The Limits of the European Vision in Bosnia and Herzegovina
An Analysis of the Police Reform Negotiations

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Acknowledgment

Writing this thesis has literally been a long journey and I have more than once given up on the idea of completing the text. It all began in 1999 at Uppsala University, where the fascinating courses I attended as an undergraduate inspired me to pursue an academic career. When I was asked to participate in a research project on ethnic reconciliation in Bosnia and Herzegovina this ambition seemed to have come within reach. To prepare myself for the project, I settled down in Sarajevo to study the local language. To my great disappointment, however, the grant for the research failed to materialise, but by then I had already fallen in love with Sarajevo and its people. I stayed on and worked as a freelance journalist for almost a year and then in 2001 I was appointed as an advisor to the Human Rights Ombudsman of Bosnia and Herzegovina. That very week I coincidently received an offer of a PhD position at the Baltic East European Graduate School in Stockholm. Fortunately, I was able to defer this offer and in the coming years I participated in the interesting and very challenging work of developing the institution of the Ombudsman. Although I was determined to stay on and to continue my direct engagement in Bosnia, circumstances brought me back to University in 2004 and I must confess that I only reluctantly began my PhD research. Living in Bosnia was the most inspiring experience of my life. Regardless of the horrors of the war, the people of Bosnia have an incredibly friendly and warm spirit and an amazing sense of humour. My affection for the country’s citizens and its culture and natural beauty has been the main inspiration in writing this thesis.

The idea behind this research evolved during the roughly five years I lived in Bosnia. The position at the University enabled me to evaluate the experience I gained working on a variety of complex issues in this society, and the thesis developed between my professional engagements in Bosnia and my work at the University. However, it was not until 2007, when I was working as a political advisor to the EU Police Mission in Banja Luka, that I found the motivation to complete this thesis. During the days in Banja Luka I focused on academic work, partly due to a personal crisis I went through in the autumn of 2007, but also because I had found a case that interested me, and that I wanted to explore further. In the apartment I rented in Banja Luka I wrote the first sentences of this thesis. I left Bosnia in June 2008 and enjoyed the Swedish summer while writing on my porch in Gröndal Stockholm. Long days and nights in front books and tapping on the computer followed.

I could not have completed this thesis without the support of friends and colleagues in Bosnia and in Sweden. I would like to express my gratitude to everyone at the Baltic East European Graduate School and at Södertörns University for commenting on my work during various seminars. I am
grateful to the Foundation for Baltic East European Studies, which financed this research. The extraordinarily patient approach of my supervisor, Professor Sven Hort, has been a great support. I am very grateful for the reading comments of Jens Sörensen, who chaired my final seminar in June 2009. I have also received constructive and valuable comments from Boyd McKechnie, Chris Bennett, Anna Jonsson, Daniel Bronkhorst, Paavo Bergman and Ola Agevall. An exceptionally important contribution was provided by Kevin Sullivan, who proofread and corrected the language of my final draft and gave me several constructive remarks. I am also very grateful to Frane Marojević and Alma Šahbaz at the Office of the High Representative, who helped me with some of the opinion polls used in this study. The willingness of all the interviewees to share their perspective with me and to provide me with documents and information were invaluable. I am especially indebted to all my former colleagues at the OHR and the EUPM, whom I interviewed or who helped me arrange interviews. Some of the key interviews would not have taken place without the help of Ljubinko Mitrović at the Police Academy in Banja Luka, Jovan Divjak at Obrazovanje Gradi BiH, Nina Savić, political advisor to Nebojša Radmanović, and Slavko Mitrović, political advisor to Milorad Dodik. In the process of writing, I also received comments on the early drafts from Kjell Magnusson and Roland Kostić. Branka Likić and Zoran Slavnić identified weaknesses in my theoretical chapter. Sanja Kljajić, Brankica Bujak, Marko Pjevać and Amria Hadimehmedović commented on the text on the background of the police system in BiH. Frank Orton, the former Ombudsman of BiH, taught me some of the ins and outs of working in an international environment. Almedina Karić and Natalija Bratuljević helped translate the interviews, and I will always remember the happy experience of transcribing the audio material beside Veliko Jezero on the Island of Mljet. Seth Kapadia designed the front-page of this thesis. Hans Bergqvist provided me with inspiring literature. Lisa, Anna and Jonas and others at the Department of Sociology contributed to a friendly and intellectually stimulating working atmosphere at Södertörn University. Several other dear friends from Bosnia have helped and supported me in many ways during this journey, among them Saša, Dženis, Alek, Jason and Liljana. My mother, Birgitta, and my brothers, Patrik and Mathias as well as my extended family, Alf, Max and Mia have always been by my side. Eva’s loving support gave me the strength to finish this work.
Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>BiH</td>
<td>Bosnia and Herzegovina</td>
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<tr>
<td>BIA</td>
<td>Serbian Security Information (Intelligence) Agency</td>
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<td>CoM</td>
<td>Council of Ministers (the BiH government)</td>
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<td>DPA</td>
<td>Dayton Peace Agreement</td>
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<td>DoP</td>
<td>Director of Police</td>
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<td>EC</td>
<td>European Commission</td>
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<td>ESDP</td>
<td>European Security and Defence Policy</td>
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<td>EU</td>
<td>European Union</td>
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<td>EUFOR</td>
<td>European Union Force in BiH</td>
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<td>EUPM</td>
<td>European Union Police Mission</td>
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<td>EUSR</td>
<td>European Union Special Representative</td>
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<td>HDZ BiH</td>
<td>Croat Democratic Union of BiH</td>
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<tr>
<td>HoR/HoP</td>
<td>BiH BiH Parliament chambers: House of Representative/ House of Peoples</td>
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<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
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<td>ICTY</td>
<td>International Criminal Tribunal for Former Yugoslavia</td>
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<td>IEBL</td>
<td>Inter-entity Boundary Line</td>
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<tr>
<td>IFOR</td>
<td>Implementation Force</td>
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<tr>
<td>IPTF</td>
<td>International Police Task Force</td>
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<tr>
<td>MoFA</td>
<td>Ministry of Foreign Affairs</td>
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<td>MoI/Mup</td>
<td>Ministry of Interior</td>
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<tr>
<td>NATO</td>
<td>North Atlantic Treaty Organisation</td>
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<td>OSCE</td>
<td>Organisation for Security and Co-operation in Europe</td>
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<td>OHR</td>
<td>Office of the High Representative</td>
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<tr>
<td>PIC</td>
<td>Peace Implementation Council</td>
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<tr>
<td>PIFWIC</td>
<td>Person Indicted for War Crimes</td>
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<tr>
<td>PDP</td>
<td>Party for Democratic Progress</td>
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<tr>
<td>PLIP</td>
<td>Property Law Implementation Plan</td>
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<tr>
<td>PRC/PRD</td>
<td>Police Reform Commission/Directorate</td>
</tr>
<tr>
<td>RS</td>
<td>Republika Srpska</td>
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<tr>
<td>RSNA</td>
<td>RS National Assembly</td>
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<tr>
<td>SAA</td>
<td>Stabilisation and Association Agreement</td>
</tr>
<tr>
<td>SBiH</td>
<td>Party for BiH</td>
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<tr>
<td>SDA</td>
<td>Party of Democratic Action</td>
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<tr>
<td>SDP</td>
<td>Social Democratic Party</td>
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<tr>
<td>SDS</td>
<td>Serb Democratic Party</td>
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<tr>
<td>SIPA</td>
<td>State Investigation and Protection Agency</td>
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<tr>
<td>SNSD</td>
<td>League of Independent Social Democrats</td>
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<tr>
<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
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<td>UNMIBH</td>
<td>United Nations Mission in Bosnia and Herzegovina</td>
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1. Introduction

In the spring of 1992 Bosnia and Herzegovina (BiH) descended into the bloodiest conflict witnessed on European soil since the end of the Second World War. Between 1992 and 1995 the war in BiH claimed nearly 100 000 lives and forced more than two million people to leave their homes and places of origin. This seemingly pointless violence was essentially unleashed by the collapse of the Yugoslav state and the failure of the political leaders of the ethnic groups to define the internal political structure of a common BiH state. Without an efficient state that could regulate the instruments of violence the three ethnic groups entered into a struggle for political and territorial control, and with the active involvement of the regimes in Belgrade and Zagreb the BiH tradition of tolerance and peaceful coexistence was effectively and tragically ruined. The terror of the war was projected onto interethnic relations in a conscious attempt to mobilise and divide the ethnic identity groups. As a result, the war was characterised by the brutality of ethnic cleansing that effectively carved the country into three ethnically pure territories. At the end of 1995 the fighting was brought to an end and in the Dayton Peace Accord the continued sovereignty of the BiH state was affirmed. However, in practice the peace agreement mandated a soft partition, dividing BiH into two separate entities: the centralised Republika Srpska and the loose Croat and Bosniak Federation. The sustainability of BiH would in essence depend on the presence and activities of the international military and civilian peace operation.

This thesis aims to explore the efforts undertaken by the international community in order to redefine the security architecture and the BiH state. It will analyse the negotiation of the reform of the police in Bosnia and Herzegovina that was introduced in 2004 as a condition in the process of negotiating a Stabilisation and Association Agreement (henceforward SAA) with the European Union. As argued in this study, the police reform followed the general rationale of the international community, striving to reintegrate BiH state structures in order to create stability. In the reform, the European Union encouraged the BiH political establishment to unify the fragmented policing system and transfer competence for law enforcement to the level of the state. Law enforcement is the principal means by which the state exercises its monopoly of violence and embodies the state’s role as the ultimate authority in protecting citizens. The reform of the police therefore became a matter of defining the authority of the state and the conditions of
individual security, and the negotiating process consequently had significant implications for the political logic and social norms that had been shaped by the war.

Police reform entailed the most protracted and cumbersome political negotiations since the end of the conflict, lasting from July 2004 to December 2007, and was the final requirement that had to be fulfilled in Bosnia and Herzegovina’s European Union pre-accession process. Euro-Atlantic integration had essentially guided political development in the country from the beginning of 2000 and had provided a common vision that encouraged the BiH political establishment to seek compromises and overcome some of the principal security challenges that had emerged in the disintegration of the BiH state and society. However, in the reform of the police, the strength of the European vision was put to the test and the limits of ethnic reconciliation were revealed. This study will accordingly look at the impact the negotiations had on political and social discourse, analysing the dynamics between the representatives of the international community and the domestic political elite. The study will also illustrate the logic of the international engagement and assess the leverage vested in EU conditionality.

The analysis will apply the theories of the so-called Copenhagen School and particularly Barry Buzan and Ole Weaver as an analytical framework. Buzan and Weaver have defined the concept of societal security, discussing security concerns expressed by identity communities and the concept of “securitization”. Discussing ethnicity, identity communities and security, I will also refer to the theories and research of Bill McSweeney and Fredrik Barth among others. The analysis is based on interviews with the principal domestic politicians, representatives of the police forces and the main policymakers of the international community. The study also makes use of several opinion polls in order to assess the impact that the negotiations had on public attitudes. In the following pages the background of the reform of the police and the dilemmas that emerged in the negotiations will briefly be presented from the perspective of the international community, the BiH political elite and BiH society as a whole.
1.1 An overview of peace-building in Bosnia and Herzegovina

The Dayton Peace Accord brought an end to the war in BiH and launched an extensive international engagement designed to bring lasting peace and security and ensure a self-sustainable state. The core logic of the Dayton Agreement was inspired by the so-called “liberal peace thesis”. By introducing democracy the proponents of liberal peace believed that the warring parties would be obliged to pursue their conflicting interests within public institutions and they would thereby be accountable to the electorate and the constitutional order.\(^1\) Democracy would give people a greater “…stake in peace than war”, Bill Clinton stated at the Dayton peace conference, “…so that peace takes on a life and a logic of its own.”\(^2\) To this end the architects of the Dayton constitution designed a sophisticated system of power-sharing, which was intended both to encourage political compromise and to safeguard and balance the interests of the ethnic groups.\(^3\) Moreover, the peace agreement designated a coordinator who would supervise implementation of the civilian provisions, the High Representative, reporting to the UN Security Council and the Peace Implementation Council (PIC).\(^4\)

However, the national interests of the three ethnic groups diverged in fundamental ways. While the Bosniaks advocated a progressive centralization of state power, the Serbs, and to some extent the Croats, defended the decentralized model defined in the Dayton Peace Accord. The political elite that came to power after the first elections in BiH in 1996 utilized the political system in order to block any decisions that could challenge the division of power foreseen in the peace accord. The democratic elections did not change the political map of BiH, but instead segmented ethnic polarisation and legitimised power in the hands of wartime leaders.\(^5\) The sustainability of BiH therefore became increasingly reliant on the presence of the international community.

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\(^1\) Doyle Michael, *Ways of War and Peace: Realism, Liberalism and Socialism*. Paris Roland, *At War’s End – Building Peace After Civil Conflict*.

\(^2\) Transcript of President Clinton’s speech on Bosnia, November 27, 1995.

\(^3\) The parliamentary assembly had two chambers, the House of Representatives and the House of Peoples. The House of Peoples was made up of 15 delegates of whom 5 were from each constituent people. Decision-making required the support of at least 3 delegates from the all constituent people in the HoP.

\(^4\) The Peace Implementation Council (PIC) was established as a permanent body comprising 55 countries and organisations and had a Steering Board consisting of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, the United States, the Presidency of the European Union, the European Commission, and the Organization of the Islamic Conference (OIC), represented by Turkey.

\(^5\) In the first two years the BiH government, the Council of Ministers adopted altogether 30 pieces of legislation. Bieber Florian, *Post-war Bosnia*, p. 55.
In December 1996 the UN Security Council adopted Resolution 1088, which transformed the NATO-led Implementation Force into a Stabilisation Force (SFOR) and redefined its mandate, facilitating collaboration between civilian and military organisations. Supported by the executive mandate of the military mission, the power of the civilian peace coordinator was substantially enhanced. In response to systematic obstruction of the peace accord, in particular the obstruction of refugee return, the peace agreement was reinterpreted by the Peace Implantation Council in Bonn in December 1997, declaring that the High Representative was “…the final authority in theatre regarding interpretation…” of the civilian provisions of the agreement. Supported by the muscle of the peacekeeping forces, the Bonn conclusions gave the High Representative real clout and the so-called Bonn Powers became the key instrument of political change.

The peace-building operation thereafter became more proactive and more intrusive. In the absence of domestic interest in building a common state, the High Representative imposed legislation in order to develop and enhance public institutions and he removed politicians who were obstructing the implementation of the peace accord. The increasingly active use of the Bonn Powers developed the position of the High Representative into that of an interim international trustee. The fourth High Representative, Paddy Ashdown, who was appointed in 2002, concluded that in order to help a country make the transition from war it might be “…sometimes necessary to put democracy second to the imperative of ending the conflict and establishing the institutions of justice and good governance upon which democracy depends.”

Thereby the High Representative had become involved in the process of state-building.

This shift of strategy, however, gave rise to criticism, and several observers, such as David Chandler, Gerald Knaus and Martin Felix, claimed that the activities of the international community represented a new kind of colonialism in which the international community had disregarded the principles of democracy. Not only had the international community undermined the accountability mechanism of the legislative and thereby weakened the state, but the active use of unchecked powers had generated a problem of legitimacy that could undermine the very institutions that had

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7 The Bonn conference was a consequence of criticism of obstruction of the Sintra Conclusions in May 1997, when the Peace Implementation Council had called for the realisation of 18 essential unfulfilled aspects of the peace accord. OHR, Peace Implementation Council, Bonn Conclusions. 10.12.1997.
been set up with international assistance. Moreover, under the sway of the international trustee, the domestic political authorities became dependent on interventions, complicating the question of the international community’s eventual disengagement.\textsuperscript{11}

With the political changes in former Yugoslavia in 1999 and 2000, particularly the demise of the regimes of Franjo Tuđman and Slobodan Milošević, the region became eligible for Euro-Atlantic integration. Given that an overwhelming majority of the BiH population supported entry into the European Union, regardless of ethnicity, the prospect of future integration in Euro-Atlantic structures represented a common vision that could intertwine the otherwise divided agendas of the political elite and induce them to negotiate solutions to several disputed issues.\textsuperscript{12} Moreover, the accession process formulated an overarching logic for the peace-building agenda and presented a potential exit strategy for the international community.\textsuperscript{13}

Between 2003 and 2004 a number of wide-ranging reforms were introduced under the auspices of the Euro-Atlantic integration process resulting in the consolidation of state power. These included the establishment of a common institutional framework in the field of railways, customs, intelligence and tax administration. In 2003 the international community initiated defence reform, which would eventually become a condition for entry into NATO’s Partnership for Peace, requiring, in the first phase, the establishing of joint command structures and common oversight and, later on, the complete merger of the armed forces. The reform required accordingly changes to the Dayton Peace Agreement. In October 2005, following a long and difficult process of negotiation, the entity parliaments adopted a set of reform proposals presented by the second defence commission and thereby the entity armies and the entity Ministries of Defence were completely abolished and a common professional and significantly downsized army of BiH was established at the level of the state.\textsuperscript{14} The successful merger of the defence forces was an illustrative example of the impetus vested in the Euro-Atlantic integration process, significantly contributing to the stability of the country. However, the reunification of the defence forces was not only intended to create stability, but was also a matter of state-building, in the sense that it enhanced the state monopoly over the instruments of violence. The establishment of the unified defence forces emphasised that the BiH state was the sovereign authority, rather than the entities. The success of defence reform therefore encouraged

\textsuperscript{12} More than 85\% of the population said they supported entry into the EU. Prism Research, Public Opinion Poll in BiH about the European Union, March 2005.
\textsuperscript{13} Recchia Stefano, \textit{Beyond International Trusteeship: EU Peace-building in Bosnia and Herzegovina}, Juncos Ana, \textit{The EU’s post-Conflict Intervention in BiH: (re)Integrating the Balkans and/or (re)Inventing the EU?}
the international community to initiate another progressive reform; the restructuring of the police forces.

The initiative to reform the law enforcement system

In accordance with the Dayton Peace Accord the competences of the police were almost exclusively regulated at the level of the entities and the cantons. Not until the State Border Service and the State Investigation and Protection Agency were established in 2000 and 2002 would BiH be equipped with conventional state-level police agencies (and SIPA did not enjoy proper policing authority until 2004). Following the establishment of these two agencies, BiH had 15 police forces at three different levels of governance. At the start of the pre-accession process, the European Commission issued a Feasibility Study assessing the readiness of BiH to negotiate a Stabilisation and Association Agreement. In this study the uncoordinated and irrational system of policing was cited as an impediment to the integration process. The Feasibility Study argued that BiH needed “…structural police reform with a view to rationalizing the police service…”15 The domestic law-enforcement agencies were also unable to address a number of immediate concerns in BiH society, such as ensuring the safety of returnees, arresting war criminals and tackling the growing problems of organised crime and political corruption.

Following this general criticism the High Representative instructed the political establishment to propose a model for a single policing structure, and in November 2004 the European Commission laid out three specific principles representing the fundamental conditions for police reform. In order to meet these principles, BiH politicians had to negotiate an agreement on the creation of a unified police force, free from political interference, with budgetary and legislative competences at the level of the state and structured in districts overlapping the inter-entity boundary line.16 Hence, police reform was not primarily technical but strove to achieve a transfer of the competence for law enforcement from the entities and cantons to the central state and required thereby a significant change in the Dayton Peace Agreement.

Initiating the police reform process the High Representative issued a Decision on 2 July 2004 establishing a Police Reform Commission within which representatives of the relevant domestic authorities were to negotiate various reform proposals. The negotiations repeatedly failed, however, to overcome the stubborn reluctance of Serb political representatives to accept

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16 Letter to the Chairman of the Council of Minister, Adnan Terzić, from Christopher Patten. 16.11.2004. (OHR, Report of the Police Reform Commission)
the requirement that policing districts overlap the inter-entity boundary line, since this would be tantamount to the abolition of the entity police forces.

In October 2005 an interim agreement was reached among the parties, and a body of domestic experts, the Police Reform Directorate, was established, which was to develop a concrete proposal in line with the EU principles. However, the representatives were unable to facilitate any agreement and at the beginning of 2007 the international community reinterpreted the conditionality somewhat. As a result, the process then became the subject of obstruction by Bosniak politicians, who refused to accept that segments of the common police structures would be controlled by the RS entity, arguing that RS institutions carried the legacy of the perpetrators of the genocide in Srebrenica.

The police reform negotiations ended in November 2007 when the parties agreed to sign a compromise agreement under which the essential aspects of the reform were postponed until the adoption of envisaged changes to the BiH constitution. The compromise agreement allowed BiH to sign the Stabilisation and Association Agreement with the European Union in June 2008. The police reform negotiations had by then lasted for almost four years.

The experience of police reform has to some extent triggered a discussion on modalities of policymaking mechanisms within the international community. Some observers question whether the conditions laid down for police reform could be supported by European standards and whether they truly derived from the *acquis communautaire* and the Copenhagen Criteria. Moreover, the complex institutional apparatus of the international community itself has raised issues of accountability and ownership of the process of state-building as a whole. In accordance with the overall EU strategy towards the Balkans, once BiH had fulfilled all the conditions in the common reform agenda, the international community was to withdraw from intensive engagement in the country, deactivating the Bonn Powers and eventually transferring the exercise of peace and state-building from the High Representative to a European Union Special Representative, whose role would be to facilitate rather than supervise. However, this strategy was premised on a firm commitment on the part of the BiH population and their representatives to proceed towards the European Union and steadily implement requirements established by the European Commission and the Council of the European Union. In view of this, the refusal by parts of the domestic political establishment to accept the criteria for police reform would undermine the entire policy of the European Union in BiH.

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17 ESI, *The Worst in the Class - How the International Protectorate Hurts the European Future in BiH.*
1.2 The sociological complexity of Bosnia and Herzegovina

By any standard, interethnic coexistence in BiH is a sociologically complex issue. Bosnia and Herzegovina is made up three ethnic groups, the Bosniaks, the Croats and the Serbs, while the two neighbouring states, Serbia and Croatia, each host a majority population of Serbs and Croats. Nevertheless, social studies indicate that all three groups lived prior to the war in relative harmony. At the onset of the war an overwhelming majority of the BiH population expressed support for the preservation of federal Yugoslavia. However, the break-up of Yugoslavia transformed the intricate interethnic bonds in BiH. Although citizens in BiH wished to continue living together, Serbs and Croats in particular had little interest in being separated from Serbia or Croatia proper. The Serbs were unwilling to exchange the majority status they enjoyed in Yugoslavia for minority status in a Muslim-dominated state and strove accordingly to establish a self-determining political authority. The political movement of the Croats was divided between a segment that advocated the unity of the BiH state and a more radical nationalist faction, but the aspiration to establish their own political institutions eventually took precedence. Moreover, the sentiments of Serbs and Croats were exploited by the nationalist regimes in Serbia and Croatia, which would actively support and assist the Serb and Croat military campaigns in BiH. In this perspective the Bosniaks were squeezed between the Serb and Croat national movements and as the majority group in BiH they defended a unitary BiH. The disintegration of Yugoslavia generated competition and rivalry along ethnic lines and thereby made every ethnic group wary of the ambitions of the other. Regardless of the antipathy expressed towards nationalist parties in several surveys prior to the first elections in 1990, a great majority of the

18 The BiH population was in 1991 divided between 43.7% Muslims, 31.4% Serbs, 17.3% Croats, 5.5% Yugoslavs and a small percentage of others. (The Muslims were recognised in 1963 as constitutive national group in Yugoslavia and in this sense not related to the religion as such. In 1993 the Muslims decided to adopt the epithet “Bosniak”, which is today commonly used) Burg Steven, Shoup Paul, The War in Bosnia and Herzegovina, Ethnic Conflict and International Intervention, pp. 26 ff.
19 Two paramount anthropological studies illustrating interethnic coexistence are: Bringa Tone, Being Muslim the Bosnian Way. Identity and Community in a Central Bosnian Village. Lockwood William G. European Muslims, Economy and Ethnicity in Western Bosnia.
20 In a poll conducted less than six months before the first parliamentary elections, 74% of the BiH population said they were in favour of a ban on political parties that campaigned on a national or confessional agenda. In polls in 1990 and 1991 some 70-80% said they were against the division of Yugoslavia. Bougarel Xavier, Bosnia and Herzegovina – State and Communitarians. (In Dyker D. A., Vejvoda I. Yugoslavia and After, chap. 6) Woodward Susan, The Balkan Tragedy, p. 228.
The electorate voted for nationalist parties, distrusting the aspirations of the other ethnic communities. The trauma of the war had a further and profound impact on the dynamics of interethnic relations in BiH, entrenching elements of distrust and fear. The conflict thereby emphasised social boundaries and enclaved the identity communities. In line with the theoretical model developed in this study, once a threat is perceived to be projected against the self-continuity of an identity community, the group will act to protect its own continuation and will thereby emphasise its identity. The identity of the group will become the referential object of security. A securitized identity community may in a multiethnic society become entrapped in a societal security dilemma, protecting its self-continuity out of distrust of the potential suppression of other groups and in effect regenerating the social boundaries between itself and others.

According to surveys conducted in the post-war years, the national interest of each ethnic group in BiH is in evident contradiction to the interests of the other ethnic groups. While a majority of Serbs and Croats aspire to protect the political autonomy of Republika Srpska and the cantons, Bosniaks, as the majority group, promote further centralisation of the BiH state. By pursuing these conflicting political interests within the same political arena, the political actors sustain the societal security dilemma. Moreover, the prevalence of fear and insecurity can be exploited by political elites aspiring to control political development. A typical example of such political rhetoric was the statement of Slobodan Milošević in Kosovo in April 1987, “no one should dare to beat you”, which both alluded to the fear among Kosovo Serbs of being marginalised, but also referred to the historic battle in Kosovo in 1389, which carried great symbolic value for Serbs. This statement obviously spurred nationalist emotion and was the beginning of Milošević’s climb to power. Several similar examples of rhetoric instigating fear can be found in the BiH context.

However, a society in which the perception of fear and distrust is an omnipresent part of inter-ethnic relations may generate a social discourse or a normative order that limits the scope for political manoeuvre and the

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22 Arnautović Suad, Izbori u Bosni i Hercegovini 90. pp. 47 ff.
24 In the annual UNDP Early Warning surveys between 2000 and 2004, 2/3 of Serbs replied to the question about their fundamental interest that they wished to see the RS as an independent state or accession of the RS to Serbia. Slightly less than 2/3 of Croats wished to have their own entity or to have self-determination, and more than 2/3 of Bosniaks wanted to establish BiH as a state with equal rights for all its citizens and people or as it was before the war. A large number of respondents said they did not know how to answer. UNDP, Early Warning Report – 2001.
26 Bose Sumatra, Bosnia after Dayton. Nationalist Partition and International Intervention.
The Limits of the European Vision in Bosnia and Herzegovina

The prospects of reconciliation. Consequently, in the aftermath of a conflict the ethnic communities may be receptive to the exploitation of their security and may even expect a degree of identity protection. Public emotions stemming from interethnic rivalry have, therefore, a propensity to affect the logic of politics in post-war society.

Since the war, the referential objects of security in BiH society have been the ethnic communities, yet the notion of threat is both socially determined in the dynamics of interethnic relations and nurtured by the political elite for purposes of political self-interest. This social complexity makes peacebuilding very difficult. As described by key policymakers such as Paddy Ashdown the general ambition of the proactive engagement of peacebuilding was to create sustainable peace by strengthening BiH state institutions and formalising the monopoly of violence within state structures. This strategy was clearly influenced by recent trends in security studies that advocate state-building as a means of conflict management.

Pursuant to this approach, the process of police reform became the core BiH state-building operation. By empowering the state institutions so that they were able to preserve the legal order, the reform was designed to give the state legitimacy beyond that which derived from an ideological association with ethnicity and in this way shift the centre of gravity in politics from the cantons and entities to the state. In essence, the aspiration was to create a civic rather than a nationalist state. Thus, the state-building exercise was not simply a matter of creating stability and conditions for social and economic normalisation, but also an attempt to generate interethnic trust. In addition, if the BiH state was given a monopoly of violence, the result would be to embed power relationships in a common institutional framework. The BiH state would thereby be capable of curbing the potential threat of disintegration and would be able to sustain itself after the departure of the international community.

By initiating these efforts as part of the EU integration process, the international community sought to generate legitimacy and win support among the domestic electorate. Moreover, EU integration provided a vision that could potentially help the divided population bridge ethnic divergences and address crucial societal security concerns.

However, by strengthening the central state authority and reintegrating the state apparatus, the international community has run the risk of interfering with inter-ethnic group dynamics and unleashing defensive sentiment and

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27 The social and political discourses, referred to in this thesis, represent two different levels of communication and involve a different set of actors. See Chapter Three.


conflicting tendencies among identity communities, rather than generating reconciliation. If the soft power of the EU is applied intrusively, tending towards the imposition of predetermined political solutions, the EU could find itself in the same position as the High Representative, without an exit strategy and with diminished legitimacy. The success of the negotiations depended on the strength and legitimacy of the European vision and also on negotiating skill and the capacity of the international community to address and place in equilibrium the crucial security concerns and interests of the political establishment and citizens in general.

This study will explore the conceptual correlation between identity, security and state-building and analyse the ways in which the international intervention affected the interrelationship of these concepts. The central focus will be the negotiating process between the representatives of the international community and the domestic political establishment. By exploring the interests and strategies of the representatives of the international community and the political establishment in BiH, the study will seek to illuminate the dynamics of the negotiating process and assess the impact of international intervention on political logic in this post-war society. By viewing the development of the strategies and positions of the political elite as well as the shifting patterns of popular sentiment as seen through public surveys, the analysis will also explore the impact of the EU integration process, and specifically the police reform negotiations, on public attitudes and the notion of societal security. This study will endeavour to make a useful contribution to the research on post-conflict societies and international intervention, seeking to reveal the complexity of ethnic relations in post-war societies and failed states.

1.3 My entry into the field and my relation to the topic

When I first arrived in BiH in 1999, I intended to explore how the ethnic polarization in BiH society could be resolved by applying a complex model based on the theories of Jürgen Habermas. I was inspired by his theory on communicative action and the extent to which international peace-building operations could generate civic arenas within which dialogue can generate interethnic trust. Since this beginning I have changed the focus of my inquiry and my understanding has developed through a process of personal insight, as a result of which I have had to redefine my theoretical outlook. Howard Becker argues that the researcher in the absence of more comprehensive knowledge often starts with a preconception of the field and thereafter he or she will, through a piecemeal process, amend the notion of reality and arrive at a new picture, hopefully grasping complex reality in a more satisfactory
way. “The trick is”, Becker explains, “to identify the case which is likely to upset your thinking while looking for it.”

My thinking was upset by particular cases of identity conflict in BiH. Factors that altered my understanding of post-conflict society were, as I saw it, issues that I as an outsider could not feel; fear and distrust. These sentiments were manifest in people’s search for identity and security.

From 2001 to 2004 I worked as an advisor to the Human Rights Ombudsman of BiH and in 2005 for the Office of the High Representative and later for the European Police Mission (EUPM). My engagement with several international organisations has inevitably influenced this thesis. However, between every assignment I returned to the University and assessed my experience and developed my theoretical understanding of the field. In 2004 I wrote an article outlining some of the principal ideas, which I have elaborated in this research. In the article I argued that the dilemma of multiethnic society is not ethnicity as such, but weak public institutions that enable the political elite to capture the state authorities by exploiting nationalist sentiment. The theoretical approach was first of all inspired by the literature discussing the phenomenon of failed and weak states and I will refer to several studies in this school of thought, inter alia Paul Collier, Mark Duffield, Robert Rotberg, Kalevi Holsti and Bill McSweeney.

The basic theoretical ideas developed in this thesis were presented in an article I published in 2006, discussing the potential danger of challenging ethno-political structures. This theoretical approach brought together the ideas of the Copenhagen School with sociological and socio-psychological theories, such as the research of Fredrik Barth, Henri Tajfel and John Turner. Roland Kostić’s thesis on external peace-building and reconciliation makes use of a similar approach and has also contributed to the theoretical ideas in this study. However, studying the issue of police reform, I began to focus on the negotiating process and the extent to which the methods of international negotiation may influence interethnic relations. Dealing with the subject of political negotiation, I undertook a thorough inquiry into the literature on negotiating processes, and this research has primarily benefited from the classic studies of William Zartman, Maureen Berman and Roger Fisher.

In 2007 I worked as a political advisor to the European Union Police Mission in Banja Luka and in this position I had an opportunity to explore both the structure of the police system in BiH and the essential ideas behind the reform of the police, which was then entering the final stage of negotiation. While still working at the EUPM, I began to write the empirical background of this research. My position as a political advisor enabled me to collect material that might otherwise have been difficult to access. In the

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30 Becker Howard, Tricks of the Trade, How to Think about Research While You Are Doing it. p. 87.
31 Lindvall Daniel, Tragedin kunde ha förhindrats.
32 Lindvall Daniel, Bosnia’s treacherous road to Brussels – The attempt to Europeanize the Balkans.
summer of 2008, I resigned from my position and began to work full-time on this research. However, I maintained good relations with many of my previous colleagues in the international community, and with politicians and advisors within the various BiH political bodies, and I have therefore been able to interview almost all the relevant individuals within the international community and the political establishment involved in the process of police reform.

I am aware that after being a participant in the field for so many years I may be accused of having “gone native” and of taking sides with one or other of the parties. Likewise, it may be thought that my assignments with international organisations have made me biased and reluctant to criticise their work. It is perhaps impossible to avoid such accusations, but I have tried throughout to allow all sides to speak openly and freely about their experience, while my own interpretations of interviews have been as much as possible based on the analytic framework presented in this thesis.

Definitions and frequently appearing expressions

A number of expressions and concepts will claim considerable attention in this study and require specific elucidation in order to avoid misunderstanding. First of all this study explores the activities of “the international community” in BiH. I have personal objections to the use of this term. However, in the BiH context the expression “the international community” has acquired a specific meaning, which may be unfamiliar to readers who have not spent time in BiH. The international community represents the main international organisations and is perceived as a specific political unit, comparable, for instance, to “the BiH government” or the “European Union.” Obviously, this term is problematic since several different capitals and organisations are represented within the international community, and these have different views and interests, just as several different political actors are represented in the “BiH government” or the “European Union.” However, in relation to the BiH political establishment and population, the international community is essentially seen, with all its plurality, as a common political unit, and this is reflected in statements by political representatives interviewed in this study. I will therefore refer to the international community as a single actor, representing the key international stakeholders in BiH. At the same time, I will try to illuminate the differences within this community.

The expressions “peace-building”, “state-building” and “international intervention” are repeatedly used in this study. Although there are differences in these concepts, in the BiH context they have to a certain extent

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33 Hughes John, Sociologisk Analys, p. 141.
come to be synonymous. I will however refrain from using the expression “nation-building”, as this refers to a different and rather complex process that does not properly describe what the international community has done and is doing in BiH. The concepts of nation and nationality are moreover rather specific in the BiH context and I will generally refer to ethnicity. An understanding of this concept will be presented in the theoretical exploration, where I discuss the “identity community”.

For reasons of simplicity, I have also chosen generally to refer to BiH when speaking about Bosnia and Herzegovina and I try to refrain from just talking about “Bosnia”, which properly refers to only one part of the country. When speaking about Bosnian Serbs and Bosnian Croats, I refer to them as Serbs and Croats, not to be confused with citizens of Serbia and Croatia. I also use the abbreviation RS, when referring to Republika Srpska and OHR when referring to the Office of High Representative, though I do not use this short form when referring to the High Representative in person, *inter alia* Carl Bildt and Paddy Ashdown.

**Disposition of the thesis**

This study is divided into four sections; one presenting the theory, the case and the method, and three separate sections analysing the empirical data. Chapter Two is a theoretical exploration of the issue of security, identity and state-building and this chapter will develop a research method, which is outlined in Chapter Three on the methodological framework. The background of police reform is described and analysed in Chapter Four. The empirical study follows the research design, dealing with the initiation, process and the impact of the negotiations. The second part of the study comprises two chapters, Chapters Five and Six, dealing with the initiation of police reform, reviewing the objectives of the international community, and police reform from the perspective of domestic politicians. The third part analyses the negotiating process, presenting the first phase of the talks, 2004-2005, and the second phase, 2006-2007, in two separate sections, Chapters Seven and Eight. The fourth and final part presents the impact of the police reform negotiations in Chapters Nine, Ten and Eleven, looking at their effect on political discourse, public views and the position of the international community. Chapter Twelve summarises and presents the general conclusions of the research.
Part I. Analytical Starting Point: Theory, Method and Background
2. Identity, Security and State-building

The process of peace-building and establishing security will always have a tendency to take on a state-building character, given that a fundamental role of the state is to regulate the use of violence and provide security for its subjects. Providing security is a matter of exercising power and this is essentially carried out by the organisation and control of the armed forces and the law enforcement agencies. These institutions regulate the use of violence in society and manifest the core feature of the state. However, concepts of what is to be secured are not only a matter of life, property and possessions, but may also be determined by normative structures and socio-psychological considerations, such as the interest of individuals in protecting their way of life and the identity expressed by relevant communities. Security is in this regard a complex matter, as it expresses a relation between the state, society and the individual, and negotiating the security arrangement can therefore not be done without paying heed to the societal character of security. In order to understand the complexity in the process of re-establishing security in the aftermath of conflict, one needs to explore the elusive nature of security. This chapter will discuss the correlation between the issue of security, state-building and identity. These issues will be explored in the context of post-war society. Thereafter the negotiating process will be discussed and an analytic model created, which should assist the study of the police reform negotiations.
2.1 The elusive nature of security

According to Max Weber a state is defined as an administrative unit that successfully asserts the right to the monopoly of the legitimate use of violence within a given territory.\textsuperscript{34} A political agent capable of exercising uncontested violence may determine the margins between legal and illegal violence. Creating a stable and strong state is thus a matter of pacifying violence and maintaining the monopoly in the institutions of the state and thereby providing reliable protection for citizens through the law and the system of governance.\textsuperscript{35} Consequently, the raison d’être of the state is its ability to provide protection and security to its subjects. In order to avoid anarchy, citizens agree to assign to the state the authority to rule. This thinking is reflected in Thomas Hobbes, who argued that people found states in order to “defend them(selves) from invasion of foreigners and the injuries of others and thereby to secure them(selves)…”\textsuperscript{36} John Locke stated likewise that the reason men put “themselves under government is the preservation of their property, which in the state of nature is very unsafe…”\textsuperscript{36} The state has accordingly emerged from a demand for protection and through a process of defining the use of violence between rulers and subjects.

By entrusting an authority the role of protecting property, we may feel safe, but we will also assign power to the authority in question. The state will therefore become an institution of force and its relation to its subjects will be a power relation. The nature of the state, Charles Tilly neatly concludes, is double-edged given that the individual will both need to seek security from the state while the state may be a source of threat to the individual. Hence the individual needs both to rely on the state for protection and at the same time must fear potential suppression by the state.\textsuperscript{37} Consequently, the state cannot exist if it does not have sufficient power to impose its protective capacity on citizens, but this protection-providing activity must be such that subjects trust and accept it over the long term. The state exists in its capacity “…to command loyalty, the right to rule…”, as stated by Kalevi Holsti.\textsuperscript{38} Hence state-making is not only about wielding control over the monopoly of violence. The state needs to possess legitimacy, which also depends on subjects endorsing the policy and power of the state.

\textsuperscript{34} Weber Max, \textit{Economy and Society}. Volume 1.
\textsuperscript{36} Buzan Barry, \textit{People, States and Fear}, p. 38.
\textsuperscript{37} Tilly Charles, \textit{War Making and State Making as Organized Crime}, p. 36.
\textsuperscript{38} Holsti Kalevi, \textit{The State, War and the State of War}, p. 87
These two aspects of legitimacy – enforcement and endorsement – are interrelated. A democratic state may rule on the basis of the will expressed by a majority of its citizens, but it will not have legitimacy if its institutions are too weak to enforce its decisions. Efficient institutions may on the other hand have difficulty in attaining legitimacy if citizens perceive the policy of the state as illegitimate. In this sense the power of enforcement and the consent of the subjects come together in the law.39 A state that is capable of consistently making and enforcing laws in compliance with the interest expressed by its subjects will gain legitimacy. A state that efficiently upholds the rule of law can bind its institutions and citizens together and create the predictability and security necessary for society to progress.

When these conditions are established, democratic rule may emerge in which legitimacy is validated in the mechanisms of electoral expectation and citizens’ demand for accountability. Rodney Baker astutely summarizes; “Legitimacy is precisely the belief in the rightfulness of a state, in its authority to issue commands, so that those commands are obeyed not simply out of fear or self-interest, but because they are believed to have some sense of moral authority.”40 State legitimacy is accordingly generated in the capacity of institutions to deliver the public expectation of protection. Creating a state and establishing its fundamental security architecture is therefore a complex process referring both to the institutional capacity of the rule-making authority and the interest of the people. The interest and expectation of the people is, however, ultimately a matter of social context influencing social agency and interaction.

The concept of societal security

In classic terms security, as provided by the state, includes property protection and protection against physical harm. In a modern state the service of protection covers a catalogue of codified civil, political and economic rights such as commercial regulations and restrictions and liberties regarding freedom of association and expression, marriage and education and so on. However, a number of scholars have in recent years begun to emphasise aspects of identity security. The discussion has generally gravitated around the interest of ethnic or national groups to protect their specific identity traits, such as use of language, traditional ceremonies and religious practice. Anthony Giddens discusses the concept of “ontological security”, referring to the psychological need of the individual to feel confident in the continuity of the social environment that defines their social identity. Giddens argues that the communicative responses of the surrounding social environment provide individuals with a cognitive

certainty of how to pursue their own actions, but they must also be able to predict the responses of others in a satisfactory way. They will therefore seek to ensure sufficiently stable continuity of significant social contexts.\footnote{Anthony Giddens, \textit{Modernity and Self-Identity}. Chap 2.} Given that the self-perception of any individual is generated by images communicated by the surrounding social context, intensive changes in aspects relevant to the self-image of the individual may trigger feelings of insecurity. The idea of ontological security \textit{“...is that individuals value their sense of personal continuity because it underwrites their capacity for agency.”}\footnote{Jennifer Mitzen, \textit{Ontological Security in World Politics: State Identity and the Security Dilemma}. p. 344.} Along these lines the sociologist Bill McSweeney has illustrated the social complexity of the concept of security. McSweeney has argued that \textit{“...the condition of security is,..., really a property of the relationship, a quality making each secure in the other.”}\footnote{Bill McSweeney, \textit{Security, Identity and Interest: A Sociology of International Relations}. p 15.} Security can therefore not only be projected onto the state or the individual, but also onto the context of social relations that provide a locus of the social identity of each and every individual.

