of confidence in their security. Already in 2001 seventy-five percent of the population said they felt safe walking alone in their neighbourhood after dark – a level of confidence comparable with Belgium or Switzerland (ICMPD 2004: 33). There are no indications that this has changed. The rate of many crimes (theft, burglary, robbery) is lower in Bosnia than in the European Union. In 2004, there were fewer murders in Bosnia than in many EU member states: 77, or 2.02 per 100,000 inhabitants,⁴ compared to 2.22 in the Czech Republic, 2.75 in Sweden and 9.38 in Lithuania (UNODC 2006). In that year the perpetrators were identified in 91 percent of the cases in the Federation, and 96 percent in Republika Srpska (BiHMS 2005: 11). The most recent crime statistics published a few weeks ago show that across the country crime rates have actually *fallen* by 7 percent from 2005 to 2006 (BiHMS 2007).

If ordinary crime levels are under control, how about organised crime? After all, there has never been a shortage of alarming news about organised crime in the Balkans. International officials have often highlighted this, and former High Representative Paddy Ashdown once noted on the BBC's 'Breakfast with Frost':

...if you want to fight crime on the streets of Manchester, if you want to fight prostitution, drugs, cigarette smuggling – now an issue for today – arms smuggling, on the streets of Manchester, London, Berlin and Paris, you start here in Sarajevo. This is the front line. (BBC 2003)

Here are the facts: In 1999, Bosnia's 1,666 km border was one of the least secure in Europe. However, following the establishment of an effective State Border Service the number of people caught by the Croat authorities crossing illegally from Bosnia has fallen substantially (BiHMS 2005: 5). The 2006 US State Department's annual report on human trafficking ranks Bosnia in the same category as Greece, Japan and Slovenia. In the section on 'International Best Practices' it even commends the efficiency of Bosnia's Anti-Trafficking Police Force (USDoS 2006: 34, 46).

In fact, there is hardly any evidence on which to base the image of a country in the grips of organised crime. Off the record this is also admitted by officials in the OHR. Discussing this issue in an internal report the main official responsible for OHR's organised crime strategy noted in 2005:

Although many within the Bosnian and international community consider the fight against organised crime and corruption a top priority, it is difficult to assess the extent of BiH's problems with organised crime and corruption and especially difficult to compare it to organised crime and corruption in other similarly situated countries in the region. (Wright 2005)

In conclusion, it is far from clear whether Bosnia faces problems with crime that are more pronounced than in other countries in the region, including new EU member states. Different Bosnian police forces can certainly take credit for a striking improvement in public order. As a review of policing financed by the European Commission concluded in 2004, Bosnian police forces have a success rate of 60 percent in solving crimes: 'A rate of 50 percent is considered to be a success in Western European police.' The study attributed these results in part to 'good local professionals' (ICMPD 2004: 2). Since then the development of SIPA and the State Border Police have marked a further improvement.

The massive restitution of property to displaced persons in recent years (allowing the repossession of some 200,000 occupied properties by their pre-war owners, leaving less than 200 claims unresolved across the whole country), the peaceful return of tens of thousands of citizens to areas where they are in a minority as well as complete freedom of movement in the whole country also indicate a much improved security situation.

By comparison to other countries of the region Bosnia has thus made significant progress. There has been no similar vetting of police officers for involvement in war crimes in other countries. Bosnia has introduced modern border management standards, brought in EU compatible documents and set up a modern data-base of its citizens. It also merged and completely reformed its intelligence services. Serbia has yet to do most of these things. If EU conditionality would be about objective standards, not subjective assessments, Bosnia would have deserved to sign an SAA long before its Eastern neighbour.

Mismanaging Police reform

In fact, what is really at stake in Bosnia today is neither its peace nor its territorial integrity: it is the authority of the international mission, the OHR and its political master, the Peace Implementation Council, which comprises 55 countries and international organisations involved in the peace effort.