Ole Weaver and Barry Buzan, as well as other associated academics in the so-called Copenhagen School, have discussed security in societal terms, referring to the interest of the individual to protect such categories that provide the individual with “self-referral sustainability” and an essential notion of a social identity. When speaking about societal security, Buzan and Weaver have generally referred to the identity communities of ethnicity and nationality. The social contexts carrying elements vital for social identity may express themselves as specific entities, such as ethnocultural groups, and may become potential security-seekers when their members act to ensure their own self-preservation in time. To this end Weaver and Buzan treat identity communities as a referential object of security that may transform into a potential security actor.\footnote{Ole Weaver, Barry Buzan, Morten Kelstrup, Pierre Lemaitre, \textit{Identity, Migration and the New Security Agenda in Europe.}} Security-seeking identity communities often act in an environment dominated by another majority culture. Catalan speakers may feel threatened by the dominant Spanish culture, while the Croat population in, for instance, central Bosnia may fear that the continuity of their cultural identity is jeopardised by the increasing presence of the Bosniak majority population. Henri Tajfel and John Turner have in their research on the dynamics of inter-group relations demonstrated that once a sense of togetherness in a community has become properly internalized, humans have a tendency to gravitate towards conformity with the group and will act to maintain and defend this identity if the group is being challenged. According to Tajfel and Turner, in a situation of competition between two social groups or when an identity is undermined or

\begin{thebibliography}{99}
\bibitem{Giddens} Giddens Anthony, \textit{Modernity and Self-Identity}. Chap 2.
\bibitem{Weaver} Weaver Ole, Buzan Barry, Kelstrup Morten, Lemaitre Pierre, \textit{Identity, Migration and the New Security Agenda in Europe.}
\end{thebibliography}
suppressed, the identity of the subjected group is prone to become vibrant.\footnote{\textsuperscript{45} Tajfel Henri, Turner John, \textit{An Integrated Theory of Intergroup Conflict}. pp. 254 ff.} In effect, in a situation of fear engendered by rivalry between different groups, the particular traits of identification have a tendency to be unwittingly activated by its members. Fredrik Barth claims that individuals have a tendency to construct social boundaries in inter-group interaction and when communicating with others they will construct “the others” by emphasizing the identity characters of the group, and thereby social boundaries are maintained. These social boundaries are “…determining … ways for signalling membership or exclusion.”\footnote{\textsuperscript{46} Barth Fredrik, \textit{Ethnic Groups and Boundaries, The Social Organisation of Culture Differences}. p 15.} By categorising and contrasting itself to its surroundings, the margins between the in-group and the out-group are determined. Randy Hodson, Duško Sekulić and Garth Massey demonstrate accordingly that enclaved minority groups in BiH have a tendency to apply a “defensive intolerance” towards the majority group.\footnote{\textsuperscript{47} Hodson Randy, Sekulić Duško and Massey Garth, \textit{Ethnic Enclaves and Intolerance: The Case of Yugoslavia}.} A societal security dilemma may thereby arise when the identity community aspires to create their own political organisations for the sake of their own protection. In a situation of interethnic competition, the safety measures applied by one group may thus be seen as a threat to another, giving rise to a societal security dilemma.\footnote{\textsuperscript{48} Roe Paul, \textit{Ethnic Violence and the Societal Security Dilemma}. p. 23. Buzan Barry, Weaver Ole, de Wilde, \textit{Security - A New Framework for Analysis}. p. 44.}

The inclination of identity communities to strive for their own continuation and their tendency to set up their own institutions for protection is the basis for the connection between the identity community and the state. The identity community and the state have certain conceptual similarities in their aspirations to provide security. Ethnic communities may, as discussed above, seek to establish their own institutions in order to ensure self-preservation, while the state may have a self-interest in maintaining the support of its subjects. Therefore the state may develop a conceptual connection to the ethnic or national identity community, since the interest of the state to seek legitimacy for its own continuation may correspond to the tendency of the identity community in its turn to ensure its own continuity. The interest in protecting the cultural traits of a community may make people disinclined to accept the security arrangements provided by state institutions if these are not seen to be affiliated with the community in question. The Copenhagen School brings this idea to the fore, suggesting that state authority must possess a defined identity accepted and entrenched in society. This refers, on one hand, to the political identity of the state, prescribing the rules of the political process in society, and, on the other hand, to national identity, expressing the cultural and ideological correspondence between the state and society. A state capable of defining an
idea with which citizens can associate and in which they can claim ownership will enjoy legitimacy. “In a properly constituted state”, Barry Buzan argues, “one should expect to find a distinctive idea of some sort which lies at the heart of the state’s political ideology… The two main sources for the idea of the state are found in the nation and in organising ideologies.”49 If the general cultural identity of the society does not correspond to the national or political identity of the state, then the state stands on fragile political foundations.

Constructing identity communities

The Copenhagen School has, however, been criticised for not viewing the constructive elements of ethnicity, treating ethnic or national identity as a fact of society and not as a social institution.50 Scholars with a constructionist approach to national identity have argued that the ideological connection between the state and the people is a product of a process of nation-building occurring in the age of modernisation. The dominant political elites constructed a national identity upon certain shared characteristics of the dominant population, such as common language, religion, traditions and history, in order to define a political entity that would embody the people. A perceived notion of togetherness was institutionalised in society by the establishment of national conscription armies and the general education system, and the development of mass communications, while at the same time the state suppressed any diverging identities.51 As long as the state maintains its position as a rule-making authority in society, it will keep a distinctive role in shaping the cogitative framework of the prevalent social identity and as long as the state expresses itself as a political body of the people, its idea will be reproduced in the minds of its subjects. Consequently, a sufficiently powerful political organisation may establish an institutional framework by which it can determine the identity formation in society and generate a notion of togetherness for the sake of its own continuation. However, once the social structure of an ethnic community has become deeply socialized, the state may enforce decisions, not only by using its administrative power, but also by the symbolic power vested in the imagined community between the state and the people.52 An inefficient and

49 Buzan Barry, States, People and Fear, p. 70.
52 Althousser Louise, Ideology and the Ideological State Apparatus. (In Althousser Louise, Lenin and Philosophy and Other Essays)
2. Identity, Security and State-building

A corrupt state obviously abusing power at the expense of the people may still maintain a sense of legitimacy by entertaining the idea of the nation, while weak states lacking a strong integrative idea may have exceptional difficulty in consolidating authority under one common institutional structure.

In this perspective the BiH state has never been given an opportunity to develop an independent tradition of statehood. Before the creation of the first Yugoslavia in 1918 (the Kingdom of Serbs, Croats and Slovenes) BiH was ruled by the Ottomans until 1878 and thereafter by the Habsburg Empire. In the Weberian sense, the instruments of violence have never been monopolized in one autonomous BiH sovereign institution. In the absence of a state authority the people of BiH would not develop a common national identity. Historically, all three groups would instead identify with their religious communities, particularly as a result of the Turkish decentralised governing organization, “the Millet system”, in which religious communities were to govern themselves, collect taxes and provide certain social services to the population. Under Habsburg rule, the religious communities developed separate political organisations, the Muslim Gajret, the Serb Prosvjeta and the Croat Napredak, which played a significant role in transforming the religious communities into three conscious ethnic groups. In prewar Yugoslavia ethnic identity was somewhat marginalised and a civic identity emerged in urban environments, where the rate of inter-ethnic marriage was fairly high. However, the dissonances in inter-group communication constantly regenerated ethnic identity and because of this the BiH state has always had difficulty in framing a common political ideology sufficiently vibrant to challenge the centrifugal forces of particularly the Serb or Croat national movements.

Truly, the identity of the individual is multifaceted and it is possible that other elements of identity could be used to prompt collective action, as for instance economic status, gender, regional affiliation, religion or social class. Expression of identity depends on the context in which it is communicated. Ethnic identity refers to characteristics imperative for both social and personal identity, such as language, religion and tradition, but these are only relevant in acts that illuminate the group identity as such. As discussed above, these characteristics are prone to become accentuated in inter-group communication, particularly when individuals have reason to distrust the intentions of members of other identity communities. If a notion of inter-

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53 BiH did indeed establish an independent kingdom under Tvrtko 1, yet the memories of this state would never be reproduced by any political organisation. In the history of BiH, the instruments of violence have always been exercised by external occupiers, although the occupiers would never completely suppress violence exercised by various rebel groups and hajduks. Alcock John, *Explaining Yugoslavia*, p. 386.
55 Until the Second World War, approximately 14 000 Jews lived in BiH.
group competition is salient, ethnic identity will be paramount, as argued by Leonie Huddy, yet “…when group membership is not salient, individual identity dominates.” A state that provides reliable law enforcement may thus generate social peace and stability, making the issue of identity a factor of less relevance in relation to the authority of the state, but in a post-conflict society in which the state is not able to deliver reliable security, identity and security may become intimately related. For these reasons the process of re-organising the security architecture, the law enforcement agencies and the defence forces, is a complex venture in a post-conflict society. The process of monopolising the instruments of violence may trigger tensions where inter-group communication is imbued with distrust. Moreover, in such societies the feeling of insecurity may be exploited by political entrepreneurs who control or aspire to control the instruments of violence. In effect, ethnic communities have a tendency to become a troublesome entity in societies that lack a defined monopoly of violence.

2.2 The political manipulation of security

The state has, as previously discussed, a double-edged nature. In a situation of insecurity, the individual needs to trust the state to provide protection, while the state as the keeper of the instruments of violence can equally represent a threat to citizens. However, the state can also manipulate security or create threats in order to legitimise its own existence and may act, as argued by Tilly, as a racketeer. “Since governments themselves commonly simulate, stimulate or even fabricate threats and since the repressive and extractive activities of governments often constitute the largest current threat to the livelihood of their own citizens many governments operate in essentially the same ways as racketeers.” Although Tilly did not discuss the racketeering tendencies of the state in relation to identity communities, it is understood that the self-preserving nature of national identity can be abused by the state or any other political organisation. In this connection McSweeney claims that ethnic identities should primarily not be seen as actors or objects of security, but rather as instruments of security politics. The social context making up an ethnic community has in itself no meaning or relevance until a political entrepreneur defines the context in question as a matter of security. McSweeney accordingly argues that “…Cultural entities, such as language and identity, only exist as objective properties by virtue of

57 Huddy Leonie, From Social to political Identity: A Critical Examination of Social Identity Theory.
the social practices and social relationships which constitute them... There must be an interest in expressing these relationships as a matter of security. Without that interest expressed, the identity community does not have a value in itself.\footnote{McSweeney, Bill. Security, Identity & Interests: A Sociology of International Relations. p. 88.} Roger Brubaker discusses this strategy, which he refers to as a matter of “evoking or invoking the nation” or as “nationalising nationalism”, which basically is a political claim to define the legitimate owner of the state.\footnote{Brubaker Roger, Nationalism Reframed – Nationhood and the National Question in New Europe. p. 16} Political campaigns striving to evoke the ethnic imaginative community have often an amazing capacity to turn the focus away from actual politics, particularly in a situation of economic depression. This intoxicating nature of nationalism is well described by Michael Ignatieff’s portrait of Yugoslav politics in the early 1990s: “Instead of banal politics of the real, instead of a political world facing the real facts, (such as) poverty,…, nationalism directs the mind towards higher things. It offers the glorious politics of identity politics and self-affirmation.”\footnote{Ignatieff Michael, Blood and Belonging, p. 39.} The most successful strategies that exploit identity communities are, however, those that refer to an actual or a fabricated threat. Given that individuals will seek to preserve properties vital to their self-image, such as their language, beliefs, religion, culture or tradition, fear projected onto such entitlements has an amazing ability to induce people to collective action. Political strategies that frame a threat to the identity community and present a strategy of defence are denominated by Buzan and Weaver as securitization.\footnote{Weaver Ole, Buzan Barry, Kelstrup Morten, Lemaitre Pierre, Identity, Migration and the New Security Agenda in Europe.}

Securitization is in this sense a political attempt to alert or to invent a societal security threat. The tendency to seek the continuity of the social context defining group identity makes the identity community a sensitive security category and, as expressed by Buzan and Weaver, “…given the conservative nature of identity, it is always possible to paint changes as threats to the identity…”\footnote{Buzan Barry, Wæver Ole, de Wilde Jaap, Security: A New Framework for Analysis. p. 23.} The security threats defined by the securitising political entrepreneur are consequently not of a physical character, but directed at elements that are important to the self-image of the individual, and this strategy can thus be defined as the politics of fear. To securitize is, as explained by Tobias Theiler, “…to identify an alleged threat to the survival of the community identity and to the shared identity it sustains, its presumed origins and perpetrators, as well as a strategy to ward off that threat and thereby render society secure again.”\footnote{Theiler Tobias, Societal Security and Social Psychology, p. 251.} The ultimate aim of securitization, or the politics of fear, is to prompt defensive mechanisms and thereby enable a particular political policy to take precedence in society. The
political entrepreneurs will thereby bring themselves into a position in which they can shape and control the political process, legitimising their own political campaigns. Given that these threats are often presented as matters of survival of the community, regardless of whether or not they may be tangible, the proposed measures to fend off the threat are often beyond any rational proportion. Once a political policy becomes a matter of identity protection any diverging political ideas can be labelled as treacherous. In this way the politics of fear is, as expressed by the British sociologist Frank Furedi, “…a manipulative project with the aim to immobilise political dissent.” However, the securitizing move is only successful if the addressees accept it as such, and although the notion of the threat is politically constructed, it must be seen to resemble a perceived danger to the community or the object of securitization as such.

The political and social logic of post-war society

The politics of fear, or securitization, is likely to succeed when people are affected by poverty and economic uncertainty, but particularly in a situation where the population has adequate reason to believe in the alleged threat to the community. In a state in which the legal system is unable to sanction the abuse of power, other legal mechanisms are prone to decline, such as the instruments of human-rights protection, media freedom and other regulatory institutions, which makes it easy to pursue propaganda and interethnic assaults with impunity, denying ordinary citizens access to impartial information and undermining interpersonal trust. Consequently, the methods of manipulating fear are more rewarding in states deprived of a legitimate and impartial rule-making authority. The insecurity of citizens and the incapacity of the state institutions to protect them may engender a particular social discourse, determining both the behaviour and mood of the people and the modus operandus of the political elite. As the enforcement capacity of the state declines, transparency will be reduced, public revenues will diminish and the capacity of the judiciary and the executive institutions to exert a restraining authority will gradually begin to evaporate. As a result the institutional order of the state will be informalized and the state sector opened up to the influence of patronage networks, corruption and clientelism. This tendency of growing weakness of the state was evident in many of the countries that made up former Yugoslavia, which become virtually captured by informal actors, influencing the political process, wealth distribution, the activities of the police forces, court rulings and

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65 Furedi Frank, Politics of Fear. p. 124.
regulation of the economy. The political scientist Nenad Dimitrijević describes the society that emerged under the rule of Slobodan Milošević as an ambience in which no one knew “…who had and who had not the right to use the instruments of violence, nor was there any regulation by which one could separate what was legal from that what was illegal…” Under these circumstances, predatory political agents may have a self-interest in the weakness of the state authorities and in entertaining a sense of fear and insecurity.

The crucial moment in generating fear in a failed state is obviously when actual violence becomes a political instrument. The business of state capture and political corruption does not necessarily need to descend into violence. However, when law enforcement organizations are fragmented, hostilities are likely to erupt between patronage networks or other groups that can command guns. Violence is thus not a matter of the inability of different ethnic groups to coexist in the same territory, but a result of the collapse of the rule-making authority. BiH maintained a culture of interethnic tolerance for several hundred years and the conflict clearly did not emerge out of an indigenous inclination to violence within the ethnic groups or what some observers defined as “ancient hatreds”.

There would have been no war in Bosnia and Herzegovina if Yugoslavia had not first collapsed, as Susan Woodward astutely concludes. In a situation where various sets of citizens cease to trust the state, they have a tendency to turn to sectoral, tribal and community loyalties, which may become “…their main resource in time of insecurity and their main default source of economic opportunity.” These community loyalties do not necessarily need to be based on ethnicity, but once fear is projected on an inter-ethnic basis it is very common that people will seek comfort in the ethnic community.

The experience of physical assault may concretize a climate of fear and thereby add to the prospects for exploitation of ethnic tensions. During the war in BiH people witnessed the horrors of shelling, snipers, abductions, mass rape, torture and other kinds of terror motivated by nationalist

68 Dimitrijević Nenad, Srbija koa nedovršena država.
70 The term “ancient hatreds” was particularly used by British politicians, such as John Major and Malcom Rifkind, arguing against any intervention in BiH, but also by several academics. See Simms Brandan, The Unfinest Hour, Britain and the Destruction of Bosnia.
71 Woodward Susan, Bosnia and Herzegovina, How not to End a Civil War. p. 75.
73 In BiH, for instance, in several mixed neighbourhoods in Sarajevo, community loyalties were not based on ethnicity, but with the growing influx of non-Serb refugees and the protracted shelling from an encircling Serb army, inter-ethnic tolerance gradually crumbled. Maček Ivana, War Within, Everyday Life in Sarajevo under Siege.
campaigns, making fear tangible so that in due course it became entrenched in the mindset of the people. Vanesa Pupavac argues that this kind of sentiment not only affected the public mind, but would also become accessible for abuse after the war by politicians who were “…modulating not only the behaviour of and beliefs of populations, but their emotions.” 74 In the aftermath of a war experience, fear can become an omnipresent factor in social relations and the responses of identity collectives cannot therefore be understood exclusively as a matter of manipulation. Experience of assault, through actual observation or by anecdotal or media transmission, may contribute to the institutionalisation of interethnic distrust in social interaction, making such sentiments a crucial element of the actual social discourse, rather than just issues fabricated by political elites.

In a post-conflict environment in which insecurity and interpersonal distrust prevail, the ethnic category can therefore not only be regarded as a political instrument, but must be understood as structures with indigenous discursive capacity. Interethnic violence often has a great impact on the self-image of the identity community and even if the ethnic hostility is artificially provoked, once “ethnic groups are mobilized for war, they will”, as stated by Chaim Kaufman, “…continue reproducing social institutions and discourses that reinforce their group identity and shut out or shout down competing identities.” 75 Roland Kostić argues in his research on the external peace-building process in BiH that when the securitization around group identity becomes persistent “…it is possible that community members put their own demands for protection of the group and the group identity upon the elites…” and “…thus, the presence of such a dynamic leaves little or no space for political change for as long as the group insecurity prevails.” 76 Although most interethnic conflicts are initially triggered by political elites, the protection-seeking tendency of the identity communities may regenerate social polarisation and restrain the social and political dynamics in society. Unscrupulous and predatory political leaders, such as Radovan Karadžić, Slobodan Milošević or Franjo Tudjman, were of course pivotal in pandering and maintaining fear and ethnic polarisation in former Yugoslavia, but once the normative structures of insecurity and distrust are ingrained in society, the political establishment will have difficulty in reshaping the political logic and will maintain ethnic division under pressure from the public.

75 Kaufman Chaim, Possible and Impossible Solutions to Ethnic Civil Wars. p. 153.
76 Kostić Roland, Ambivalent Peace: External Peace Building, Threatened Identity and Reconciliation in Bosnia and Herzegovina. p. 35.
2.3 Negotiating security in a post-war society

Formulating a security arrangement that responds to both the concerns of the individual and societal security is obviously a difficult venture in a post-conflict society. By advocating for a process of reintegration of the security architecture in the state structure, the international community in BiH challenged the power of the established political elites. If these state-level institutions proved to be effective and generated legitimacy, the gravity of politics could hypothetically be redirected from the ethnically defined cantons and entities towards the state. However, changing the normative structure of society by institution building requires persistent and long-term engagement by the international community, which is often not politically feasible.77 Moreover, in line with the arguments of Kostić and Kaufman, by changing the set-up of the security architecture, a sense of insecurity could be triggered, given that people in a divided society may not be ready to trust an arrangement of common law enforcement. By dismantling the divided public institutions and reintegrating them in the state structure, the international community could provide a pretext for fear-driven politics, rather than facilitating reconciliation and interethnic integration. At the same time, since the political actors may have an interest in maintaining the weakness of the public institutions, conceding to the interest of the identity community could deepen the problems and prolong the agony of the post-war situation. Moreover, by building security on an ethnically defined institutional structure, ethnicity may become legitimised as the dominating principle in society and thereby suppress any other patterns of identification.78 This was the dilemma that faced the international community in BiH.

In this connection the prospects of Euro-Atlantic integration presented a common interest in a situation of conflicting interests and therefore an opportunity to bring the parties together. Since a majority of citizens supported integration in Euro-Atlantic structures, this process provided a common vision by which political leaders of different ethnicity could be induced to seek common solutions to issues of diverging interests and possibly address the societal security threat. Nevertheless, EU integration was in BiH a rather unique process, given that it was essentially a matter of deliberation between the international community and the leadership of the three ethnic groups and not simply between the EU and the BiH state.

A negotiation can however not simply be pursued in order for the parties to advance their positions or to realise their vital interests, the process must

77 Etzioni Amitai, A self-restrained approach to nation-building by foreign powers.
78 Tuathail Georoid, Embedding BiH in Euro-Atlantic Structures: From Dayton to Brussels.
also result in an improvement of the relationship among the parties. If one party successfully persuades another party to accept an unfavourable agreement, the relationship between the two parties will probably deteriorate, which will be harmful to the sustainability of the agreement. Consequently, agreements which are not seen as mutually beneficial are unlikely to last. “The cake must”, as stated by Roger Fisher, “grow before it is shared.”79 This was of course particularly important in the police reform negotiations, since the final agreement was to provide a basis for future cooperation among the three ethnic groups in terms of operational policing.

However, negotiations rarely take place among equal partners. The balance of power is often asymmetric. In the case of EU integration, the process was obviously a matter of fulfilling a set of requirements laid down by the European Union and it was ultimately the European Commission that would assess the level of compliance. Negotiations therefore followed a deductive approach. The European Commission determined the principles on which the parties had to formulate a common agreement. The reform requirements on the one hand defined a framework and a structure for the talks and provided all the negotiating parties with guidelines and a clear understanding of the rationale of the reform.80 The negotiating parties would transform the principles into a concrete proposal and determine the terms of implementation. However, the conditionality also defined the scope of the final agreements and the nature of the conditionality therefore had an impact on both the dynamics of the negotiations and the outcome as such.

Since an overwhelming majority of the population supported EU accession, the electorate might have been expected to demand that the political elite fulfil the membership requirements. However, the willingness of the political elite and the electorate to make political concessions in order to comply with the requirements was not unconditional. Certainly, the common interest in EU integration provided room within which compromises on disputed issues could be reached. However, this room was clearly constrained by the interests of the political elite and the conflicting national aspirations of the three ethnic communities in BiH. The extent of the political will to support the EU integration process would ultimately be measured by the benefits of accession. Logically, if membership requirements were considered too painful, the political will could evaporate.81 Support for EU integration was thus a matter of the perceived benefits of accession and the effort and gains connected to fulfilling specific conditions.

In a negotiating process the parties have to calculate the costs and benefits of agreement and non-agreement. The area in which an acceptable agreement can be reached can be described as the “bargaining space”, which

81 Vachudova, Milanda Anna, Democracy, Leverage, and Integration After Communism. p. 102 f.
is theoretically positioned between the maximum and minimum interests of the parties, and identifying this space involves defining the range of concessions the parties are willing to make. In the case of police reform the parties had to assess the electoral benefits of signing an SAA and fulfilling the membership requirements. As long as a constituency supported the accession process, complying with the requirement was electorally profitable for the political elite, but accepting an unfavourable agreement could upset the electorate. A factor of more decisive influence, however, concerned the interests and positions of political rivals, since rivals could label any concessions on issues of national interest as treacherous. “Sometimes leaders are smashed like potatoes between two pressures....” as expressed by Aquiliari and Gulluccio, not knowing whether to comply with popular opinion or an international requirement.

However, in a negotiation among asymmetric parties, the more powerful party may influence the negotiating process by threatening to use force or impose sanctions. The more powerful party must, as expressed by Iklé, make the opponent “…believe that the estimated consequences of no agreement are worse for him than the terms you are willing to grant.” Although they could not impose the final proposal, the international community in the case of the police reform negotiations determined the terms of the talks. The international community could use other instruments of power, such as publicly denouncing individual politicians, or imposing travel restrictions or economic sanctions in order cajole the parties to accept an agreement. In this sense, the bargaining space could be expanded through pressure but it could also be constrained by external limitations, such as the influence of opposition parties or other concerns of the electorate.

The art of negotiation is to induce the parties to locate the common bargaining space within which a point of agreement can be reached. This is of course a matter of understanding the vital interests, the preferred outcome and the minimum acceptable agreement of the other negotiating parties. In a situation of asymmetrical power, one party may tactically make overambitious claims in order to improve its negotiating position. By firmly sticking to an assertive position, not disclosing its intentions and just making minor concessions, the party may be able to conclude an advantageous agreement. An assertive request can be used as a bargaining chip to persuade the other parties to concede to an unfavourable agreement. However, this technique is risky since the parties may become entrenched in confronting positions. In the worst-case scenario, claims that are seen as overambitious may deter the other parties from negotiating. In order for a negotiating party

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to be taken seriously, it is important that the bargaining positions are not drastically changed in the process of the talks. At the same time, in order to prevent a situation in which one party becomes captured by its own bargaining position it is important that the conditionality determined at the outset is sufficiently elastic, allowing compromises without changing the substance of the initial position. Assuming an inflexible position or setting an ultimatum at the beginning of negotiations may therefore have an impact on the dynamics of the talks and can produce an impasse.86

It is moreover important that the conditionality is perceived as reasonable and rational in the relevant context. If the proposed model of reform is seen as addressing issues of concern in an adequate way it will have a better chance of being endorsed, regardless of the willingness of the political elite. An agreement that brings a notion of fairness and justice to all parties will receive legitimacy and the parties will be more inclined to accept and respect it.87 However, perceptions of justice can obviously differ depending on each party and for this reason the negotiating parties should strive to define objective norms by which the agreement can be judged. An agreement that bears reference to international conventions or that has been evaluated by an impartial arbitrator may in this sense enjoy a greater degree of legitimacy. Since the police reform requirements were formulated as EU standards and were endorsed by institutions that carried a sense of authority, such as the EU and the Peace Implementation Council, they enjoyed a certain strength and credibility. “Justice provides strength”, as stated by Roger Fisher, claiming that arguments based on legal principles will in the long run possess greater weight.88

In locating the common bargaining space and facilitating an agreement, the negotiating parties must make sure that all involved actors are able to participate equally. This is a matter of the modalities of negotiation and the extent to which the talks can facilitate an open and frank communication between the parties. All negotiations depend on communication and in order to generate equal participation it is crucial that methods of clear information interchange are developed. Clear and candid communication is also vital in order to preclude misunderstandings and to ensure that all involved parties reach a common interpretation of the terms of an agreement. An agreement is only effective as long as the parties have a common understanding of its application.89 The negotiator must therefore make sure that the agreement corresponds to the reality commonly perceived by all involved parties.90

90 Aquilar Francesco, Galluccio Mauro, Psychological Processes in International Negotiations. pp 13, 32 ff.
Above all, the modalities of the talks and the flow of information are important in order for the parties to generate a sense of mutual confidence and trust. Building trust is a matter of equal inclusion and participation of all parties in the process, ensuring that the intentions and outcomes of the negotiating activity are imparted to all involved parties. However, generating trust will often depend on issues such as the personality of the negotiators, the number of individuals involved, the practical setting of the negotiations and the cultural or bureaucratic aspects intervening in the process of the talks. Building trust is about understanding the positions of the other parties, but also a matter of credibility, meaning that all parties need to be confident that the endorsed agreement will be respected and implemented (pacta sunt servanda). Negotiating parties that distrust each other are less likely to share information on their minimum bargaining positions, less likely to make or offer any concessions and will be less committed to implementing the agreement reached in the process of the talks.

**The conditions for a successful negotiating process**

Since the dominant political parties in BiH shared a common interest in EU membership, the integration process seemed to offer a vision that could usher the parties into making compromises on aspects otherwise captured by interethnic aspirations. The notion of joining the EU together with the neighbouring countries made the Croats and the Serbs in particular believe that the EU could theoretically re-establish the demographic balances of former Yugoslavia and diminish the significance of borders and statehood. A successful negotiation could therefore contribute to the stability of BiH, but also reconcile the otherwise polarised ethnic groups. However, the talks were also precarious since the set-up of the security institutions touched on the balance of power. Making compromises in order to reach the EU could be seen as conceding authority, not to Brussels, but to the other ethnic groups. The negotiations could therefore affect the political dynamic and as long as the conditionality was seen to require concessions to vital national interest, the talks could encourage the political opposition to take a more radical stance than the incumbency. Political actors challenging the governing parties may portray the conditionality as intimidating and thereby undermine the ability of the political establishment to facilitate inter-ethnic compromise. Consequently, if the membership requirement is perceived as a threat to the identity community, the negotiation may generate fear-driven politics. Negotiation security must therefore balance both the key political

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92 Ibid, pp. 28 ff.
interests and the security concerns of the individual and the identity community.

The process of EU negotiations clearly aimed to address certain problems in society and to improve the structure of law enforcement in BiH, but in view of the complexity mentioned above, the conditionality had to define reform requirements that would bring about improvements in the security architecture to the benefit of the individual citizen and at the same time avoid enhancing a societal security dilemma. The final agreement will be evaluated on its ability to develop the current structure. If the negotiations did not result in any changes at all, the final agreement would probably not be seen as legitimate by the Bosniak and Croat segments of the population. A reform process that would not change the state of affairs would therefore not be able to generate any mutual benefits and would probably not be supported.

Summarizing the discussion above, I would argue that a successful negotiating process is first of all a matter of the strength of the common vision upon which the deliberating parties seek an agreement, and also the procedural aspects of the negotiations: the extent to which all parties are able to participate in the process of negotiation and the extent to which the talks can generate mutual trust between the parties. Moreover, in the context of post-conflict society, which is the main argument propounded in the text above, the negotiations will not only be measured by their capacity to effectuate positive change in practical security terms, but must also satisfy the basic security needs of the respective identity communities. I would therefore argue that the reform had to produce the four aspects mentioned below.

<table>
<thead>
<tr>
<th>The legitimacy of the vision</th>
<th>The legitimacy of the process</th>
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<tbody>
<tr>
<td>To what extent does the EU accession process enjoy support among the political elite and the citizens?</td>
<td>To what extent are the domestic stakeholders able to participate in the negotiating process and formulate the model of reform?</td>
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<table>
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<tr>
<th>The effect of the reform</th>
<th>The perception of the reform</th>
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<tr>
<td>To what extent will the adopted membership requirement result in positive changes in social, economic and security terms?</td>
<td>To what extent is the adopted membership requirement perceived as an appropriate response to fundamental societal security concerns?</td>
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</table>

Accordingly, the international community had to build confidence among domestic counterparts and persuade them that the intentions of the reforms had no intimidating character. If an attempt to change the institutional set-up of the security architecture is seen as a threat to the community, then such
efforts may reinforce feelings of fear and arouse defensive sentiment, rather than facilitate reconciliation. The success of the reform process depends on the prospects for inducing the parties to agree compromises that will contribute to security on both a concrete and a socio-psychological level. In conclusion, the success of the negotiating process will be determined by its ability to generate mutual understanding among the parties and not on the merits of the agreement as such.
This thesis is an exploration of the political logic in a post-war society, focusing on the process of the police reform negotiations. It will analyse the effect that the police reform negotiations had on the political elite and on political and social discourse in general. To do this it will explore the dynamics between international intervention and the domestic political establishment, examining the development of the talks and the changes of strategy of the representatives of the international community and the political establishment in BiH. The study will strive to enter, as it were, the mindset of the principal international policymakers and the key domestic politicians involved in the negotiating process and examine how their attitudes were affected by the process. The following chapter will present the methodological framework, the research design and the empirical data used in the study. It will also present the interviewees and describe their background and relevance to the study.
3.1 The research design and the analytic process

The process of negotiating police reform primarily involved three groups of political players – the international community, particularly the Office of the High Representative, and the political parties from Republika Srpska and the Federation. In general, the international community in BiH was mandated to establish durable peace and security and to ensure the development of a self-sufficient state. This process entailed a complex relationship between the international community, as an external agent, and the domestic political elite. However, as this study will seek to demonstrate, the political logic in a post-war society is often determined by a set of competing interests and the social values and norms generated by the war experience. The activities of an external agent, such as the High Representative or the European Union, may therefore result in unexpected outcomes.

As shown in the previous chapter, in order to understand the logic of politics in a multiethnic post-conflict society, one must explore the concept of security and its relation to identity. In the aftermath of a war people are likely to feel insecure, distrusting the intentions of other identity communities and the capacity of the state to protect the personal safety of the individual and the cultural and social identity of the community. The notion of security may therefore be open to political exploitation, yet at the same time the individual has a natural tendency to protect internalised social identities and to emphasise identity if it is perceived to be challenged. The EU integration process offered the possibility of addressing the uncertainty of the identity communities; however, the police reform conditionality at the same time required a systematic restructuring of the security architecture, which was perceived to be a safeguard of societal security among segments of the BiH population. In this sense the method of negotiation was of particular relevance, since the reform of the law enforcement agencies had both a promising and an intimidating character.

**The general aim of this study is to analyse:** the impact the negotiation of police reform in Bosnia and Herzegovina had on the social and political discourse in BiH society.

**The general research question of this study is:** to what extent did the conditionality of the EU and the methods of negotiating police reform exacerbate or alleviate the societal security dilemma in BiH?
This study will also try to meet the following secondary objectives:

- To describe and analyze the policy process and the methods applied by the main international principals involved in the police reform negotiating process.

- To describe and analyze the inter-play between the principal domestic politicians and the international community in the police reform negotiating process.

- To analyze the leverage of the EU conditionality to create stability and induce reconciliation in post-conflict society in the case of BiH.

The general case examined in this study is the interaction between the international community, acting as an external agent, and the domestic political elite. The empirical study will primarily be a qualitative analysis, viewing interview material provided by the key actors involved in the process. The analysis will also be supported by written material, open media sources, reports and exclusive documentation obtained in the process of research.

The actors within the international community are first and foremost represented by the Office of the High Representative, which was responsible for planning and negotiating the reform. The domestic actors are essentially divided into two camps: the RS politicians, being exclusively of Serb origin, and the Federation politicians, being mostly Bosniak, but also of Croat origin. The Bosniaks and Croats were often united in one position, supporting the proposals of the international community, while the politicians from the RS were more or less united in a counter-position. I will therefore divide the actors into three camps, although the differences and dynamics between the agents within each and every camp will also be a subject of analysis. The police reform negotiations stood, however, first and foremost between Serb and Bosniak politicians; the Croats were not particularly involved in the process. Although I will discuss the Croat position, the study will primarily view the process from the perspective of the Serbs and Bosniaks.

The aim of this study is first of all to analyze the modalities of negotiation in line with the model developed in the theoretical exploration in the previous chapter and assess whether the process produced conditions that can be judged to have generated a societal security threat. Thereafter it will try to assess the effect the process had on social and political discourse, which in this case concerns the rhetorical arguments behind political conduct and public attitudes and interest in interethnic compromise.

The term “discourse” is a complex concept that has been used differently in different disciplines. I use it in the widest sense. A discourse is the pattern
of socially constructed ideas, symbols and conceptions through which physical and social reality is interpreted. Discursive formation has accordingly a constraining effect in the sense that it patterns the normative order, and it is also reproduced in the process of social interaction. Agents who possess the relevant instruments of power may determine the terms of social interaction and influence the production and reproduction of discursive formation. In this thesis I discuss political discourse, which involves political entrepreneurs, and social discourse, which relates to a wider context of social norms. The question is thus what impact police reform had on the pattern of ideas and the conceptual constraints through which politicians strove to realise their interests and through which society viewed interethnic relations.

In general the study will analyse three stages in the negotiating process; the *initiation*, the *process* and the *outcome*. In Chapters Five and Six I will analyse the intention behind the reform and how the international community determined the substance of the reform as well as how the domestic politicians perceived these intentions and what interest they had themselves in the reform. Chapters Five and Six will address the question of legitimacy of the strategic vision, i.e. EU integration. Chapters Seven and Eight will look at the legitimacy generated by the negotiating process, analysing the process and the responses of the domestic politicians. Negotiating techniques and their responses will be reviewed thematically in order to elucidate the effect of the strategy of the international community.

In Chapters Nine, Ten and Eleven I will first of all view the effect of the negotiations on political discourse and on the positions of power of the involved political actors. Thereafter the study analyses the development of public opinion, viewing how public attitudes towards police reform changed over time and how the representatives of the international community and the local political elite perceived the views of the people. Finally, I will explore the impact of the negotiating process on the EU leverage and the strategy of the international community.

**The intentions of the international community and the perception of the political establishment**

This first section of the empirical analysis, Chapter Five, will view the intentions behind police reform, analysing how the main policymakers within the international community understood the political reality and how the conditionality was determined. Thereafter, in Chapter Six, the reform will be analysed from the perspective of the domestic political establishment, viewing how the political elite perceived the intentions of the international community.

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93 Foucault Michel, *The Archaeology of Knowledge*, p. 120 ff.
community and what interests they had in the process themselves. On the basis of the following aspects, mentioned in the box below, the first part of the empirical study will assess the legitimacy of the reform process and the interests that influenced the approach of the negotiating parties.

<table>
<thead>
<tr>
<th><strong>Interest and intentions of the reform:</strong></th>
<th>What were the official and unofficial intentions of the reform? What interests did the political elite have in the EU integration process and in the specific issue of law enforcement reform?</th>
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</thead>
<tbody>
<tr>
<td><strong>The mutual perception of the negotiating parties:</strong></td>
<td>How did the representatives of the international community and the political elite perceive the intentions and interests of each other?</td>
</tr>
<tr>
<td><strong>The merits of the conditionality in the reform:</strong></td>
<td>How were the reform requirements defined and how did the local political elite perceive them?</td>
</tr>
<tr>
<td><strong>The justification and expectation of the reform:</strong></td>
<td>How did the international community justify the reform requirements and what did the political elite expect of the reform?</td>
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</table>

The question of whether the EU integration process and the membership requirements enjoyed legitimacy is first of all a matter of how the international community, as the initiator of the reform, determined and justified the conditionality. If the European Union and the High Representative could persuasively justify the need for police reform when introducing the reform process and proclaiming the reform requirements, then the political elite would probably be more inclined to seek compromises in order to adopt it. Although, the intentions and interests of the international community were not comprehensively presented to the public, the actual rationale for initiating police reform obviously had a bearing on the legitimacy and leverage vested in the conditionality as such. These interests and intentions also determined the approach and conduct of the international community in the negotiating process.

When it comes to the domestic politicians, the study makes an assessment of how the key political representatives perceived the political terrain and how they viewed the interests of the other ethnic groups. The study will thereby strive to explain how the political elite described the issue of identity threats and what defensive measures they suggested. Moreover, the study will try to assess the strength of the desire to join the EU, as well as how the conditionality was viewed by the political elite; whether it was seen as relevant and credible and whether fulfilling the membership requirement was expected to benefit their respective political interest. Ultimately, the legitimacy of the conditionality was a matter of the expectation of the domestic political establishment and the specific political interests they had.
in the matter. By assessing these aspects the study will seek to describe the initial terms of the talks and the political interests and expectations of identity protection of each group, which will be contrasted to responses in the actual negotiations.

**The negotiating strategy of the international community and the responses of the political elite**

In the second part of the empirical study, the process of negotiation is reviewed, determining and analysing the methods and strategies used by the international community and the responses of the domestic political elite. These negotiations lasted for more than three years, but can be divided into two separate phases, lasting between 2004-2005 and 2006-2007. The objective of this section is to analyse the dynamics among the relevant actors involved in the negotiating process, viewing the specific aspects discussed in theoretical explorations, as presented in the box below. The first and the second phase of the negotiations will be examined separately, in Chapters Seven and Eight, in order to identify changes in the political discourse.

<table>
<thead>
<tr>
<th>Negotiating techniques: What scope for compromise was given by the conditionality? What was the initial position of the negotiating parties and how did these develop over time?</th>
</tr>
</thead>
<tbody>
<tr>
<td>The terms of participation: Were the negotiating parties equally able and willing to participate in the talks and formulate the final outcome?</td>
</tr>
<tr>
<td>The modality of the talks: To what extent would the practical setting of the talks and the inter-agent communication facilitate the development of mutual trust and a common understanding of the implications of the proposals?</td>
</tr>
</tbody>
</table>

These two chapters will first of all analyse the negotiating technique and identify the bargaining positions of the international community and the domestic political elite and how these positions developed over time. The development of the strategies, approaches and political arguments are used as indicators of the changes in the political discourse. Moreover, these two chapters will look at the willingness of the negotiating parties, the representatives of the main political parties, to seek compromise and their capacity to define the bargaining space. This analysis views the terms of participation, looking at the ability of the international community to engage all negotiating parties in the process. These chapters will also analyse the modalities of the talks, particularly viewing the inter-agent communication.
and the capacity of the international community to facilitate an open and frank interaction between the parties, developing an atmosphere in which a sense of mutual trust could be generated. Moreover the study will view the ability of the negotiating parties to find a common language and reach a common understanding of the proposals presented and eventually endorsed. By analysing the aspects given by the model on negotiations developed in Chapter Two, the second part of the empirical study aims to capture the dynamics of the talks and how the political strategies and positions of the key political representatives were influenced by the negotiating process.

The effect of the police reform negotiations on public opinion and political strategies

In the third part of the empirical study, the outcome of the negotiating process is analysed. This final part of the empirical study is divided in three chapters looking at three general perspectives; the effect on the political discourse, public opinion, and the strategy and position of the international community.

Chapter Nine will analyse the effect the negotiations had on political discourse, looking at the rhetoric, strategy and positions of the principal political actors and the dynamics between governing and opposition politicians, evaluating the development of the political approach and conduct over time. The study also looks at the political effect of collaboration and negotiation with the international community. It will particularly focus on the rationale by which the political representatives explained their conduct. In this sense the study assesses what impact the negotiating process had on the political discourse in general; whether the negotiation process emphasised conflicting positions or whether it generated fear-driven politics. This analysis will chronologically follow the first and the second phase of the negotiations.

Chapter Ten views the impact of the negotiations on public opinion, analysing public opinion surveys on police reform and other related relevant issues, in order to assess levels of popular interest in EU integration and in police reform. The study will try to assess public opinion in relation to the reform at the start of the negotiations and also assess how these attitudes changed, looking in particular at whether the public became more or less willing to accept the reform as a result of the protracted negotiations. Moreover, this analysis also examines how the political elite and the international representatives perceived public opinion and discusses whether public opinion changed as a result of political campaigns.

Chapter Eleven analyses the effect the negotiations had on the role and position of the international community and whether the leverage of the EU
conditionality changed over time as a result of the methods of negotiation and the failure to reach an agreement. This final chapter will discuss the effectiveness of using reform conditionality as a tool to achieve political change and looks at the general impact of the unsuccessful negotiating process on the strategy of the international community.

3.2 Empirical data

The empirical material of this study is principally made up of interviews with the main BiH politicians and civil servants from 2004 to 2008 as well as with representatives of the international community. Essentially, the interviews have attempted to capture the views and experience of each and every individual who was involved. The interviews are semi-structured and they try to cover all the main aspects mentioned above as well as specific issues relevant to specific individuals. Although I have carefully tried to cover all relevant aspects, the interviews do not adhere to a predetermined structure. I sought to create an open atmosphere, unrestrained by a formal set of questions. The individuals I approached are or were in positions of power and this has naturally affected the relationship between them as informants and me as a researcher. It has therefore been important for me to profess my knowledge and position and at the same time create a sufficiently friendly atmosphere for them to speak freely about topical issues. To this end my previous positions within the international community have helped to boost my own credibility and have facilitated contacts. The fact that I have left these official positions has on the other hand had a liberating effect on the discussions. It has been important for me to persuade my interlocutors to trust my intentions and prevent them from holding back information or speaking to me merely in their capacity as politicians or decision-makers. The information given in the interviews is unavoidably a product of the context of each interview. There was, of course, a risk that the interviewee would merely communicate as a representative of his own party and position and treat me as a foreigner or an outsider. It has on the one hand been my aspiration to break loose from this relationship and to transcend the preconceptions of the interviewee. However, at the same time it has also been necessary to recognise relations of power as a fact and to interpret the information hermeneutically within its specific context. It is important to pay attention to why specific information is given, how it is expressed and,

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94 Kvale, Steinar, *InterViews: learning the craft of qualitative research interviewing.*
as described by Mills, “to read the vocabulary of motive.” Every statement needs to be explored on the basis of the position of the interviewee and why it is uttered. Moreover, most of the interviews treat events that occurred up to four years previously. Every individual remembers these moments and situations selectively. It can thus be assumed that the memories and the interpretation of these events have been affected by the specific and personal involvement of the interviewee. This kind of hindsight information cannot always be taken, *prima facie*, as correct, yet it may communicate something about the interest and attitude of a specific person. However, given that all of the interviewees were speaking about a historical process, they were prone to be more open about the issue and some seem to have taken the conversation as an opportunity to vent some of the frustration they felt over the years.

It would be incorrect to claim that I successfully managed to liberate myself from my own personal opinion in the process of interviewing. I certainly tried to restrain myself from commenting and debating issues that I personally believed to be incorrect or illogical, but I also understood that if I revealed my personal standpoint and some of the findings of the research, the interviewee would have a tendency to open up and become more outspoken. My interest was to explore their views, not to manipulate them into saying the things I wanted them to say. However, while interviewing politicians I understood that it was important to break loose from the formal interview situation and to get inside their mindset. I would sometimes need to show that I shared or disagreed with their views or in other situations I needed to provoke them with unconventional questions. All in all I was surprised by the openness of most of the interviewees. I have had to filter some of the more emotional statements and I have deleted some improper language and statements that amounted to personal assaults. Obviously, I would not have been able to conduct these interviews if I had not been proficient in the local language. I have striven to achieve as accurate a translation of the interviews as possible. In order to improve the interpretation three native speakers have assisted the translation of segments of the recordings.

Most of the interviews were conducted with a voice recorder. The voice recorder actually helped to emphasise the intent of the research and the significance of the conversation. The presence of the voice recorder helped add an element of formality to the conversations. In a few cases the interviewee asked me not to record or asked me to stop recording while uttering sensitive information. I respected such requests and I have been careful when using information given “off the record” or which might be considered as exceptionally sensitive. However, quotations, which I have taken down as notes in the interviews that were not captured on the voice recorder are used in the research. When it comes to interviews with politicians and senior international officials, I refer to interviewees by name.

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95 Mills C Wright, *Situated Actions and Vocabularies of Motives.*
These people are public officials and when communicating with me they were fully informed about the purpose of the research and they were told that the information would be used in the research and not in any journalistic publications. When it comes to middle-ranking international officials, I have not disclosed identity. All interviews have been transcribed and codified. Most of the interviews have been saved on digital format, while the initial interviews were conducted with a voice recorder from which I have been unable to transfer the recorded material to disk.

Selecting the interviews

My aim has been to interview all the relevant BiH politicians involved in the process of police reform as well as key civil servants representing experts in the Ministry of Interior. Thereafter I have tried to interview the principal policymakers in the international community and the relevant political advisers and experts. In general I have been able to depict the key individuals through personal contact and by studying relevant documentation from the main negotiating sessions as well as by analysing media coverage of the period 2004-2007. I managed to get a relatively clear picture of who were the relevant policymakers by simply talking to people involved in the process. It has, however, sometimes been difficult to reach the people in question and in some cases it has been impossible to persuade these individuals to be interviewed, but I have tried to make sure that the experience of those who declined an interview has been to some extent communicated by individuals who were in similar positions. Unfortunately, not a single woman has been interviewed, which is a sign of the tremendously male-dominated environment of BiH politics and the international community. All members of the Police Reform Commission and all participants in the most important talks in Vlašić in 2005 and Sarajevo and Mostar in 2007 were men. In the negotiating process all the politicians came from the seven most influential political parties in BiH.

Interviews with public officials in Republika Srpska

When it comes to the Serbs, three politicians have been outstandingly influential: The RS President and SDS leader, Dragan Čavić, the former Minister of Interior, Darko Matijašević (2004-2006), and the SNSD leader and RS Prime Minister, Milorad Dodik. PDP leader Mladen Ivanić might also be added to this list. In the process of research I was fortunate to become acquainted with Mr. Čavić, with whom I had three formal interviews and several cordial talks. He also provided me with a great deal of internal information about the SDS party. When the interviews were conducted he
had left politics and could therefore speak freely about the process. I also spoke with Mr. Dodik and Mr. Ivanić, with whom I had had several work-related meetings in the past. Unfortunately, I was unable to meet with Mr. Matijašević, although I spoke to two of his former advisors, who made promises to arrange an interview, but without success. I was unfortunately also unable to interview Sredoje Nović, incumbent Minister of Civil Affairs, and a person who otherwise was very much involved in the entire process of police reform. Between April and September 2008 I interviewed the present and former RS Directors of Police, Dragan Andan and Uroš Pena. I also spoke to the former Prime Minister and interim Minister of Interior (2002-2005), Dragan Mikerević, as well as the incumbent Minister of Interior, Stanislav Čado. I had a telephone conversation with the former Prime Minister, Pero Bukeljović (2005-2006), who unfortunately declined an interview. In addition to these I had the good fortune to speak with the incumbent Serb President, Nebojša Radmanović, and the SDS RS Presidential candidate in 2007, Ognjen Tadić. I also spoke to Slavko Mitrović, the advisor to the incumbent RS Prime Minister, In addition I interviewed the advisor to the Minister of Interior and two advisors to the two former Ministers of Interior. As these last individuals did not perform a public function, they will remain anonymous in this study.

<table>
<thead>
<tr>
<th>Name</th>
<th>Relevant position</th>
<th>Participation in Police Reform</th>
<th>Party affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dragan Čavić</td>
<td>RS President and Leader of SDS 2002-2006</td>
<td>In all negotiations</td>
<td>SDS</td>
</tr>
<tr>
<td>Dragomir Andan</td>
<td>RS DoP 2004-2006</td>
<td>In expert negotiations 2006</td>
<td>Unknown</td>
</tr>
<tr>
<td>Mladen Ivanić</td>
<td>RS PM 2000-2002, BiH MoFA 2002-2006, Leader of PDP</td>
<td>In all negotiations</td>
<td>PDP</td>
</tr>
<tr>
<td>Dragan Mikerević</td>
<td>RS PM 2002-2005.</td>
<td>In the early negotiations 2005</td>
<td>PDP</td>
</tr>
<tr>
<td>Milorad Dodik</td>
<td>RS PM 2006</td>
<td>In all negotiations</td>
<td>SNSD</td>
</tr>
<tr>
<td>Stanislav Čado</td>
<td>RS MoI 2006</td>
<td>In the negotiations 2007</td>
<td>SNSD</td>
</tr>
<tr>
<td>Ognjen Tadić</td>
<td>Advisor to RS President 2004-2005, SDS RS Presidential Candidate 2007</td>
<td>Modestly</td>
<td>SDS</td>
</tr>
<tr>
<td>Nikola Radmanović</td>
<td>Serb BiH President 2006</td>
<td>In the negotiations 2007</td>
<td>SNSD</td>
</tr>
<tr>
<td>Slavko Mitrović</td>
<td>Advisor to RS PM 2006</td>
<td>Modestly</td>
<td>SNSD</td>
</tr>
<tr>
<td>Uroš Pena</td>
<td>RS DoP 2006</td>
<td>In the expert negotiations 2006</td>
<td>Unknown</td>
</tr>
</tbody>
</table>
Anonymous | RS MoI Official | In the expert negotiations 2007 | Unknown
---|---|---|---
Aleksander Milić | Advisor to RS Minister of Interior 2004-2006 | In a few negotiations | Unknown
Anonymous | RS MoI Official | In early negotiations 2004 | Unknown

**SDS - Srpska Demokratska Stranka (Serb Democratic Party)**
The SDS was founded by Radovan Karadžić in 1990 and was after the war led by Momčilo Krajsnik and Dragan Kalinić. In 2004 Kalinić was removed by the OHR, allowing the slightly more moderate RS President Dragan Čavić to take over. Čavić was marginalised when the SNSD assumed power at the beginning of 2006. Since 2006 the SDS has been a rather insignificant party led by Mladen Bosić.

**SNSD - Savez Nezavisnih Socijal-demokrata (The Alliance of Independent Social-Democrats)**
The SNSD was established by Milorad Dodik, who was mayor of the small municipality of Laktasi during the war. Dodik had been the key moderate political force in the RS, opposing the ruling governing party ever since the war. In 1997-2000 he led the RS government together with the coalition SLOGA and in 2006 he once again came to power when the SDS government collapsed.

**PDP - Partija demokratskog progres Party (Party for Democratic Progress)**
The PDP is run by an economics professor, Mladen Ivanić. It is a moderate nationalist Serb party, which has been the kingmaker in all RS governments since 2000. Ivanić was the RS Prime Minister in 2000-2002 and the BiH Minister of Foreign Affairs in 2002-2006.

**Interviews with public officials in the Federation**
Among Bosniak politicians the most influential formal policymakers during the reform of the police were BiH Prime Minister Adnan Terzić, the SBiH leader and Bosniak Member of the Presidency, Haris Silajdžić, and the leader of the SDA, Suljeman Tihić. I was fortunate to conduct a long interview with Mr. Terzić, but was unable to speak either to Mr. Tihić or Mr. Silajdžić. I have sought to bridge this gap by interviewing Mr. Silajdžić’s two key advisors as well as Beriz Belkić, a former Bosniak Member of the Presidency and the second ranking party official in the SBiH. Given that the advisors to Mr. Silajdžić did not perform a public function, I will not refer to
them by name. In addition to Mr. Terzić, who is the SDA deputy party leader, I spoke to the party’s General Secretary, Amir Zukić, the deputy leader, Šefik Džaferović, and Hašim Randić, the party expert on police reform and a member of the BiH Parliament. Besides the SBiH and SDA politicians, I interviewed Damir Hadžić, the SDP spokesperson on police reform issues, who participated in the process from 2004. I also interviewed the former BiH Minister of Security (2002-2006) and President of the Croat Party HDZ, Bariša Ćolak, who is now BiH Minister of Justice. Among representatives of the Federation police, I interviewed the Director of the Federation Police, Zlatko Militić, the Police Commissioner of Sarajevo Canton, Himzo Selimović, and the Director of the Federation Police Academy, Tahib Spajić. All of these participated in the talks from 2004 and were members of both the Police Reform Commission and the Directorate.

<table>
<thead>
<tr>
<th>Interviewees in the Federation</th>
<th>Name</th>
<th>Relevant position</th>
<th>Participation in Police reform</th>
<th>Party affiliation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amir Zukić</td>
<td>Deputy SDA Party President</td>
<td>Modestly</td>
<td>In all negotiations</td>
<td>SDA</td>
</tr>
<tr>
<td>Adnan Terzić</td>
<td>BiH PM, Deputy 2002-2006, SDA Party President</td>
<td>In all negotiations until 2006</td>
<td>SDA</td>
<td></td>
</tr>
<tr>
<td>Bariša Ćolak</td>
<td>BiH MoS 2002-2006, Party leader of HDZ.</td>
<td>In all negotiations until 2006</td>
<td>HDZ</td>
<td></td>
</tr>
<tr>
<td>Beriz Belkić</td>
<td>BiH President 2000- 2002, Member of Parliament</td>
<td>In early negotiations</td>
<td>SBiH</td>
<td></td>
</tr>
<tr>
<td>Anonymous</td>
<td>Advisor to Haris Silajdžić</td>
<td>In negotiations from 2006</td>
<td>SBiH</td>
<td></td>
</tr>
<tr>
<td>Anonymous</td>
<td>Advisor to Haris Silajdžić</td>
<td>In negotiations from 2006</td>
<td>SBiH</td>
<td></td>
</tr>
<tr>
<td>Damir Hadžić</td>
<td>Mayor to Novi Sarajevo</td>
<td>In all negotiations in 2004 and expert on PR issues in SDP</td>
<td>SDP</td>
<td></td>
</tr>
<tr>
<td>Šefik Džaferović</td>
<td>Deputy SDA Party President</td>
<td>Modestly</td>
<td>In negotiations from 2006 (also 2004)</td>
<td>SDA</td>
</tr>
<tr>
<td>Hašim Randić</td>
<td>SDA Expert on Police Reform</td>
<td>In negotiations from 2006</td>
<td>SDA</td>
<td></td>
</tr>
<tr>
<td>Himzo Selimović</td>
<td>Police Commissioner to Sarajevo Canton</td>
<td>In PRC and PRD</td>
<td>Unknown</td>
<td></td>
</tr>
<tr>
<td>Zlatko Militić</td>
<td>Federation DoP</td>
<td>In all expert negotiations</td>
<td>Unknown</td>
<td></td>
</tr>
<tr>
<td>Tahib Spajić</td>
<td>Director of Federation Police Academy</td>
<td>In all expert negotiations</td>
<td>Unknown</td>
<td></td>
</tr>
</tbody>
</table>
SDA – Stranka Demokratske Akcija (The Party for Democratic Action)
The SDA is a Bosniak nationalist party and was established by the first BiH President, Alija Izetbegović, in 1990. It has dominated Bosniak politics and participated in all Federation and BiH governments except from 2000-2002. Suljeman Tihic became President in 2003 and has led the party since then.

SBiH - Stranka za BiH (The Party for BiH)
The Party for BiH was established by Haris Silajdžić, who was BiH Minister of Foreign Affairs during the war but broke with Alija Izetbegović at the end of the war. Silajdžić has tirelessly sought to unify BiH and to abolish the entities. Safet Halilović led the party until 2006 during a period in which Silajdžić partially withdrew from politics.

HDZ BiH - Hrvatska Demokratska Zajednica (The Croat Democratic Union)
The HDZ BiH was the sister party of its Croatian namesake and has been the dominant Croat party in BiH ever since the break-up of Yugoslavia. The party has been torn between different radical and moderate factions and as a result it has changed leadership several times. In 2001 Bariša Ćolak became President of the party, but in 2005 he was replaced by Dragan Ćović. The party split in 2006 when a faction formed the rival HDZ 1990.

SDP – Socijal Demokratska Partija BiH (The Social Democrats)
The SDP is the only influential multiethnic party in BiH, although it mainly attracts moderate Bosniak voters. Its President, Zlatko Lagumdžija, has led the party ever since the war and in 2000-2002 the SDP led the BiH and Federation governments together with the Alliance for Change.

Interviews with officials in the international community

Within the international community the key person behind police reform was Paddy Ashdown. I was very pleased that Mr. Ashdown, who is now a member of the House of Lords, agreed to speak to me in Buckingham Palace in June 2008. I was unfortunately not able to talk to the Chairman of the Police Reform Commission, Wilfried Martens, who declined an interview and I did not request interviews with Mr. Ashdown’s successors, Christian Schwartz-Schilling and Miroslav Lajčak. However, I had a very informative interview with the deputy High Representative, Raffi Gregorian, who was the person responsible for the negotiations in 2007. I also interviewed the Head of the European Union Police Mission, Vincenzo Coppola, who was the international Chair of the Police Reform Directorate from 2006, and Graham Day, who was deputy High Representative and Head of the OHR
3. Methodological Framework

Banja Luka office until 2006. In addition to these interviews of official representatives of the international community, I interviewed three senior officials and five middle-ranking officials who worked in the OHR in the period 2004 to 2008. At least four of them were directly involved in planning and negotiating police reform, while the other four were involved in the process of strategy-making and policy advice in relation to police reform. I will out of respect for the current positions of these individuals not reveal their names.

In order to gather information about the functioning of the police I interviewed four police officials in the RS police and three SIPA police investigators: three Bosniaks, one Croat and three Serbs. I have also had a number of conversations with EUPM officials in order to clarify specific information about the technical functioning of the police system in BiH. These discussions, together with other discussions that assisted this research and yielded valuable information, will not be referred to in the text.

Written material

The study will be supported by several internal reports, documents and media items. Some of this material was obtained from the OHR and the EUPM and does not take the form of public documents. I have also received several OHR documents and this study will refer to the documents and protocols of the Police Reform Commission and the Police Reform Directorate, the transcription of the recordings from the Vlašić negotiations, the conclusions of the Konak talks and the conclusions of the negotiations in the spring and autumn of 2007, and several analyses of the talks provided by the EU Police Mission. Some of this material has also been provided by the interviewees and should be classified as internal documents. Most of these documents are, however, available on the Internet. The public surveys used in the study were conducted by various BiH research agencies and were commissioned by the OHR, but most have not been published before. These public surveys have been made available to me by the OHR Press Department and I have been allowed to use the material by the Director of Communications with certain restrictions, which will not have any impact on this study. I have also received a number of public surveys conducted by the EC Delegation in BiH and by the UNDP. I have been fortunate to have access to the media archives of the OHR and the EUPM. The systematic media monitoring conducted by these organisations has enabled me to go through all the news coverage of the police reform negotiations in print and broadcast media between 2004 and 2008. Both organisations continue to make some of this media material available on the Internet.
4. The BiH Police Forces and Post-War Restructuring

The European Union is a political organisation that evolved out of the Coal and Steel Union, which emerged from a desire to strengthen strategic economic ties among six key European countries and to sustain peace and stability in the aftermath of the devastation wrought by the Second World War. Thereafter the European Union has integrated an increasing number of countries and has grown to become a supranational structure. The state of Yugoslavia similarly emerged as a pragmatic solution to the position of the south Slav people after the end of the First World War. However, the Yugoslav state was since its creation afflicted by conflicts between the centre of power and the proto-national regions. Yugoslavia therefore evolved into a rather decentralised state. The instruments of violence were shared between the federal republic, controlling the army and certain policing authorities, and the republics, possessing competences over the local police forces. When Yugoslavia collapsed the instruments of violence effectively transferred to the republics. In this process the multiethnic republic of BiH was unfortunately not able to assume control over the monopoly of violence and instead various ethnocratic state-structures created their own informal police and defence forces. Following the Dayton Peace Agreement, the international community facilitated the development and formalisation of these various police forces and in 2004 the process of police reform became a condition within the European Union’s Stabilisation and Association Process. The following pages will endeavour to describe briefly the development of the BiH police forces from the disintegration of BiH to the beginning of the EU integration process.
4.1 The BiH police forces before and after war

The character and structure of the police forces in the former Yugoslav state resembled the Yugoslavian one-party system. The police were not accountable to citizens, but to the political authority manifested in the autocratic socialist party. There was no clear distinction between the legislative and executive branches of power, and the police forces as such were an integral component of the political power, being directly subordinate to the Minister of Interior. The Minister acted as the operational director of the police forces and people referred to the police administration by the acronym “MuP”, which stood for Ministarstvo unutrašnjih poslova (the Ministry of Interior). Nevertheless, the repressive nature of Yugoslav socialism was much milder than in other parts of the socialist bloc. Within the Yugoslav Federation every republic had a separate police system, although the legal and organizational structure was fairly similar in all the republics. The police forces of the republics were also coordinated by a central secretary at federal level, but generally the republics had a high degree of independence when it came to law enforcement activities. In the BiH context key decision-making was accordingly conducted in Sarajevo and all the special police units were accommodated in the central Ministry of Interior although the republic was divided into seven districts. Senior positions within the police forces were allocated according to a complex system of ethnic keys, making it practically impossible for one ethnic group to dominate. The operations of the overall police force were moreover divided into two general segments: the State Security Service (Služba Državne Bezbednosti) and the Public Security Service. While the public security police were competent to deal with ordinary crimes, coordinating their operations with investigative judges within the judicial system, the State Security Service had responsibility for issues of state security, terrorism, and organized and political crime. In essence the state security

96 Nevertheless the structure and authority of the police was prescribed in the constitution and the Law on Internal Affairs (LIA). The LIA, which regulated the police forces, stipulated certain procedures of appointment of the various directors of the main police units and the police districts. The Law also prescribed certain standards of professionalism and determined the authority of the police management and the individual police officer. Party membership was an informal requirement of any higher position within the police.
97 Following the removal of Vice-President Aleksander Ranković in 1965, the repressive nature of the Yugoslav state became milder and more restricted. Cohen Lenard, Broken Bonds: The Disintegration of Yugoslavia, p. 29.
98 The division of the districts would change a number of times, but by the break-up of BiH the country was divided between Sarajevo, Mostar, Banja Luka, Bihac, Gorardže, Tuzla and Doboj. Dziedzic Michael, Bair Andrew, Bosnia and the International Police Task Force. p. 265 f.
service was the protector of the political system, while the ordinary police operated fairly independently within the legal framework, arbitrary defined by the political authorities.99

Following the elections in 1990, a new Law on Internal Affairs was adopted in BiH with the object of reforming the police. However, instead of moving away from authoritarian principles of policing, a general process of politicizing was started in accordance with the interests of the three nationalist parties. Almost all high-level personnel in the police were replaced by individuals loyal to the ruling parties and by the end of 1991 a process of ethnic cleansing had started in the structures of the police, especially in cities with a Serb majority. In 1991 the formal police system began to fall apart and the Ministry of Interior gradually lost control of the BiH police forces, which began to be divided among the various para-state structures within BiH.100 In the course of the war the police forces were used as instruments in the conflict. Almost all cities in BiH imposed curfews, enabling the police to control all public activity. Police forces were quickly expanded, increasing overall manpower nearly fourfold, employing an additional 30,000 police officers. The police forces in some cases operated in accordance with the law, supervising public order and restraining criminal activity, but in general they became subject to arbitrary political control, took orders from the formal and informal defence structures and were involved in the conduct of the war. In several places police units were responsible for serious war crimes, engaging in campaigns of ethnic cleansing and even participating in the establishment of concentration camps.101

The Dayton Peace Accord introduced an institutional framework that formalized the police organisation in BiH. The legislative and operational competences of the police were fixed at entity and canton level and the result was that BiH found itself with twelve different police agencies with independent law enforcement capacity.102 Consequently, a criminal committing a crime in one entity could be quite certain that he would be safe if he just crossed the inter-entity boundary line. The BiH state as such would only have marginal policing powers related to issues of preservation of sovereignty and territorial integrity and international and inter-entity crime and would not develop any state law enforcement agency until the year 2000 when the State Border Service was established. In reality BiH was divided

99 Jovićić Dragomir, Uloga Policije republike Srpske u implementaciji Dejtonskog mirovnog sporazuma.
101 Dziedzic Michael, Bair Andrew, Bosnia and the International Police Task Force. p. 267 f.
102 Policing authority in the Federation was shared between the entity and the cantons, while the Federation had competences over serious crime and performed a coordination role over law enforcement activities in the cantons. Brčko District would later develop its own police body.
into three separate security spheres. All police forces operated under the Law of Internal Affairs of the relevant canton or entity, which were adopted in 1995-1996 and which were very similar to the pre-war legislation.\textsuperscript{103} Not only had the common policing structures been broken up by the war, creating rather irrational and complex structures, but standards of policing had also degenerated. According to the UNMiBH the BiH police forces in 1996 resembled “para-military units…entirely unsuited to civilian law enforcement activities…”\textsuperscript{104}

4.2 International police assistance

The international community had already in the course of the war deployed civilian police officers under the auspices of the UN administered CIVPOL mission in Croatia and BiH, and the issue of police assistance also received specific attention in the peace negotiations. Pursuant to annex ten of the peace agreement the International Police Task Force (IPTF) was set up under the stewardship of the UN Mission in BiH (UNMiBH), deploying more than 1500 international police officers all over BiH. This international police mission was, however, not a police force with authority to apply measures to enforce the obligations spelled out in the peace accord; it was merely tasked with monitoring, facilitating and training the local police. It was therefore debatable whether the international police force would be able to exert a positive influence on security in BiH or ensure the proper functioning of the local police.\textsuperscript{105} In essence the IPTF operation relied on successful cooperation with the domestic law enforcement agencies and for this reason the IPTF signed on 25 April 1996 the so-called Petersberg Agreement on restructuring of the police with the political authorities of the Federation. By this agreement the Federation authorities gave consent to the creation of one unified Federation police force and recognized the explicit authority of the IPTF over policing issues.\textsuperscript{106} The RS, however, blatantly refused to cooperate with the international community in the process of police restructuring and a corresponding agreement was not signed until the end of 1998, following a change of government in the RS.\textsuperscript{107}

\begin{itemize}
\item[\textsuperscript{103}]ICG, \textit{The Police in Bosnia. A Further Reform Agenda}, May 2002
\item[\textsuperscript{105}]The General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 1.2.
\item[\textsuperscript{106}]Petersberg Declaration, Agreement on Restructuring the Police Federation of Bosnia and Herzegovina. Bonn 25.04.1996.
\item[\textsuperscript{107}]Framework Agreement on Police Restructuring, Reform and Democratisation in the Republika Srpska, 9 December 1998. also Wisler Dominique, \textit{The Police Reform in BiH}.
\end{itemize}
Due to practical impediments, the police mission did not actually reach its full capacity before the first mandate of UNMIBH had expired.\textsuperscript{108} The weakness of both the civilian mission and restrictions in the mandate of the military mission to intervene or assist the IPTF left a security gap within which warmongers and local agents were able to continue to undermine outstanding commitments in the peace agreement.\textsuperscript{109} In 1998 approximately 30 cases of harassment and attacks against returnees were reported monthly.\textsuperscript{10} The frequency of violent incidents should not be exaggerated, yet the lack of security seems to have had a direct effect on the rate of return and in a UNHCR study in 2000 security was cited as the main factor dissuading people from returning to their pre-war homes.\textsuperscript{111} Harassment increased slightly in 2000 as a result of the increased rate of return that year and according to a study conducted by UNMIBH in 2001 some 316 attacks against returnees were registered in the RS alone, out of which not a single case led to prosecution.\textsuperscript{112} The greatest failure of the international community in the initial phase of peace implementation was its inability to prevent the exodus of some 100 000 Serbs from the areas of Sarajevo that had come under the control of the Federation in March 1996. The IPTF was unable to guarantee the safety of the Serbs and did not intervene to stop the campaign by the Serb authorities to empty the suburbs or the looting and destruction of property by the departing population.\textsuperscript{113} When UN Resolution 1088 was adopted at the end of 1996, the competences of both the SFOR and IPTF missions were resolutely strengthened and as a result they were able to start coming down hard on some of the more conspicuous breaches of the peace accord, such as illegal checkpoints and roadblocks that were frequently set up by the local police.\textsuperscript{114} In 1997 SFOR began to raid RS police stations, confiscating illegal weapons and equipment and in 1998 British troops conducted the first snatch operation ever, arresting one and killing another individual indicted for war crimes.\textsuperscript{115} It is possible that the activities of the IPTF and SFOR improved overall security, preventing an general

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\textsuperscript{108} Dziedzic Michael, Bair Andrew, \textit{Bosnia and the International Police Task Force}, pp. 272 ff.
\textsuperscript{109} Stark Christine, \textit{The Rule of Law in Peace Keeping Operations}.
\textsuperscript{110} This figure is based on reported incidents to the Human Rights Coordination Centre within the OHR. These statistics should be seen as estimations and cannot be compared with the UNHCR statistics from 2000 to 2003. HRCC \textit{Monthly Reports March – December 1998}.
\textsuperscript{111} UNCHR \textit{Returnee Monitoring Study}, June 2000.
\textsuperscript{112} UN Document, “Minority-Related Incidents Reported to IPTF”. 1 March 2000 – 20 July 2001. The number of cases of harassment was approximately twice as high in the RS as in the Federation, partly due to the fact that the RS was subject to a slightly higher degree of minority return than the Federation.
\textsuperscript{113} Following the unambiguous instruction of the Prime Minister of Republika Srpska, Gojko Kličković, to “…not allow a single Serb to remain in the territories that fall under Muslim-Croat control” almost every Serb left the suburbs. UN Army Peacekeeping Institute, \textit{SFOR, Lessons Learned in Creating a Secure Environment with Respect of the Rule of Law}.
\textsuperscript{114} OHR, \textit{Report to Secretary-General of the UN}, Oct 1997.
\textsuperscript{115} ICG, \textit{The Police in Bosnia. A Further Reform Agenda}, 2002.
\end{flushright}
deterioration and stopping flagrant cases of police abuse, but there is no evidence that violence against returnees declined as a result of the change of mandate, and in fact the number of harassment cases increased in the years following the implementation of the property repossession laws as return became more frequent.

**Restructuring the organisation of the police**

The enhanced IPTF mandate, together with the introduction of the Bonn Powers, did, however, change the conditions for police restructuring. In the early years the activities of the international community in the field of policing had been mostly directed towards training and supervision, but the focus now shifted to structural improvements: the organization of the police, and the modalities of accountability and democratic control. In essence this was a matter of transforming the police forces from instruments of war into reliable institutions in the service of the rule of law in a democratic society. This would first of all be an issue of formalization of the police forces, introducing standard uniforms with new official symbols, and striving to eliminate the para-structures still existing within the police. This process was undertaken in accordance with agreements signed with the entities. Furthermore, these agreements envisaged a reduction of the police forces by two thirds and the re-establishment of proportional ethnic representation in the police.

Moreover, the police forces had to be detached from and purged of their wartime elements. To this end, the IPTF launched a program of decertification, screening the record of every single police officer and issuing certification to all qualified police officers. The process of vetting dragged on until the end of the IPTF mandate in 2002 when more than 16 700 police officers had been successfully vetted and nearly 800 decertified. By controlling the process of certification of police officers the IPTF believed that it could cleanse the police forces of individuals who had been involved in war crimes and officers who had been informally recruited during the war. In addition, decertification was also used as an incentive to police officers to perform in accordance with relevant standards and to

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116 This issue was especially a problem in the Federation, where the number of special local police forces was more numerous than in the RS. The agreements did, however, not manage to abolish the parallel structures that existed in all mixed cantons.

117 Out of the 45 000 serving in the police forces more than 70% had been recruited during the war or just before the war. The staffing structure in the Federation had to follow the ethnic distribution in accordance with the census of 1991 while the RS would follow registration in the local elections, which was a slightly less ambitious standard.

118 The IPTF certification card had to be carried by police officers on duty. It was the property of the IPTF and could be withdrawn by an IPTF decision. The process was endorsed in the framework agreements.
introduce other changes within the police forces. In this way, the IPTF acquired an executive mandate and was able to enter into the more complex and political aspects of law enforcement reform.

In 2000 the efforts of the international police mission shifted from the individual level to the organisational level of policing. The groundbreaking element of this phase was the so-called “Police Commissioner Project”. The aim of the project was to de-politicise and bring the police forces into line with recognised policing standards. This required first of all a process of defining the separate role of the policy-making functions of the political authorities and the operational role of the professional police management.

In 2001 the UNMIBH drafted a framework law according to which a new position of Director of Police would be introduced at the entity level, with the position of Police Commissioners being added at cantonal level. These officials would be strictly professional and non-political, having full competences over the operation of the police. Moreover, these positions were to be appointed by Independent Selection and Review Boards (ISRB) comprising representatives of society and civil servants. In accordance with this model the relevant government authority would merely endorse the selected Police Commissioner or Director from a shortlist presented by the Board. In light of fierce resistance to the reform the High Representative imposed new Laws of Internal Affairs in the entities and cantons in 2002, changing the regulation of policing throughout BiH.

In addition to the Police Commissioner Project, the IPTF launched in 2001 two other progressive democratisation measures within the framework of the new legislation, introducing a system of internal audit control and an instrument of civil control, the Public Complaints Bureau. The latter consisted of members of civil society and was to supervise the handling of public complaints about the conduct of the police forces. The new laws would theoretically contribute to the de-politicization of the police forces, but they did not prescribe the sort of radical change that would totally disqualify the relevant Minister from interference in police matters. The Minister still wielded great influence over the police forces and despite the introduction of independent selection commissions, most chiefs of police bodies in BiH remained closely connected to political parties and were often appointed on direct instructions of the respective government.

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119 ESL, *On Mount of Olympus, How the UN Violated Human Rights in Bosnia and Herzegovina, and why nothing has been done to correct it.*
120 Dziedzic Michael, Bair Andrew, *Bosnia and the International Police Force.* Wisler Dominique, *The Police Reform in BiH.*
121 OHR Legal Archive, FBiH Law on Internal Affairs, 2002, RS Law on Internal Affair, 2002. The Minister would need to accept the first name on the shortlist and was only allowed to reject the shortlist once, otherwise the ISRB would be given the power to appoint.
124 The two RS Directors of Police interviewed for this study admitted that they had been appointed on the instruction of the government. The incumbent Director of Police even stated
several reports documented the high level of police abuse and corruption in BiH, regardless of the introduction of mechanisms of civilian supervision. In a 2004 study by the international non-governmental organisation Transparency International, the police were depicted as the third most corrupt institution among 24 public authorities surveyed in BiH.\textsuperscript{125}

**The end of police assistance for peace-building**

At the end of 2002 the UN police mission was closed down and a follow-on mandate and program were established under the EU Police Mission. The reform undertaken to this date had emanated from the IPTF mandate, but the transition from UN to EU implied that the objectives of reform need no longer be restricted by the Dayton Peace Accord, but could be guided by the programs of institution building as determined by the European Union, particularly under the auspices of the European Security and Defence Policy. The period of peace-building had accordingly come to an end and in this respect the UN had created, as stated in the End Report of the mission, “…a police fit for Europe”.\textsuperscript{126} Despite this positive appraisal the merits of the international police mission have been keenly debated. Over a period of seven years the IPTF engaged more than 10 000 international police officers from some 40 countries.\textsuperscript{127} There is no question that the mission contributed to the normalisation of BiH by introducing a set of uniform legal regulations in the system of policing, which would by all accounts have been impossible without the coordinating capacity of the international community. However, it is much less certain that the deployment of an extensive mission of foreign police officers, with little or no experiences in peace-building, was an efficient way of improving security.

The presence of international police officers and the sight of the white UN jeeps may have helped to build a peaceful environment in BiH, but in many ways the IPTF was a subject of scorn and embarrassment. Criticisms were repeatedly made about the poor conduct of individual police officers serving in the UN and the EU police mission, who were unable to undertake the complex tasks they were assigned to them.\textsuperscript{128} In one human-rights test designed by the IPTF, international police officers scored just as badly as the quite bluntly that “…as a director you cannot get anything done if you don’t have the support of the government.” Interview with Uroš Pena - 16.04.08.

\textsuperscript{125} Transparency International BiH. *Corruption Perception Study* - 2004. See also; Maljević Almir, Datzer Darko, Muratbegović Elmedin, Budimić Muhamed, *Overtly About Police and Corruption*. Amnesty International, Bosnia and Herzegovina, *Better keep quiet, Ill-treatment by the police and in prisons*.


\textsuperscript{127} Ibid.

\textsuperscript{128} ICG, *Bosnia Stalled Police Reform, No Progress, No EU*, 2005.
BiH officers they were supposed to be training. A striking 20% of IPTF police officers believed that torture was an acceptable means of getting information from a suspect, or did not know the correct answer to the question posed about torture.\textsuperscript{129} A large number of international police officers only had experience of low or middle level assignments, possessed poor English-language skills and often lacked special policing skills that could be transferred to their BiH colleagues. The greatest scandal of the IPTF mission involved the frequent visits of its own police officers to brothels and prostitute rings amid allegations that IPTF officers were directly involved in abetting and benefiting from prostitution and even impeding investigations into these matters.\textsuperscript{130}

Moreover, the UN Mission in BiH was criticized by both the Council of Europe and the UN Office of the High Commissioner for Human Rights for having been responsible for serious human-rights breaches in the process of decertification.\textsuperscript{131} Following decertification, almost one in three decertified officers sued in the domestic courts, arguing that they had lost their right to serve in the police on dubious grounds. Since the domestic courts were not competent to review the activities of the UN, these cases remained unsolved. The legal debacle caused by the carelessness of the UN seriously harmed the standing of the IPTF and created a juridical problem that would burden the international community after the closure of the UN police mission.\textsuperscript{132} The EUPM was unfortunately not able to improve this tarred reputation and several studies negatively appraised the ineffective organisation of the EUPM. One extensive study, by the Centre for European Policy, proclaimed that the EUPM was practically non-functional in its first two years, and that the mission did not have any measurable impact until it adopted a new mandate in 2005 (the EUPM II).\textsuperscript{133}

Nevertheless despite the problems experienced within the police missions, standards of policing in BiH improved during the years of international supervision. In a victimisation study in 2001, 75% of the population said they felt secure, which is a higher rate than was registered in a similar study

\textsuperscript{129} Marotta Francesca, \textit{The Blue Flame and the Gold Shield: Methodology, Challenges and Lessons Learned on Human Rights Training for Police}.
\textsuperscript{130} IPTF police officers, as well as other foreigners, were repeatedly caught in raids on night clubs and their visits were also documented in journalistic investigations. Colum Lynch, \textit{Misconduct, Corruption by US Police Mar Bosnia Mission}. (The Washington Post, 29.05.2001) ICG. \textit{The Police in Bosnia. A Further Reform Agenda}, 2002.
\textsuperscript{132} The UN Security Council issued a decision in July 2007, which freed the UN from all legal responsibility, but gave all decertified police officers the option of applying for entry positions within the police forces. No actual review of the cases was conducted.
The Limits of the European Vision in Bosnia and Herzegovina

in Slovenia, the only former Yugoslav republic that has joined the EU. In a survey conducted by SFOR in 2001, 45% of respondents said that the BiH police were better trained than their pre-war equivalent. Recalling the dreadful state of the police forces in the post-war period, these figures indicate that the restructuring process was relatively successful. However, while citizens were relatively positive about operational policing, several reports indicated that inefficient law enforcement and a weak judicial system were allowing organised criminal groups to thrive. According to one UN report, BiH had in the post-war years become the major transit route to Europe for illicit goods, such as narcotics, guns and high-tariff items; i.e. cigarettes, alcohol and petrol. A number of groups trafficking illegal immigrants, women in particular, were operating in BiH and reports published in 2002 showed that the weak supervision of the banking sector had turned BiH into one of the most lucrative places to launder money in Europe. Most of the illegal gains were being extracted from public assets, particularly in the forestry and the energy sector. According to EU studies, criminal enterprises had also developed links with the political establishment, making law enforcement exceptionally difficult for the domestic police. These problems, according to the EU, stemmed from the irrational system of policing and could therefore not be addressed by the UN mission as long as its operation was essentially guided by the Dayton Peace Accord. This led to the start of a new and more intensive phase of police reform in BiH.

4.3 The Rule of Law agenda and the EU integration process

From 2000 the issue of police restructuring gradually developed into a political project, seeking ways of reorganising the competence of policing and the system of law enforcement. In this way the process evolved into a matter of state-building and was driven forward by a need to improve coordination among fragmented police bodies. However, under the BiH

136 At the beginning of 2000 approximately 100 tons of heroin, worth between 20 and 30 billion US dollars, was transported through the Balkans. UN Office on Drugs and Crime, Crime and its impact on the Balkans, 2006.
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constitution the competences of the police forces were essentially restricted to the level of the entities and the cantons. The few segments of security over which the state wielded responsibility were related to the preservation of its sovereignty and territorial integrity and immigration and asylum policy, along with international cooperation and inter-entity crime, including relations with Interpol. However, the Constitution stipulated that the state could establish institutions “...necessary to carry out such responsibilities” that were assigned to the state.\footnote{The General Framework Agreement, Annex 4, Art 3, 5.} These constitutional provisions would first of all provide the foundation and legitimisation for a state border police, which on 13 January 2000 became the first state-level law enforcement agency.\footnote{UNMIBH – IPTF Human Rights Office, \textit{Systematic Analysis of the State Border Service of BiH}, Final Report. 2002.}

At the beginning of 2000, the engagement of the international community in BiH began to change in a fundamental way. The key concern was no longer the potential for a return to conflict or interethnic violence; the main threat to security was judged to have shifted to complex areas such as organised crime, terrorism, political corruption and the status and activities of persons indicted for war crimes.\footnote{Ashdown Paddy, \textit{Swords and Ploughshares, Building Peace in the 21st Century}, p. 220 ff.} This change of perception motivated Paddy Ashdown, who became the fourth High Representative in May 2002, to launch a so-called Rule of Law agenda, focusing particularly on the establishment of an institutional infrastructure that could tackle high-level crime. The change of approach was also stimulated by policy changes in the wider European context. At the Cologne European Council in June 1999 the European Defence and Security Policy (ESDP) was enacted and in 2003 the European Union adopted its Security Strategy, within which terrorism and organised crime were identified as key concerns.\footnote{Berenskoetter Felix, \textit{Under Construction: ESDP and the Fight Against Organised Crime}, Missiroli Antonio, \textit{The European Union: Just a Regional Peace Keeper}.} EU policy had a direct impact on the approach of the international community, and the fight against organised crime became one of the key priorities of the mandate of the EUPM.\footnote{Council of the European Union, Annex: Mission Statement for EUPM, Official Journal of the European Communities, 2002/210/CFSP December.}

In 2001 international community begun to investigate cases of fraud and in the following years several flagrant cases of corruption were identified, linking high-level politicians, among them the former Federation Primer Minister, Edhmed Bićakčić, and the Croat Member of the Presidency, Ante Jelavić, to serious embezzlement and abuse of authority.\footnote{Jukić Zvonimir, \textit{Bank Reports Shaking the HDZ}, AIM Mostar, 18.12.2001.} The High Representative also began to remove various public officials and politicians on grounds of corruption. When the Director of the Croat public forestry
company, Pero Marković, was removed in 2002 the decision was formally justified upon the need “to ensure that the peace implementation process does not itself become undermined.”

These kinds of anti-crime activities represented something quite new in the exercise of peace-building, demonstrating that the concept of security had expanded. Those who represented a threat to the peace-building exercise were no longer warmongers and nationalist extremists, but organised criminals. The foot soldiers in the international community were no longer military personnel, but auditors reviewing cases of fraud, computer experts recapturing information from confiscated databases and banking experts tracking down unregistered financial transfers. However, the intelligence that connected the political elite to various crimes was often non-actionable in juridical terms. It was therefore necessary to build up a domestic institutional infrastructure that could tackle organised crime. To this end Paddy Ashdown established in the summer of 2002 a specific Rule of Law department within the OHR, which was assigned to draft and develop the legal infrastructure and state-level institutions necessary to pursue war crimes and organised crime.

As one of the key initiatives in the Rule of Law agenda, the High Representative established in October 2002 the Court of BiH, exclusively competent to hear cases of serious crime, such as war crime, terrorism and organised crime. In making this state court operational, the High Representative would at the beginning of 2003 impose the first BiH criminal code and criminal procedure code as well as the legislation establishing the first State Prosecutor’s Office. The legitimacy of these reforms resided in the Dayton framework, on the grounds that crimes of this sort could impinge on the sovereignty and territorial integrity of the state. A War Crimes Chamber was also set up within the institutional framework of the Court of BiH and the Prosecutor’s Office and, later on, several cases were transferred from the ICTY, turning the Court of BiH into a “mini-Hague”, and making the domestic authorities more responsible for war-crimes issues.