In this context it is important to revisit the genesis of the current police reform debate. In November 2003 the European Commission first called for reform of policing structures in Bosnia and Herzegovina (EC 2003: 41). To better understand what exactly the problem of Bosnian policing was the Commission then financed a functional review of policing which took place in the first six months of 2004. A report was published on 30 June 2004 (ICMPD 2004) as the key input for a strategy to bring policing up to European standards.

This functional review underlined that the mere existence of 15 different law enforcement agencies in the country (Federation, RS, 10 Cantons, Brcko, SBS, SIPA) is 'not a weakness per se'. In fact, the report explicitly referred to the Netherlands – a centralised state with 25 regional police units and 1 central one – and to Switzerland – a federal state with 26 cantonal police forces. It noted that Bosnia had different organisational options, *all in line with European best practice*: either a national police; or a model with two entity police forces, Brcko district, SIPA and SBS but without cantonal police forces; or a bottom up model, based upon the cantons, the RS police regions, Brcko, SIPA and SBS, plus a common national function for coordination, selection, training and information and communication. The review concluded:

All three models feature both advantages and disadvantages. The evaluation and final choice depend on the weight given to the different criteria like top down or bottom up, product orientation, integration in local/regional communities, rationality, distance to today's realities, etc. (ICMPD 2004: 12)

It also strongly stressed the importance of domestic ownership:

The overall sustainability of the ongoing public security reform will remain weak as long as there is no strong local ownership of the reform process. This presents an important risk factor. (ICMPD 2004: 9)

However, only three days after the review was published OHR decided that there was in fact only one possible model for Bosnia. On 2 July 2004 High Representative Paddy Ashdown used the Bonn powers to impose a Police Restructuring Commission (PRC) with a very narrow task: to propose a 'single structure of policing under the overall political oversight of a ministry or ministries in the Council of Ministers' (OHR 2004). There was nothing left to be discussed except how this was to be implemented. Ever since that fateful decision in the summer of 2004, this has been disputed by successive governments in Republika Srpska.

The PRC was foreign-led: its chair and deputy chair were foreigners, and its working methodology was that 'there will be no voting in the PRC. The Chair will lead discussion and debate designed to reach consensus. The Chair will determine when the Commission has reached an 'acceptable level of consensus on an issue.' (PRCBiH 2004: 232) The Police Commission followed the OHR and ignored the analysis of the EU-funded experts. It noted:

Unable to operate across the Inter-entity Boundary Line, police face criminals who are united, well resourced, and operate with near impunity. These systematic deficiencies result in a system incapable of dealing effectively with complex crimes, including organised crime, corruption, and trafficking in drugs and human beings. (PRCBiH 2004: 4)

Given the importance and political sensitivity of this question, one would have expected a serious campaign by the OHR to convince sceptics of the intrinsic value of a centralised police in a federal state. However, a search for arguments OHR used produces few that actually withstand critical scrutiny.

A much used argument was that without a reform as outlined by the international community it would not be possible to fight organised crime. The PRC report stressed that: 'if BiH is not able to tackle crime effectively, that has a bearing on crime elsewhere in Europe... The current policing structure does not provide for this.'

Organised crime is a serious problem in Bosnia, as it is in many other transition countries. However, even today there is no evidence that organised crime is an unmanageable problem, let alone one where Bosnia poses a threat to Europe. How this impression is created even in the absence of strong evidence is illustrated by the discussion of 'drug routes' crossing the Balkans in internal documents of international institutions. An internal OHR paper on organised crime distributed to other agencies working in the field in Bosnia argues that: 'According to Interpol assessments, 80 percent of the Western European heroin market is supplied via the Balkan route which goes through BiH.' (Wright 2005)

This sounds deeply alarming, until one actually goes and looks for the original Interpol quote:

Two primary routes are used to smuggle heroin: the Balkan Route, which runs through southeastern Europe, and the Silk Route, which runs through Central Asia. The anchor point for the Balkan Route is Turkey, which remains a major staging area and transportation route for heroin destined for European markets. The Balkan Route is divided into three sub-routes: the southern route runs through Turkey, Greece, Albania and Italy; the central route runs through Turkey, Bulgaria, the Former Yugoslav Republic of Macedonia, Serbia, Montenegro, Bosnia and Herzegovina, Croatia, Slovenia, and into either Italy or Austria; and the northern route runs from Turkey, Bulgaria and Romania to Austria, Hungary, the Czech Republic, Poland or Germany.⁵

According to Interpol there is in fact no country in the region, including Austria and EU members Bulgaria and Romania, which is not along a primary drug smuggling route!

It is also not true to say that Bosnia today lacks the tools to act in this area. The State Information and Protection Agency (SIPA) is in fact tasked to deal with serious crimes across the whole of Bosnia. Budgets are serious and have increased a lot in recent years: the 2006 budget of the State Border Police was 55 million KM (€ 28 million), that of SIPA 31 million KM (€ 16 million).

Another argument employed by the OHR has been that police reform would make the Bosnian police less expensive. The Police Reform Commission noted in its conclusions that 'the current system was found to be financially unsustainable within Bosnia and Herzegovina's oversized public sector' (PRC BiH 2004: 5). One goal of reform was: 'lowering the percentage of total public expenditure dedicated to policing in BiH' (Ibid: 8). Another was 'the future system of policing should be less complicated, less expensive and more efficient' (Ibid.)

However, whether this is true depends very much on the details of any proposed reform. IMF calculations showed that 'when functions shift to the State, their costs rise sharply.' It pointed to a 'rise in customs officials remuneration – of some 160 percent for former RS customs officers and 60 percent for former Federation officials – at the point where, doing precisely the same tasks, they changed status from Entity to State employees' (Ibid: 91). The IMF explicitly warned:

Our estimates suggest that far from securing savings, the envisaged police reforms will raise consolidated Entity and State government expenditure on police by 0.6 percent of GDP permanently... The wage bill will rise from 1.8 percent of GDP to 2.4 percent and stay there afterwards. This is a permanent increase of 0.6 percentage points of GDP. *In addition, a variety of transitional costs will be incurred – from severance pay to new equipment.* (Ibid: 91-3)

The PRC itself admitted that 'there is no doubt that the restructuring itself will create *significant* one time costs' and that 'during the first years of implementation, the total cost of policing may actually increase' (Ibid: 76, 85).

Finally, there is the argument that any police reform other than that proposed by the PIC would be a violation of 'European standards'. In fact, as we have seen, the EU funded functional review of the Bosnian police disputed this. Since it was translated into the local languages and thus became familiar to local politicians they knew about its arguments that there were various possible options (strikingly, this review cannot be found among the background documents to police reform on the OHR's website⁶).

But what the EU demanded in other SEE countries is just as telling. No other country has faced a similar condition, despite similar problems. When Macedonia signed its SAA, it was at the brink of civil war. The Ohrid Agreement which ended the conflict foresaw that local police chiefs would be selected by local elected officials, a step praised by the International Community for rendering police more accountable to citizens. When the State Union of Serbia and Montenegro started SAA negotiations (before breaking apart) the fact that it had absolutely no police structures at the central level was not seen as an obstacle to concluding negotiations. Serious reform of the Serbian secret police was also not a condition for Serbia to initial an SAA. And in Eastern Turkey today 'village guards', paramilitary formations used in the fight against the Kurdish PKK, still receive money from the state. This did not prevent Turkey from becoming a candidate country and from being invited to membership negotiations with the EU.

Evidently this condition is only applied to Bosnia. In doing so substantial progress in the field of police reform in recent years is being ignored, and the notion of 'European standards' is taken to mean whatever the OHR and the PIC decide it should mean even in the absence of a coherent argument.