Once the Court and the Prosecutor’s Office were established, the need to create a supporting law enforcement agency became apparent. The embryonic body that would be transformed into the first state police force was set up in 2002, the State Information and Protection Agency (SIPA), but was not equipped with any law enforcement authority other than to protect state officials, BiH institutions and diplomatic missions and to collect data on crimes that fell under state competences. In 2003 a management group of international experts drafted a new Law on the State Investigation and Protection Agency, recommending that the agency be turned into a law enforcement agency.

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145 OHR, Decision removing Mr. Pero Markovic from his position as General Manager of the company Šume Herceg Bosne – 14.11.2002.
147 Potter William, A Bosnian Diary – A Floridian’s experience in Nation Building, p 20.
enforcement agency operating under the jurisdiction of the Court of BiH and the Prosecutor’s Office.\textsuperscript{148} This draft law was presented together with a number of other security-related reforms, whose adoption became a condition in the process of pre-accession to the European Union. By connecting these laws with the European integration process, the international community could forge consensus among BiH politicians and in June 2004 the BiH parliament adopted the new SIPA legislation.\textsuperscript{149} SIPA would, however, turn out to be a considerable disappointment and its contribution to law enforcement in BiH would be marginal. Most of the indictments of the State Prosecutor were based on cases that had been transferred from lower levels of the court system or presented directly by the entity police. SIPA would perform purely as a support unit to the BiH Prosecutors rather than as a proactive independent police agency.\textsuperscript{150} Nonetheless, with the establishment of the State Investigation and Protection Agency the fundamental architecture of state-level institutions had been set up, introducing the idea of a hierarchical order of law enforcement in which the state possessed the ultimate responsibility. It was within this framework that the wider police reform was initiated.

The introduction of the EU integration process

Although the key institutions that paved the way for the establishment of SIPA were imposed by the executive authority of the High Representative, the later phase of the reform process was driven by the impetus provided by EU integration. As a matter of fact, all relevant pieces of legislation contributing to the build-up of state authority in 2004 and 2005 were adopted by the BiH legislative and use of the Bonn Powers was almost exclusively restricted to ICTY matters or the removal of officials linked to war-crimes issues or issues related to corruption or crime.\textsuperscript{151} Nonetheless, when the formal EU integration process began in 2003, the requirements stipulated for BiH emerged to a great extent from the reform process that had been launched by the High Representative.

The process of European integration began in June 2003 at the EU Council summit in Thessalonica, when the EU discussed the potential entry

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\textsuperscript{148} Ibid, p.111.
\textsuperscript{149} Elite special police officers will arrest criminals, Dnevni Avaz, 23.06.2004.
\textsuperscript{151} Of 91 Decisions issued in 2005, 28 concerned appointments of international judges and prosecutors and 30 concerned the lifting of previous bans and removals following internal review of previous OHR Decisions.
of the Western Balkan states into the European Union.\footnote{ICG, Thessaloniki and After II: The EU and Bosnia, 2003.} Upon the conclusions of the summit, a Feasibility Study was conducted by the European Commission, in which the readiness of BiH to initiate negotiations on a Stabilisation and Association Agreement was assessed. One area where the study identified a particular weakness was the system of justice and homes affairs. The study especially criticized the complexity of policing structures and the profuse number of police agencies in BiH. The system of law enforcement in BiH was said to be incapable of fighting serious problems such as trafficking, organized crime and terrorism or tackling corruption. The illogical structure of the police system, which evidently increased costs and hampered co-ordination and effectiveness was cited as a source of the problem. As a result, the Feasibility Study explicitly called for better inter-agency coordination and concluded that BiH needed “…a structural police reform with a view to rationalising police service…”, although it did not formulate concrete proposals for the necessary institutional reorganization.\footnote{The process of EU integration had already begun in 1999 with the Stabilisation and Association Process. The report also required the State Ministry of Security to become fully operational and stated that BiH, in particular the RS, had to demonstrate progress in co-operating with the ICTY and arresting war criminals. European Commission, Report on Bosnia’s Readiness to Negotiate a Stabilisation and Association Agreement of 2003.}

In order to define the shortcomings identified in the Feasibility Study, the Commission tasked a team of consultants to make an assessment of the functionality of the BiH police. This assessment was a purely technical review of the financial, organisational and administrative aspects of the police, comparing the situation in BiH with that in other EU member states, but its findings had certain political implications. The report of the assessment reiterated the conclusions of the Feasibility Study, claiming that the police bodies were fragmented and lacked proper co-ordination, and recommending that at least one layer of organisation – state, entity or canton – needed to be abolished.\footnote{European Commission, Financial, Organizational and Administrative Review of the BiH Police Forces and the State Border Service. The Final Assessment Report, Sarajevo 30 June 2004.} Thereby the EU opened a new phase of police reform, demanding structural change in the police system rather than organisational improvements. As a result of these general requirements, the Steering Board of the Peace Implementation Council endorsed on 1 April a decision to establish a commission that would develop proposals in line with the reform required by the European Union.\footnote{OHR, Communiqué by the PIC Steering Board, 01.04.2005.} Two months later, on 2 July, the High Representative issued a Decision establishing the Police Restructuring Commission, which was tasked with preparing a proposal for the creation of “…a single structure of policing for Bosnia and Herzegovina under the overall political oversight of the Council of Ministers.”\footnote{OHR, Decision Establishing the Police Restructuring Commission. 02.07.2004.}
4.4 The start of the police reform negotiations

The Decision establishing the Police Reform Commission was one of the most far-reaching initiatives of the international community in post-war BiH. Although not explicitly expressed, by this Decision a reform process was launched in which the entities and the cantons would be required to give up competences for law enforcement and allow the state to take over. In accordance with the Decision of the High Representative, the Commission was assigned to prepare a model of policing following 12 principles. The new policing system was to ensure effective law enforcement organised in a financially sustainable structure that would safeguard the police from political interference and hold the police forces accountable to the law and the community. Furthermore the new system of police was to operate in accordance with democratic values, international human-rights standards and European principles and staffing was to reflect the ethnic make-up of the country. To this end the Commission was to propose legislation and necessary amendments to the constitutions for adoption by the entity and state parliaments. These requirements were vague and did not necessarily imply that the entity police forces would be abolished, but it would be difficult to meet these 12 principles without amending the constitutions. The media, however, were not reticent about the implications of the Decision and openly declared that Paddy Ashdown’s intention was to abolish the entity police, which meant amending the constitutional settlement and thus changing the Dayton Peace Accord.¹⁵⁷

The Decision establishing the Police Reform Commission took the form of a rather extensive text outlining not only the task of the Commission, but also the general terms under which it would operate. It was to be made up of twelve members, three internationals, from whom would come the Chairman and his deputy, and nine representatives of various BiH authorities. All the domestic members were politicians; such as the BiH Minister of Security, the entity Ministers of Interior, and two cantonal Ministers of Interior.¹⁵⁸ In essence the Commission was an ad-hoc political authority that was to undertake a review of the BiH police forces and deliver a comprehensive reform plan that would meet the principles determined by the OHR and be acceptable to the political majority and thus eligible for parliamentary

¹⁵⁸ Moreover, seven associate members representing the law enforcement agencies and the judiciary were to participate in the Commission. The Commission had a fairly equal number of representatives from all constituent groups, yet all of them were men. OHR, Decision to establish the Police Restructuring Commission, 02.07.2004.
In order to give the Commission an appropriate level of *gravitas*, the former Belgian Prime Minister and later the President of the European Conservative Party, Wilfried Martens, was appointed to the position of Chairman. A separate police reform body of international experts was established in the OHR to assist the work of the Commission and prepare the final proposals.

In the autumn of 2004, the members of the Commission convened at several locations in BiH, discussing and reviewing various aspects of the police forces. Working groups were formed to review specific issues, foreign experts were invited and one public forum was held, at which non-governmental organisations were invited to give input. However, almost four months after the establishment of the Police Reform Commission, the framework of the talks significantly changed when the European Commission determined the three EU principles on police reform that were considerably more ambitious than the initial 12 requirements determined in the OHR Decision. On 16 November 2004 the External Relations Commissioner, Christopher Patten, sent a letter to the Chairman of the Council of Ministers (the BiH Prime Minister) and the entity governments. In the letter the Commissioner expressed support for the work of the Police Reform Commission and stated three things that the European Union expected from the police reform process. The letter declared that in creating a single police structure, “the competences for police legislation and for police funding” must be determined at the state level. Furthermore the “size, shape and number of policing areas within the new policing service” must be determined by principles of “effective policing, not political consideration,” meaning that they had to overlap the entity and cantonal boundaries. Finally, the police forces had to “break out of political constraints” and be free of political influence. Although the letter was written in a rather colloquial tone, seemingly not expressing binding terms, it established conclusive criteria for future discussion of police reform. A few weeks afterwards, the Head of the European Commission Delegation to BiH, Michael Humphreys, sent another letter to the Police Reform Commission, in which he reiterated these three principles, stating that they reflect the “…minimum requirements of the European Commission”.

The intention to create a single police structure, which would be organised in policing districts paying no heed to the boundaries of the cantons and entities, thereby became a formal EU condition. These three

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159 The idea of pursuing the reform through this kind of extra-parliamentary commission was inspired by the previous reforms in defence, intelligence and tax administration.
162 Letter to Chairman of the Council of Minister Mr. Adnan Terzić, from Christopher Patten. 16.11.2004.
principles would in the future be referred to as the “EU principles” and they would be seen as the non-negotiable principles of the European Union. The members of the Police Reform Commission would, however, be deeply divided over these principles and while politicians from the Federation were generally positive, the Serbs would aggressively oppose them.\textsuperscript{164}

**The proposal of the Commission – The Martens Report**

From 12 to 15 December 2004 the Police Reform Commission held its final consultations in Sarajevo. The work that had been done so far was reviewed and a draft final report was presented by the Chair, Wilfried Martens. The report was written by foreign experts but it was based on the discussions in the Commission. It presented a comprehensive reform plan together with two draft laws. In the media this final proposal would be called “the Martens proposal”. The plan would require far-reaching changes in the set-up of the police. In order to provide a legal basis for the reform, the report suggested amendments to the BiH constitutions by adopting a paragraph stipulating that the BiH state shall be obliged to provide “…a safe and secure environment for all the persons on the territory of Bosnia and Herzegovina by establishing, organising and maintaining police services…”\textsuperscript{165} The equivalent provisions in the entity and cantonal constitutions, which had previously determined these competences at the level of the entity, would thus have to be repealed. In future, the police would be regulated by a Law on Police Services and a Law on Police Officials, prescribing the respective responsibilities, organisation, management, and internal relations of the police bodies in the new unified police system, the powers of individual police officers, the ranking and salary system and working conditions and other administrative issues. The new Police Laws were to be adopted by the BiH Parliament, which would thereafter exercise ultimate authority over the police, and would be competent to amend laws, adopt bylaws, initiate reviews and issue opinions regarding the police system. Responsibility for political oversight of the police would solely be vested in the state Minister of Security, who would be entitled to develop the national security plan and to propose the appointments of the various heads of the police bodies.\textsuperscript{166} The police as such would be divided into three general police bodies; the State Investigation and Protection Agency (SIPA), the State Border Service (SBS) and the Local Police Bodies. While the state-level police bodies would

\textsuperscript{164} *Without single concept of organization of Police in BiH*, Dnevni List, 30.10.2004
\textsuperscript{166} In addition, a Police Administration Agency would be a part of the Ministry, offering support for services that had previously been handled at the entity and canton police level, including i.e. recruitment, training and procurement.
continue to undertake the tasks within their relevant competences, all other police bodies previously organised under the cantonal and entity Ministries of Interior would be reorganised in ten Local Police Bodies, covering a number of municipalities as suggested by the law, paying no heed to the boundaries of the entities or the cantons.\textsuperscript{167}

In addition to the sensitive issue of territorial redistribution, the reform plan envisaged a very complex and sophisticated model of policing, including several other innovations in the system, which were less widely discussed in public. One such idea was the establishment of Community Oversight Councils. Not only would the establishment of the Local Police Bodies involve a horizontal reorganisation of districts that would cut through the administrative areas of the entities and the cantons, it would also require a readjustment of the vertical organisation of the police, in the sense that the police chiefs of these districts would not only be accountable to the Minister, but to the local community. At the local level, so-called Community Oversight Councils would comprise the local Mayors, and community representatives from the judiciary, non-governmental organisations, the religious community and business enterprises. The idea of Community Oversight Councils was revolutionary in the BiH context, as it was designed to redirect the focus of policing from an upward relationship between the political authorities and the police, to a relationship with the local community.\textsuperscript{168}

The talks in the Police Reform Commission, however, ended without agreement, since all the Serb members of the Commission refused to adopt the draft report. Although the Chair concluded that he had not detected a political consensus on the way forward with police restructuring, the Commission still submitted a final report with attached proposals to the High Representative and the Council of Ministers. The High Representative conceded defeat, saying that it was “… unfortunate that the RS's political representatives… felt unable to agree to this concept of modern policing, even though the entire Commission recognized early in the process that policing in BiH does not function properly."\textsuperscript{169} With the failure of the Police Reform Commission to find an agreement, the process of political negotiations got underway.

\textsuperscript{167} Pursuant to the new law, Local Police Bodies would be required to cooperate and share information with SIPA, turning it into the prime law enforcement agency. Besides these instruments of joint co-ordination, a Police Inspectorate located within the Ministry of Security would ensure that all police bodies operated efficiently and effectively in accordance with the Law.


\textsuperscript{169} \textit{State Police to be divided into regions, Police becomes unified}, Večernji List, 16.12.2004.
Part II. Initiation of the Police Reform Negotiation

“We all wanted so desperately to believe that European integration was the magical formula that would make this country functional and fit and eventually rich. It was some kind of ideological commitment to save BiH as the last multiethnic country of former Yugoslavia, redeeming the failure of the war, all kinds of things went into this.” (Interview with OHR Official – 05.04.2008)

An OHR official comments on the background of the EU principles on police reform

“Please give me one example of a European country in which the police is totally centralized. There is not a single country, Germany, Austria, Italy or even the UK. How can they claim this is a European principle?” (Interview with Mladen Ivanić – 31.03.2008)

PDP leader Mladen Ivanić questions the legitimacy of the EU principles

“If we were to have a proper reform of the police, which would take into account the restoration of the 1991 census, with equal participation of Serbs, Croats and Bosniaks in the management of the police in the whole territory, I think that would significantly calm relations between the people in the country and it would facilitate the reintegration of BiH. The ones that prevented this reform, I am thinking about the parties from RS, they do not want any reintegration. That is the key argument.” (Interview with Šefik Džaferović – 04.09.2008)

Deputy SDA President Šefik Džaferović argues that police reform could have facilitated the reconciliation of the peoples of BiH
5. Police Reform and the Intentions of the International Community

Looking at the genesis of police reform, it is evident that several different threads were part of the motivation behind the extended reform requirements and that the EU was definitely not the exclusive factor. Judging from the remarks of interviewees within the international community police reform appears to have been motivated by two general sets of arguments. First of all, police reform was an aspect of the EU integration process and thereby initiated as part of the wider exercise of adjusting the institutional structure to EU standards. But police reform was also initiated as part of the process of peace-building and in this sense it was a process that aimed to address outstanding problems within BiH society and it should therefore be viewed as a state-building reform. However, when tracing the backgrounds of the police reform it becomes apparent that the initiative took shape as an EU condition at a rather late stage. Moreover, the conditionality in police reform would in the course of its initial negotiation develop into a set of requirements that had little or no reference to the acquis communautaire or the Copenhagen Criteria. As a matter of fact, police reform would unfold in an ostensibly informal decision-making process, which was not fully coordinated with Brussels and as a result of this it became subject to a legitimacy problem. In understanding the genesis of police reform, it is therefore first of all crucial to view the structure of the international community in BiH and the role of the European Union. This chapter will analyse the strategic thinking of the international community and strive to explain and illustrate the dynamics of the wider complexity of the peace-building process.
5.1 The European factor and police reform

The path towards the initiation of the reform of the police was a logical development of the overall exercise of EU adjustment, but at the same time the reform was part of the wider strategy of the international community and in this respect, police reform reveals the approach of the international community towards BiH. The European integration process was primarily an exercise in implementing EU acquis and adjusting BiH laws and the BiH administrative structure to EU standards. The reform requirements introduced within the EU framework were therefore not restricted by the Dayton straightjacket, but could, as was the case with police reform, require changes to the constitutional structure. Police reform was in this sense a more challenging initiative than most of the previous reforms. Nevertheless, the rationale for reform of the police was relatively convincing in the framework of the pre-accession documents. In accordance with the criticism expressed in the Feasibility Study and the EU Assessment Report, it was clear that the structure of law enforcement had to be reorganised if the police forces were to comply with EU requirements on management, political control and efficiency.\(^\text{170}\) The EU Assessment Report had above all pointed out the lack of coherent police organisation and hierarchical structures as an issue of concern and called for structural changes in the system of police. The problem of the BiH law enforcement structure was, according to these reports, not primarily related to the profuse number of police bodies, but to the fact that all of the fifteen police bodies in BiH were essentially autonomous and uncoordinated. In effect, the issue driving the reform process in the initial phase, as stated by one OHR advisor, “was that having three levels of policing, canton, entity and state, was too much and one of the levels should be got rid of.”\(^\text{171}\) There was no central body that possessed any authority to coordinate or to ensure that information was exchanged between the police bodies, and it was therefore not only difficult to fight organised crime within the country, as argued by one senior OHR official, but it was also very difficult for other states to collaborate with BiH in fighting trans-border crime.

“One important issue was how to create a hierarchy in the police structures, because until that time the police structure was perfectly horizontal. There was no difference between a canton, the RS MuP and the Federation MuP. There were no hierarchal steps, no one could really claim a prerogative over


\(^\text{171}\) Interview with OHR Official - 07.04.2008.
the other. Not even the Federation could do that to the cantons. So you start to add a hierarchy to the structure. This is the beginning of structural review.”

The logic of this reasoning could be defended by reference to EU praxis. In no other European country was the structure of policing fragmented into several autonomic police bodies working parallel to each other. If BiH was to begin negotiating EU membership, it had to demonstrate that its territory was organised as one common security space over which the state had law enforcement authority. The voice of the state had to represent the country as a whole. In this sense the EU factor could be used to prompt consolidation of state structures. However, judging from the recollection of interviewees, the requirement of systematic police reform was not initially viewed as part of the EU agenda.

In the months following the publication of the Feasibility Study, neither the European Commission nor the Office of the High Representative would make any reference to a systematic police reform as a condition in the SAA process. The issue was actually not discussed in public until the summer of 2004. The requirement in relation to the police was, according to public statements of the OHR and the EC Delegation, the adoption of a package of six laws regulating issues within the security sector, none of which pertained to the entity and cantonal police forces. The main issues in the scope of security reform were said to be defence and intelligence reform and when it came to the police, the international community would only point to the necessity of broadening the mandate of the State Information and Protection Agency and turning it into a functional law enforcement institution under the state prosecutor. As a matter of fact the main policy advisors within the OHR did not seem to have envisaged that the reform of the police would entail the establishment of one common state-level police.

“Only later did the logic expand, you cannot really do organised crime if you don’t have a single system through which you can feed information top to bottom. Then it became a systematic requirement. You can’t expect the head to do everything, you need the rest of the body. …No one ever said that it should be a state police until later. No one talked about that until later.”

At the end of June 2004 the last piece of legislation within the above-mentioned package, the Law on SIPA, was adopted, endowing the BiH state with a proper police force for the first time since the war. Less than ten days later the reform agenda in BiH would be drastically redirected when the Decision to establish the Police Reform Commission was issued by the
Although it may appear peculiar that the international community did not initially speak about the systematic police reform that would later take such precedence, the decision to initiate the extended police reform did not emerge out of the blue. First of all, the Steering Board of the Peace Implementation Council had on 1 April endorsed the decision to establish the Police Reform Commission. However, it seems that planning to move on to a systematic reform of the police had been afoot for almost a year, but the idea had been kept confidential. At an internal OHR meeting on 19 August 2003, the High Representative had tasked the Rule of Law department within the OHR to begin the planning of a police reform that would “abolish lower-level police structures.” The crucial starting point of police reform was, according to Paddy Ashdown, a meeting between him and the Greek Minister of Foreign Affairs, George Papandreou, connected to the EU summit on the Western Balkans, in Thessalonica in June 2003, when they agreed to “…include in the declaration from the EU, a particular phrase that gave us the instruments to move forward and tackle police reform…”

At the Thessalonica summit the Western Balkan countries were given a green light to begin negotiating EU membership if they could meet a set of EU standards. In this so-called “Thessalonica Commitment”, a requirement to start reforming the security sector was specified and in the case of BiH this also referred to the police. The idea at the time was, according to Deputy High Representative Raffi Gregorian, that the “…EU should do on the police what NATO has done on defence reform…” However, the requirement of a systematic reform of the police at this stage had not crystallized into a formal EU policy. In this respect the reform of the police was not an initiative generated by general EU conditionality but one that largely stemmed from the thinking of principals in the international peace-building engagement in BiH. The father of the project was beyond any doubt the High Representative himself and in this sense the reform seems to have been a part of the overall strategy of his term in office.

“I already thought that our agenda was massively overloaded, our chances to get these things done within the time that I had, which was two years, was pretty slim and originally police was not part of that, but I knew it had to be

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177 OHR, Communiqué by the PIC Steering Board, 01.04.2005.
178 Potter William, A Bosnian Diary – A Floridian’s experience in Nation Building. p. 313. In the meeting the idea was said to be problematic, given that such a reform could disturb the process of enhancing the already existing State Information and Protection Agency.
179 Interview with Paddy Ashdown - 25.06.2008.
180 Interview with Raffi Gregorian – 02.09.2008. Gregorian was in 2003 the Head of the BiH Office in the US State Department.
done. To create a better structure and above all to get a structure that was not under political control, that was the key thing.”

On 2 July 2004 the High Representative finally issued the Decision creating the Police Reform Commission, instructing the political establishment to prepare a reform that would establish a single police structure. Through this Decision the criticism contained in the Feasibility Study was transformed into a concrete requirement.

The emergence of the EU principles

As required by the OHR Decision of 2 July 2004, the BiH police forces were to integrate in a common structure. This kind of reform would entail significant changes in the system of policing, but the requirements did not necessarily mean the abolition of the entity policing structure. The OHR Decision, establishing the Police Reform Commission, did not “require the police to be a state structure”, as argued by one senior OHR official, “…it required BiH to create a single police structure under the Council of Ministers.” In November, nearly four months after the initiation of the talks, the European Commission declared three principles, requiring the creation of a state police and the formation of districts overlapping the entity border. These principles may have appeared to be minor elucidations of the original conditions, yet they would truly change the character of the initial requirements and they would significantly restrict the room for compromise and have a great impact on later talks. Moreover, these requirements had no clear reference to the general acquis communautaire or to common denominators in the field of law enforcement in Europe. Rather, the policing principles seemed based on an arbitrary assessment of the needs of post-war BiH society, instead of a set of formal EU standards. The informal character of the decision-making process appears to have been facilitated by the atypical structure of the international community in BiH and, in this sense, the mere process of defining the principles is a demonstration of the nature and operation of the international community in BiH.

Overall EU policy in BiH was officially established by the European Commission and the European Council and implemented by the key institutions, primarily the double-hatted High Representative/EU Special Representative and the Delegation of the European Commission. It was however difficult for Brussels to understand intricate realities in the field and when articulating requirements which were relevant from the BiH

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182 Interview with Paddy Ashdown - 25.06.2008.
perspective, they would need to rely on the expertise of the international institutions in Sarajevo. Brussels would therefore convey a great deal of power to the institutions in the field and particularly to the Office of the High Representative. Moreover, many EU capitals had different national policies for the Balkans or had not endorsed any formal policy at all. Consequently, the common EU policy had to be determined in fairly vague terms in order to comply with the diverging views within the EU family. Policy decisions could therefore not embrace specific issues, such as the conditionality of police reform in BiH. Nevertheless, if the international community in Sarajevo was to act efficiently it had to speak with one voice. In order to align the various players within the international community, the OHR therefore lobbied the European Commission and the embassies of the various EU member states to support a common policy. In effect the strategy of the international community was often established through informal lobbying and in inter-organisational negotiations. As the coordinator of this exercise, a successful High Representative was able to determine the direction of the reform process.

“We spent a lot of time with member states, through their ambassadors, through their political directors and their representatives in NATO, to make sure that they did not wobble and that was one of the key things. If you are saying that it has to be done and everyone has to continue saying that it has to be done, because the tendency of the EU to wobble is not to be underestimated.”

Moreover, the structure of the international community gave preference to group thinking. Given that the diplomatic cost of internal conflict was considered to be high, individual countries rarely objected to the dominant policy. Although single states or even the representatives of the European Commission in Sarajevo sometimes opposed the views of the OHR, they rarely made their discontent public. The Germans, the Russians and the French were sometimes reluctant to have the High Representative impose Decisions and they opposed, for example, the measures following the so-called Orao scandal, when the Serb member of the Presidency, Mirko Šarović, was asked to step down. The sweeping removal of 59 SDS officials in June 2004, which will be discussed later, was opposed by the Russians, although they did not contest the final decision publicly.

However, the idea of initiating police reform was not apparently questioned in its initial phase, possibly because policing was an issue dealt with in the European Commission’s Feasibility Study.

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185 Interview with OHR Official - 23.06.2008.
“We did a lot of that, trying to stick spines in Brussels and in the embassies was a sort of constant struggle. But to be fair they all did basically that, well a lot of them used to watch Ashdown nervously through their fingers, ‘where is he going next?’, but they all did back him. And the fact that they backed him meant that he was able to do quite a lot up to the police reform.”

Since the EU only determined the general objectives of the international engagement in BiH, the peace-building exercise was to a great extent driven forward as a political project by the international organisations in the field. The decision to turn police reform into a more radical systematic reform was essentially prompted by political circumstances on the ground rather than by a formally endorsed strategy. When it became clear that the international community was making progress in defence reform, which was one of the other key reforms, its members were inspired to take a more ambitious stance on police reform, hoping that they would thereby be able to accomplish a full transformation of the BiH state. One senior OHR official claimed that “…the idea to go on to police reform came out of the success in other cases,” adding that the interest of BiH politicians in accepting the requirements determined in the defence reform “…indicated maybe that this was a wonderful template which could be used over and over again.”

The international community accordingly did not operate on a predetermined agenda. The international engagement was first of all a political exercise, as stated by one senior OHR official, and the direction of the engagement seems to have been determined by openings that appeared along the line of political negotiations with domestic counterparts.

“… none of this was mapped out. No one is that smart. … Since when does the international community have a masterplan? It does not happen. I have never seen anyone thinking so much ahead. You go from day to day. ‘Zigzag, zigzag, oops, how should we solve this issue?’ Well, Paddy was a big brain. He had all these different issues going.”

Paddy Ashdown himself confessed that the reform was launched in a political process.

“…politics is a dynamic, you need to take advantage of openings when they appear. And so as I saw the progress on the other areas I realised that I had the political capital to do this as well. So it was an opportunistic decision, I knew it had to be done, but I guessed it had to be done by my successor. What I saw was the opportunity to do it with George Papandreou …, and also that I was making such fast progress on the other areas…”

188 Interview with OHR Official - 23.06.2008.
189 Interview with OHR Official - 05.05.2008.
190 Interview with OHR Official - 04.04.2008.
191 Interview with Paddy Ashdown - 25.06.2008.
In effect the extended police reform was a project that was simply motivated by the inter-play of various coincidences and circumstances in the course of political development. If the domestic politicians were willing to transfer authority over the defence forces to the level of the state, then it was reasonable to believe that they would also accept the same kind of reform within the sphere of the police. One OHR official stated in this context that there was a feeling that “… while the international community still had some muscle to flex and some dollars to wave, some troops on the ground and Ashdown in office, we might as well go for it.”

While the decision to initiate police reform was endorsed by the Peace Implementation Council in April 2004, the decision to develop the conditionality and determine the three EU principles was not preceded by any PIC conclusion. Several interviewees claim that the decision was not discussed with the wider international community, but the three principles were simply determined by the High Representative in November as a result of frustration over the lack of progress in the Police Reform Commission. In this connection, one senior OHR official claimed that Ashdown had used his private connections with EU High Representative for Foreign Relations Chris Patten, asking him to endorse the three police reform principles as official EU policy. In his memoirs, writing in reference to the wider process of EU-related reform, Ashdown confirmed that he “…rang Chris Patten in late October and asked him if he would weigh in as Commissioner and say that these reforms were required if BiH wanted to join Europe. As always he agreed, and we drafted a letter for him to send to the Presidents along those lines…” Accordingly, in November 2004 Patten sent a letter to BiH Prime Minister Adnan Terzić in which the three principles, which BiH needed to fulfil in order to sign an SAA, were declared. These principles would hereafter become the focus of police reform negotiations.

However, several ambassadors, including the French and the Spanish ambassadors, expressed criticism of this decision, although not publicly, and some local politicians even claimed to have been told by some ambassadors of EU member states that the principles were not to be considered as official EU standards. Allegedly the Head of the Delegation of the European Commission in BiH, Michael Humphreys, was reluctant to support the conditions and a dispute between the High Representative and Ambassador Humphreys erupted. One OHR official even described how the High Representative in the capacity of “the EU coordinator … had to drag the EC

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192 Interview with OHR Official - 23.06.2008.
193 see chapter 7
194 Interview with OHR Official - 26.03.2008.
196 Letter to Chairman of the Council of Minister Mr. Adnan Terzić, from Christopher Patten. 16.11.2004.
197 Interview with Adnan Terzić - 01.09.2008.
ambassador along.” Moreover, the lack of rational substance in the principles would, according to Deputy High Representative Raffi Gregorian, be a serious problem in the negotiations that followed Ashdown’s departure.

“I cannot remember when these three EU principles came out, but Paddy describes how and when he did it in conjunction with Chris Patten in his final days in the Commission... But they are not really principles. The first principle alone is astonishing – all police legislative and budgetary authority should be vested in the state level. All! Maybe there is one state like this, but I cannot think of any...well maybe Singapore, but that is more of a city-state. I cannot think of any other place, so how can that be an EU principle? First of all, that should be expressed as an EU standard or a requirement and not a principle.”

Some OHR officials, however, argued that these principles were not supposed to be understood as EU standards, but as a set of necessary elements identified in the specific BiH context. Any comparison with other EU states was therefore misleading. In this context police reform as well as the other EU reforms, Public Broadcasting reform, VAT reform and Public Administration reform were not first of all driven by EU standards but were predicated on steps that were considered necessary in order to establish a functional state. According to this logic, EU integration was still in a phase of peace and state-building and not until BiH had demonstrated that it could function as a coherent state would it become eligible to negotiate EU membership.

“Bosnians were for ever pointing to Belgium or Switzerland. And our response was that Belgium or Switzerland are not ten years out from genocide. It was not so much that we were looking at a bunch of principles that would apply in any other European country and say this is how your state must look. What we were saying was that it is the view of the European states that considering your particular circumstances, this is what you have to do.”

This approach demonstrates that the representatives of the international community did not have a common understanding of the actual objective of EU integration, whether it was a matter of “adjustment to EU praxis” or whether the conditionality could be determined on the basis of a wider process of peace-building. The accession process therefore came to be determined on the basis of political and ideological considerations, rather than as a matter of fulfilling formal requirements. The European Union manifestly lacked the organisational capacity to engage fully in the decision-making and to operationalise its wider policy. Some of the key decisions

200 Interview with OHR Official - 23.06.2008.
taken in the process of police reform did not, therefore, emerge from the institutional structure of the EU and for this reason the process experienced a legitimacy problem. The conditions were nonetheless treated as formal requirements and the EU supported these throughout the negotiating process.

5.2 Police reform as part of the Rule of Law agenda

As argued above, police reform was not motivated only by the criticism expressed in the pre-accession assessments, but was first of all a reform that evolved out the exercise of conflict management. At the beginning of 2000 the character of peace-building in BiH changed significantly. Paddy Ashdown had before his arrival in BiH in May 2002 consulted with various experts on the macro challenges in the country, concluding that the main challenge of the peace-building process was no longer a matter of preventing a return to conflict but involved addressing the growth of crime, which was a political problem and was threatening the stability of the country itself. “The question of threat was”, as one of Ashdown’s closest advisors put it, “…that Bosnia was fast becoming a criminally captured state.” This analysis was certainly based on evidence of a troubling prevalence of organised crime and corruption, but the policy shift also represented a greater trend in conflict management, determining the issue of threat in non-state actors such as international criminals and terrorists that were allegedly thriving in the absence of a functional state. The problem of widespread crime could not, of course, be tackled by conventional methods of peacekeeping. The strategy to deal with this issue was to build a security architecture that would be capable of developing and sustaining the rule of law. To this end, Ashdown launched an ambitious “Rule of Law agenda”, designed to build institutions that would be capable of fighting organized crime and political corruption. Ashdown himself described the Rule of Law project as a matter of creating institutions that could uphold a sustainable state.

“…when I came to Bosnia in 2002, it was not to stabilise, that had been done, the era of Dayton was over, and I was in the business of trying to build the institutions of a state ... A number of institutions which we were to set up in order to make a life level state, one was to reform the judiciary, which was a very important element of our program to create the Rule of Law, and beside that, the legal structures that were necessary, the codex of law which would make us able to track the criminals.”

201 Ibid.
202 Interview with Paddy Ashdown - 25.06.2008.
The Rule of Law project was first of all intended to reform the judiciary and to this end an ambitious process of reorganisation of the court system and the relevant criminal codes and criminal procedure laws was launched. Moreover at the level of the state an institutional structure were established that would immediately begin to fight organised crime and entrench the general principles of the Rule of Law in society. The intention of this strategy was in the beginning not primarily to reorganise the institutional structure of the police, but to establish new institutions necessary to fight organised crime and strike a blow against political corruption. In this respect the Rule of Law agenda was motivated by an interest in suppressing an allegedly corrupt incumbent political elite and at the same time producing visible results that would impress the public and legitimize the continued existence of these institutions.

Obviously, the institution building within the framework of the Rule of Law project was entirely designed by international experts and even the domestic institutions that were set up, the State Court and the Office of the Prosecutor, were staffed by internationals who were responsible for sensitive cases and ensured that the institutions performed as they were expected to perform. However, the long-term intention was that through the support of the international presence the institutions would develop legitimacy.

“We took the view that the best kind of domestic capacity building we could do was not sending a bunch of Europeans flying in to hold a seminar with Bosnian prosecutors or police and then fly out again. The best kind of capacity building we could do was to set up real-life institutions that would outlast the international community. Put good effective and experienced international judges and prosecutors and put them in to these institutions and let the locals sort of shadow them.”

Nevertheless, this institution building process was not at its outset intended to develop into systematic police reform and, as stated by one senior OHR official, “…this segment of the reform was not a matter of EU integration.” The intention of the Rule of Law agenda was to set up institutions capable of fighting the specific phenomenon of organised crime and not until later would this project be dovetailed with the EU agenda. Nevertheless, the strategy and objectives of the Rule of Law agenda were to a large extent complementary to the rationale of the EU integration process. The issues of organised crime and political corruption echoed the Security Strategy endorsed by the EU Council in 2003 and the European Security and Defence Policy (ESDP). A country in which the police forces were not

203 Ibid.
politically independent and where organised crime and corruption could manipulate politics was hampered from progressing towards the EU.

The Feasibility Study, in which the actual conditionality for the first step in the EU integration process was declared, would first of all require BiH to undertake a “...structural police reform with a view to rationalizing police services...”, but in the study it also said that the “...fight against crime will be long because of the symbiotic relationship between crime, business and politics.”\(^{206}\) The study stated that widespread organized crime had links with political structures and it even concluded that BiH was a state captured by crime. Satisfactory standards in terms of the Rule of Law could accordingly only be guaranteed when democratic development had reached a level where the political establishment would “…discontinue all relations with the criminal formations and stop interfering in the work of the police.”\(^{207}\) The strategy of conflict management had thereby become part of the pre-accession process towards the EU. This merger of the Rule of Law strategy and the EU integration process was specifically evident in the reform of the police, which at its very introduction was based on crime related issues, particularly the failure of the RS to cooperate with the war-crimes tribunal in The Hague.

**Addressing the legacy of the war through police reform**

One issue that was conspicuously keeping BiH in the past was the issue of war crimes. This problem was specifically related to Republika Srpska since the bulk of war crimes had been committed by Serb forces.\(^{208}\) Nearly ten years after the war the RS had still not arrested a single indicted war criminal and as long as the Serb entity refused to face the legacy of the war the prospect of EU membership appeared unrealistic. Moreover, an eventual withdrawal of the civilian and military international missions from BiH before the principal war criminals had been arrested would be seen as a failure. The international community had on several occasions applied direct pressure on the RS, which would for instance occur when the Human Rights Chamber delivered a verdict on the so-called Srebrenica case, requiring the RS government to release all information about the whereabouts of mass

\(^{206}\) The European Commission, *Report on Bosnia’s Readiness to Negotiate a Stabilisation and Association Agreement* of 2003. (The Feasibility Study)

\(^{207}\) Ibid,


* The Human Rights Chamber was one of the human-rights mechanisms prescribed in the DPA and it functioned as a proxy court of the European Court of Human Rights, yet individuals could approach the court without exhausting recourse to lower-level courts. The Chamber was closed in 2004 and its caseload was transferred to an HR commission within the Constitutional Court.
graves and to initiate an investigation into the background of the atrocities. The High Representative accordingly issued a Decision requiring the RS government to set up the Srebrenica Commission to ascertain the background of the event and the location of bodies.\(^{209}\)

However, the most radical measure in this respect was motivated by the negative assessment of BiH at the NATO Summit in Istanbul in June 2004. In the Communiqué of the Istanbul NATO Summit it was stated that the incapacity of the RS authorities to collaborate with the ICTY constituted a fundamental requirement for “systematic changes” in the law enforcement structures.\(^{210}\) As a response to the Istanbul Summit, the High Representative imposed on 30 June a package of punitive measures, removing 59 Serb politicians and public officials from office who had allegedly impeded apprehensions or supported networks hiding war criminals.\(^{211}\) At a press conference announcing the Decisions, Ashdown stated that it was now “…clear that the very structure of the police in BiH hinders effective action being taken … against influential PIFWICs…”, and, “responding to the Istanbul Summit Statement, the remit I will set for the Police Reform Commission, will call for the substantial strengthening of the state police structures in order to enable us to more efficiently catch war criminals.”\(^{212}\)

As such, the ultimate measure, besides the actions taken against individuals obstructing collaboration with the ICTY, was the Decision issued by the High Representative four days later, to initiate a process aimed at reforming the police forces into a single police structure, which would be effective in delivering war criminals. Since the RS police had been created by authorities that had planned and executed war crimes, it was argued that this legacy had to be done away with if BiH was to join Europe. The issue was viewed as a moral problem. The values upon which the EU was founded were not compatible with accepting that one entity was unwilling to arrest individuals indicted by the ICTY. This issue was of particular relevance to the High Representative, who had been one of the few prominent British politicians who had advocated intervention to stop the war in BiH.\(^{213}\)

\(^{209}\) In June 2004 the commission on Srebrenica issued a final report, in which the location of 29 secondary and 3 primary mass graves were verified and information was gathered about another 32 sites. Human Rights Chamber, Press Release, 7 March 2003. HRC delivers 5 Decisions on Admissibility and Merits and 1 Decision on further Remedies. The Commission for Investigating the Events in and around Srebrenica between 10 and 19 July 2004. Final Report, Banja Luka June 2004.


\(^{211}\) Among those who were banned from public positions were the speaker of the RS parliament and the leader of the SDS party, Dragan Kalinić, the RS Minister of Interior, Zoran Djerić, and several other senior police officials. OHR, List of Removed and Conditionally Removed Officials by the High Representative, 30.06.04.

\(^{212}\) OHR, Press Conference, High Representative Announces Measures against ICTY Obstructionists, 30.06.04.

\(^{213}\) Simms Brendan, Unfinest Hour, Britain and the Destruction of Bosnia. p. 39.
“I think the police needed reform for two basic reasons. First of all they were one of the generators of the war, you cannot separate this from the fact that the MuPs were instruments of the war, on both sides, but particularly on the RS side, they were instruments of most of the killing. You cannot separate that. They carried historic legacy.”

However, the issue of ICTY collaboration was indeed more than an assessment of guilt. Once the international community begun proactively looking into organised crime, several intelligence reports would indicate that criminal activities often had links to the networks protecting war criminals. These reports clearly depicted Republika Srpska as the main culprit. One of the key advisors to Ashdown claimed that these kinds of intelligence report formed one of the main driving forces behind police reform.

“The second thing which inspired the more sort of ambitious police reform was the clear complicity of particularly the RS police in helping PIFWICs∗. The PIFWICs issue and the police issue became interlinked very closely. All the intelligence that we were receiving when we were there was that the RS Ministry of Interior was up to their shoulders in bad stuff… we received a lot of intelligence reports of what was going on under this lake, stuff you cannot normally see, particularly in terms of PIFWICs. And the RS Ministry was just deeply involved in all of that and we just felt that we could not ignore all of that. That is really what drew this.”

Moreover, the issue of addressing the war legacy was also perceived as a matter of achieving reconciliation and facilitating return. As long as the police forces were essentially the same as the institutions that had been shaped by the war, refugees and returnees would most probably feel insecure and disinclined to return. The UN International Police Task Force had initiated activities to this end; i.e. recruiting minority police officers and decertifying police officers who had committed crimes in the war. However, judging from the low rate of return, one could still assume that people did not feel safe knowing that the law enforcers had the same image as the institutions that had taken part in the campaigns of ethnic cleansing.

“What people really wanted was a police force that works for them. If you said you will have a police force, and it will have an emblem of the coat of arms of the people who were attacking you during the war, probably some people would simply not accept that that is their police force.”

The legacy of the war was however believed to be present in the institutional structure, in terms of the low level of minority recruitment, the inability to

214 Interview with Paddy Ashdown - 25.06.2008.
∗ (Persons indicted for war crimes)
216 Interview with OHR Official - 23.05.2008.
cooperate with other ethnicities and the failure to arrest war criminals, and several policymakers thought it to be quite impossible for the RS institutions actually to change their approach to this issue. Therefore the link between the entity police and its creators would have to be broken and the authority of the police transferred to the level of the state. The inability to collaborate was an issue that, for instance, Carla del Ponte had defined as a “systemic deficiency”. Knowing that several high-level war criminals had served in the RS police, there was a belief that this historical link made the RS police endemically incapable of tackling war crimes.

“You had the NATO summit in Istanbul in which NATO fingered the RS a little bit and then the speech to the UN where she (Carla del Ponte) used the words systemic deficiency. She would refer to the organisation of the RS police, inside the organisational ethos. You will never get cooperation. There are too many institutional pockets of resistance. You would never be able to eliminate them.”

However, the inability of the RS to address their wartime past could also be used as an argument to prompt reform. Bill Potter, who was the Head of the OHR Rule of Law department, stated in his biography that, even before the NATO meeting in Istanbul, the intention had been to make use of the negative decision on PfP. The NATO decision, Potter wrote, demonstrated that “…the entity police forces are incapable to operate free of politics and free of nationalist or ethnic influence”, so, logically, “we will argue that this can only be solved by moving all functions to the state level.”

The ICTY issue thus became the major driving force of the activities of the international community. The failure of the RS to cooperate with the ICTY became the rationale for actions against individual politicians or for steps to initiate reform.

“… if they continued to do nothing on PIFWICs, they would continue to see the power of their entity diminish. That was the very simple equation that we were trying to put into their minds. Every month that goes by in which you refuse to cooperate with the ICTY, we would just continue to turn that screw in terms of your powers.”

The palpable failure of the RS to collaborate with the ICTY was thus a problem that could be used as an instrument to achieve political reform. This tendency to look for weak links and use them as a pretext for reform was,

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220 Interview with OHR Official - 23.06.2008.
however, a fundamental element in the strategy of the international community, which was also the case in the wider Rule of Law project.

5.3 Police reform as a state-building exercise

The most significant reforms introduced to change the division of competences within BiH were in fact not driven forward exclusively by the EU integration process. Several state-building measures were also motivated by their value in fighting crime and as aspects of the Rule of Law agenda. The security sector reform process engendered an overarching logic in which the high level of corruption and the prevalence of organized crime justified further consolidation of state power. The incapacity of the lower-level authorities to fight organized crime and political corruption legitimized in this sense the centralization of power. Consequently, cases of criminal activity detected by international intelligence did not necessarily present a problem, but could be used to justify reform and effectuate change. The use of scandals and intelligence information picked up by various foreign agencies was one of the main instruments to achieve political change in BiH. This was for instance the case, when the international community in 2002 discovered that an arms manufacturing company, “Orao” in Bijeljina in the RS, had exported material to Iraq in contravention of the UN arms embargo and when SFOR confiscated detailed invasion plans of the Federation drafted by the RS army.221 These kinds of flagrant breach of the constitutional order were obviously troubling, but they were also a great asset to the international community, providing a useful pretext for reform and sanctions against those politicians who stood in the way of the wider peace-building agenda.222

The pervasive nature of organised crime and political influence in the police forces would impede the prospects of EU integration, but if these issues were to be addressed, structural changes in the police forces were necessary. Just as it was unreasonable to believe that the entities were capable of addressing war crimes that had been conducted in the process of their creation, it was unreasonable to believe that the political establishment would address the economic crimes conducted in the post-war era. Therefore it was essential to change the structure of the police forces and, as the High

221 OHR, Report of the Defence Reform Commission 2005. see also Potter William, A Bosnian Diary – A Floridian’s experience in Nation Building. Intelligence information determined that that the war-crimes indicted fugitive Ratko Mladić had used premises of the RS army and received a salary from the RS army as late as 2001. Information was also gathered about several companies in the Federation illicitly selling weapons, but supposedly not to Iraq.

Representative put it, to break the link between the political establishment and the police.

“... it was bloody evident to me that even if I was to do what I intended to do, to clean up the corrupt structures at the state level, actually there was corruption in the political link with the police at the lower levels and I could never clean the corruption out unless I could break that... what I believed and still believe, that a politically controlled police force would be deadly for Bosnia’s future.”223

The criminal network operating in BiH not only threatened the region and acted as a serious drag on economic growth, they were also influencing a large portion of political activity. “Corruption was the soft underbelly of the nationalist parties,” Ashdown wrote, “If we wanted to attack the old nationalist structures, then the best way to do it would be through attacking the corruption.”224 Ashdown seemed accordingly to believe that nationalist politicians, motivated by economic gain, had simply captured the country. The politicians were just not interested in reform because change would threaten their power. Consequently, if the worst kind of criminality was stamped out by efficient crime prevention, the public would be inclined to turn away from nationalist politicians who used these ideas as a cover for criminal activities. Arguing for the setting up of special departments in the Prosecutors’ Office to deal with organized crime, Ashdown said in a speech to the BiH Parliament that attention must be focused “…towards dismantling the organized criminal networks that are attempting to capture this country’s institutions, and control its politics.”225 In this sense the fight against organised crime would become connected with efforts to build an efficient state structure.

Although there is no proven correlation between the frequency of corruption and the division of power between the levels of authority, senior advisors within the OHR seem to have believed that the public authorities at the state level were more resistant to political influence. The closer the police forces were to the local political elites, the higher the tendency towards political influence. Therefore, any transfer of competences from the level of the entities to the level of the state would result in more independent and capable institutions. The cantons and the entities had been established in the peace agreement in order to appease the warmongers and as such they were products of the war. The entities had thereafter been ruled by the same party elites ever since the war and they had remained hermetically closed to international supervision. Therefore it appeared as if these administrative units operated on more informal procedures than the state institutions.

223 Interview with Paddy Ashdown - 25.06.2008.
225 Dismantling the organised criminal networks that are attempting to capture this country’s institutions, and control its politics. Dnevni Avaz 17.07.2002.
Ashdown claimed accordingly “…that the entity and the cantonal link to the police had to be broken otherwise you could never break the informal control of the police.” Several OHR officials argued that state institutions were not as affected by the informality and patronage network that dominated the local political authorities and accordingly the widespread phenomenon of political corruption could be tackled through the strengthening of state-level institutions.

“What I am saying is that there is a principle, and that is to analyse the way institutions function, and I think that this is again a matter of political control and how you view the state. And one of the ways to view the state is that you take issues that are open to abuse away from the local level in order to limit that abuse, and again I think this is the whole point about integration. The process of integration, or even if you would like to say centralisation, is designed to limit politicisation, … you cannot expect to have a system fully out of political control if you have it on the local level because on a local level there is simply so much potential to manipulate the system.”

The belief that politicians used nationalistic rhetoric and protected the Dayton structure out of private interest made it impossible for the international community to accept any compromise that would preserve the entity and cantonal institutions in the process of negotiation. However, the tendency to focus on state institutions and to undermine the power of the entities was also a matter of general international community strategy. State institutions needed to be sufficiently strong not to fall apart when the international engagement ended. Integrating the police forces into one common structure was thus an essential element of the wider project of strengthening the state, since lower-level institutions could not be relied upon to act as guarantors interested in keeping the country together.

“… the problem was that we constantly asked the 64,000-dollar question that is if we pull all of our people and all of our money out of this country tomorrow, what is the scenario for this country going bad again very quickly? We just did not feel that we could leave all these instruments of cohesive power, be it a policeman, a spy or soldiers, in the hands of the nationalists, the political parties at the entity level. It is as simple as that.”

Despite the fact that police reform was presented as a technical matter to achieve better policing, several politicians would essentially interpret the reform as an attempt to change the institutional set-up of the country. Since authority over the police represented the executive power of the state, the requirement to transfer competences for policing to the state level and to ensure that the system of policing had no reference to the entities looked

226 Interview with Paddy Ashdown - 25.06.2008.
227 Interview with OHR Official - 23.05.2008.
228 Ibid,
suspectily like a surreptitious exercise in constitutional reform. If the entities lost competence over the police, the logical next step would be a similar reorganisation of the judiciary, militating towards a situation in which the legislative authorities of the entities would not wield power over any relevant public functions at all. The allegation that police reform was a hidden attempt at constitutional reform was something that the international community and the High Representative repeatedly denied. Ashdown recalled that he “…had Solana make a statement that Republika Srpska was not threatened…”

Although the intention of police reform was not to abolish the entities as such, the transfer of police competences from the entity to the state level was certainly an operation designed at least to undermine the power of the entities and to build a stronger state. Along these lines, Ashdown argued that if the RS was to move into Europe, they had first of all to accept that the entity was an administrative unit of a state and not a state in itself.

“Yes, of course, you know we had taken away progressively a lot, well one of my first judgments was that if you are to create the kind of Bosnia that would get to Europe and be peaceful, you had to disabuse the Serbs of the view that they were not part of Bosnia but that they were a part of a mini state called the RS. We robbed them of all those emblematic things, their army, their taxation system, their intelligence service, their customs and this was the last and arguably the most sensitive of the symbols that enabled the RS to pretend that it was not part of Bosnia but that it was part of a mini state within Bosnia. So I always knew that was going to be the toughest enterprise.”

However, by abolishing the entity police forces entirely, the reform not only appeared to be an attempt to strengthen the state and to integrate the entity institutions in a common structure; Serbs, as well as some Bosniak and Croat politicians, perceived it as a move to do away with the entities altogether. Regardless of whether the reform was actually designed to consolidate the state or whether its motivation was strictly in the realm of law enforcement, the requirement to abolish all policing authority of the entities would inevitably be associated with a wider constitutional reform and for this reason the political negotiations would be transformed into a dispute about the concept of BiH rather than the structure of the police forces. The police reform could thereby be seen as a renegotiation of Dayton and a matter of redefining the identity of the state. Regardless of what may have been the real thinking of the key decision-makers in the international community, several OHR officials certainly saw the police reform project as a hidden effort to reform the constitution. The police was viewed as a “state unifying

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229 Interview with Paddy Ashdown - 25.06.2008.
230 Ibid,
institution”, according to Deputy High Representative and Head of the OHR’s Banja Luka Office Graham Day, and “…by creating one common police at state level you will break down the centrifugal forces in the county.”231 The aim of the reform was thus to centralise the instruments of violence and consolidate the power of the state, as stated by another senior OHR official.

“…they failed to understand that this was primarily a political project. This was not really a law enforcement project. It had law enforcement benefits, which would presumably follow. But the real purpose was of course constitutional reform by stealth. Creating a new balance of power in favour of the state.”232

The fact that the police reform conditions appeared to be a constitutional reform gambit significantly complicated the negotiations. The reform negotiations would not first of all concern the technical aspects of policing, complained the Head of the EUPM, Vincenzo Coppola, who led the second phase of negotiations in 2006. Instead, they dealt with the make-up of the state, and this, Coppola argued, was one of the key reasons that police reform eventually failed.

“This is the worst mistake we made. We were talking about police reform, but we were looking towards some other reforms, first of all to abolish the entities. The police can only follow the constitutional structure of the country, it cannot drive the constitutional reform of the country. This was really an impossible way to look into the future.” 233

Police reform had thereby been transformed from a project in the realm of EU integration and conflict management, to become a matter of state-building. In this respect, police reform would become the ultimate opportunity to consolidate the state and compel the Serbs to accept that they were part of BiH. However, this aspiration was not based on any formal policy, but seems to have been an idea formulated on moral grounds as a means of rectifying the injustice of the war and recreating a multiethnic BiH. Although the attempt to reintegrate the law enforcement agencies of a war-torn country was ambitious, it appeared to be driven by noble intentions, and no one wanted to stand in the way of a project that was to bring the warring factions together in the name of European integration.

231 Interview with Graham Day - 26.03.2008.
233 Interview with Vincenzo Coppola - 03.09.2008.
5. Police Reform and the Intentions of the International Community

5.4 Concluding summary

Looking at the genesis of police reform one can discern two separate trends. On the one hand, the process had a rational base within the framework of EU integration, which gave the reform a solid sense of legitimacy. If BiH was to begin negotiating EU entry it had to demonstrate that the territory of BiH was organised as a common security space over which the state had law enforcement authority. The voice of the state had to represent the country as a whole. In this perspective it was reasonable for the EU to request that BiH build a common structure of policing that could encompass all 15 policing agencies, since, under the existing system, these were essentially autonomous and uncoordinated. Moreover, certain qualitative aspects had to be improved if BiH was to join the EU, such as full collaboration with the ICTY, enhanced capacity to tackle organised crime and a definitive end to political influence in the police. All these issues were cited in the Feasibility Study and were reiterated in the OHR Decision establishing the Police Reform Commission. On the other hand, however, judging from the recollections of interviewees, police reform was not initially predicated on EU policy. The EU integration process was indeed a crucial factor motivating the initiation of the reform, but the reform must first of all be understood as an aspect in the wider strategy of peace-building that had developed in the post-war reform process.

The focus of the peace-building agenda had since 2000 gradually been transformed from a “stability generating exercise” into an exercise establishing the Rule of Law, which would be the central theme of Paddy Ashdown’s mandate. This meant, according to the prevalent line of thinking, that the main threat to peace and stability in BiH was no longer the possibility of a return to violence, but arose from the activities of criminal groups and their capacity to capture the political process and the state itself. Since state structures were too weak to tackle this issue, the international community had committed itself to establishing the necessary rule-of-law institutions. The reform of police structures fitted into this project and since the European Security and Defence Policy identified trans-border crime as a matter of central concern, the Rule of Law project was naturally linked with the EU agenda.

Viewing the interview material, there is an important difference between the initial line of thinking and the extended phase of the reform, during which the demand was for systematic police reform. The requirement expressed in the initial phase was limited to the establishment of a functional state-level structure of law enforcement, which would be capable of coordinating the lower levels of authority. The reform was, as stated by some OHR officials, a matter of adding hierarchy and, in terms of policing,
making SIPA more effective, but it was not about building one common state police force. Between the OHR Decision in the summer of 2004 and the autumn of the same year, the police reform requirements were transformed into a demand for systematic police reform that would require significant constitutional amendments and a territorial reorganisation of the policing system.

The extended reform aspired to achieve a much more substantial change in the security architecture and the character of this reform would therefore be notably different from the initial requirements. This significantly restricted the room for bargaining. The problem with these conditions was that they referred only vaguely to a general notion of EU standards and they were not primarily created out of a process of EU assessment. Some of the OHR officials claimed that these conditions were actually not to be understood as EU norms, but they delineated a set of reform objectives that the principal representatives of the international community had judged to be necessary for BiH society. It seems that the conditionality was arbitrarily determined in an informal decision-making process and that the conditions were essentially established by a few key decision-makers in Sarajevo. In this regard, the informal character of the initiation of the negotiations raised questions about the legitimacy of the requirements, both whether they were actually in compliance with proper EU norms and whether they were relevant in the BiH context.

The conditionality was clearly influenced by the view that the lower levels of authority, the entities and the cantons, were less transparent and more vulnerable and receptive to political influence than the state authorities. Consequently, by transferring competences over the police to the level of the state, eliminating any links between the police and the entities and cantons, policing would be systematically made less corrupt and more law-abiding. This distrust of the lower levels of authority was reinforced by the behaviour of the nationalist politicians who were running the RS and some of the cantons. These politicians were hostile to the state and were using rhetoric that was at odds with what could be viewed as European values. Furthermore, intelligence reports were allegedly indicating that politicians at the lower level were deeply involved in corruption and economic crime, which confirmed the notion that these structures were more open to manipulation and political abuse than the state-level structure. When it comes to war crimes, the international community, at least at the time of the initiation of police reform, seems also to have been motivated by authentic moral considerations and some kind of ideological commitment to rebuild the multiethnic tradition of the country.

The tendency to prefer state structures to the lower levels of authority was also generated by wider strategic thinking. Several interviewees regarded BiH as a failed state and in this respect the aim of the greater exercise of peace-building was to re-establish a coherent state, strong enough to survive the eventual withdrawal of the international community. Knowing that both
the Croat cantons and the Serb entity allegedly harboured an implicit desire to secede, the logical tendency was to build stronger state institutions, in the belief that these would be able to hold BiH together once the international community had withdrawn. In this sense, OHR officials seem not to have considered BiH as a fully sovereign country that could be measured by normal EU praxis. BiH had first of all to create a functional state structure and thereafter it would become eligible for the EU integration process. The requirements would therefore be influenced by the ideological aspirations of the international community.

Although police reform had initially developed out of the EU integration process and the Rule of Law agenda, the OHR decided to move on and turn it into a broader state-building project. Inspired by progress that was accomplished in other areas, particularly in defence reform, and while the international community still had some muscles to flex, OHR officials believed that they ought to make an attempt to create a unified BiH through police reform. In this sense the international community did not pay heed to aspects of societal security and the potential dynamics of inter-ethnic relations. This approach would have a strong influence on the negotiating process, as will be seen in the coming chapters.
6. Police Reform from the Perspective of Local Politicians

As seen from the discussion in the previous chapter, the objectives of the international community when launching police reform were multifaceted. Some of these aims would however not be explicitly expressed, but were part of a wider political agenda and not directly related to the issue of policing. The implicitly expressed objectives of police reform had an obvious effect on the domestic political establishment, which developed a rather ambiguous understanding of these objectives. Above all, domestic politicians interpreted the essence of the reform in exceptionally different ways depending on their own political environment and interest. Analysing the reform, politicians representing the two main ethnic groups, the Serbs and the Bosniaks, conspicuously arrived at two completely separate readings of the intentions of the international community and the reform process as such, while the Croats, who were never as involved in the negotiations as the two other groups, had their own understanding of the issues at stake. It is evident that the interest and conduct of the political elite was influenced by the mutual distrust among the ethnic groups. This chapter will view police reform from the perspective of local politicians, highlighting and analysing essential aspects that interviewees found relevant.
6.1 The impetus of the EU factor

The issue of police restructuring had been sensitive from the start and in the initial years of the activities of the UN, the Serbs had even refused to sign a memorandum of cooperation on police restructuring. The Serb politicians had thereafter obstructed attempts to build a common border police force and although they would eventually accept the establishment of the state-level police (SIPA), the process of setting up this body had been vigorously opposed by the Serb political elite. Maintaining control of the police was obviously a political priority. However, the SIPA reform, like the extended police reform, was launched as an EU requirement and the Serbs had thus been brought into a situation where they had to choose between an unwanted state-level law enforcement agency on the one hand and support for the EU integration process on the other. This dilemma would be apparent when the extended police reform process was initiated in the summer of 2004.

Although the intention of the High Representative to advocate for a single police had not been made public, rumours of the reform were in the air in the spring of 2004. In January, at a ceremony marking RS Day in Banja Luka, the RS President, Dragan Čavić, complained that he had been informed through an unofficial source that security sector reform would encompass more than the six laws that were required by the European Commission. He remarked indignantly that “… the laws regarding the reorganization of SIPA … are directly influencing the status of the Ministries of Interior of the entities and will lead to the full reorganization of the police forces in BiH.”

When information about the Decision establishing the Police Reform Commission leaked to the media some days before the announcement, the reactions of Serb politicians were unanimously negative. RS Prime Minister Dragan Mikerević bluntly condemned the idea, saying that there was no prospect of a unified Ministry of Interior established at BiH level, declaring that “such a thing would not be supported by any RS official, regardless of who is leading the RS Government.” However, direct reactions in the media following the formal announcement of police reform were generally mild, probably because it was still unclear what kind of model of policing would be the objective of the reform. In addition, reactions from Serb

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234 The memorandum of cooperation was signed at the end of 1998. _Framework Agreement on Police Restructuring, Reform and Democratisation in the Republika Srpska_, 9 December 1998.

235 OHR Media Summary. (Transmitted by RTRS on 9.01.2004)

236 A few days prior to the establishment of the Commission, the High Representative informed the principals in the RS, Dragan Čavić, Dragan Kalinić, Dragan Mikerević and Mladen Ivanić, about the reform at a meeting in Banja Luka, justifying his plan with the fact that the RS had failed to arrest a single war-crimes suspect. _There will be no unified police_. Nezavisne Novine 30.6.2004. _RS and FBiH Police to be abolished?_ Slobodna Dalmacija 29.6.2004.
politicians were overshadowed by the outcry following the Decision removing the 59 Serb officials, which had been imposed by the OHR a few days earlier. This Decision, to no one’s surprise, was greeted with fury in the RS. RS President Dragan Čavić, who would eventually become the leader of the SDS, condemned the removals, calling them “colonial pedagogy” and in an interview on the day after the Decision he characterise it as “draconian, unprecedented and unheard of in modern democracies,” saying that the removals amounted to the “break-up of democracy in BiH”.237

Nevertheless, when talks in the Police Reform Commission begun, all the politicians concerned, including the Serbs, actually entered the negotiating process with a rather open and positive approach. The process of establishing the Commission would not be obstructed, and Serb politicians were not particularly critical of the initial police reform talks in the media. In the early phase of negotiations it seemed that police reform would benefit from the positive impetus and constructive capital that was provided by the EU integration process as a whole. The prospect of EU membership seemed to have offered a civic discourse that could counter the nationalist rhetoric. Although the elections in 2002 had brought the traditional nationalist parties back into power in the entities and at the state level, the international community had induced the authorities to collaborate on an extensive EU reform agenda. In spite of often tense and difficult political debates, the political forces in BiH were, at the beginning of the police reform process, exceptionally consolidated. By all accounts the EU factor facilitated the reform process and helped politicians overcome some of their political differences. The entity and state governments, with the assistance of the international community, found acceptable compromises to several sensitive issues and some key politicians actually referred to this as the most positive and constructive post-war period. The BiH Prime Minister∗ at the time, Adnan Terzić, who was hoping that his government would be able to sign the SAA before the end of his term, unsurprisingly described these years as successful.

“We had in March 2003 received the questionnaire for the Feasibility Study. It was 46 questions and we replied in the month of May and then the (European) Commission made an analysis in Brussels and presented the Feasibility Study. … The Commission gave us the whole of 2004 to show substantial progress. …and it turned out that we needed to adopt altogether 46 laws among which we were required to reach an agreement on the reform of the police, thus not to adopt any law as such. We would in 6 months adopt all the other laws. The only issue that would be left unfulfilled was the reform of the police…”238

238 Interview with Adnan Terzić - 01.09.2008.

∗ His formal title was Chairman of the Council of Ministers.
The leading politicians in the two entities seem to have shared this attitude, and Dragan Mikerević, for example, claimed that when he was heading the RS government there was “a good harmony between the RS and the Federation”, claiming that they “…cooperated very well and this was of course annoying to the nationalists and the chauvinists”\(^\text{239}\) Bariša Ćolak, leader of the main Croat party, the HDZ, also portrayed this period in positive terms and described his political counterparts in Republika Srpska as being fairly constructive and pragmatic.

“Besides, you had a different political atmosphere. You had Mr Ćavić with whom you could talk and in those days Mr Mikerević was the Prime Minister and he was present at the first meetings of the (Police Reform) Commission. He was very cooperative.”\(^\text{240}\)

The EU factor appeared to have contributed to a progressive atmosphere in which established views of nationalist constituencies had moderated somewhat, bringing the political elites together and cajoling them into accepting compromises. While the population and the politicians supported the common political agenda of bringing BiH closer to the EU, the identity communities could to some extent be desecuritized and political activity could be directed away from identity protection. It seems that all the leading politicians saw themselves as part of a greater project through which they were able to rise above the narrow scope of party politics and show readiness to promote reforms that were in contradiction to some of the supposed vital interests of their ethnic groups. Dragan Mikerević, who was the BiH Minister of European integration before becoming the RS Primer Minister, said for instance that his pro-European approach made him unpopular with the more radical Serb constituency.

“…the speaker of the RS National Assembly, Dragan Kalinić, would ask for an explanation why I had supported certain things in the name of European integration which were detrimental from RS. This could have been in May or June in 2003. I told them; ‘you did not appoint me and you will not be able to remove me.’ So I criticized the politics of RS. I told them, using an analogy of football, ‘you have made a bunker in front of our goal. And the whole game is taking place in front of the goal of RS’. I wished to take away that hinder and to play in the whole of the terrain. I would not like to play in front of the bunker, but at the whole terrain of BiH.”\(^\text{241}\)

It is difficult to say whether politicians had an actual interest in reforming the police, but it seems that they were at least willing to fulfil the requirements laid down by the EU and, since the Feasibility Study had articulated a requirement to reform the law enforcement agencies, all the

\(^{239}\) Interview with Dragan Mikerević - 16.04.2008.
\(^{240}\) Interview with Bariša Ćolak - 03.09.2008.
\(^{241}\) Interview with Dragan Mikerović - 16.04.2008.
major politicians were at least prepared to initiate some kind of reform. However, it was obvious that politicians from the Federation and politicians from the RS envisaged two fundamentally different reform processes. At the start of the process Adnan Terzić gave his full support to the initiative and in his capacity as Chairman of the Council of Ministers he had, together with Minister of Security Bariša Ćolak, already in May sent a letter to the High Representative asking the OHR to provide expert support in the reform of the police. This positive attitude towards police reform on the part of the Bosniaks, and to some extent the Croats, was not, however, simply a matter of their support for the EU integration process. Police reform as it was being presented by the international community clearly coincided with the interests of the main Bosniak parties, making them more inclined, as expressed by one advisor to Haris Silajdžić, to support the reform.

“So, basically, to put it in perspective, when the international community came with the proposals, we jumped on them, not because they were inventing the wheel, but because it was the continuation of the ideas that we had been advocating. Among others, I think the SDA and the SDP did it. I will not give specific credit to SBiH, because other parties did it as well. And it was realistically received as an acceptable proposal, even by the Croats. They had some concerns about the cantonal powers and so on but they accepted it because they also thought it was good for them.”

The Serbs were less enthusiastic about the idea of further reforming the police, but the principal Serb politicians did not initially express objections to the idea of continuing the reform process. They seem to have understood that reform was necessary, possibly due to the fact that the issue of the police had been identified in the Feasibility Study. Some key Serb politicians at the time, such as, Dragan Ćavić, who had become SDS leader following the removal of the previous party leadership by the High Representative’s Decision, agreed that “…it was obvious that there was a need for a reform”, yet none of the Serbs could truly articulate what aspects of the police system needed to be changed.

“I was of the opinion that a working group on police reform should be formed, but to work on what was written in the Feasibility Study, meaning that no one would be able to talk about the abolition of the entity police or any transfer of competences. I have always been for that, but this was transformed into something else.”

244 Interview with Dragan Ćavić - 25.08.2008 and 26.03.2008.
245 Interview with Mladen Ivanić - 31.03.2008.
RS Prime Minister Mikerević, who would during the early meetings be the RS representative on the Commission, sent the High Representative an official protest against the Decision establishing the Police Reform Commission.\footnote{The OHR had removed the RS MoI Zoran Đerđić and in the absence of his replacement the PM undertook this function.} This protest seemed, however, to have been an act designed to shore up his nationalist credentials among the public. Nevertheless at the first meeting of the Commission, Mikerević declared that the RS was “…aware of the need for reform of the police forces…” and intended to participate in the discussion in order to “…reach the best model that fit BiH.”\footnote{Conclusion of the first meeting of the Police Reform Commission, 22 July, 2004 (OHR, Final Report of the Work of the Police Restructuring Commission of Bosnia and Herzegovina)} At this stage the police reform requirement had accordingly not been recognised as a threat and the Serbs participated, seemingly interested in reaching an agreement.

**Perceptions of the EU police reform principles**

In the course of the talks the cautious willingness that had been shown by the Serbs at the beginning of the process turned increasingly negative. At the third and fourth meetings of the Police Reform Commission, the Serbs became more vocal in their resistance and it became clear that they were not ready to accept any reform proposals that would lead to the abolition of the entity police forces. RS politicians expressed fears that police reform was heading towards a constitutional reform and the otherwise pro-Western leader of the opposition in the RS, Milorad Dodik, claimed that it was “…illogical to have RS police working on arresting of war-crimes indictees, while others are working on abolishing the RS. This is not a reform. This is desecrating the constitutional organisation of BiH.”\footnote{Strike at the Constitution, Glas Srpske, 27.10.2004.} The EU principles had now begun to look like a threat to the position of the Serb community, and Serb politicians went against the reform.

However, the Serb political establishment not only opposed the reform proposals on the grounds that they violated their national interest, but questioned the legality of the principles articulated by the European Commission, claiming that they were not based on formal EU standards and that they were a product of an informal decision-making process. In this way, the most significant justification of the reform, which was intended to persuade RS politicians to give up the competences of the police, was partly missing from the start. RS President Čavić even claimed that the High...
Representative had used the NATO summit in Istanbul to obtain an impetus to initiate the reform. Paddy Ashdown had, according to Čavić, insisted that the Communiqué, which criticised the RS for failing to collaborate with the ICTY, would make a reference to police forces and the need to initiate a systematic reform. A similar attitude was expressed by the then Minister of Foreign Affairs, Mladen Ivanić, who was present at the Istanbul summit.

“The meeting in Istanbul was not at all as it has been reported. It was a meeting that was used by Paddy. There was not a word about BiH mentioned at the meeting. The talks about BiH were submitted in the Communiqué. This paper was of course written at the OHR in Sarajevo. He used this meeting to start this initiative.”

The mistrust in connection to the conditions as a whole was accentuated in relation to the three principles. Several politicians were also arguing that they did not stem from any formal EU standards and that they had been invented by the High Representative and not by Brussels. The ambiguous origins of the principles seems to have encouraged Serb opposition to the reform and some even argued that the international community had used the EU project as a political instrument with which to break Serb resistance. President Čavić claimed that the conditions were completely unrelated to the EU.

“Obviously, Ashdown called Chris Patten and asked him to make police reform a criterion for the entry of BiH into the EU. The criteria of the police reform were completely designed by the OHR and had nothing to do with the EU as such.”

The central point of disagreement over the principles concerned the organisation of police districts. The principles required the areas of policing to overlap the inter-entity boundary line and as a result the entity police forces had to be dissolved and integrated in a common structure. Serb politicians argued that this principle was the ultimate proof that the conditions were not related to EU standards. The Serb politicians would in the initial meetings of the Commission repeatedly insist that the reform should apply the model used in Germany and Belgium, where the policing districts were decentralised. Obviously by referring to other European countries, the RS had a strong case in rejecting the conditions and these arguments were thus raised by almost all Serb politicians, as for instance President Čavić.

250 Interview with Mladen Ivanić - 31.03.2008.
251 Interview with Dragan Čavić - 25.08.2008.
“I was trying to explain to the German ambassador that changing the district to overlap the IEBL would be like having the police from Bavaria entering into Hessen. They would tell me that you could not compare Germany with BiH. I would say that you could indeed compare the countries and maybe the BiH situation was even more sensitive, given that the division in this country had been caused by a war.”

Criticism of the conditionality, however, did not come exclusively from the Serb parties. Some Bosniak politicians argued that by presenting conditions that were arguably not proper EU standards the international community would bring BiH into a serious dilemma. Although he did not publicly utter criticism at the time of the reform, BiH Prime Minister Terzić, with whom Ashdown worked closely, was critical of the conditions, claiming that he was “...from the very start aware that this was too ambitious to demand these things in relation to the SAA negotiations...” The problem, as Terzić saw it, was that it would be difficult to persuade the Serbs to accept the conditions at this stage, but as long as the conditions could not be convincing defended by a set of EU standards it would be impossible to defeat the Serb arguments against the reform. Moreover, by determining these kinds of principles, it would also be difficult for the OHR to lobby support within wider EU circles, and according to Terzić the international community would remain divided and therefore reluctant to put too much pressure on the political actors.

“I know for sure that several of the ambassadors were against these principles. The French and the Spanish in particular and they were telling the Serbs that they did not need to do it. Moreover, several of my colleagues in Europe, for instance the Prime Minister of Luxembourg, (Jean-Claude) Juncker, told me in Luxembourg at the time he was presiding over the EU, that I must not accept that these people ask me to make this kind of police reform because when it comes to the police, this is an issue for every individual country and that is why there are no standards. Thus Ashdown and the international community, particularly the Commission, made a trick. They were trying to sell us something that had nothing to do with EU standards. Therefore this was harmful and it was doomed to fail.”

The wider circle of Bosniak politicians at the time did not, however, share the views of the BiH Prime Minister. Most politicians from the Federation did not question the reform conditions at all. The former Bosniak Member of the BiH Presidency, Beriz Belkić, argued that the suggested reform model aimed to create a modern and civil policing system and did not agree that these principles were disputable or too ambitious.

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252 Ibid,
253 Interview with Adnan Terzić - 01.09.2008.
254 Ibid,
“In my personal view he (Ashdown) did not ask for too much. He simply wanted the police to function just as in any other country. That the police would operate on the whole territory of BiH, that the police would operate according to a unified manner in accordance with proper standards… Of course, one needs to understand that in this kind of complex country and generally in the world, the police must be decentralised and located at the local level and in contact with the local community. I am not for a centralisation, bringing the management to one place and so forth, but I do request a degree of standards, that the police are operating on equal conditions.”

For most Bosniaks the question about whether the conditions were in compliance with standard EU praxis was not relevant. They argued that that these principles were designed to address specific problems in the BiH context and in this sense BiH had to transform its complex and illogical post-war structure before moving towards the EU. It was therefore senseless to compare BiH with any ordinary EU country. The Bosniaks did accordingly not to pay heed to the concerns of the Serbs. The responses of the politicians to the EU conditionality resembled in this sense their national interests and these interests were obviously in conflict with each other.

6.2 The Rule of Law agenda and the issue of war crimes

While Serb opposition to police reform was directed at the idea of arranging districts overlapping the entity borders and the potential abolition of entity policing, the requirements to ensure inter-entity policing were among the main reasons that Bosniaks supported the reform model as suggested by the Police Reform Commission. When the Serbs used political arguments, claiming that the conditions could not be defended by EU standards, the Bosniaks used technical arguments, stating that the reform model adequately met specific needs in the BiH context. The Bosniaks asserted that policing districts could not be organised on the basis of entity divisions, since these were illogical and impractical in operational terms. In Sarajevo, in particular, criminal gangs were operating over the entity boundary and while the two separate autonomous police forces only spoke to each other sporadically, criminal groups of different ethnicity had no problems in working together. The political advisor to the BiH President claimed that “…if you steal a car in Sarajevo you are five minutes away to get the car for free, all you had to do is to cross the boundary line.”

The conditions expressed by the EU were in this sense perfectly logical and were addressing one of the main

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255 Interview with Beriz Belkić - 27.08.2008.
problems of the policing system in BiH. The Director of Federation Police, Zlatko Militić described the division of the police forces along entity lines as a technical problem.

“… the reason I cannot accept the boundaries of the RS in this form is, well I can accept it as a political entity, but in the sense of the police, these kinds of obstacles are against the logic of policing and there are thousands of reasons supporting this. For instance we have Eastern Sarajevo, which belongs to the RS, and then we have Sarajevo, which is more than 80% of the city... I am not saying that this part of the city should belong to the Federation. But I think the international community should have pushed to create a common policing district of Sarajevo. Why am I saying this? Because out of aspects of police organisation this situation is unfeasible, it is not functional and not rational and economically unwise.”

In line with these seemingly logical arguments, Bosniak politicians were against entity policing. Obviously this attitude illustrated that they perceived BiH as a unified country in which inter-entity boundary lines were unnatural. The Serbs did not share this view and rejected prima facie the idea of abolishing entity policing. Serb politicians, however, rarely entered into a technical discussion regarding problematic aspects of the entity boundary line, insisting that problems caused by the boundary were being exaggerated. Several Serb politicians pointed out that even under the old system thieves could pass the borders of the republics or the seven districts within BiH and police officers were not authorised to enter another district without permission. The RS Minister of Interior, Stanislav Čađo, argued that this problem was being falsely presented in order to deceive people into supporting police reform, stating that “…the notion of the districts was a fiction, a trick which they sold to the people, and they would believe it without really understanding the matter.”

Representatives of the RS police, such as the previous RS Director of Police, Dragomir Andan, who had once served as Chief of the East Sarajevo Police District (Security Centre), also contested the allegation that the entity boundary restricted the work of the police.

“I remember those billboards produced by the OHR saying something about the police not being able to cross the IEBL, which was of course possible for criminals. I think that this message was incorrect. When I in 2003 became Chief of East Sarajevo Public Security Centre, I immediately contacted my colleagues from Sarajevo in order to coordinate the work. In case any vehicle was stolen in Sarajevo and brought toward Pale, the Sarajevo police had to contact us. We even signed a memorandum and we also included the Goradže

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257 Interview with Zlatko Militić - 17.06.2008.
258 Interview with Stanislav Čađo - 12.05.2008.
canton. I really believe that the entity lines were not the reason for the ineffectiveness of police structures.\textsuperscript{259}

The Bosniak counterpart of the Serb Chief of Police in East Sarajevo, the Sarajevo Canton Police Commissioner, Himzo Selimović, confirmed that the entity boundary may not have been such a great obstacle to effective policing. Bosniak and Serb police colleagues did not have any problems in collaborating, but the problem was that this kind of cooperation was arbitrary and not based on any legal obligation. In cases where personal contacts were for some reason deficient, inter-entity cooperation suffered.

“I will say in relation to the legal obligation that cooperation between Canton Sarajevo and the East Sarajevo Security Centre is outstandingly good, primarily thanks to good personal relations between me and the Chief of the Centre. … We are in contact at any time of the day when there is a need to inquire about something; when we need to arrest a person at the request of the Centre in East Sarajevo we will do so, and so on. However, all of this is on the basis of personal communication. The law does not prescribe any obligation and if the personal communication had been different, then there would not be any sanctions. If my colleagues from East Sarajevo told me to arrest a person and I refused, I would not have any personal responsibility for the refusal.”\textsuperscript{260}

The problem was, according to the Police Commissioner, that the coordination of operations was based on the goodwill of the management and was not legally binding, and it was therefore necessary to “…establish mechanisms to make this kind of operation functional and to see to it that those people who refuse will be accountable for that.”\textsuperscript{261} Serbs argued on the other hand that any attempt to unify the police forces would be cumbersome and possibly even dangerous. If one were to abolish entity policing, the constitution had to be changed, which the Martens Report foresaw. However, establishing policing districts that would overlap the entities would necessitate several other legal amendments and introduce several organisational difficulties, since the police forces had operated under different jurisdictions since the war. For example, the police operated on the instructions of the prosecutor and it was therefore logical for police organisation to follow the territory of prosecutorial offices. Having the police district overlap the entity and cantonal boundary lines would, as argued by the RS Director of Police, complicate coordination between the law enforcement and the judicial branch.\textsuperscript{262}

\textsuperscript{259} Interview with Dragomir Andan - 22.04.2008.
\textsuperscript{260} Interview with Himzo Selimović - 05.09.2008. (Selimović was in this statement not referring to Mr. Andan)
\textsuperscript{261} Ibid.
\textsuperscript{262} Interview with Uroš Pena - 16.04.2008.
Although the reform referred to concrete problems that needed to be addressed in terms of coordination and legal inconsistencies, as soon as the political negotiations had begun, discussion seems to have been driven more by ideological considerations than by the practical implications of reform. The unwillingness of the Serbs to recognise the problem of coordination and the impracticalities of not having a common structure, seemed to point to the underlying political interest of keeping control over the RS and ensuring that formal connections to the BiH state were limited. The struggle to defend the RS can thus be seen not only as a defensive stance, but also as a political aspiration to maintain control of the territory acquired in the course of the war. The Bosniaks for their part were unwilling to consider any proposals other than those that would lead to the abolition of entity structures, being solely interested in centralising and creating a common law enforcement structure. The negotiations therefore became a matter of political conflict.

Rather than of focusing on technical aspects of the reform, the negotiations became a contest fought over a number of disputable issues. One of the experts in the talks, the Director of the Police Academy in the Federation, Tahib Spajić, stated that a number of aspects of the reform were not properly reviewed and politicians and the international community “…were only interested in having the police overlapping the entity line, so they oversaw several of the practical details.”

One such technical aspect was the model of community policing which, according to a key OHR advisor on policing issues, was designed to change the direction of policing “…instead of vertically to the centre, which is the old Yugoslav tendency, it switched it horizontally to the community…” BiH Prime Minister Adnan Terzić would uniquely claim that this was the main reason he supported the reform, stating that “…if you have a board of citizens who can participate and oversee the police, then this brings a greater degree of democracy than what you had in the previous system.” However, this aspect of the reform was hardly mentioned by any of the interviewees and seems not to have been an element that was relevant as a political argument since it was not related to the identity of the police, whether Serb, Bosniak, Croat or all-inclusive Bosnian.

**Police reform as a reconciliatory measure**

When the OHR imposed the Decision launching police reform, Paddy Ashdown stated that the initiative was a direct consequence of the criticism expressed in the Communiqué of the NATO Istanbul summit, in which the RS police had been denounced as an institution that was resisting

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263 Interview with Tahib Spajić - 19.08.2008.
265 Interview with Adnan Terzić - 01.09.2008.
cooperation with the ICTY.\footnote{OHR, Press Conference: The High Representative Announces Measures against ICTY Obstructionists. 30.06.04.} Because of this, police reform would appear to be directed by default against the Serbs and favouring the Bosniaks. Bosniaks had been incomparably the greatest victims in the war and to them the RS police was associated with an institution that had been engaged in ethnic cleansing.\footnote{The most reliable figures are provided by the Research and Documentation Centre. According to their study all together 97,207 individuals died in the war. The Muslim population counted for two-thirds of the total casualties and roughly 83\% (33,070) of the civilian victims. A total 24,905 Serbs died, out whom 4,750 were civilian victims. Istraživačko Dokumentacioni Center, \textit{Ljudski Gubici u Bosni i Hercegovini 1991-1995}.} Bosniaks therefore had difficulties in accepting the existence of the RS police and they did not trust the willingness of this institution to protect returnees of Bosniak origin; nor did they believe that the RS police would ever arrest war criminals on its own initiative. To abolish the RS police and to reintegrate it with a common policing structure was thus a moral issue. The Bosniaks argued, moreover, that the reform would contribute to reconciliation and build trust and inter-ethnic stability.

“We all know the origins of the RS,” an advisor to Haris Silajdžić stated, “it was created through the process of ethnic cleansing and logically its institutions represent only one people.”\footnote{Interview with Political Advisor to Haris Silajdžić - 05.09.2008.} Former BiH President Beriz Belkić argued likewise that “…when it comes to the police of the RS, the actual name of this entity, which was endorsed in the DPA, suggests that this entity belongs exclusively to one people… and when it comes to the name of the RS Ministry of Interior it implies that we are talking about a Serb police for the Serbs.”\footnote{Ibid,} A common police structure would therefore facilitate the process of return and enable all people to feel equally secure in every part of the country. Although Bosniaks had in a political sense accepted the divisions laid down in the Dayton Peace Agreement, the peace process required the fulfilment of Annex 7, asserting the right of all refugees to repossess their property and return to their place of origin. If the multiethnic character of pre-war BiH could not be restored, then the Dayton Peace Agreement would be considered a failed agreement. This view was explicitly expressed by Beriz Belkić:

“The whole concept of the Dayton Peace Agreement was synchronised with its annexes, at least that is my view, and you would have a completely different situation if Annex 7 had been implemented and then you would have had multiethnic structures in the administration and the government and that would have relaxed interethnic relations. As long as the police are ethnically exclusive, you can always get into a situation in which you trigger distrust between people.”\footnote{Interview with Beriz Belkić - 27.08.2008.}
Consequently, if pre-war tolerance and the multiethnic environment that had existed before the war were to be restored, multiethnic public institutions representing all peoples had to be established and in this connection the police forces were particularly relevant. The police forces represented the executive power of the state and should provide security to all citizens. Despite the endeavours of the IPTF, in 2001 minority police officers in the Federation accounted for about 5% of the total, while only about 4% of non-Serb officers were employed in the RS. The only way to recreate the multiethnic structure, according to Bosniak politicians, was to reintegrate the entity police bodies in a common policing structure. It was fictional to believe, as argued by several Bosniaks, that the RS police would be interested in recruiting a proportional number of minorities that had lived in the territory that was now called Republika Srpska. Only by unifying the security architecture would citizens, regardless of ethnicity, be able to feel safe all over the country. To the extent that police reform could reintegrate the police forces and make them truly multiethnic, the reform would contribute to the reconciliation process between peoples.