High Noon in Sarajevo

In recent weeks the crisis came to a head. On 29 August 2007 High Representative Miroslav Lajcak presented Bosnian party leaders with another proposal for how to reform the police. He refrained from making his proposal public but set Bosnian politicians a deadline to agree on a reform satisfying a set of general principles by the end of September. The deadline was subsequently prolonged but not met. On 18 October the prime minister of Republika Srpska, Milorad Dodik, anticipating some punitive measures, warned that Serbian officials would resign from their positions in the state institutions if Lajcak were to use his right to dismiss officials (RFE/RL 2007). On 19 October Lajcak gave a press conference stating that 'we are all aware that Bosnia and Herzegovina does not function as it should' and then, to everybody's surprise, imposed amendments to the Law on the Council of Ministers of Bosnia and Herzegovina.⁷ He also instructed the Joint Collegium of the BiH Parliamentary assembly to amend their rules of procedures.⁸ He warned that if the Collegium would fail to adopt these changes he would impose them by 1 December, and that there would be more impositions to follow (OHR 2007b).

The very fact of new impositions as punishment for failing to meet the police reform deadline was immediately criticised by Serbian politicians. Milorad Dodik told Bosnian reporters that the measures are unconstitutional and 'will not be accepted in the Republika Srpska'. On 31 October the Peace Implementation Council (PIC) endorsed Lajcak's decisions. It warned that 'any BiH political leaders or institutions that challenge

the High Representative and the PIC Steering Board will be subject to appropriate measures' (PIC 2007) The next day the Prime Minister of Bosnia, Nikola Spiric, a Serb and political ally of Dodik, resigned. He told television:

Bosnia-Herzegovina is absurd. If the international community always supports the high representative and not the institutions of Bosnia-Herzegovina, then it doesn't matter if I am the head of that state, or Bart Simpson'. (MacDonald 2007)

International officials describing the current crisis mention nationalism, dangerous obstruction and the defiance of 'European principles'. The argument by successive politicians of the RS that the RS has a constitutional right to preserve its current ministry of interior and entity police force is presented as a sign of stubborn opposition to progress, equivalent to supporting organised crime.

In fact, at the heart of the current crisis are fundamental questions of Bosnia's architecture of power. One concerns its internal structure: is Bosnia more likely to prosper as a federal or as a unitary state? There are those in the international community⁹ and among Bosnian political actors who believe that Bosnia should become a unitary state. According to its current constitution, however, Bosnia *is* a federation.

The second question concerns the power of the international community. OHR first imposed its views on an issue that deserved serious debate. It then noted that police reform could not be imposed. As Paddy Ashdown explained in an interview in May 2005:

Ashdown: ... there is a moment when politicians have to bear the consequences of their actions, and this is one such moment. They are responsible to their own people, not to the High Representative.

Dnevni Avaz: Yes, but in this case it is the people who bear the brunt of these consequences?

Ashdown: Then they have to decide who to vote for in the elections. This country has to mature. It is a technical issue that we are speaking of. I cannot impose this reform due to two reasons: one of them being legal and the other one political. Legal because it is beyond the powers vested in me and political because if I impose this reform we cannot go to Europe since Europe specifically requested that this reform be implemented by the politicians of this country.¹⁰

However, once it became clear that this did not produce the desired result OHR reverted to its previous approach of issuing various threats to local politicians in late 2005 and again in late 2007.

The way forward

In no other country of the region has the international community spent more money on police reform and has fielded larger police reform missions than in Bosnia. And yet, no other country has ever faced a similar crisis over this issue.

Now the ultimatums have been issued. The opponents have stepped into the ring to do battle. OHR and the PIC sound determined and so do the politicians of the RS. Is there a way out? After all, nobody has anything to gain from a further escalation given the sensitive context of current Balkan politics.

Given the analysis presented in this report, we believe that the only way forward is to seriously build a case for police reform based on the realities of today and the proven shortcomings of the current system. It may seem extraordinary, given the large number of commissions and meetings held in recent years, but a *serious* public debate on the merits of various reform proposals has not yet taken place. Such a debate would need to explain what different police reform models would actually accomplish; how much they would cost; and what options exist to strengthen already existing institutions at the central level, SIPA and the State Border Police? A serious debate would have to go back to the different options for police reform outlined in the 2004 functional review. It would focus on practicalities, not ideological positions. And it would stick to the position often repeated by OHR that there would be no imposition or coercion in that manner.

A serious and public debate on police reform would require the IC to do some homework. The EU Police Mission (EUPM) has currently no reports or facts relevant to this debate on its website. OHR's website offers 10 arguments in favour of police restructuring (amazingly these consist of one sentence each). Only on the basis of a serious debate on the merits, objectives and costs of such a reform, rather than a debate dominated by slogans, does a new round of talks make any sense.

OHR website: 10 Reasons for Police Restructuring

ONE: Police restructuring will *make police accountable to the citizen first not to politics.*

TWO: Police restructuring will *make BiH safer for citizens, tougher for criminals.*

THREE: Police restructuring will *get rid of the barriers that help criminals and hinder the police.*

FOUR: Police restructuring will *cut bureaucracy and beef up crime fighting.*

FIVE: Police restructuring will *rationalize the use of scarce resources*

SIX: Police restructuring will *give the police modern equipment to fight crime.*

SEVEN: Police restructuring is *a European Union requirement.*

EIGHT: Without police restructuring, there will be *no change in European visa requirements for BiH citizens.*

NINE: Police restructuring will mean *new career opportunities for police officers across BiH.*

TEN: Police restructuring will *mean that a police officer will receive the same pay for the same job anywhere in BiH.*

Police restructuring is common sense.¹¹

While this is ongoing the EU needs to reflect why it is treating Bosnia differently from all other countries in the region. Leave aside considerations of fairness and consistency: rewarding Serbia while simultaneously punishing Bosnia at this very moment is bad politics indeed. To initial an SAA with Serbia and to refuse to do so with Bosnia might open the eyes of more Bosnians to the cost of continuing to be an international protectorate.

The current High Representative has inherited a problem from the past which he is unlikely to be able to resolve using coercion. He is well placed, however, to seek a way forward through serious dialogue. European soft power *can* be a powerful tool. Part of its power lies in the legitimacy it confers on those using it, who can appeal to common European standards. However, to use such an appeal as a cover for arbitrariness and authoritarianism devalues it. Bosnia, Europe and the new High Representative deserve to be associated with a more sophisticated and ultimately successful policy.

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the complex issues involved in promoting stability and prosperity in Europe. The ESI web address is www.esiweb.org.



Notes

- 1 For a detailed analysis of the situation in different parts of Bosnia please read forthcoming reports by ESI on Dobož and by ESI and Popolari on Central Bosnia, which will appear on www.esiweb.org and on www.popolari.org.
- 2 ESI interview with Ministry of Defence official, 5 October 2007.
- 3 Already in 2003 there were 25 percent 'minorities' in the police force of Orasje Canton, 24 percent in Zenica-Dobož Canton, 22 percent in Livno Canton, 19 percent in Gorazde Canton, 15 percent in Tuzla Canton and 14 percent in Una-Sana Canton. 9 percent of police officers in the Federation were Serbs and 6 percent of police in Republika Srpska were non-Serbs (ICMPD 2004: 63).
- 4 Assuming a population of 3.8 million in Bosnia-Herzegovina.
- 5 See the website of Interpol: <http://www.interpol.int/Public/Drugs/heroin/default.asp>.
- 6 See: www.ohr.int/ohr-dept/rule-of-law-pillar/prc/.
- 7 Among other provisions allowing a session to be held whenever a majority of Council of Ministers members are present. The decree furthermore lowers the requirement for a majority decision to include at least two members of each constituent people to one member of each constituent people. See the 'Decision Enacting the Law on Changes and Amendments to the Law on the Council of Ministers of Bosnia and Herzegovina' (OHR 2007a: Art.5).
- 8 Lowering the quorum requirement to half of the total number of deputies and to lower the requirement for majority decisions to include a third of the present delegates of each entity instead of the total number of delegates from each entity.
- 9 Recently both US ambassador Douglas McElhaney (*RFE Newslines*, 13 August 2007) and German ambassador Michael Schmunck (*Vecernji List*, 16 August 2007) have called for the creation of a coherent unitary state.
- 10 Interview of High Representative Paddy Ashdown with *Dnevni Avaz*, 19 May 2005.
- 11 See: <http://www.ohr.int/ohr-dept/rule-of-law-pillar/prc/> .

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