Refugees of Bosniak origin were in general more interested in returning to their pre-war homes than the other two communities and had therefore a greater interest in the operation of the RS police than Serbs had in the operation of the Federation police. Some Bosniak politicians believed that since Serb politicians were interested in maintaining ethnically pure territory, the RS police force must in consequence be less inclined to protect returnees than the Federation police. As RS police had actively pursued war crimes during the conflict, it was logical to expect that they could also commit crimes against returnees after the war. However, while the Bosniaks believed that integration of the police would contribute to reconciliation, the Serbs turned these arguments around, claiming that it was too early to reintegrate the police forces since citizens still had fresh memories of the war. This fear may have dovetailed with the fact that the Serbs were in the minority and believed that the more dominant Muslim community would marginalise them. Several Serb representatives believed that premature reintegration could lead to instability rather than reconciliation. They argued that the peoples of BiH had not established mutual trust and therefore a process of integration could be counterproductive and produce dangerous outcomes. RS Interior Minister Čado insisted that the reform was simply too ambitious:

“BiH went through a war. Maybe you could have succeeded with such a police reform in a country that had not gone through what we had and where

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272 Magnusson Kjell. Attitudes and Values in Bosnia and Herzegovina.
you have greater trust between people, but you could not make it in a country like Bosnia.”

RS Director of Police Uroš Pena claimed that Serbs would never fully trust a state police since officers might be Muslim. Referring to the example of SIPA, which according to him did not carry any legitimacy in the eyes of Serbs, he said it was hard to believe that Serb citizens in the RS would have any confidence in a unified police force since “they would only trust a Serb police force.” Ognjen Tadić, an SDS party official, likewise claimed that people have a tendency to trust a police force which is seen as closer to citizens, implying that a state-level policing agency was less likely to be trusted than the entity-level police.

“Just as you have police on the street, here it is very important to have close contact with the police and this is a matter of trust and here people think it is valuable to know that they have a feeling of closeness in the decision-making, instead of having a police over which decisions are taken in Sarajevo.”

Given that police officers of Serb and Bosniak origin had been involved in the war and that many of them knew both victims and perpetrators it was unrealistic, according to RS Director of Police Pena, to integrate the police in a common structure.

“I am sorry, but this is too early. We are not ready yet. There are still Serb police officers who know Muslims who killed Serbs; they know him, they might meet him. You can’t reconcile these people by reforming the police. These things have to come naturally.”

These arguments were in direct contradiction to the perception of the Bosniaks, who were confident in the multiethnic institutions, but expressed feelings of distrust towards ethnically defined police forces. The Social Democratic Party representative on the Police Reform Commission, Damir Hadžić, argued that if BiH was to become a normal country, the police force must first of all be seen as a neutral institution and they must not be associated with a certain nationality. The fear expressed by Serbs against police forces that were not predominately Serb was manipulated by politicians and completely illogical, he argued.

“What kind of national interest is there in the demand of the Serbs to have a ‘Serb’ police in the RS. Is not the role of the police to protect every citizen regardless of his nationality? How would that Serb feel if he went to France?

273 Interview with Stanisalv Čado - 23.05.2008.
275 Interview with Ognjen Tadić - 26.08.2008.
and realised that the police force there is not a ‘Serb’ police force. He feels secure because he knows that the French police have the task of protecting every citizen. This is an artificially created fear.”

The distrust was however not only a matter of the people who were actually serving in the police forces, but also of the symbols that these institutions utilised and the concepts that lay behind the symbols. One of the advisors to the Bosniak Member of the Presidency referred to the police reform in Northern Ireland, presided over by Chris Patten, in which the Royal Ulster Constabulary had to change its name and insignia, since the Catholic population associated this police force with a time of repression. The same arguments could be made in BiH, where the Bosniak population could not trust the Serb police, which had maltreated them during the war.

“Well, you have to read the Patten Report, where he talks about the police being among the most important of state institutions. People have to have trust that the police will protect you. It is not the post office that protects you. It is the police that protects. The Patten Report goes into detail as to why the police are particularly important and why the symbols of the police are important. And the same analogy applied here, even more so. Look at the anniversary in July in Srebrenica; these people would just not like to be guarded by the RS police. I mean, that institution killed the people and that is the reason they were there to bury them.”

The Bosniaks associated accordingly the RS entity with the experience of violence and the symbols of the RS constantly reproduced a sense of insecurity and distrust, in this way emphasising Bosniak identity. These emotions were not necessarily a matter of individual experience, but were a collective feeling. Demanding the removal of the symbols of the Serb entity was thereby an element in the search for societal security. The issue of reconciliation was thus not simply about creating the conditions for return and the restoration of trust, but first and foremost about addressing things that had been done during the war. In essence, Bosniaks saw the RS entity as the fruit of the war and therefore the RS police force represented a political unit created by a crime, overwhelmingly committed against Bosniaks. This made the issue of the police particularly sensitive. Although Bosniaks had accepted the RS as a part of the constitutional structure of BiH, they did not view it as a legitimate political entity. Some Bosniak politicians, including for instance SDA General Secretary Amir Zukić, argued that the problem lay in the lack of interest on the part of the RS political establishment in facing up to the issue of war crimes. This, he said, proved that the RS is “…an

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277 Interview with Damir Hadžić - 20.08.2008.
278 Interview with Political Advisor to Haris Silajdžić - 19.08.2008.
environment created by crime, we will repeat this to the last day, but in the current constitutional structure, the RS exists."

Serbs viewed the war-crimes issue from a completely different perspective. They would not accept the notion that Republika Srpska was a creation of the war, but saw it as an entity that had been established in order to protect Serb interests in the process of the disintegration of Yugoslavia. They would, however, accept that Serbs had committed war crimes, and several senior Serb politicians recognised the need to cooperate with the ICTY. However, they did not see this first and foremost as a moral or a legal problem but as a political one, which had to be addressed if the entity was to survive. Milorad Dodik, who represented a party that had opposed the war to a certain degree, argued that it was necessary for Serbs to face up to things that had been done in the past, but he insisted that the issue of guilt had to be addressed at the individual level and could not be directed in a collective way.

"It is without question that Srebrenica is shameful, a horrible act in our view too. It is an act that burdens me as a man and as a politician and I have been trying to create a framework within which we would make it possible to depart from this horrible act. First of all we need to accept fully the legitimacy of the Hague Tribunal. The Hague Tribunal is passing judgment on individuals, not on a collective. So we are ready to find every individual who is living to be brought in front of the court."

However, Dodik, as well as other Serb politicians, would not accept the notion of the Serbs being exclusively guilty for the war and argued that Bosniaks had likewise committed atrocities. Dodik insisted that “…you cannot only talk about this (Srebrenica) and forget about the crimes committed against the Serbs. There were places where local genocide was committed on Serbs…” In this way the Serbs endeavoured to disconnect the RS entity from direct association with guilt and connection with the war and the genocide. RS Director of Police Uroš Pena argued that people would always view the war through their personal perspective and while Bosniaks carried memories of atrocities – in particular Srebrenica – Serbs remembered violence that was perpetrated against their people, arguing that in BiH “…we will always have three truths. For a thousand years we will have three different truths.” In this sense some Serbs seemed unable to grasp the immensity of the war crimes that had been committed in the name of the RS and sought to equalise these crimes with deeds committed by the other groups. This way of reasoning made it exceptionally difficult to deal with issues related to the legacy of the war and create a collective sense of justice.

279 Interview with Amir Zukić - 22.08.2008.
280 Interview with Milorad Dodik - 26.08.2008.
281 Ibid.
6.3 Police reform as an attempt to change the constitution

The fundamental issue that fuelled mistrust between the ethnic groups was how the BiH state was to be constituted, and this issue would crop up again and again throughout the police reform process. As the BiH state is the product of a peace agreement, attitudes on how the state should be organised reflected how each ethnic group viewed the war. In brief, the Bosniak political establishment argued that the RS entity is a result of the war and of genocide and consequently they saw the division of the country as an unnatural and an unnecessary evil, which they had been forced to accept in order stop the war. The full establishment of peace was thus a matter of re-establishing the pre-war structure, and the Bosniaks therefore advocated reintegration of the country and the establishment of a unified civil state. Although most Bosniak politicians had accepted the RS as a constitutional fact and would not campaign to abolish the entities, many viewed the divisions endorsed in the Dayton Peace Agreement as unjust. SDA Vice President Šefik Džaferović for instance noted that the SDA had accepted the RS but that they did not consider it legitimate since it had been created by war.

“... the DPA did not give legitimacy to the RS, it gave lawfulness to the RS. It cannot be legitimate, because it was created through war crimes, but yes it is lawful. It was accepted in the DPA in order to prevent a continued conflict and create peace. Thus the RS is not a legitimate segment of BiH, but it is lawful as of December 1995.”

The opinion of Džaferović reflected the fact that Bosniak identity was associated with the entire territory of BiH, and unifying and centralising the BiH state could thus be seen both as a struggle for justice and an aspect of the Bosniak national aspiration. Serbs believed on the other hand that the only way for the ethnic groups to feel secure within the BiH state was to allow each group to control their own territorial units, which in essence was the principle upon which BiH had been established in the Dayton Peace Agreement. The Serbs had agreed to remain in BiH as Yugoslavia disintegrated, and in return they had received a Serb semi-autonomous entity. Since Serbs considered the existence of the RS to be a matter of national interest to their ethnic group, political discussion about how to organise internal relations in BiH would always refer to the question of the existence of the entities and thus be an issue of constant dispute, souring relations between the ethnic groups.

The problem when it comes to police reform was that Serb politicians perceived the talks as a gambit in wider constitutional reform. The requirement to abolish the RS police would in this sense be interpreted as an attack on the existence of the entity as such, and Milorad Dodik among others claimed that it was obvious that, rather than being an issue of technical police restructuring, “…the principal aim of police reform was to change the internal structure of BiH.” PDP leader Mladen Ivanić stated bluntly that “…the idea was to abolish the RS police and thereafter the entity…”, claiming that the project was initiated to hinder secession. Most Serb politicians shared these views. For instance the Serb Member of the BiH Presidency, Nebojša Radmanović, stated that police reform was misused as a political project by Paddy Ashdown:

“This was a matter of changing the structure of BiH, and the police appeared as a perfect opportunity for that. This is a process that has been ongoing from Dayton and up to today and it is still ongoing. They are constantly trying to change something in order to enhance BiH in the sense of centralisation, increasing the domination of one nation. This was the case when the reform of the police was in question. No one disputes that this was initiated by Mr Ashdown, and his understanding was that this was one of the main goals of his mandate.”

The notion that police reform was really a first step in the exercise of changing the constitution may have been overwrought, but since police reform appeared to correspond to some of the main political interests of Bosniaks, it encouraged a conflicting political discourse and Serbs automatically took a defensive stance. RS Interior Minister Čađo argued that citizens and politicians saw the reform as an attempt to undermine the Serb entity given that it seemed to reflect political arguments used by Bosniaks.

“At the same time we have Bosniak politicians who are constantly speaking about both the abolition of the RS police and of the RS entity. You cannot be surprised if people connect these things. When the international community speaks about abolition of the RS police, and people perceive the ambitions of the international community and the Bosniaks as one and the same.”

Regardless of the actual aim of police reform, the conditions that were laid down by the international community did indeed seem to represent a broader reform. Although not openly stated at the time, both the leader of the Croat party, the HDZ, Bariša Čolak, who was also the BiH Minister of Security, and the Bosniak Chairman of the BiH Council of Ministers, Adnan Terzić,
would state that in the BiH context it was understandable that the request to abolish the entity police could be interpreted as an attempt to change the constitution. Bariša Čolak, even expressed some understanding of the concerns of the Serbs.

“I can understand the side of the Serbs, losing control of the police in the RS is some kind of opening for losing other attributes of the entity and therefore an atmosphere was created in the RS, particularly after the reform of the army, that they felt as though they were losing the RS completely.”

The Croats never became as intensely engaged in the police reform negotiations as the other two groups since the reform proposals were largely acceptable to them from the outset. The Croat position on this issue followed their main general political interests: they supported an integrated police structure, since the three ethnic groups would be able to wield an equal amount of political influence over the police forces. They rejected any reform proposal that would diminish the power of the Croats in relation to the other two ethnic groups by, for instance, abolishing the cantons but keeping the entities. At an early stage Čolak, as a member of the Police Reform Commission, issued a statement outlining the limits of what the Croats could accept, stressing that it was “completely unacceptable” to “…leave these principles and that we create two entity police forces. Such a solution would anticipate the future constitutional arrangement and that would be something that I would never accept.”

In this analysis the Croats, like the Serbs, feared that police reform was actually an early attempt to determine the future set-up of the country, and they opposed any discussion on policing models that envisaged a future constitutional reform that would undermine the power of the cantons.

“…I refused to accept a solution that would prejudge a future constitutional arrangement. In this proposal the cantons would lose their rights over the police. I think the cantons are simply the only units through which the Croats can ask for some kind of equality in this country… I told them this very frankly and after that we never discussed any such ideas.”

In this sense the Croats did indeed view police reform through a similar prism to the Serbs and feared that it would anticipate the future constitutional set-up of the country. This opinion was obviously not shared by the Bosniaks, who generally argued that the Serb refusal to integrate the police forces in the common BiH structure stemmed from their long-term interest in seceding from BiH. In this analysis it was important for the Serbs to control their own police forces, because if they chose to secede from BiH

288 Interview with Bariša Čolak - 03.09.2008.
289 Ibid.
290 Ibid.
the police force would be the key institution. According to one advisor to Haris Silajdžić, in such a scenario the police would be much more important than the army.

“The police is the guarantor of their ability, should they choose to exercise it at some point, to secede. There is no question about it. In fact all the wars in ex-Yugoslavia started with the MuPs. It was not the armies. It was the Croatian MuP, and it was our MuP here that was the first line of defence.”

The Serb politicians obviously did not consider the fact that the symbols of the entity as such were perceived as intimidating to Bosniaks. In fact their resolute refusal to support common state-building reinforced the suspicions of Bosniaks, who had reason to believe that the long-term interest of the Serbs was to secede from BiH. The Serbs stated, on the other hand, that the RS entity provided the fundamental protection for the Serb population in BiH and argued that the entity was, as it were, compensation for the loss of Yugoslavia. Some Serb politicians would even compare the aspiration of the Bosniaks to the behaviour of the Serbs in former Yugoslavia. The Bosniaks had failed to understand that they constituted the most numerous ethnic group in BiH and “…the only thing acceptable to the Bosniaks is a centralised BiH, without entities and obviously without constitutive people,” said Milorad Dodik. Dodik was in this sense comparing the aspirations of the Bosniaks with the political ideas pursued by Slobodan Milošević. Just as the Serbs in former Yugoslavia had rejected the proposals of the Slovenes to establish a confederation and opted for a centralist Yugoslavia in which the Serbs would dominate as the largest national group, the Bosniaks were asking the Serbs to accept a minority-status in a Bosniak dominated state.

Serb fears about becoming a minority in a Bosniak dominated state were to some extent exacerbated by a xenophobic and anti-Muslim mindset. Aleksander Milić, an advisor to RS Minister of Interior Darko Matijašević, argued for instance that memories of the Ottoman occupation were still vivid among Serbs, claiming that people “…have these reminders of how it was during Turkish rule and … there was a tendency of a superiority of one ethnicity.” Some Serbs also alluded to the supposed rise of radical Islam in the Federation and to religiously motivated terrorism. RS Minister of Interior Stanislav Ćađo claimed in this connection that Islamic movements in the Federation had added to a feeling of fear in the RS.

“Since 2000 the issue of radical Islam has been particularly sensitive in this entity. You cannot forget that people have memories of the war, although these people were rather few, they were obviously used to instill fear and

292 Interview with Milorad Dodik - 26.08.2008.
293 Interview with Aleksander Milić - 10.06.2008.
people do still have an unpleasant feeling. This issue has an effect on people and therefore they trust more in a police which is theirs...”

The Serbs opposed accordingly the creation of a common BiH police, believing that it would undermine the autonomy of the RS and their ability to protect the Serb identity community. However, the tendency of the Serb political elite to justify the defence of the entity on the basis of the public’s fear of Muslim domination indicated also an underlying political interest in territorial control rather than just a matter of identity protection. When the political negotiations on police reform began in the spring of 2005, the Serb and Bosniak political establishments not only had different interests in police reform, they each believed that the other had malevolent intentions, and this negative perception of the other group’s motives was embedded in a lack of trust. These feelings of distrust clearly affected the course of the negotiations, and they appear to have grown steadily stronger and in this sense the approach of the politicians would mutually stimulate the tendency to securitize the identity communities. Whether the politicians were exploiting these fears or whether these kinds of view represented popular feeling is difficult to say, but it was clear that police reform would provide rhetorical material for fear-driven rhetoric.

Several observers would, however, conclude that neither the Bosniak nor the Serb politicians were particularly interested in police reform as such, regardless of what kind of arguments they used. The Police Commissioner in Sarajevo Himzo Selimović, for instance argued that the main reason that the politicians were unwilling to reform the police was probably their own ties with crime, claiming that “…the people in power are not interested, because many of them have relations to criminality and they know that if you get an efficient police system this will disturb them.” In this respect he did not see any major difference between RS and Federation politicians.

6.4 Concluding summary

The political elite in BiH stood divided when the police reform negotiations began. While the Bosniak politicians perceived the intentions of the international community as well-meaning, designed to improve the policing system and reintegrate the police agencies that had been fragmented by the war, the Serb political elite believed that police reform was designed to undermine the position of the entities and thereby the interests of the Serbs.

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294 Interview with Stanisavl Čado - 12.05.2008.
295 Interview with Himzo Selimović - 05.09.2008.
Even so, the EU factor seems to have had a positive effect on the motivation of the divided political establishment, making them more inclined towards pragmatism and providing an impetus to seek a common solution. The politicians in power appear to have seen themselves as part of a greater project, to bring BiH into the EU. As a result of EU integration, the prime political interest was redirected from pure identity protection, and the pre-accession process seems to have provided an avenue out of the societal security dilemma.

The Serbs were sceptical from the outset about any kind of reform that would diminish entity authority over the police forces, but their interest in moving towards the EU made them appear willing to make concessions. Unfortunately, the conditions laid down by the EU failed to gain legitimacy among the Serb political establishment and the EU factor would therefore lose some of its potential impetus. Since some of the principles, particularly the requirement that policing districts overlap the inter-entity boundary line, bore only marginal reference, or no reference at all, to any kind of EU conditionality, the Serbs could with reasonable conviction argue that these principles were not the product of a formal decision-making process and that they did not carry proper EU endorsement. The Serbs had traditionally been unsympathetic to the activities of the international community, perceiving them as anti-Serb, but in the course of the negotiations, this feeling intensified and rendered the talks more difficult.

The Bosniak and the Croats politicians were on the other hand utterly positive about police reform and in general the initiative coincided with the interests of the main Bosniak parties. The Bosniaks argued first of all that the current policing structure was not capable of fighting serious crime. The main problem, according to them, was the lack of coordination and in this respect the inter-entity boundary line was an outstanding obstacle to efficient policing. It had enabled organized crime to flourish, and the optimal solution was to create a unified police system in which the entities would have no role whatsoever in policing. The Serbs claimed that the magnitude of this problem was inflated and argued that it was unrealistic from a practical point of view to establish police districts overlapping the inter-entity boundary line. However, the Serbs were not specifically interested in discussing the problems that actually existed in the law enforcement system. The Serb fear seems to have been that the solution to the existing problem in the policing system would be to add a hierarchy and introduce coordination mechanisms, which would, one way or another, diminish the autonomy of the entity police. In conclusion, it seems that the fundamental interest of both sides was simply to maintain or to gain greater political control.

The Bosniak political elite was also driven by ideological interests and insisted that the only way the problems of coordination could be addressed was through a territorial redistribution, refusing to consider any other solutions. They felt that police reform could rectify some of the injustices
created by the war, believing that a unified system of police would make it possible to provide better security for returnees. Above all, the proposed system would be better able to catch war criminals. Bosniaks could therefore present a persuasive argument that the current system needed to be restructured, referring to the failure of the RS police to apprehend war criminals and the poor rate of return. By creating a common multiethnic police system tensions between the ethnic groups would be relaxed and this would contribute to reconciliation. They associated the RS police with the institutions that had committed war crimes and argued that the mere existence of this police force deterred refugees from returning to their homes. Inferring that the ultimate interest of the Serbs was to secede and declare RS independence, which would lead to the disintegration of BiH, Bosniaks argued that this was the reason the Serbs were unwilling to give up the entity police forces. In essence the thinking of the Bosniaks was very much influenced by the fact that they had been victims during the war and that they had lost control of half the country, which was now Republika Srpska.

The Serbs, on the other hand, feared that by merging the police forces, the Bosniaks would be brought into a position in which they would be able to dominate and influence the police system and possibly show less interest in protecting Serbs. They therefore demanded that law enforcement be kept at the entity level. The Serb politicians argued that the proposed process of integration was premature and could lead to increased instability. They felt that the territorial unit of the RS protected them from becoming a minority in a Bosniak-dominant state. However, this defensive stance also corresponded to an aggressive political interest in maintaining control of the territory obtained in the course of the war. The political environment was accordingly permeated by a sense of inter-ethnic distrust and reflected the complexity of the societal security dilemma. Given that police reform appeared to be about how to organize the country, both the Serbs and the Bosniaks would become entrenched in their positions, fighting for the existence or the abolition of the entities.

It is certainly possible that politicians intentionally converted the police reform negotiations into a constitutional debate, but it is also the case that the European principles gave them the ideal material to do this. The requirements were designed in such a manner that they appeared to be aspects of a constitutional debate and the police reform negotiations thereby tapped into a conflicting political discourse and exacerbated tensions between the groups, engendering a climate in which it became very difficult to reach a solution and in which any mutual trust that had existed between the groups was undermined. Both sides referred to the existence of insecurity and fear among their constituents and in this sense the issue of law enforcement reform would have, at least at the political level, a direct reference to the issue of identity protection.
Part III. The Police Reform
Negotiating Process

“Police reform as a condition of the SAA was probably the worst mistake we have made for this country... The problem with police reform is that we told them to give 100. They gave 2 and we say that is ok..., because you will have to enter together with Serbia, whatever will be done at the time, the EU will find a solution. This is probably the way they think, because they have experience with this.” (Interview with Vincenzo Coppola - 03.09.2008)

*The Head of the EU Police Mission, Vincenzo Coppola, commenting on the tendency of the international community to lower the requirements in the police reform negotiations.*

“What they have right now, if I had proposed it to the Serbs back in those days, they would have put up a statue of me in Banja Luka.” (Interview with Adnan Terzić - 01.09.2008)

*The Chairman of the BiH Council of Ministers, Adnan Terzić, commenting on the final agreement on police reform.*

“The other mistake was that the reform created such high expectations among the Bosniaks. They had hopes that the state would be enhanced, but the notion that the RS police would be abolished, this was something they had not been able to imagine. After this had been proposed, they would never go below it.” (Interview with Mladen Ivanić - 31.03.2008)

*The leader of the PDP, Mladen Ivanić, arguing that the ambitious conditionality in police reform raised expectations among Bosniaks, making it difficult to reach a compromise agreement.*
Political developments in 2005 were dominated by the progress of the police reform negotiations. In the autumn of 2004 the Police Reform Commission had failed to reach agreement on a common model, and the BiH political establishment and representatives of the Office of the High Representative and the Delegation of the European Commission were from early spring until late autumn 2005 continuously engaged in consultations on police reform. Not until October 2005, when the key Serb politicians met secretly with the principal representatives of the international community and accepted a compromise agreement, would the European Commission allow BiH to begin negotiating a Stabilisation and Association Agreement (SAA). However, the compromise agreement was only an agreement on the principles for further talks. In order to sign an SAA with the EU, BiH had to reach an agreement on a final reform proposal and the talks therefore continued for the whole of 2006. Not until the end of 2007 could the politicians then in power reach an agreement on police reform, which was adopted in April 2008. This chapter will look at the first phase of the negotiations, lasting until the October agreement, analyzing the dynamics of the talks. It will describe the methods applied to cajole the parties into accepting a compromise and identify the responses that the conditions and the negotiating techniques triggered in the local political establishment.
7.1 Defining the framework of the negotiations

The police reform negotiations began in autumn 2004 with the consultations in the Police Reform Commission. During these talks the international community defined the conditions for reform and eventually presented a final proposal, the Martens Report. Looking at the negotiating process it seems that the international representatives in the Commission did not initially try to impose a model of reform, but rather sought to mediate on the basis of criteria determined at the outset. The requirement that had been formally pronounced at the start of the process did not predetermine a specific model of policing. The Feasibility Study referred to the need for structural reform and the necessity of enhancing state-level agencies. The subsequent OHR Decision establishing the Police Reform Commission, instructed the politicians to find a model that would create a single structure of policing under the overall political oversight of the Council of Ministers, yet these instructions did not necessarily require the domestic parties to abolish the entity or cantonal police forces.\textsuperscript{296}

The OHR Decision did ask the Police Reform Commission “…to make a recommendation to create a single system”, as explained by one OHR official, “it was predetermined that it would be just one system and that it would eventually be under the state ministry, but from the beginning nothing suggested that the IEBL would need to be crossed.”\textsuperscript{297} In this regard there was a substantial difference in the initial requirements, calling for the creation of a common structure under the supervision of the state and the EU principles determined later. According to one senior OHR official the international community sought to keep an open approach in the initial meetings of the Commission, assessing the political readiness and allowing the local politicians to find a model of reform acceptable to all.

“Paddy was the type who wanted to know the outcome before we even started, and on this one, we argued very hard from an intellectual point of view. Please, Paddy, do not predetermine this one, let it play out. Let the Commission do this one. Because policing is a bit different than the army. Everyone can agree that there needs to be one army, you can’t find any other example in the world with two armies. And the same for intelligence. But police is not like that. So we said, let’s see where the balance ends up. So that is why for instance the three principles are not in the High Rep’s Decision. They did not exist at that time. In the beginning of police reform, I believed that we would end up with just a redistribution of duties between state and local.”\textsuperscript{298}

\textsuperscript{296} OHR, Decision Establishing the Police Restructuring Commission. 02.07.2004.
\textsuperscript{297} Interview with OHR Official - 06.04.2008.
\textsuperscript{298} Interview with OHR Official - 04.04.2008.
The initial meetings of the Police Reform Commission were reportedly quite constructive and it seems that all the members were working in a common cause. Some of the international representatives were even surprised by the way Commission members expressed an understanding of the need for reform. In the first two months of talks it was concluded that BiH was to be regarded as a common public security space, that police legislation and the budget were to be organised at the state level and that policing was to be conducted at two levels, “national and local”. At the fourth meeting in October a concept paper on single policing structures in BiH was presented by the Chairman. The concept paper suggested a model of policing that diverged in several ways from the existing structure. Political oversight was taken from the entity and cantonal Ministries of Interior to the state Ministry of Security, and the entity and cantonal police bodies were to be dissolved and reorganised in a small number of districts following the boundaries of clusters of municipalities, overlapping the inter-entity boundary line. Although the concept paper was not a fully elaborated proposal, the main ideas that would remain in the final product of the Commission had now been laid out on paper. The reactions of Commission members were evidently divided. While all the representatives from the Federation expressed full support for the concept, the Serbs responded negatively. The two representatives of the RS, the newly appointed RS Minister of Interior, Darko Matijašević, and the RS Chief of Police, Radomir Njeguš, very demonstratively expressed their contempt by walking out of the meeting together.

Judging from the recollection of some of the participants, the tension that now appeared in the discussions significantly affected the direction of the negotiations. One OHR official explained that at the third meeting, when the representative of the RS government, Prime Minister Mikeljević, was replaced by the newly appointed Minister of Interior Matijašević, the premise of the talks changed noticeably. Matijašević applied a fundamentally different approach from the Prime Minister, refusing to discuss anything that would impinge on the autonomy and competence of the RS police force. This approach would severely undermine the work of the Commission and make it extremely difficult to maintain a constructive dialogue.

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301 Ibid, The concept paper was criticised by Commission member Ranko Karpetović, who was the Mayor of Laktaši (SNSD). The other Serb representative of the District of Brčko and the Serb Director of SIPA, however, commented positively on the concept paper.
302 The Minister would later claim that he was protesting against the fact that the concept paper had not been handed out before the meeting. Potter William, *A Bosnian Diary – A Floridian’s experience in Nation Building*, p. 206 f.
“In Mostar, one month later, we got a new Minister of Interior. And from the very start of that meeting we got one word. No! From the first second, from the first second of his first minute of his first meeting... 'you cannot speak of this issue because my constitution forbids me to speak of this issue, under criminal sanctions.’ This is childlike behaviour. It is not real world serious business stuff.”

The inflexible approach of the Serb representatives clearly damaged the discussion and upset several of the participants in the Commission. BiH Minister of Security Bariša Ćolak claimed that Minister Matijašević had operated intentionally with the aim of wrecking the negotiations, refusing to accept anything that was proposed by other members.

“…you had a person like Mr Matijašević... I could not really understand his approach. We could be discussing for hours and hours and we came to a rather acceptable solution and then he would suddenly say ... Well if you accept this, then it is better that you just accept my proposal. It is 80% in accordance with your proposal, when in reality it was only 5% in compliance. This kind of behaviour made it very difficult.”

Even some of the Serb experts involved in the first series of talks confirmed that the atmosphere in the Commission turned less constructive when the new RS Minister of Interior was appointed, although they stopped short of suggesting that the change of atmosphere was caused by the appointment of the Minister. According to OHR officials, the approach of the Serbs created great frustration among the international experts. The original tactic, seeking a balance between the parties, could only be effective if the local participants were truly engaged in the process and offered proposals that would allow the Commission to come up with a model acceptable to all. At this stage the High Representative concluded that the only way to bring the Serb representatives closer to the core EU conditionality was by narrowing the room for compromise. Responding to the obstruction, the High Representative introduced the three concrete principles.

In this sense the conditionality was part of the negotiating tactic in response to the unwillingness of the Serbs to discuss substantial aspects of the reform. The behaviour of Minister Matijašević was, as explained by one OHR official, “…the genesis of the three principles. The three principles is a reaction to the current state of affairs.” Discussion would consequently have to be kept within the very narrow scope set by these principles. In other words, if the principles had been more flexible, the Serbs would have fought for more ground, distancing themselves from the required police reform model.

304 Interview with Bariša Ćolak - 03.09.2008.
305 Interview with RS MoI Official - 08.04.2008.
“…largely this was a political reaction to a certain aspect, but drawing on these working groups, to Matijašević. He was part of the product by his behaviour, by pushing the edge out… it was all about counter-reacting Matijašević’s position, which was only creating distance. You cannot come to him, then you have to go all the way, and that was not possible. He is not going to move an inch. So the natural political reaction, you increase the distance, then one of us would have to fall in between, (so) … When the opposing position is zero, you are one hundred. Certainly Paddy Ashdown, a star negotiator, would certainly not walk in and say, ok 75. Because then it is 50 and then it is 30.”

In effect the international experts believed that the Serbs, despite their obstruction in the Police Reform Commission, understood that the desire of ordinary citizens for EU integration exceeded their interest in keeping the entity police forces. The obstructing politicians would therefore eventually need to deliver the required reform. By determining a rigid set of criteria, the Serbs would thus need to move closer to the proposals of the international community. However, from this moment on the scope for compromise was significantly curtailed and the negotiation was no longer a matter of seeing where the balance ended up. The third EU principle, requiring the districts to overlap the inter-entity boundary line, narrowed the room for discussion and made it quite impossible to allow a system comprising police authorities at the entity level. The international community thus abandoned the open approach initially applied, predetermining the essential elements in the final model, and thereafter the terms of negotiation would significantly change. By applying this strategy, it appeared as if the international community was no longer aiming to mediate between the parties, but had become directly involved, crafting and imposing the actual conclusion of the talks.

Although the uncooperative behaviour of one Serb representative seems to have made it difficult for international representatives to keep an open approach in the negotiations, it is unlikely that Matijašević was operating without instructions from the RS government. According to the RS Prime Minister who appointed Matijašević, his views represented the position of the RS government and were not his private views, although he would add that “…I do not know how he presented these views, whether he annoyed the others or not, that I don’t know.” RS President Dragan Čavić argued that the Serbs had not intentionally obstructed the work of the Commission, but simply resisted the ambitious proposals promoted by the international community. The proposals outlined in the concept paper were totally unacceptable to the Serbs, Čavić said, and as a reaction they began to take a defensive stance. Furthermore, Čavić claimed that Darko Matijašević had appeared in the Commission at a stage when the international community had already presented the proposal to create a common system of policing,

308 Interview with Dragan Mikerević - 16.04.2008.
which would lead to the abolition of the RS police, and in this sense the allegation that the EU principles had been invented as a response to Serb obstruction was, according to the President, unsubstantiated.  

Regardless of the origins of the EU principles, it is clear that once they had been determined, the negotiations would take an entirely different direction. When the EU set out the principles, implying the abolition of the entity police forces – an initiative evidently far beyond what the Serbs could be expected to accept – discussion became further restrained, and the Serbs were less inclined to engage in the process. Since the technical criteria, which had already been formulated before the political negotiations had seriously begun, none of the parties was willing to trade off interests and there was an imminent risk that the parties would become entrenched in defensive positions. This negotiating strategy could thus be counterproductive and instead of bringing the parties closer to the position of the international community it risked pushing them further away from each other. The incumbent RS Director of Police, Uroš Pena, who was a member of one of the committees reporting to the Police Reform Commission, claimed that it was pointless after this for Serb experts to participate in the process, since the suggested concept of the reform was unacceptable to their political establishment.

“If you and I are speaking, and you come with an appeal from the European Commission that you want to establish a unified police, what shall we then talk about? I will simply not talk to you if that is what we are supposed to discuss. Well, we can speak on that theme, but the concept is completely unacceptable to me. I will not accept such a police, so why talk?”

Some international experts, such as Raffi Gregorian, who in 2005 was Chairman of the Defence Commission, agreed that the negotiating strategy undermined the prospect of reaching an agreement. Defence reform, in which the first phase of negotiation had been concluded in the spring of 2004 and which was reinitiated in November 2004, laid out a set of similar reform requirements to establish a common defence structure under the supervision of the state. The reason defence reform successfully reached a compromise was, according to Gregorian, because it had formulated a weaker set of conditions at the outset. Once the international community had declared conditions in the police reform process that were in direct contradiction to the prime interest of the Serbs, it was practically impossible to encourage them to take part in a constructive negotiation.

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309 Interview with Dragan Čavić - 25.08.2008.
311 In the final report the members of the Commission proposed that the army be made up of ethnic components, although it was to operate under the supervision of the Council of Ministers and the BiH Ministry of Defence. OHR, *Final Report of the Defence Reform Commission*, 2005 October.
“If defence reform would have started out with the statement, ‘there should only be one army in BiH’, then it would probably not ever have happened. But I was very clear not to say any such things… well after political consultation I came up with what I thought were all the common agreeable denominators for all the parties. The army should be affordable, it should be structured in a way to meet the needs of the state, it should be under democratic control etc. Things that everyone could agree to… Plus we had trade offs. The Bosniaks wanted, as did the Croats, a state army. The Croats wanted their own ethnic component, all right… The Serbs wanted abolition of conscription because they were afraid of an armed superior Muslim population. Trade them off and you get a single army…When it comes to police reform, once Paddy had framed this as an issue of crossing the inter-entity boundary line, which was presumably exactly what the Bosniaks wanted, it was a lost cause.”

A similar view was expressed by the Head of the OHR Banja Luka Office, Graham Day, who argued that it was simply impossible to get a deal on police reform if the conditionality was clearly in contradiction to the vital interest of the Serbs, leaving nothing for the politicians to negotiate.

“Well, if Paddy really wanted to have a deal he could have had one. But he was never prepared to negotiate. He believed he had the perfect technical solution on paper. So why discuss these details any further… More sugar and less pressure, this was the lesson Paddy would never learn. He did not understand that if you want a political deal you need to use sugar as well as the stick. He should first of all have gone to the Serbs and said; ‘OK what do you want?’ Would you like the centre of police in the RS? Would you like this and this. And then he should have gone to the Bosniaks and said, look, you would get your unified police, I mean, that is your main aim, but you will have to pay for it. It will cost this and this. That’s how you make a deal.”

Some OHR officials believed, however, that the request to have police districts crossing the inter-entity boundary line was simply a bargaining chip, which could be given up later in the process in order to have the Serbs accept other relevant aspects of the reform. One OHR official stated that many people within the OHR “…thought it was more important that the system was streamlined and that the regions were a political bargaining chip.” They did not believe that the international community would insist on this issue when the political leaders eventually sat down to negotiate a final agreement.

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312 Interview with Raffi Gregorian - 02.09.2008.
313 Interview with Graham Day - 26.03.3008.
314 Interview with OHR Official - 06.04.2008.
7.2 Persuasion as a method of negotiation

When the Police Reform Commission completed its work in December 2004, the key Serb politicians seemed to be united in their opposition to the concept of reform outlined in the Martens Report. The prospect of forging an agreement upon the proposals of the Commission or at least reaching a compromise that would be acceptable to domestic politicians and the international community did not seem to be bright. The High Representative had evidently realized that the unwillingness of the Serbs to make concessions would require rather specific negotiating arrangements. Seemingly inspired by the talks in Dayton, Ashdown chose to set the first phase of the political negotiation in a hotel in an isolated location on Mount Vlašić, a small ski resort in central Bosnia. All the leaders of the eleven BiH parliamentary parties were invited and the expectation was that the representatives would not leave the hotel until they had reached an acceptable compromise on police reform.

The talks were preceded by intensive public advocacy and an outreach campaign that sought to explain the police reform concept. One TV-spot produced by the OHR showed police officers running into an invisible wall resembling the inter-entity boundary line as they tried to catch some sinister looking thieves. In the media it appeared as if the talks in Vlašić were the decisive moment when the politicians would open the door to the EU. On the first day of the meeting, Chairman of the Council of Minister Adnan Terzić described the atmosphere created in advance saying that, “I don’t see this meeting as a consultation about how the police should look. I see it as a discussion on whether BiH should join the European process or not.”

It was expected that the politicians would not want to leave the negotiations without concluding an agreement. Obviously, none of the participating politicians wanted to be labelled as the person who had condemned BiH to a future outside the EU. However, the question of whether BiH was to begin the EU integration process or not was still expressed as a matter of accepting the EU police reform principles. On this issue the position of the Serbs was solid and RS President Dragan Čavić stated ahead of the talks that he would “…support only that reform that stipulates the existence of the RS Ministry of Internal Affairs and the preservation of the constitutional order of the RS.”

315 The talks were intended to last for three days and the party leaders of the SDS, SNSD, PDP, DNS, SDA, HDZ, SPRS, the Centre Club, SBiH, NH1 and SDP were invited. The talks were isolated in Hotel Pahuljica and no journalists were allowed into the compound.
Consequently, the parties entered the negotiations with quite different expectations. The international community saw these talks as a continuation of the Police Reform Commission and an opportunity to adjust the Martens plan to “…make it acceptable for the RS.” However, RS President Ćavić, who would be the key Serb player in Vlašić, claimed that this paper could not be the starting point for discussion as the Serbs had already rejected Martens’ plan. The talks were as expected extremely tense and Ćavić later described them as the worst “negotiations in my whole life.” Nevertheless at the start of the meeting the High Representative tried to encourage the participants to discuss the reform openly, saying that the negotiations should not be between the international community and the domestic politicians, but among the politicians themselves. The essence of the meeting, he added, must not turn into a matter of “Republika Srpska against the rest”.

Judging from the transcripts of the recordings from the Vlašić negotiations, a great part of the meetings took place without any active participation by the international representatives, and the participants seriously tried to reach certain compromises. When the politicians were allowed to discuss the reform without touching on the sensitive aspects of the principles, they appeared to make some progress, discussing ways of engaging the entities in decision-making and oversight of the activities of a state-level police force. Unfortunately, the talks entered an impasse as soon as the discussion returned to the issue of territorial distribution of the districts. With little expectation of reaching any agreement, Chairman of the Council of Ministers Terzić opened the afternoon session on the last day of the Vlašić talks. At this session, participants were supposed to talk about the districts without the participation of the international experts. Terzić began by saying, “…and now to the drama scene. Should we call the international community? Anyway, I assume they are listening, but maybe it is better if they also come and watch us now…” The subject under discussion was, according to Terzić, a hurdle impossible to overcome.

“I and Ashdown would chair the meeting in April 2005 in Vlašić when we were trying to reach an agreement and we came to an agreement on the organisation, but Ashdown, and there was also Haner and Humphreys, did not want to accept my suggestion that we would not speak about the districts at this moment. Because when you sit down in BiH and start to draw maps the blood is rising, not to mention how the political views contradict. The aim

318 Interview with OHR Official - 06.04.2008.
319 Interview with Dragan Ćavić - 25.08.2008.
320 Ibid.
321 Vlašić Pregovor Stenogram (radni prevod) Ponedeljak 25 april 2005. (My conclusions are drawn from the transcriptions of the recording from the talks from the meeting.)
322 Ibid. Most of the meeting took place without the presence of international representatives. “A sada spektakl. Hoćemo li pozvati Međunarodnu zajednicu? Oni I onako slučaju; možda je bolje ako nas i vide…” (smijeh..) (Adnan Terzić)
of Ashdown to define the district overlapping the inter-entity lines destroyed the overall project.”

Interestingly, during the talks in the hotel on Vlašić, representatives of both the Bosniaks and the Croats realised that it would be impossible to find a common agreement on the geographic distribution of the districts and tried to convey this view to the international representatives. The Bosniak Chairman of the Council of Minister, who was also a deputy President of the SDA party, seems to have been one of those desperately trying to persuade the OHR and EU representatives to change their mind. Terzić describes how the politicians on the second day suddenly managed to turn a stalemate into progress when they negotiated the organisational aspects of the reform without the presence of representatives of the international community.

“…by that evening we would find an agreement on the complete structure and organisation. We agreed on all this. We made a pause. Paddy came up to me and congratulated me on the progress. He said thanks a lot. You completed almost 80% of the job, now we just need to complete the regions. Then I said to Paddy, Haner and Humphreys, no, let’s not enter that issue. Let us just complete this. The most important is the organisation. Why would you like to have an agreement on the regions now? Leave that for later... No, he said, everything is going fine. Then I told him. Look, my son is ten years old. If he has a temperature, I cannot give him the whole pill, because he cannot swallow it. But they refused to understand and that was when the reform fell apart. They refused to understand that we at that point had reached a maximum above which we were not supposed to exceed.”

Terzić’s attempt to persuade the international representatives to postpone discussion of the districts to a later stage was allegedly supported by both the Croats and the Serbs. For instance, the Croat Minister of Security, who was also the President of the Croat Party HDZ, claimed that at one point he tried to talk Ashdown into changing his mind.

“Looking back at the process, I think the main problem was this third question, the police districts. Regardless of various disagreements or lack of complete consensus on other issues, I think this was something that we simply could not decide on... I remember I spoke to Ashdown, I told him that the only possible solution would be to allow the regions to follow the entity line... I was in agreement with Terzić who was trying to persuade Ashdown to leave those issues for later.”

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323 Interview with Adnan Terzić - 01.09.2008. (Michael Haner was the head of the OHR Police Reform Unit and Michael Humphreys the Head of the EC Delegation)
324 Ibid.
325 Interview with Bariša Ćolak - 03.09.2008.
According to RS President Čavić, he and Prime Minister Terzić at one point made a common effort to persuade the internationals, stating that the participants could possibly reach a compromise solution if it were not for the districts, although he acknowledged that there were several other difficult issues on which the participants disagreed.

“Teržić was totally aware that it was too ambitious. He proposed in those days that, 'come on, let’s skip this thing about crossing the entity line…’ Then we pushed a lot together to come to a common solution and these reforms were to a large extent led by him and me. The total situation was completely absurd… I consider that it could have worked if Ashdown had not insisted on that version which required defined police districts that would overlap the IEBL. Well it was not only him, but also all the others from the EUPM and the international community. It was requested to such an extent, without any estimation as to whether it would be accepted or function in substance.”

The talks in Vlašiće were consequently not simply a negotiation among three parties, but from the perspective of the international community, the aim of the negotiations was to persuade the parties to sign up to the initial reform proposal. Regardless of the compact resistance of the Serbs against the third police reform principle and also the pledges from Bosniak and Croat politicians, international experts insisted on this principle. Although the Serbs had not accepted the police reform model presented by the international community, they had indeed shown willingness to concede on several important aspects of the general concept. International experts seem to have developed a feeling of ownership of the proposals, which they had designed in the Police Reform Commission, and in consequence they appear not to have been interested in accepting any substantial compromises to the initial concept. Some of the international representatives, such as the Head of the EU Police Mission, Kevin Carty, even refused to accept any changes to the organisational aspects of the Martens plan, claiming that the compromises that were discussed by the domestic politicians diverged too much from the original Martens proposal.

Indeed, the international experts gave the impression that they believed the Serbs were not interested in reforming the police at all and would therefore only accept minor changes that would fulfil the minimum EU criteria. If the international community gave in on certain principles, this view held, the Serbs would never be ready to return to the general concept. According to this logic, the talks would always be an incremental process in which the parties would step by step give in to the pressure of the

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326 Interview with Dragan Čavić - 25.08.2008.
327 Interview with OHR Official - 04.04.2008. “Carty (The Head of the EUPM) was against Vlašiće. He thought it was too loose. He thought it would give away too much authority to the entities. … it was too much and Paddy said; 'come on, chill out’.”
international community. Given that the Serbs had moved from a position in which they were not accepting anything at all, arriving at a stage when they were seemingly ready to accept almost everything except the issue of the districts, several OHR officials believed that an agreement could be reached if they just kept pushing. The negotiation was thus a linear process, which developed from a position of complete rejection to a point where the Serbs would essentially accept the general reform with some compromises. In this sense several OHR officials seem to have regarded the talks as a process of persuasion rather than a negotiation among the various parties. Some were convinced that at the end of the day the domestic political elite would prefer to accept any deal in order to stay in power and thus they would eventually succumb to the pressure of the international community.

“We went through this process and I personally think we came very close. I think we just made a royal fuck up by not locking the door and forcing them to sign that piece of paper. They agreed to cross the IEBL …They agreed to go across the bloody IEBL.”

The purpose of the Vlašić meeting was thus to give legitimacy to the police reform model, rather than a process in which the parties would find a commonly acceptable proposal. Moreover, many OHR officials, as well as the High Representative, were obviously convinced that the model proposed by the international community was thoroughly developed and an ideal solution, and any additional compromises would thus only make it flawed and less functional.

“The answer is that you will only have one chance to do these things, and you might want to do them right. My view has always been, you take risks to get it right, rather than cave in at the earliest opportunity. The people who were saying, it will be much easier if you keep this and let the rest be… Yes much easier if Bosnia remains broken and dysfunctional.”

“…you do not start off a plan and then say let’s change our mind and say, they will not do this. And then you set off something else. Once you’ve started, it is a question of doing everything you can until it is really adopted. But you do not start a process and then you say, hmm well, this is not a very good idea.”

The approach of the international community seems moreover to have been affected by a biased perception of its domestic counterparts. The international community was not willing to enter into a discussion based on ideas conveyed by local politicians, since they believed that the sole interest of the domestic political elite was to protect and promote their private

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328 Interview with OHR Official - 23.05.2008.
329 Interview with Paddy Ashdown - 25.06.2008.
330 Interview with OHR Official - 23.05.2008.
political agenda. This notion of the other as an untrustworthy partner made it impossible for international representatives to take a neutral role and made them inclined to impose a readymade proposal rather than facilitate the making of common agreements. The Serbs felt on the other hand that the international community had a hidden agenda, to eliminate the entities from the political map, and they were therefore reluctant to make any concessions that seemed to move in this direction. This lack of mutual trust made the talks extremely difficult and it was, according to then Deputy High Representative Graham Day, quite impossible for the High Representative and the key Serb politicians to speak openly and reach out to each other.

“Furthermore, when Čavić or Mikerević would come and tell him about the political reality as they saw it, he (Ashdown) would not believe them. He thought they would tell him these ideas to advocate their own political agenda. There was an inherent distrust between them.”

When the meeting in Vlašiće ended, a joint commission was established which was to draft proposals on the territorial structure. The proposal of the commission was to be presented before the final meeting, which was to be held in mid May in Sarajevo. However, the talks in the commission became a repetition of the performance at all the previous talks. When the politicians reconvened in the Konak building in Sarajevo, the official government guest house that had previously been used by distinguished visitors such as Marshal Tito and Archduke Franz Ferdinand, the commission presented three different maps. The meeting became once again an exercise in persuading the Serb parties to accept a territorial distribution of districts that would cross the boundaries of the entities. The Serb representatives, however, refused to accept any compromise on the matter, insisting that such an arrangement necessitated a decision of the RS National Assembly. Consequently, the talks proceeded without any agreement and when the Serb delegates rejected a draft joint statement, Paddy Ashdown proclaimed the meeting a failure. Several observers argued accordingly that after talks in Vlašiće and Konak “…the hope of reaching an agreement was more or less gone.”

Although the talks in Vlašiće had not produced any concrete results, it was obvious that the politicians felt the pressure applied by the international community and were interested in finding an agreement in order not to be blamed for depriving BiH of EU membership. After the meetings in Vlašiće

331 Interview with Graham Day - 26.03.2008.
332 The Serb-supported proposal consisted of 10 districts within the entities plus Brcko. The Croat-supported proposal consisted of 9 + 1 districts, while the Bosniaks preferred to divide the country into 5 districts. Zaključak: Pregovori oko Reforme Policije, Konak, Sarajevo 16 maj, 2005 godine. (Internal SDS Documents)
333 Ibid.
334 Interview with Graham Day - 26.03.2008.
and Konak the final word on police reform was, however, deferred to the RS Parliament, the National Assembly, which was to decide whether the government would be authorized to accept the police reform proposal in accordance with the Martens Report. When the RS National Assembly was convened on the last day of May, the RS President delivered a speech in which he tried to sell the EU principles, presenting the compromise solution discussed in the Vlašić negotiations and suggesting that the overlapping of the entity border could be accepted, but exclusively as an exception at places where technical arguments were convincing. His overture did not win any sympathy among the delegates, who, with the exception of the 14 delegates from minority parties, voted against police reform. Instead, the RS National Assembly adopted a conclusion, which emphasized that no model of organization in which local police regions overlapped the inter-entity boundary line was acceptable to the RS.  

The talks resumed at the end of the summer and the politicians took part in several separate meetings in various locations in BiH. At these meetings Adnan Terzić made one more attempt to promote a compromise in line with what had been discussed in Vlašić and he even prepared a concrete proposal for the Council of Ministers, suggesting that certain competences, such as financing and police management, would be transferred to the state level immediately, but deferring the sensitive issue of the districts to be decided by state-level agencies. This compromise proposal was nevertheless voted down by the RS National Assembly on 14 September.

### 7.3 Agreements without any agreement

Despite the endless talks on police reform during 2005, international representatives and domestic politicians had serious difficulties in finding common language on several of the basic issues at stake. Although all the political representatives present at the Vlašić meeting expressed support for the three EU principles, it became clear that they interpreted them differently. The international representatives and the parties from the Federation seem to have had an unambiguous understanding of the principles, claiming that they implied the abolition of the entity structures.

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335 The proposals were presented in a speech by President Čavić, in which he reviewed the reform process to date. Govor Presednika Republike Srpske – Posebna Sjednica Narodne Skupština republike Srpske, 30 maja, 2005 godine. EU principles on police reform rejected, Dnevni Avaz. RS Assembly for isolation Nezavisne Novine, 30.05.2005.  
336 The meetings took place in Mrakovica on 17 August, Huto Blato on 23 August and Bjelašnica on 30 August.  
337 Defining of police regions will be postponed, Nezavisne Novine, 25.08.2005.  
The Serb parties stated that they were not against the establishment of a unified structure, and the RS President said he accepted the three principles, but claimed at the same time that all three principles could be interpreted in two or three different ways and that “…functional efficiency can be reached within the entity.” In response to this statement, the High Representative declared that this interpretation of the three principles did not meet the requirements of the EU and if the Serb politicians had no interest in departing from their position, then they might as well “go back home”.

Moreover, all the participants in the talks viewed the progress that was being made and the prospect of a breakthrough in a different way. Despite the intense resistance, the international experts appear to have been driven by a notion that the domestic politicians would eventually give in and that progress could be achieved simply by continuing to apply pressure. As discussed earlier, several of the international experts believed for instance that the Vlašić negotiations could have been successful if the talks could just have lasted for one more day. Some of the Serbs actually showed a readiness to accept certain compromises on the districts in order to move out of the deadlock. At one point, the leader of the Serb opposition party, Milorad Dodik, began to talk about alternative solutions, saying that he could allow the districts to cross the inter-entity boundary line at a few places, such as Sarajevo and Brčko, where this kind of organisational arrangement obviously made sense. Some internationals read these statements as an indication of the readiness of the Serbs to give in.

“Dodik agreed to most of the issues in Vlašić. Everything. The only thing he was insisting on was that instead of Tuzla being head of that region, Bjeljina should be the centre.”

On several occasions the SNSD opposition publicly announced their readiness to accept a policing system overlapping the inter-entity boundary line. A few weeks after the RSNA’s rejection of police reform, Krstan Simić, a member of the SNSD Presidency, stated that although they “…still believe that the entity borders should be the primary principles… we also think that this principle could be violated if, and only if, it is absolutely necessary.” However, even thought the leader of the opposition was showing a willingness to compromise, the governing Serb party stood firm. Consequently, the Serb politicians participating in Vlašić in their hindsight assessments of the talks did not share the optimism expressed by some of the international experts. The Minister of Foreign Affairs at the time Mladen

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341 Ibid.
343 OHR Media Summary, 06.07.2005. (Broadcast on BHT)
Ivanić, who was present at Vlašić in his capacity as leader of the PDP, claimed that Serb politicians gave the appearance of being willing to accommodate the interest of the international community in order to avoid responsibility, but all of them knew that they would not be able to persuade the RS parliamentarians to adopt any of the compromises suggested by the international community.

“…everybody just longed for this thing to fail so that they would not be held responsible… Look, there was no one who was ready to accept the abolition of the entity police. In reality, none of us were ready to accept, no one had a mandate. I did not and I know that Čavić did not have any support. In fact we were trying to avoid responsibility. It was more a matter of who would be responsible for rejecting it and not a matter of whether it will pass or not.”

Although nothing was formally agreed on Vlašić, Ashdown claimed after the meeting that the participants had been moving in the right direction, saying that the first phase of negotiations had been completed, and now “…a second and final phase will resume when a final agreement should be reached on police maps.” In a highly positive accent he stated at the press conference that “…prior to Vlašić BiH had 13 police forces… while now we have one police force, one emblem, and equal pay.”

Certainly, the talks had produced ideas of potential compromise solutions, such as a police board and a proposal to give the entity parliaments a role in the appointments procedure of Police Directors and in supervision. Some of the participants in the talks, such as Dragan Čavić confirmed that they had been constructive, stating that “…there was a common statement concluding the talks on the various possible compromises, but not an agreement.”

The SDP representative, Damir Hadžić claimed however that they had left Vlašić with a confused feeling, since Ashdown and Terzić had proclaimed the talks a success even though nothing had been agreed.

“Unfortunately, when we were up there at Vlašić, Terzić and Ashdown proclaimed that the talks were a successful start of the negotiation of police reform. That was not true. We had no agreement in the official meeting, but maybe they sat down and came to an agreement themselves. We all asked ourselves, what was it that we had agreed upon, and the only ones who really knew were Ashdown and Terzić.”

Interestingly, all the participants came to rather different conclusions about the merits of the compromises proposed at Vlašić. Leaving the Vlašić hotel

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344 Interview with Mladen Ivanić - 31.03.2008.
345 BiH will get one police, Dnevni Avaz 29.04.2005. Remains of communism were erased from the police, Dnevni Avaz 30.04.2005.
346 Interview with Dragan Čavić - 25.08.2008.
347 Interview with Damir Hadžić - 20.08.2008.
SNSD leader Dodik expressed optimism about the efforts made to reach a compromise on the Police Board, declaring triumphantly that “…bearing in mind the fact that the RS Interior Minister would be the member of the Police Board and would decide on police budgets and appointments, it means that the RS Ministry of Interior survives.” The SDS also presented the compromise proposal discussed at Vlašiće in a favourable light, but stressed that the party had stated at the Vlašiće meeting that they would not accept any changes to the constitution and that they would only agree to arrange police districts within the framework of the entities. The differing interpretations of the content of the talks became a significant problem when the final police reform agreement was concluded in October 2005. Then it became apparent that the conclusions of the international community and the domestic political elite on the implications of the agreement were poles apart. This was extremely problematic since the agreement was to form the basis for the final police reform model.

When the RS National Assembly rejected the police reform agreement for a second time in September, the parties became deadlocked. Seemingly aware of the limited space for manoeuvre, President Čavić contacted opposition leader Dodik to discuss police reform in private. Desperate to find a way out of the impasse, Čavić presented a short draft resolution on police restructuring. The resolution, which was written by Čavić himself, proposed a plan for implementation of the reformed police structures in BiH in accordance with the principles stipulated by the European Union. On 2 October the two main Serb party leaders travelled to Sarajevo for a secret meeting with the High Representative to discuss a final reform proposal.

Although this resolution would not result in an actual reform or any legislative proposal, the High Representative believed that it resembled a clear commitment to undertake the reform in accordance with the three principles and accepted the agreement. Acting speedily, the draft agreement was forwarded to the Enlargement Directorate of the European Commission in Brussels. After consulting with the High Representative, the Commission declared that the proposed agreement would, “if passed by the RS National Assembly”, enable BiH to start negotiations on a Stabilisation and Assessment Agreement. On 5 October the agreement was presented to the RS National Assembly by President Čavić. The President defended the agreement in a speech, saying that if the Assembly rejected it, he believed that “…the RS could expect difficult days and decisions, but under more

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348 Nothing is agreed until all is agreed, Dnevni Avaz 28.04.2005.
349 Izvjestaj sa Pregovora oko Reforme Policije - Vlašić. 10 maj, 2005 godine. (Internal Document)
350 Interview with Dragan Čavić - 26.03.2008. The meeting took place in the residence of Paddy Ashdown in Sarajevo and was attended by Dragan Čavić, Milorad Dodik, Paddy Ashdown and the US, EC and UK ambassadors.
351 Letter by Fabrizio Barbaso, EC Director General of Enlargement DG to Adnan Terzić, BiH Prime Minister. 05.10.2005.
difficult conditions…” and claiming that the adoption of the final proposal of the Directorate, as envisaged by the agreement, would in any event require “…the support of the parliaments of the respective entities, including the RS National Assembly”. For the first time since the start of the police reform process, the RS parliament voted in favour of a proposal which had been blessed by the international community and took one step towards solving the police reform issue.

Prima facie, the decision of the RS National Assembly looked like a hard-won victory by the international community. More than 16 months of intensive negotiations had come to an end and the following day the EU Commissioner for Enlargement, Olli Rehn, sent a letter to the BiH government in which he declared that the agreement was “…a crucial step for the Commission to recommend BiH to start the negotiations on an SAA.” Accordingly, the international community interpreted the agreement as an approval of the three EU principles formulated by the High Representative. On the day marking the tenth anniversary of the Dayton Peace Accord, BiH was able to begin negotiating a Stabilisation and Association Agreement, although the formal signature required the parties to adopt a comprehensive agreement.

However, the October Agreement did not actually touch upon the most contentious issues; to what extent the policing districts needed to supersede the inter-entity boundary line or whether the reform required constitutional amendments. In reality the Agreement was extremely vague and just two pages long. Under its terms, the parties agreed to implement police reform within a period of five years. To this end an expert body, “the Police Reform Directorate”, was to be tasked with preparing a technical model. The Directorate would comprise local experts representing all the law enforcement agencies. The problem was that the Agreement could paradoxically be either interpreted as a pledge to create a common policing structure or as an assurance that the constitutions would be respected. While the first paragraph stated that the parties “agree to accept the basic European principles”, the third paragraph stated that the parties acknowledge that “…this Agreement must be applied in accordance with the constitution of Bosnia and Herzegovina and entity constitutions.” These contradicting principles allowed all parties to come to different interpretations.

While the international community proclaimed this agreement as a success, stating that the Serbs had finally accepted the three principles, Serb politicians argued that the agreement had made it clear that the future structure of the police had to respect the constitution. President Čavić, who

353 Letter from Olli Rehn, EC Commissioner for Enlargement to Adnan Terzić, BiH Prime Minister, 06.10.2005.
354 The SAA negotiations with the EU began formally on 25 November 2005.
had written the proposal, viewed the agreement as a victory for the Serbs since “...it stated that the police had to be organized in accordance with the constitution of BiH.”\textsuperscript{356} Serb politicians at the time, including those in the RS government, argued that the article stipulating that the reform should be pursued in accordance with the constitution was to be seen as a safeguard against further transfers of competences, and made statements to this effect.\textsuperscript{357} The co-signatory of the agreement, opposition leader Milorad Dodik, said the paper was in the interest of the Serbs since it determined that “…the reform must respect the constitution and that we are ready to work on that and to form a Directorate in accordance with the agreement.”\textsuperscript{358}

The High Representative evidently interpreted the agreement in completely different terms. At a press conference the day after the decision of the RSNA, the Spokesman of the OHR stated that “…within five years BiH will have a single integrated police service at the state level, and local police areas, which will cross the IEBL in the limited areas where it is technically necessary.”\textsuperscript{359} In addition, the Peace Implementation Council Steering Board held a session in Sarajevo on 7 October, endorsing the same unambiguous interpretation. Although Ashdown expressed reservations in relation to potential obstruction of the process of implementing the agreement, the implication of the agreement was, according to him, quite clear. In an interview he said the agreement implied that “…the state will get exclusive competencies for police matters, the state ministry of police is the one which issues all strategic and policy decisions… Where necessary, in three cases, let's say, the inter-entity line will be crossed.”\textsuperscript{360}

The question of how to interpret the agreement hinged on whether by endorsing the EU principles, the politicians had agreed to change the constitution in order to allow a transfer of competences or whether the implementation of the agreement had to be conducted in line with the constitution. Several domestic observers expressed concern about this ambiguity. Igor Radojičić, who would later become the SNSD Speaker of the RS National Assembly, stated that the agreement brought “the story on police almost to the beginning as all issues are left to be discussed,” yet he added that the agreement was an optimal solution for the RS.\textsuperscript{361} Most Bosniaks were initially sceptical, and Suljeman Tihić, the leader of the main Bosniak party, the SDA, complained that the agreement was very unclear. When asked by the media Tihić refused to make any official statement, saying that the Presidency of his party had to evaluate the agreement and

\textsuperscript{356} Interview with Dragan Čavić - 23.03.2008.
\textsuperscript{357} OHR surprised over Matijašević, Nezavisne Novine 22.12.2005.
\textsuperscript{358} Interview with Milorad Dodik - 26.08.2008.
\textsuperscript{359} OHR Press Conference, OHR Welcomes Wednesday Progress for Euro-Atlantic Integration, 06.10.2005.
\textsuperscript{360} We’re leaving Dayton, and entering Brussels! Dnevni Avaz, 10.10.2005.
\textsuperscript{361} Bukejlović doesn’t know who will implement reform, Oslobodjenje, 07.10.2005.
issue an official assessment.\textsuperscript{362} However, as soon as the international community had declared victory, interpreting the agreement as a fulfilment of the three EU principles, discussion of the ambiguous elements temporarily ceased. Nonetheless it seems that most OHR officials understood that the agreement was simply a piece of paper. As one OHR official put it, the “...only thing you are doing is kicking the can down the road.”\textsuperscript{363} Prime Minister Terzić reached a similar conclusion, claiming that the international community had accepted a vague agreement, allowing everyone to interpret the document as he or she wished, keeping all parties satisfied.

“In the autumn Ashdown was preparing to leave. They simply had to come up with some kind of agreement. But this was so weak that one side would interpret it in one way and the other in another way. The EU would once again not want to be precise and they said yes. I think they lacked consensus within the EU and they simply wanted to avoid being too specific in order to keep everybody happy.”\textsuperscript{364}

It seems, however, that most international representatives wanted to believe that the deal would actually generate real police reform, although they understood that it was essentially a decision to postpone consultations. Raffi Gregorian recalled the PIC Steering Board meeting that followed the agreement. On that occasion all the PIC members gave the RS President a round of applause for having solved the police reform issue. The positive atmosphere in the meeting was, however, interrupted when they began to discuss what they had actually signed.

“At one point Ashdown asked him, this was in the closed session of the PIC. ‘Do you think that the 59 people voting for this understand that this means a single police force?’ And Čavić said, ‘no I do not think that they know this...’ You could see Ashdown... this is not the answer he was expecting and Dodik and the others were already saying that this does not mean the abolition of the RS police... and then he asked, ‘do you know what this means, Mr. President?’ ‘Yes I do’, he said. So, great, Čavić knew it, but the 59 parliamentarians who had voted on this agreement did not understand what it ultimately meant. But ok, all the pain was deferred.”\textsuperscript{365}

Almost 16 months of negotiations had now ended in a deal which was clearly interpreted in a completely different manner by all the parties involved. In essence the agreement did not prescribe a reform of the police, but simply gave a mandate to a Police Reform Directorate, made up of domestic experts, to prepare a new reform proposal, which would be implemented within five years. The newly appointed Head of the EUPM,

\begin{itemize}
\item \textsuperscript{362} Only OHR firmly trusts Čavić, Oslobodjenje, 07.10.2005.
\item \textsuperscript{363} Interview with OHR Official - 14.06.2008.
\item \textsuperscript{364} Interview with Adnan Terzić - 01.09.2008.
\item \textsuperscript{365} Interview with Raffi Gregorian - 02.09.2008.
\end{itemize}
Vincenzo Coppola, who would become the international representative participating in the Directorate, commented in hindsight on the absurdity of the agreement, claiming that the politicians “…spent five minutes agreeing on a political issue, without any detail, only the rough principles… in the back of the mind, they knew that they were signing nothing.”

Some OHR officials acknowledged that the international community simply pretended that an agreement had been reached, believing that the parties would be inspired by the progress made in the EU integration process and accept the essential elements of the reform. The problem was that, as argued by one OHR official, “…we started to believe that we had a deal, but all we had was a placeholder.” In essence it seems that the international community desperately needed to get out of a situation, which had been created by the inconclusive negotiations, and at the end of the day any kind of signature or agreement that would bring the process forward would be accepted without scrutiny. The first round of talks thus ended in a symbolic agreement without any agreement other than to continue to talk. Nevertheless the international community declared the agreement a success, deferring political disagreements to the future.

7.4 Concluding summary

When the police reform negotiations began, there seems to have been an understanding that the exercise of bringing about a common agreement would be cumbersome, since the Serbs in particular were not interested in giving up any competences in the sphere of the police. Law enforcement was a core state function of greater political importance than defence and tax collection, which had been the two heavyweight reforms preceding police reform. The international community was initially careful not to predetermine the outcome of the process, allowing the parties to freely seek a model that would be in line with the parameters established by the Police Reform Commission, but also acceptable to all parties. This open approach was, however, abandoned in November 2004 when the High Representative and the European Commission determined the three principles on police reform. It appears that the decision to tighten the conditionality emerged from the frustration experienced by the international negotiators dealing with the uncooperative Serb representatives on the Commission. In this connection, the interests and conduct of individual officials, such as Darko Matijašević, Dragan Čavić or Paddy Ashdown, had a remarkable impact on
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the negotiating process, a fact that points up the informality of the decision-making.

Nevertheless, as seen from the discussion in the previous chapters, it is very likely that the principal representatives of the international community had actually envisaged the outcome of the talks in advance and that the negotiations in the Commission were simply an attempt to cajole the political establishment into endorsing a reform model that had been predetermined by the international community. As a response to Serb obstruction, the High Representative and the European Commission turned the three principles into a formal EU requirement, believing that the Serbs would thereby need to move their bargaining position closer to the position of the international community. But instead, after the principles were introduced, Serb opposition solidified and the incentive for other groups to compromise diminished. From this moment on, it therefore became much more difficult to reach agreement.

Certainly, the parties made relatively extensive concessions during the talks in Vlašić and they might possibly have accepted a common policing structure under the supervision of the state, as foreseen in the Decision that launched police reform, but they were not able to reach a compromise on the districts. In any case, the international negotiators refused to accept concessions on the key principles, even though some of the principal Croat and Bosniak politicians tried to persuade them to soften this stance. The willingness to reach agreement demonstrated in Vlašić by the political establishment shows that the leverage of the EU factor was indeed substantial, but this was unfortunately gambled away in the belief that the domestic parties would eventually accept a more extensive reform proposal.

Viewing the progress of the talks in 2005, international negotiators seem to have made almost every mistake in the book. First of all, the conditionality did not have any clear reference to a set of general EU norms, making it difficult to offer a persuasive justification of the necessity of the proposed model of reform. By introducing these ambitious principles, it became extremely difficult for international negotiators to seek compromises and accept different concepts of police reform in the course of the talks. Moreover, the terms of the conditionality offered very limited bargaining space and for this reason domestic stakeholders were discouraged from participating, making the final proposal look like a foreign product. Nevertheless the paramount reason for the failure of the talks and the inability to foster open dialogue seems to have been the lack of trust between the representatives of the international community and the local political establishment. International representatives had very limited confidence in the capacity of domestic politicians to implement police reform and they therefore believed that the final proposal would need to eliminate entirely the entity and cantonal structure in order to fully safeguard the police from political interference. This distrust therefore limited the conceptual
bargaining space, making it practically impossible to sustain an open discussion on various solutions.

This deep distrust towards the political elite was evident in the police reform talks. The international representatives seemed to believe that the political elite was essentially detached from the electorate as a whole and that they would merely consider their own interests when it came to the reform requirements, ignoring the willingness of society to implement the envisaged changes in practice. The interest of local politicians was primarily to stay in power and continue enjoying the benefits of corruption, and they would therefore defend the institutional structure established during the war. Consequently, if enough political pressure were applied, the domestic politicians would eventually accept an agreement. The talks were therefore seen as a progressive process in which the Serbs would gradually give in to the pressure of the international community.

Regardless of whether this cynical assessment of the political elite was correct, the strategy was extremely counterproductive. By applying an assertive approach in the negotiations, the international community emphasised inter-ethnic antagonisms in the political arena and created confrontation, thereby accentuating societal boundaries between the ethnic groups. Because of this, the interest and the ability of the political elite to compromise gradually diminished. The final agreement reached in October was therefore much weaker than the proposals offered in Vlašić, not to mention the agreements reached in the second phase of the negotiations.

It appears that the international negotiators acquired a sense of ownership over the draft reform proposals and that they therefore found it difficult to accept amendments to the reform model. Clearly, the negotiating parties sought solutions to several of the problems in the law enforcement structure, and the international negotiators facilitated this process in some ways. However, as a result of the distrust of the domestic political elite, the representatives of the international community showed limited interest in political realities and instead formulated the proposal on concepts and ideas that were deemed relevant from the point of view of the international community, rather than proceeding on the basis of what was politically or practically feasible in the local context. Instead of trying to understand the interests and position of the negotiating parties and facilitate a sustainable solution, the representatives of the international community acted as part of the negotiation, and the talks turned into a political struggle in which the final agreement was evaluated on the ability of the political elite to comply with the conditionality rather than on the extent to which the agreement would actually be seen as legitimate and whether it would be implemented in reality. For this reason the negotiations produced vague agreements that would be interpreted in one way by the international community and in different ways by local counterparts, making the final outcome of the talks in 2005 in practical terms useless.

Following the endorsement of the October agreement in 2005, several observers considered that the political negotiation of police reform had now been completed and the police reform was no longer viewed as front-page news. Constitutional reform, which had formally begun in autumn 2005, was expected to take precedence. However, it would soon be evident that police reform was far from a done deal, and disputes from the previous years would return even before the members of the Police Reform Directorate had been summoned to the first meeting. In 2006 the prospect of reaching an agreement on police reform would steadily diminish and in the final showdown of the negotiations, in the autumn of 2007, neither the Serbs nor the Bosniaks were interested in accepting any sort of compromise agreement. In December 2007 the story of police reform came to an end after more than three years of negotiation, when the political establishment signed an agreement according to which the essential reform was deferred to the future. This chapter will analyse the negotiations in 2006 and 2007, viewing the strategy of the international community and the responses of the political elite.
8.1 A Directorate without directions

Following the intensive negotiations in 2005 about the disputable EU principles, the next year assumed a more uncertain character since the modalities of the talks were understood differently by the parties involved. An additional problematic aspect in 2006 was the departure of the initiator of the police reform, Paddy Ashdown. Ashdown, who had been one of the driving forces in the negotiations, was replaced in January by the slightly less proactive German politician, Christian Schwartz-Schilling. Moreover, the RS government had entered a serious crisis by the end of the year, partly engendered by a conflict within the governing SDS party. Although President Čavić had successfully persuaded the RS National Assembly to support the police reform agreement in October, this brought him under serious pressure within his own party, particularly from Prime Minister Pero Bukejlović, who represented the radical wing of the SDS.\(^{368}\)

On 27 January the opposition party, the SNSD, initiated a no-confidence vote in the Parliament, bringing down the SDS-led government just nine months before the general elections.\(^{369}\) The leading Serb politician, Dragan Čavić, was thereby marginalised and incoming Prime Minister Milorad Dodik became the dominant political force in the RS. The parameters of the coming negotiations were thus substantially changed.

Amid the governmental crisis in the RS, the Council of Ministers established the Police Reform Directorate on the basis of the October agreement on police restructuring. The actual establishment of the Directorate and the adoption of its rules of procedure immediately triggered a political dispute, clearly resembling the disagreements that had characterised the police reform negotiations to date. Once the rules of procedure were presented, the RS politicians criticized the proposed modalities of the appointment of the members and the provisions regulating voting procedures in the Directorate. Pursuant to the rules of procedure the Directorate was to take decisions on a majority vote, and one international representative was to have the casting vote.\(^{370}\) When Milorad Dodik had formed a new government in February, he submitted a request to the Council

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\(^{368}\) When voting for the October Agreement, Čavić used his presidential powers to convene the RSNA, believing that he enjoyed greater support in the parliament than in the government.

\(^{369}\) The crisis was heightened by a conflict between the SDS and the PDP, which supported the government in the Parliament, concerning public appointments. However, the coup de grace was delivered by the main opposition party, the SNSD, which challenged the government by not supporting its proposed budget for 2006. The decisive no-confidence vote was related to the adoption of the RS budget and the privatization of RS Telecom.

\(^{370}\) The Serbs did not accept that one international member, Head of the EU Police Mission Vincenzo Coppola, was to participate in the Directorate. We do not need a foreigner, Dnevni Avaz, 10.12.2005.
of Ministers asking them to change the voting procedures. He argued that the decision of the BiH government was not in compliance with the October agreement.\footnote{Dodik’s request before the Council of Ministers, Nezavisne Novine. 23.03.2006.} It was stipulated in the preamble of the agreement that decisions were to be taken by consensus, he claimed, yet in accordance with the adopted rules of procedure the two other groups would be in a position to outvote the Serbs.

“Naturally, we were not ready to accept that you within that Directorate would pursue the reform according to the principle “one person one vote”. If that would be the case, we would constantly be in a minority and we thought that we would work on the principle of consensus. So that whole agreement lost its significance because it was not conducted in compliance with its provisions. Our intention was not to buy time. We did not have an intention to block this process. The process was blocked because they insisted on undertaking the reform in its initial intention, as a repetition of the Martens plan.”\footnote{Interview with Milorad Dodik - 26.08.2008.}

The Council of Ministers, however, refused to amend the decision, arguing that the Directorate was an expert body and the request of the RS Prime Minister would simply politicise its work. Although some international experts had foreseen problems when it came to the interpretation of the agreement, they had not anticipated a fight on technical issues, such as the rules of procedures. Moreover, many of the international representatives had hoped that the new Prime Minister would take a softer and more moderate approach than his predecessor. When the experts were summoned to the first meeting of the Directorate, the Serbs, to the surprise of the international community, uncompromisingly reiterated the rhetoric that had been used throughout the talks in the previous years.

“No one anticipated the problems that Dodik was going to cause. Well, the Serbs were almost half right in their complaints, well, something was taken out of context on purpose by the Serbs. In the preamble it said that decisions needed to be taken by consensus, but in the text of the agreement, there was nothing stated on this. Our view was that that was referring to the whole idea of getting this thing going. It has to be a general consensus of getting this thing going. I think we were more right on that then Dodik. Even from a legal point of view, no one really attached that preamble to the actual functioning of the Directorate. The Police Reform Directorate would have its own clearly defined structure in the agreement”\footnote{Interview with OHR Official - 21.08.2008.}

The conflict regarding voting procedures was possibly an unnecessary one, which the international community could have avoided. However, it seems that the new RS government wanted to demonstrate that it was bold enough
to challenge the international community and was thereby looking for a
fight. On the other hand the representatives of the international community
seem to have been driven by the notion that the attraction of EU integration
would alleviate disagreements between the parties and that the initiation of
the SAA negotiations would encourage politicians to accommodate some of
the moot aspects in the reform process. The international community hoped,
as expressed by one OHR official, that once the country had advanced
“down the European path, the principles would eventually take root.”

Obviously, international diplomats and experts had fought hard to
persuade the domestic politicians to accept the EU principles and when the
October agreement was finally adopted, they viewed it as a victory,
apparently believing that the RS politicians would upon this agreement
instruct the experts in the Directorate to dismantle the RS police and merge it
into a common state-level structure. One OHR official said they were
satisfied with the fact that the three principles “were finally codified”, stating
that the implications of the principles were sufficiently clear, making it quite
impossible for the Serbs to advocate any model that severely diverged from
the initial police reform concept, although “it would have been nice to have a
little bit more of an elaborated agreement, but that was all impossible
because it was all done in Paddy’s house on a Sunday...” Other OHR
officials were, however, less optimistic about the scope for using the October
agreement for further discussion. Not only was the agreement contradictory,
it was also brief and shallow and it did not specify any of the sensitive issues
and, as stated by one OHR official, “…the details still left open were
crucial… all kinds of stuff was just left up in the air.”

Although several international observers, as well as politicians from the
Federation, would accuse the Serbs of obstructing the implementation of
police reform, the conflict stemmed essentially from the disparate
interpretations of the October agreement made by the different parties.
While the Serbs felt that the agreement had set the framework for continued
political discussions, the international representatives, as well as the
Bosniaks, thought that there was no need for any further involvement of any
political bodies, since the entity and state legislative had enacted the rough
principles of the reform. The Directorate was therefore regarded as an expert
body and the members were not supposed to act as representatives of
government, but as experts on policing matters. The Council of Ministers
would therefore not change the rules of procedure and the Bosniak
representatives in the Directorate, such as the Director of Federation Police
Academy, Tahib Spajić, would accordingly argue that the Serb requests were
frivolous, since Serb representatives in the Directorate were supposed to

374 Interview with OHR Official - 14.06.2008.
375 Interview with OHR Official - 21.08.2008.
376 Interview with OHR Official - 14.06.2008.
377 I warned Dodik that he could be blamed for the failure of police reform, Dnevni Avaz,
27.03.2006.
remain impartial and not receive any instructions from any political authority. There was therefore no need for any provisions prescribing a procedure of entity voting. 378

“We were never interested in the political aspects. The parliaments had adopted a decision on police reform and we were working on this... we were working as experts, not as politicians, therefore you cannot have entity voting. It was clear that the experts from the RS received instructions from the politicians. We in the Federation worked as experts. I never spoke to any politicians in the process... in this sense the request of the RS Prime Minister would simply politicise its work.” 379

The Serbs, however, did not consider the October agreement to be a conclusive political deal and would treat the Directorate as a political body. The two RS Directors of Police who would participate in the Directorate, Dragomir Andan and Uroš Pena, did not deny that they were receiving political instructions. Although they were working as experts, they claimed that they were first of all representing the interest of the RS and they had no mandate to negotiate anything that the RS government had not approved. The RS Minister of Interior at the time, Stanislav Čado, also confirmed that the RS representatives were operating on political guidelines issued by the government, claiming that the RS members of the Directorate were instructed not to negotiate anything that was not in line with the entity constitution and were accordingly prevented from discussing solutions that would involve transfer of competences to the level of the state. 380 Andan clearly expressed the position of the Serbs.

“In one moment when the Directorate was formed, since we could not fully agree, well I was the person who was supposed to represent the view of the RS. All the others were behind the notion of a unified police ... and I told them that they cannot expect from me that I would go beyond the regulations and the constitution of the RS. I told them that this is a political issue and that political questions will have to be solved in Banja Luka. If they wanted this to be solved in this way, they would have to talk to Milorad Dodik. Then I said something that I guess insulted them in this situation, if Dodik will ask me to put a fez on my head and to come down here to agree with everything you say, I will do so.” 381

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378 Terzić guarantees that there will be no outvoting Oslobodjenje 30.03.2006. Dodik wants to impose political control, Dnevni Avaz, 23.03.2006.
379 Interview with Tahib Spajić - 19.08.2008.
381 Terzić guarantees that there will be no outvoting Oslobodjenje 30.03.2006. Dodik wants to impose political control, Dnevni Avaz, 23.03.2006.
Consequently, the members of the Directorate were clearly working on the basis of a contradictory understanding of the initial agreement and while members of the international community had deceived themselves into believing that the Serbs had actually signed a deal which would involve the transfer of competences of the policing authority, the Serbs made it clear at the first meeting of the Directorate that in their interpretation of the October agreement the RS police could not be integrated into one common structure. The issue of voting procedure would therefore be inflated into a major dispute and as this conflict developed, the rhetoric from the previous year reappeared.

When the Police Reform Directorate adopted its first conclusion on 3 May 2006, outlining the future joint police structure, none of the RS delegates supported the proposal. A few days later, the RS National Assembly held a session at which it rejected the report adopted by the Directorate, arguing that the Serb position had not been respected.382 Prime Minister Dodik galvanised the Assembly with a bold speech in which he declared that if the conclusions of the Directorate were adopted by the RS National Assembly, he would submit his irrevocable resignation. In view of this, the Assembly adopted a resolution that requested that the Council of Ministers "...adopts a new decision on restructuring of the Directorate in line with the Agreement..."383 In other words, the RS Parliament issued an ultimatum, urging the Council of Minister to change the voting procedures of the Directorate. If they failed to change the procedures the Assembly would not authorize the experts representing the RS to participate in the talks.

The Council of Ministers refused to amend the rules of procedure and at the next session of the Directorate, two weeks later, the Serbs in effect withdrew. The withdrawal was a protest against the modalities of the reform, which they considered illegitimate, but in order not to lose control of the process, the Serbs continued to attend sessions in the capacity of observers.384

The dispute that arose in 2006 was obviously a result of the ambiguous understanding of the agreement. By not addressing the fundamental political disagreement over police reform, the Directorate became the frontline in the dispute and the technical experts in the Directorate turned into proxies of the disagreeing political camps. They strove to outline proposals they believed could be accepted by the politicians, reaching out to the observing Serb

382 The session of the RSNA was preceded by a conclusion of the RS government. Police to the state, money to the entities, Oslobodjenje, 05.05.2006.
383 Report on the 34th regular RSNA Session on the Process of Police reform 10th May 2006. In the RSNA resolution it was also said that "...the new local police areas … (could only) be realized exclusively within the existing definition of territorial entity as determined by the DPA..." and that "...the seat of police forces in BiH shall be in Banja Luka."
384 RS MoI representatives freeze their functions, Oslobodjenje, 25.05.2006. OHR: RS withdrew from the process, Nezavisne Novine, 26.05.2006.
members, but they had no way of knowing whether the various proposals would actually be acceptable. This approach was obviously frustrating and the members from the Federation, such as Himzo Selimović, who chaired the Directorate in the second half of 2006, eventually concluded that it was pointless to continue the work in the Directorate without a proper political agreement.

“We tried to the greatest extent to find a solution that could be accepted, but that was not possible… I consider that a political agreement must exist at the start and with clear guidelines that would make the work of the experts much easier… Do you know how I felt? One year of intensive work, heavy work, there were harsh discussions, and then you reach some kind of compromise solution, but in the end you see how it is impossible to reach a political agreement. I think that it is not an adequate approach, they should have concretised a political agreement first and then it would have been easier for us experts to reach an agreement.”

From the point when the Serbs withdrew, the work in the Directorate became a travesty. Although the observing Serbs participated constructively, it was difficult to perform seriously and efficiently without their formal membership. In June the Council of Ministers refused to adopt the submitted five-month report since it lacked proper signatures. At the end of July the work of the Directorate turned into farce when the Chairmanship of the Steering Board was supposed to be assumed by one of the Serb members. The deadlines set for its activities were constantly breached and it had difficulty in producing legitimate documents.

In this sense many observers claimed that the work of the Directorate was a waste of time and resources, since the basic political divergences remained unsolved. Despite this, the European Commission and the EUPM continued to subsidize the Directorate and to second various expert consultants, obviously refusing to recognise that the fundamental political dispute was undermining the prospect of successful talks. The key representatives of the Serb police, Dragomir Andan and Uroš Pena, argued that there was no point in technical experts entering into negotiation before the politicians had reach a mutual understanding on the elementary issues of the reform.

“What kind of technical solution would you talk about when you have not decided on the political framework? Who would fight for these laws other

385 Interview with Himzo Selimović - 05.09.2008.
386 Participants in the Directorate claimed that the RS DoP Pena and the Serb Chief of the State Investigation and Protection Agency, Sredoje Nović “…were giving massive input… (Nović) basically wrote the report.” Interview with OHR Official - 06.04.2008.
387 To respect stances of Srpska, Glas Srpske, 21.06.2006.
than the politicians, the representatives of the parties, and the ministers? When they reach an agreement, we from the profession will quickly reach an agreement.”

In December 2006 the Directorate issued its Final Report, which was similar to the Martens Report, presented two years earlier, although the later report was less ambitious than the document produced under Martens. It did not propose definitive solutions to sensitive issues such as the geographic distribution of the districts and the role of the entity and canton Ministries of Interior. However, in general it was a replica of the previous report, suggesting the abolition of the entity structures and bringing policing solely under the BiH Parliament and the Ministry of Security.

Prospects for forging broad-based political support for the report after the conflicts that had surrounded the Directorate in 2006 were poor. RS Prime Minister Dodik considered the Directorate illegitimate and refused to enact the report, though he opted not to criticize it in a conspicuous way. The RS observing member, Police Director Pena, claimed that “…one half of BiH, the RS, has not been involved in the reform process, meaning that this process has been limited to and affects only the FBiH police,” yet he also said that the report represented a solid basis for further negotiation.

Since the negotiations in the Directorate were launched in the belief that the modalities of the reform had been more or less endorsed in the October agreement, their scope was exceptionally limited and the international community had difficulty encouraging the political elite to participate in the process. In essence the negotiations in the Directorate illustrated the incapacity of the international community to adjust its policy to political reality. A year of negotiation following the agreement reached in October produced only a 30-page report that the Serbs, who had opposed the Directorate from the start, rejected. The Police Reform Directorate had in essence been asked to undertake the same work as the Police Reform Commission had done the previous year, but as long as there was no political agreement it was impossible to expect the domestic experts to draft an acceptable proposal. Not until the beginning of 2007 did talks between the political representatives resume. However, by then BiH had not only lost an entire year, while tensions among politicians had increased.

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8.2 Changing the conditionality and the conditions of the talks

When the police reform negotiations began in 2004 the BiH political establishment had successfully fulfilled several of the conditions required by the EU and in the course of 2005 most of the legal regulations in the pre-accession process were adopted by the BiH Parliament. There was therefore an expectation that BiH would be able to sign the SAA very shortly, and after 2005 police reform was the only unfulfilled item on the EU agenda. In 2006 police reform was held up by the unsuccessful talks in the Directorate, but at the same time the international community became increasingly eager to move on to the next phase of international engagement in BiH. The process of phasing out the Office of High Representative and transferring authority to the European Union Special Representative depended on fulfilling the SAA conditionality and on 26 and 27 February 2007 the Peace Implementation Council took a decision to extend the mandate of the Office of the High Representative with a view to completing “transition in the shortest possible time.”393 The inclination to accept a compromise on police reform therefore increased. When the negotiations resumed in 2007, following the failure of the Directorate, the international community purposely lowered the bar, showing a readiness to accept far greater compromises than it had been prepared to accept at the start of the process. One senior OHR official actually argued that Brussels had, “…even before the establishment of the Directorate sold out the third principle” and when the negotiations reassumed in 2007 “…the regions were out of the picture.”394

However, by lowering the requirements, the international community affected the dynamics of the negotiations. Some Bosniak politicians complained that relaxing the criteria was tantamount to rewarding the obstruction of the Serbs, disregarding the fact that politicians from the Federation had supported all the previous agreements. The police reform negotiations had created certain expectations in the Bosniak constituency and any politician who agreed to undercut the initial conditionality would be accused of selling out the interests of Bosniaks. It was therefore difficult for the Bosniaks to accept a weaker compromise on police reform, as expressed by former Bosniak Presidency Member Beriz Belkić, since they were committed to the creation of a unified system.

393 Dissatisfied with the rather inactive and indecisive High Representative, Christian Schwartz-Schilling, the PIC also took a decision to discontinue his term of office. Communiqué by the PIC Steering Board. 27.02.2007.
“Yes of course you gave the Bosniaks hope. The Bosniak politicians were expecting that the international community would stick to certain standards and to the European praxis... That kind of approach limited the interest of the Bosniak politicians in accepting a compromise. If we had insisted for three to four years that you would have to respect and implement the three principles, what kind of politician from the Bosniak or Croat establishment would accept something else, let’s say accept that the entity police would remain? Such a person would be seen by the public as a traitor.”

Following the failure of the Council of Ministers to adopt the report of the Directorate, talks among the main political representatives recommenced on 16 February in Sarajevo and individual consecutive meetings took place in the following weeks in Sarajevo and Banja Luka. The European Union declared 14 March as the deadline for police reform, since the EU Commissioner for Enlargement, Olli Rehn was expected to arrive in Sarajevo the following day. In the evening, two days before the deadline, the High Representative, Christian Schwartz-Schilling, gathered the key Serb and Bosniak political actors, Milorad Dodik, Mladen Ivanić, Suljeman Tihić and Haris Silajdžić and representatives of the OHR, the EUPM, the European Commission and the US embassy at his residence in Sarajevo in order to broker an agreement.

After several hours of intensive negotiations, the RS Prime Minister Dodik suddenly agreed to accept an amended plan for the creation of joint police structures. Although he refused to give up the RS police, the plan foresaw the integration of the RS police as an administrative organisation within the Ministry of Security, organising Srebrenica and a metropolitan Sarajevo region as local police areas. However, Dodik added a rider that if these negotiations failed, he did not believe he would be able to make the same offer again. In the media the proposal was referred to as the “one-night offer”.

The international representatives who were present seemed to have been surprised by the compromise offer, and they came out in support of it. However, while the leader of the SDA, Suljeman Tihić, seemed ready to support it, the Bosniak Member of the Presidency, Haris Silajdžić, said he would not accept any proposal in which the name and symbols of the RS police were preserved, regardless of whether the RS police were part of a common structure. The brief glimmer of hope therefore vanished and the talks ended without agreement. Two days later, on 16 March, Commissioner Rehn addressed the BiH Parliament, expressing disappointment at the lack of agreement on police reform. The chief negotiator at the time, Deputy High

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395 Interview with Beriz Belkić - 27.08.2008.
396 None of the Croat parties were present nor the SDP.
Representative Raffi Gregorian, believes that all the participants were astonished when Silajdžić rejected the compromise.

“During the short time I participated in this we bent over backwards to accommodate everybody’s concerns. We had a winning concept. On 14 March we sat down in Schilling’s residence with all the big players, trying to get an agreement between Dodik and Silajdžić. And Dodik said, I have eight new pieces that need to be added to the Police Reform Directorate report; a special police district around Srebrenica, an inspector general for all police, RS police should be divide into five districts, which it allready was… Dodik said I agree to this and I agree to this, in fact I agree to everything. I just need the law to refer to this as the RS police. And Silajdžić said no. And I am sitting here with my boss, who is supposed to be the famous mediator, the American ambassador, the Head of the EU Commission, the EUPM and no one said anything. No one said… ‘No, God damn it, that is not an acceptable answer, Haris Silajdžić! Take the deal! Because Rehn is coming tomorrow and he will sign the SAA if you agree to this.’ No one pressured him.”

Another high-level OHR official attending the meeting said it was difficult to assess why the Bosniak Member of the Presidency refused to accept the compromise agreement offered by the RS Prime Minister.

“Anyway, we developed this document which basically laid out in simple language what Dodik was saying … we put it on paper, it was basically iron clay on the budget… that it should be at the state level… My understanding of Dodik was that the RS should be a single police region… I asked Dodik, but anyway the translation was going slow, Tihic and Dodik were moving back and forth. I think it made Silajdžić nervous. Tihic knows how to do this, just as Dodik knows. Bam there was an offer, a paper written, and Silajdžić said no… He said no and then Kourkoulas made some pressure… and that was it. No deal. Let’s pack up.”

According to Silajdžić’s advisors, the President did not view the agreement as a breakthrough, arguing that as long as the RS police retained its name and its institutional structure, it would be impossible to reintegrate it in a common structure and have the state supervise it. Thus, he rejected the proposal because he believed it was not in line with the EU principles, and the Bosniaks accordingly accused the EU of violating the principles, which the international community had initially laid down as non-negotiable conditions. In this respect some Bosniak politicians had become greater defenders of the EU principles than the EU itself, turning the conditionality into a matter of domestic political interest. Viewed like this, the response of the Bosniaks was determined by a political dynamic emerging from the negotiations rather than by the merits of the proposal as such.

399 Interview with Raffi Gregorian - 03.08.2008.
400 Interview with OHR Official - 21.08.2008.
“If you in the proposal say that you will maintain the RS police, then you will not change anything. You would not change the borders of the police, its authority and its operation. You will keep the status quo and then you would basically breach the third EU principle. This was again a proof of the lack of principles of the international community. Mr. Silajdžić rejected the proposal and respected the principles which the international community had been insisting on for three years, and then they accused him of obstructing.”

The representatives of the international community, however, did not consider the fact that the rationale inducing Silajdžić to reject the proposal had partly been engendered by their unremitting firmness on the issue of abolishing the entity police forces for more than two years. Blame for the failure of the talks was placed firmly on Haris Silajdžić and in this sense the Bosniaks now became the culprits in the eyes of the international community, as described by the Head of the EUPM, Vincenzo Coppola.

“In Vlašić it was the Serbs and in March 2007 it was Silajdžić. He said no on the pure basis of the mentioning of the RS… in a certain paragraph it said the police in the Federation, in the RS and in Brčko. I had two hours of discussion with Silajdžić and I told him, look you have missed the only way to achieve police reform…but that was for pure political reasons.”

Regardless of who was to blame for the failure, it was evident that the two main politicians in BiH, Milorad Dodik and Haris Silajdžić, had left the police reform negotiation with two incompatible views. Unfortunately, the talks would never return to the same premise again, and the parties would move further apart while the requirements of the international community would be steadily undercut.

8.3 Turning conditionality into domestic politics

The Bosniak rejection of the one-night offer, however, may be seen not only as a result of the dynamics in the negotiation but may also be explained by their perception of the RS police as an institution that had pursued genocidal crimes in the course of the war. For the Bosniaks, who had been the greatest victims of the war, reintegrating the police forces was a moral issue and they believed that the reform of the police would facilitate the reconciliation of the people of BiH. The international community clearly did not pay any specific heed to the socio-psychological dimension of the police forces, and when the international negotiators declared that they were ready to accept

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401 Interview with Political Advisor to Haris Silajdžić - 05.09.2008.
402 Interview with Vincenzo Coppola - 03.09.2008.
the continued existence of the RS police force, a gap emerged between the political interest of the Bosniaks and the police reform requirements. This problem was stimulated by the court verdict of the International Court of Justice issued at the beginning of 2007.

In 1993 the then Republic of Bosnia-Herzegovina had submitted a case to the International Court of Justice against former Yugoslavia, arguing that the state governed by Slobodan Milošević had committed genocide in BiH. Although the ICTY had brought verdicts against individual Serbs participating in genocidal operations in Srebrenica, winning a case against the state of Serbia would be much more difficult. Despite talk of an out-of-court settlement, the Bosniaks had refused to withdraw the case. The court issued a final verdict on 26 February 2007 determining that genocide had indeed been committed, but not directly binding the state of Serbia to the crime. Instead, the court found that the army and the institutions of the Republika Srpska were responsible for the crime. The verdict apportioned blame, but it did not contain any juridical consequences, other than to demand that Serbia improve its collaboration with the ICTY. The verdict ruled that RS institutions had participated in the genocide, which Bosniak politicians interpreted as a deligitimisation of RS institutions. Discussing the court verdict, one of Silajdžić’s advisors argued that it had confirmed the connection between the RS institutions and acts of genocide.

“I would not say that the RS police carry the legacy, the RS police was identified by the ICJ in this verdict as one of the participants. I do not mean individuals, but an institutional participant in the genocide in Srebrenica.”

As far as the police reform negotiations were concerned, the timing of the verdict was extremely detrimental. It would now become difficult for any Bosniak leader to endorse any reform proposal that would guarantee the continued existence of the RS police. A few days after the verdict was issued, SDA leader Tihić stated that “…as far as the SDA is concerned, there is no longer the RS police, not by its name nor by the territorial competences Dodik talks about. This is so especially after the recent verdict… Anything but this is not police reform, but a legalization of the current situation.”

So, when the Serb Prime Minister presented his one-night offer less than a month after the announcement of the court ruling, SBiH leader Silajdžić would refer to the verdict when he rejected the agreement. He argued that the court decision had changed the conditions of the negotiation, since it had made clear that the RS police was a “genocidal institution”. In view of this,


405 Serbia guilty of not preventing genocide, Dnevni Avaz, 29.02.2007. SDA President Tihić: The ICJ verdict will affect the police, Dnevni Avaz, 03.03.2007.
he said, it was impossible to accept any agreement that recognised the RS police in its current organisational structure or name. This was not only a political question, but a matter of the legal principles stipulated in the verdict.

“If you remember in late February 2007 the ICJ came out with a verdict that determined that RS institutions were responsible for genocide, including the police force. To expect that the politicians would sign a deal which would legitimise the existence of that very police force is naïve and unreasonable. In this situation you cannot expect that any Bosniak politician would sign such a deal. If we had accepted an arrangement that made the RS police a permanent institution of BiH, an organisation such as the Mothers of Srebrenica could have sued us. We would have breached our international obligations… I think this is a very sensitive issue.”

Silajdžić’s advisors thus argued that accepting a political agreement that endorsed the existence of the RS police was not only morally questionable but would have been a legal violation. In this sense, they argued, the verdict had actually invalidated the legal existence of RS institutions.

“You have the ICTY, which deals with the crimes of individuals, and then you have the ICJ, which deals with crimes of states. The verdict of the ICJ confirmed that genocide had been committed by the RS institutions. It is true that we accepted the RS at Dayton and that it has legal recognition in the peace agreement. However, at that time genocide had not been legally confirmed and that significantly changes things. You have to understand that the case has legal implications. After the verdict the legal foundations for the institutions involved in the genocide can no longer be the same. You have to understand the rejection of the March proposal in this context.”

In reality, however, the verdict did not represent a legally binding decision and it was indeed preposterous to believe that any international institution would require the parties to implement any institutional reform on the basis of the extremely vague court decision. Moreover, it would have been impossible to persuade the Serbs to make constitutional changes on the basis of the verdict. The international representatives had not anticipated the impact the verdict would have on BiH politics and although many of them supported the content of the verdict, agreeing that RS institutions had participated in genocide, they understood that the verdict did not question the institutional existence of the RS. The RS was a part of BiH, regardless of whether it had come into being through a campaign of ethnic cleansing or not. The deputy High Representative, Raffi Gregorian, accordingly considered it utterly imprudent of Haris Silajdžić to scupper the compromise on police reform proposed by the Serbs, since under the proposal “…de jure
and de facto, the RS police will be gone, but its name will remain. It will be controlled by the state, it will be paid, trained and inspected by the state.\textsuperscript{408}

It seems, however, that the verdict emphasised the experience of war and the notion of insecurity that was perpetuated by the symbols of the RS police. By rejecting the proposal, Silajdžić not only responded to a collective emotion, but could also purport himself as a defender of the interests of the Bosniak community. Silajdžić was speaking to the same kind of socio-psychological sentiment that Serbs had been responding to when they refused to accept the proposals offered in Vlašić. The rejection of the reform proposal must therefore be understood in the context of identity protection and as a result of identity conflicts that were still latent in the unfinished peace-process. As a political act it did not, however, contribute to concrete security in any sense, but enhanced inter-ethnic rivalry.

Following the International Court of Justice verdict and the breakdown of the police reform talks the political situation deteriorated further. In April a number of Bosniak returnees to the Srebrenica area began to demonstrate against what they described as the poor security situation in the region. They established a tent settlement in Sarajevo, demanding that the government declare the municipality of Srebrenica a special district under BiH state jurisdiction and thus taking it out from under the authority of Republika Srpska.\textsuperscript{409} The RS Prime Minister for his part moved further from the Bosniaks. At a press conference in Banja Luka on 4 May Dodik stated that he intended to initiate a procedure to withdraw competences that had been transferred from the entities to the state level. He thus launched a political campaign to challenge any further strengthening of the state.\textsuperscript{410} Although it was quite impossible for Bosniak and Serb politicians to realise any of these demands, the gestures helped to create a political environment in which the prospects of constructively negotiating police reform and signing the SAA seemed utterly remote.

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\textsuperscript{408} Interview with Raffi Gregorian - 03.08.2008.

\textsuperscript{409} The specific conflict started after a call to declare the municipality a special district under the state authority and worsened after some 50 returnees set up a tent settlement on 16 April. Dodik tried to appease the protesters by allocating special funds to the area. The conflict was settled after an OHR Decision in June, giving SIPA authority over the security of the Potočari memorial centre. See for instance: FAST International, Bosnia and Herzegovina, No 2 2007, Trends and Conflicts.

\textsuperscript{410} EUPM, Bi-weekly Report, Banja Luka Region (Apr 27 – May 10 2007), Dodik stated that a number of reforms that had implied a transfer of competences from the entity level had not rendered the anticipated results, particularly attacking unequal distribution of VAT revenues between the entities, referring to an audit report by the audit firm “Deloitte”, in which the RS had lost 23.8 – 32.2 million KM to the Federation. According to the SNSD, only three out of 48 competences transferred so far to the state level, had been properly implemented and become functional.
8.4 Adjusting conditionality to the needs of the EU

On 1 July Schwartz-Schilling was replaced as High Representative by the Slovak diplomat Miroslav Lajčák. The arrival of a new High Representative, who was 30 years younger than his predecessor, seemed to bring an element of new hope, both to domestic politicians and to representatives of the international community. Lajčák had been chief negotiator during the successful process of separating Montenegro and Serbia and he spoke the languages of BiH fluently. Lajčák leapt into the police reform negotiations immediately and with an almost naïve air of anticipation. Two weeks after his arrival he began discussing the issue with the main political actors, declaring that if the political leaders failed to reach an agreement before 1 October 2007, BiH would miss the opportunity to submit a positive annual progress report to the European Commission and thereby “practically a year (would be) wasted.”

In the initial meetings Lajčák energetically downplayed the sensitiveness of the reform and tried to neutralise politically divisive issues and focus on areas where the politicians were more likely to find agreement. In one interview he said: “Let’s not use police reform for solving other issues, like constitutional reform and the existence of the BiH entities. Police reform should be tackled as a technical issue… This means that when we deal with police, we should deal with that issue only.”

However, by arguing that police reform was not about politics, Lajčák implicitly abandoned the earlier claims made by the international community, in effect accepting that it was impossible to demand a reform that required transfers of competences and changes to the Dayton constitutions, as initially requested by Paddy Ashdown. Obviously, Lajčák had reached the conclusion that if an agreement was to be reached on police reform the requirements had to be seriously scaled down, though this approach was probably not based exclusively on his own assessment. At the time of Lajčák’s appointment, Brussels was obviously eager to have an agreement on police reform signed as soon as possible and, according to Deputy High Representative Raffi Gregorian, the new High Representative had received instructions to get a deal at any price.

“When Lajčák came in I think he had very clear marching orders from the EU, from Solana, who told him to get a deal. He never told me what his instructions were, but it seems pretty obvious. ‘Get a deal, we do not care. This has been dragging on for too long, we need a deal now.’ Therefore we

411 Nezavisne Novine 16.07.2007. The announcement of the deadline was however not coordinated with the European Commission, which initially denied that there was any deadline for the reform.

412 HR Lajčák: Police reform should be tackled as technical issue, Nezavisne Novine, 02.08.2007.
got what we have now, which is delaying all the major principles of the reform until the constitution is reformed. Who knows when that will be? I do not even know whether there will be a country here next year, let alone a new constitution.”

In effect Lajčák would make it clear that he did not intend to ask for the abolition of the entity police forces and even before the negotiations had begun he publicly stated that “nobody is talking about abolishing the RS Police.” Consequently, the conditionality of police reform was significantly changed, not as result of the changed needs of BiH, but as a result of the imminent desire of the international community to reach an agreement and bring BiH further into the integration process. However, by readjusting its approach, the international community changed the fundamental premise of the talks, which upset the domestic negotiating parties.

Formal talks on police reform resumed on 29 August 2007 when the High Representative invited representatives of all the major BiH parties to the OHR in Sarajevo. At the meeting the political representatives received a protocol outlining a compromise concept of police reform, mainly deriving from the plan of the Directorate, but making a number of concessions to the interests of the main parties as expressed in the negotiations. The protocol described the concept of the future police system in a number of bullet points. It envisaged the integration of policing structures under the BiH Ministry of Security, but it did not insist on police districts crossing the inter-entity line. The document was presented as a basis for discussion and the politicians were asked not to disclose it to the media. Nevertheless the contents of the protocol were immediately leaked to the main BiH daily newspaper, Dnevni Avaz, and over the next few days the leaders of the SDA, the SBiH and the SNSD all rejected the protocol, while the Social Democrats and Croat parties accepted it.

The abrupt rejection of the protocol was an unpleasant reminder to the optimistic High Representative of the gap between the political positions of

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413 Interview with Raffi Gregorian - 02.09.2008.
414 This statement was given after a meeting in Trebinje with the Chief of the Public Security Centre. The day after, the Serb political establishment praised the statement and RS Prime Minister Dodik said that: “The High Representative’s statement might restore our trust in police reform”. *Neither RS nor its police will be abolished*, Dnevni List. 08.08.2007.
415 The administrative borders of Republika Srpska were respected, yet the protocol would request that the territory of the entity be divided into more than one district and also require that the municipality of Srebrenica became a local police area. OHR, *Draft Protocol on Meeting the Police Reform Requirements Necessary for Initiating and Signing the Stabilisation and Association Agreement*. (Internal document issued August 2007)
416 One senior OHR official described the protocol as a last attempt at a point when “game over” had practically been declared.
the Serbs and the Bosniaks. Haris Silajdžić claimed that the protocol violated “basic European principles”, stating that it aimed at “legalizing the division of the country”, while the SDA leader, Suljeman Tihić, said the protocol confirmed the “existence of a police force responsible for genocide”.\(^{418}\) The Serbs, on the other hand, turned down the proposal on the grounds that the RS police would be reduced, as stated by Ivanić, to an “administrative organisation of the BiH Ministry of Security”, although the protocol was actually a softer version than what Milorad Dodik had offered in March.\(^{419}\) Dodik, who had waited to reject the protocol until the Bosniak parties had done so, was evidently not interested in giving anything up to the common state structure.

Some of the politicians had recognized that the EU was desperate to strike a deal. The Serbs evidently calculated that the EU would probably return with a more favourable proposal later on. For its part, the SDA had realised that political developments were not going in a direction favourable to the Bosniaks, noting that the conditionality was becoming progressively weaker. On 27 September, the SDA Presidency therefore rescinded its decision to reject the protocol, a decision which, according to the deputy President of the Party, had been taken in the heat of the moment.\(^{420}\)

“…the President of the party Tihić, and Silajdžić came out together. I think that was done in the heat of the moment and it was careless. We would later at the presidency of the party correct the opinion of the party… We had some remarks, but in substance, we supported the plan… Any proposal is better than what we have right now. As time went by, the proposals put forward just became worse.”\(^{421}\)

The changed position of the SDA would thereby isolate the two main actors on the BiH political scene, Haris Silajdžić and Milorad Dodik, who were still refusing to accept the agreement. On 28 September one of the most surprising and mysterious political events in modern BiH history occurred. By telephone, Silajdžić contacted his political rival, Dodik, asking him for a meeting in Sarajevo. At this meeting the two leaders formulated a compromise solution to police reform. They signed a protocol that vaguely described the future police structure.\(^{422}\) The Dodik/Silajdžić protocol was, however, rather confusing and in some aspects contradictory. It endorsed the three EU principles and committed to several aspects of the initial concept of police reform, but at the same time it stated that the “…structure of the

\(^{418}\) OHR annuls years of work on police reform, Oslobodjenje, 01.09.2007.
\(^{419}\) All against Lajcak’s proposal, Nezavisne Novine, 01.09.2007.
\(^{420}\) SDA accepts Lajcak’s proposal, Dnevni Avaz, 28.09.2007.
\(^{421}\) Interview with Šefik Džaferović - 04.08.2008.
\(^{422}\) Neither the RS Minister of Interior nor the first Advisor to PM Dodik could in my interviews give any realistic reasons why Silajdžić had changed his mind and reached out to Dodik. There were rumours that Silajdžić had been pressured by Bosniak oligarchs who were doing business with Serb oligarchs close to Dodik.
police forces in BiH must comply with the constitutional structure of the country…” and that “…the territorial authority of the regional centres shall be in line with the first-instance prosecutorial offices in the entities…”, which thereby meant that they would not overlap the inter-entity boundary line. Nevertheless, the agreement did not refer to “Republika Srpska” or the “Federation of BiH”. The agreement seems not to have been primarily about police reform, but the opening gambit in a wider constitutional reform. A key paragraph states that “…new and reformed structure of the police should be harmonised with any constitutional changes that will occur in the coming period.”

Few observers could explain why Silajdžić had implicitly accepted the entity police forces, against which he had so zealously fought for so many years. Although the agreement seemed to represent an unanticipated reconciliation between two political enemies it created disarray in the political negotiations, since none of the other political parties had been informed about it in advance. The SDA and the Croat parties attacked the agreement claiming that it diverged from the EU principles and that the protocol as such was harmful, given that it was signed bilaterally on the day before the deadline. Not even the Serbs parties, the PDP and the SDS, were sympathetic to the agreement. Instead of bringing the negotiations forward, the newly discovered friendship between the two rivals upset the political climate and created a situation in which compromise was unattainable. In essence the agreement was proof of how far the talks had departed from the technicalities of police reform and how the negotiations had been turned into a contest of symbolic political statements. The text was sufficiently vague for both Silajdžić and Dodik to proclaim the protocol a victory. The Bosniaks argued that the RS government had now agreed to implement police reform in accordance with the three principles and judging from statements by the advisor to Haris Silajdžić, they supposedly believed that Serb politicians had accepted the abolition of the entity police and their integration in a common policing structure, stating that “…this is not the end of police reform, this is just the very beginning. We just reframed the content in which we talk about the three principles.” Paradoxically, RS Prime Minister Dodik also viewed the agreement as a success, believing that it guaranteed the continued existence of the RS police, since the agreement stated that the police forces would follow the organisational structure of the constitution.

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423 Tekst Protokola koji su potpisali Silajdžić i Dodik. (Član: 1, 2.2, 2.9, i 5.)
424 Ibid.
425 SDA leader Tihić: Internal agreement between two parties unacceptable, Dnevni Avaz, 01.10.2007. HDZ leader Dragan Cović: Dodik/Silajdžić Protocol is harmful, Nezavisne Novine, 01.10.2007.
426 Interview with Political Advisors to Haris Silajdžić - 19.08.2008.
427 Interview with Milorad Dodik - 26.08.2008.
By suddenly accepting a proposal that was less than the requirements of the EU, Silajdžić and Dodik had brought the international community into a difficult situation and in the subsequent political chaos the police reform talks fell apart. When all the major parties met for a final meeting at the OHR on 11 October, the lack of political will and interest in compromise was insurmountable, bringing the police negotiations to their ultimate demise.\textsuperscript{428} At the press conference after the meeting a visibly disappointed Miroslav Lajčák announced that; “Agreement on police reform has not been reached, and BiH has lost its chance to continue towards the EU… I wanted BiH’s accession to the EU to be one of the country’s top priorities, but I did not find partners in this plan.”\textsuperscript{429}

8.5 The crisis that brought police reform to an end

The response to the failed talks in October 2007 was characterised by frustration in regard to the strategy of the international community. If BiH had no interest in undertaking the reforms required by the EU, then the international community needed to reconsider its policy. On the one hand the High Representative concluded that the main BiH politicians were not interested in implementing the reforms required to reach the EU, yet on the other hand it was necessary for the international community to bring BiH forward towards the EU, given that the Europeanization process was a fundamental element in the wider strategy of the international community in BiH. Since the politicians had rejected the European path, the High Representative announced that they would now return to the proactive approach of the “Dayton path”, imposing a “policy of establishing a functional BiH”, capable of implementing the EU requirements.\textsuperscript{430}

Returning to the Dayton path implied that the process of reform was to be facilitated by the Bonn Powers. In the days after the failure of police reform, a number of potential coercive measures were prepared within the OHR. The strategy was to identify problematic issues that had been left unsolved and impose solutions on these until the domestic politicians were ready to return to the negotiating table.\textsuperscript{431} Accordingly, on 19 October the High Representative issued a Decision amending the Law on the Council of Ministers, with the intention of improving the efficiency of the BiH

\textsuperscript{428} On Wednesday 10 October, the Croat parties (HDZ and HDZ 1990) presented a third protocol, trying to overbridge the divergences between the Lajčák Protocol and the Dodik/Silajdžić Protocol.

\textsuperscript{429} EUPM Media Monitoring 12-14.10.2007. (Broadcast on BHT, FTV and RTRS)

\textsuperscript{430} OHR changing course, Nezavisne Novine, 17.10.2007. OHR, Press Conference, Statement by the High Representative, Miroslav Lajčák, 19.10.2007.

\textsuperscript{431} Interview with Raffi Gregorian - 03.09.2008.
government. At the same time the High Representative issued an instruction to the BiH Parliament to amend the rules of procedure pertaining to the voting procedures in both houses.432

The decision to reactivate the Bonn Powers may have been fatal, yet it also demonstrated the incapacity of the international community to understand the limits of its own strength and its intricate relations with the political elite. While the Bosniaks welcomed the move as a positive measure aimed at strengthening the state, the Serbs were enraged, claiming that the High Representative’s Decisions violated the BiH constitution. The Serbs had been encouraged by their successful recovery of political territory from the international community and Milorad Dodik understood that the time had come to test his political capital. If he accepted the Decision amending the Law on the Council of Ministers he would re-legitimise the power of the High Representative and thereby he might potentially be obliged to accept similar impositions in the future, which he was likely to view as harmful to the RS. Following the Decision Dodik exclaimed that; “This is the moment when the RS must show that we’re ready to defend the constitutional order of BiH and the position of the RS … Our relationship with him (Lajčak) will change and we’ll be meeting him as someone who wishes the RS ill…”433

The High Representative, on the other hand, needed a successful imposition in order to reconfirm the power vested in his office. The two sides would therefore refuse to back down and for more than a month Miroslav Lajčak and Milorad Dodik were engaged in an exercise of brinkmanship. The situation was aggravated a few days after Lajčak issued his Decision, when the Serbs declared that they intended to withdraw all of their representatives from the Council of Ministers (the BiH government) if the Decision was not changed. The Serbs could thereby trigger a government crisis, paralysing the Council of Ministers and blocking all decisions in the BiH Parliament.434 In a seemingly theatrical performance during the weeks following the OHR Decision, the Serbs would reiterate their threats and dissatisfaction in three consecutive extra-ordinary sessions of the RS National Assembly and at number of public demonstrations.435

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432 The Decision and the instruction were designed to unblock obstruction of the work of these bodies, preventing candidates of one ethnicity or representing one of the entities from abusing the power-sharing mechanisms and blocking the decision-making process by not attending sessions and thereby undermining the quorum criteria. If the Parliament failed to adopt the instruction by 1 December the High Representative was to impose it. OHR, Decision Enacting the Law on Changes and Amendments to the Law on the Council of Ministers of Bosnia and Herzegovina.

433 Dodik: Decisions are unacceptable for RS, Nezavisne Novine, 20.10.2007

434 At the end of the month the Chairman, Nikola Spirić, (the BiH Prime Minister) realised this threat and offered his letter of resignation, although he would continue to act on a technical mandate throughout the crisis. BiH CoM Chairman Spirić resigns, Nezavisne Novine, 01.11.2007.

435 The RSNA would maintain an ongoing extraordinary session all through the crisis, convening the Assembly on three occasions.
The conflict gained a regional dimension when the Serbian Prime Minister, Vojislav Kostunica, voiced his support for his colleagues in the RS, calling on the High Representative to withdraw the Decision. Kostunica was evidently interested in connecting the situation in BiH with Kosovo, saying that: "...Lajčak’s measures and the Ahtisaari Plan for Kosovo are aimed at annulling Resolution 1244 and the DPA, so that independence of Kosovo could be proclaimed and Republika Srpska abolished. This is an open violation of the basic interests of the Serbian nation."\textsuperscript{436} The young and impetuous Croat representative of the BiH Presidency, Željko Komšić, rebuffed the statement of his Serbian counterpart, saying that "...unless he (Kostunica) kept his fingers away, he could get both his fingers and his nose punched."\textsuperscript{437} In the space of a few days, BiH had entered one of its worst crises since the war. In a rather careless statement, the EUFOR Commander, Rear Admiral Hans-Jochen Witthauer, said that tensions were obvious throughout the country and that EUFOR would be ready to react in the event of any resumption of the conflict in BiH.\textsuperscript{438}

Following the OHR Decision it appeared that the only way out of the political turmoil for the High Representative, was, paradoxically, to build on the agreement of the two strongest political leaders, Silajdžić and Dodik, which had initially led to the break-down of the police reform talks. In the midst of this political disarray, the six governing party leaders gathered together with the High Representative at a location near Mostar. The leaders understood the need to take some sort of action in order to calm the situation down. Since the politicians were neither capable of resolving the current crisis nor of reengaging in talks on sensitive aspects of police reform, they drafted a declaration consisting of a few basic police reform elements to which they could all subscribe. The declaration elaborated the logic of the Silajdžić/Dodik agreement. In the proposal, which would be called the “the Mostar Declaration”, the six leaders of the governing parties once again committed to a reform in line with the three EU principles, but they did not outline any details about the reform, simply stating that “…the new and reformed police structure of BiH shall be based on relevant provisions of the Constitutions of BiH, which shall take form after the process of constitutional reform”.\textsuperscript{439} This key sentence in the agreement had obviously been taken straight out of the Silajdžić/Dodik agreement. The politicians had thereby agreed to postpone police reform until after constitutional reform, although no such reform was envisaged in the near future.

\textsuperscript{436} Lajčak destroys the DPA, Nezavisne Novine, 26.10.2007.
\textsuperscript{437} Komšić: Kostunica could get a slap on the wrist and a punch in the nose, Nezavisne Novine, 26.10.2007.
\textsuperscript{438} Oslobodjenje, 31.10.2007. EUFOR would also claim that BiH citizens were purchasing weapons, apparently preparing for war.
\textsuperscript{439} The Declaration on Honouring the Commitments for Implementation of Police Reform and Signing the Stabilisation and Association Agreement.
A few days after the meeting in Mostar the politicians reconvened in Sarajevo and signed the so-called Action Plan for implementation of the Mostar Declaration, in which it was suggested that the government would adopt two laws that would regulate all together seven new institutions at the state level.\textsuperscript{440} Although the agreement was evidently not in compliance with any of the EU principles, the international community supported it, believing that it was the only way out of the current crisis. Some international observers acknowledged that they had now been forced to give up police reform.

“Police reform is gone forever and they sold it out. They will never get anything that they want on this. They agreed not to have police reform. As my colleague said, the Mostar Agreement is more about what they do not agree to than what they do agree on. It was an honest document, the honesty is refreshing, but they accepted that they cannot agree on anything…”\textsuperscript{441}

In addition to the so-called “Action Plan” on police reform, the politicians agreed at the Sarajevo meeting to a compromise solution to the changes of the rules of procedure in the BiH Parliamentary Assembly that was weaker than the instruction of the OHR, but would be adopted by the Parliament.\textsuperscript{442} Two days later the High Representative issued a so-called “Authentic Interpretation” of the Decision amending the Law on the Council of Ministers. The wording of the Decision remained the same, but in accordance with the “Authentic Interpretation”, the effects of the Decision would be slightly revised. In this way the High Representative resolved the crisis without formally having to revise his Decision, although the implications of the Decision and instructions had been altered.\textsuperscript{443}

However, the key element in the resolution of the crisis was the Mostar Declaration and the Action Plan on police reform. On 3 December, three days after the agreement was adopted by the BiH Council of Ministers, EU Enlargement Commissioner Olli Rehn arrived in Sarajevo for a ceremony

\textsuperscript{440} Action Plan for Implementing the Mostar Declaration with the Aim to Initiate and Sign the Stabilisation and Association Agreement. The Action Plan established the Institute for Forensics, Institute for Education and Professional Upgrading, Police Support Agency, Independent Board, Citizens’ Complaints Board and Police Officials’ Complaints Board. This document was inspired by a similar, but more ambitious document drafted by international experts. The document as such was written on a laptop during the talks in Sarajevo.

\textsuperscript{441} Interview with OHR Official - 21.08.2008.

\textsuperscript{442} Rules of Procedure adopted, the crisis in BiH is over, Dnevni Avaz, 01.12.2007.

\textsuperscript{443} OHR, Decision Enacting the Authentic Interpretation of the Law on Changes and Amendments to the Law on the Council of Ministers of Bosnia and Herzegovina Enacted by the Decision of the High Representative of 19 October 2007. These revisions were intended to prevent abuse of amendments, for example intentionally calling sessions when candidates are absent; they also created timelines regulating the tolerated absence and limiting the time when all members appointed from the territory of a given entity may be absent.
initialing the Stabilisation and Association Agreement.\textsuperscript{444} Bosnia and Herzegovina was thus deemed to have completed the police reform exercise and, provided the laws establishing the seven institutions envisaged in the Action Plan were adopted, the country would be eligible to sign the SAA.\textsuperscript{445}

The political crisis had obviously created a momentum for action, yet it had also lowered expectations about what the leaders could agree on. More then three years of strenuous negotiation on police reform had come to an end. Pursuant to key legalisation four police bodies were established; the Directorate for Coordination of the Police Bodies, the Agency for Forensic Examination, the Agency of Advanced Training of Personnel and the Agency for Police Support.\textsuperscript{446} However, the Directorate for Coordination would not have any competences to coordinate police bodies other than the state-level agencies; the State Investigation and Protection Agency and the State Border Police. Moreover the state, entity and cantonal police already had their own agencies for forensics, training and police support and the new law did not foresee the abolition of these. In this sense these laws would only add an administrative layer at the state level duplicating several agencies that already existed.\textsuperscript{447}

A number of political analysts drew attention to these shortcomings in the legislation and some international experts who had been engaged in the process from the beginning even argued that the laws were detrimental to the functioning of the police forces. One senior OHR official claimed that the laws might have a negative effect, because “…you would take money from the state law enforcement agency to pay for these agencies… and then you have to set up a large administration for nothing and you trigger an administrative turf war…”\textsuperscript{448} When the Action Plan was endorsed by the party leaders, the EUPM advised the European Commission to further develop the document into a more comprehensive agreement in order to avoid a situation where disparate legislation would create “…a useless superstructure to the existing police structures.” The EUPM called for a remedial effort “…to create a state structure able to influence the status quo and to move the police restructuring forward.”\textsuperscript{449}


\textsuperscript{445} Agreement of Six Party Leaders on Formation of the Council of Ministers of BiH and Implementation of the Action Plan on Police Reform in BiH. 11.12.2007. On 11 December the six party leaders met again in Lakiaši and signed an agreement on how to draft the police reform laws, which had been stipulated in the Mostar Agreement and the Action Plan, and to decide where the seats of the new agencies would be located and how to solve the remaining repercussions of the crisis.

\textsuperscript{446} The Law on the Directorate for Coordination of Police Bodies and Agencies to Support the Police Structure of BiH and the Law on Independent Supervisory Independent Bodies of the Police Structures.

\textsuperscript{447} Ibid.

\textsuperscript{448} Interview with OHR Official - 04.04.2008.

\textsuperscript{449} Letter from the Head of European Police Mission, Vincenzo Coppola, to the European Special Representative, Miroslav Lajčak, and the Head of the Delegation of the European
Three years after the initiation of the police reform negotiations, the politicians would thus agree to adopt two laws that would not result in any concrete change in the structure of uncoordinated and independent policing authorities. Several Bosniak politicians would subsequently express regret that they had not accepted a compromise agreement at an earlier stage, understanding that the substance of the proposals had been progressively diluted.\textsuperscript{450} When the final reform agreement was reached, the political positions of the Serbs and the Bosniaks were further apart than they had been at the beginning of the reform process, and in addition a conflict had broken out between the key Bosniak parties. The desperation of the international community to reach agreement in a time of political crisis had led to a complete surrender of the basic conditionality in police reform. At the end of the process, the international community had accepted laws that were even worse in terms of operational efficiency and the functionality of the state than the regulations prior to police reform. Nevertheless, when the laws were finally adopted on 16 April, the European Union deemed BiH eligible to sign a Stabilisation and Association Agreement.\textsuperscript{451}

\section*{8.6 Concluding summary}

The police reform conditionality that was introduced by the High Representative and endorsed by the European Commission in November 2004 would set the framework for the unsuccessful negotiations of 2005. The unwillingness of the Serbs to accept the proposed concept of police reform and the refusal of the international community to make any concessions on their interpretation of the principles would eventually induce the parties to accept a vague compromise agreement in October 2005, in which the entity and state parliaments paradoxically committed to implement police reform in accordance with the three principles while respecting the entity and state constitutions. By signing an ambiguous agreement, which would be differently interpreted by domestic politicians and international representatives, disputes over police reform were inherited by the Police Reform Directorate.

The international community seems to have believed that the symbolic significance of entering into a formal relationship with the European Union would encourage BiH politicians to put their disagreements aside and accept

\textsuperscript{450} Interview with Hašim Randić - 08.09.2008.

\textsuperscript{451} European Commission, Ambassador Korkoulas welcomes the signature of the Stabilisation and Association Agreement with Bosnia and Herzegovina. Press Release, 16.06.2008.
further concessions in order not to backtrack on the integration process. The excessive confidence placed in the soft power of the EU tended to make the international community oblivious to the political reality in BiH and as a result, peace-building efforts began to focus on demonstrating symbolic victories in Brussels rather than solving the underlying problems in BiH. By continuing to negotiate police reform in the Directorate, believing that the Serbs would interpret the October agreement as an endorsement of the concept proposed by the Martens commission, the international community not only displayed considerable naivety, but also give rise to an unnecessary conflict. As a consequence of this approach, broader inter-ethnic disputes were absorbed by the Directorate, and while RS politicians, particularly Milorad Dodik, used the dissatisfaction of Serbs and targeted the work of the Directorate, Bosniaks were moved to take a more intransigent stance. The modalities of the police reform negotiations and the changes in the approach of the international community thus had an impact on the relations between the ethnic communities, emphasising the political divisions that separated the political establishments.

The police reform negotiations in 2006 represented not only a wasted year, but also an abuse of EU financial and human resources. During the talks in 2006 it became increasingly evident that the negotiations would not generate constructive agreement, but the representatives of the international community refused to reconsider the modalities of the negotiations. Instead, they continued to finance the non-functional Police Reform Directorate and assign various international consultants to it. The international community seems to have become a captive of the initial requirements and without proper political leadership it was unable to adjust an unfeasible policy. Not until the political talks began in 2007 would the conditionality be reconsidered. However, this change of policy was not first of all a response to the political situation in BiH, but prompted by Brussels’ interest in having a Stabilisation and Association Agreement signed. Fearing that BiH would be left behind in the wider South-Eastern European integration process, the EU would gradually lower the reform requirements. In this sense, the conditionality seems to have been adjusted to suit the interests of Brussels rather than the needs of BiH or the requirements of any formal EU standards.

The change in the approach of the international community did, however, have an effect on the position of the Bosniak political elite, who became increasingly negative about EU integration. The Bosniaks had built up certain expectations in the course of the talks, believing that police reform would result in a systematic restructuring of the police forces. It was therefore difficult for the Bosniak political establishment to accept a proposal that fell short of the original conditions. To a certain extent the Bosniaks were driven by emotional and ideological conviction, seeing police reform as an opportunity to rectify the injustice committed by the Serbs in the course of the war. After the prospect of abolishing the RS police was offered in the initial phase of the talks, they were unable to yield to any
proposals that would preserve the entity level police forces. This uncompromising approach on the part of the Bosniaks was further bolstered by the verdict of the International Court of Justice, which declared that the institutions of the RS had participated in the genocide in Srebrenica. Consequently, when the international negotiators in March 2007 successfully persuaded the RS Prime Minister to accept a compromise proposal, in which the RS police would be transformed into an administrative unit within the wider BiH policing structure, the Bosniaks refused to accept the deal.

The failure to reach an agreement in March 2007 shows the degree to which the talks had come to transcend the EU agenda and become primarily an issue promoted within the domestic political agenda. When High Representative Lajčak relaunched the talks in July 2007, police reform had already become a discussion about the future set-up of the country and technical arguments had little or no relevance in the political debate. In this sense the police reform talks came to accentuate antagonistic tendencies in BiH society, emphasising inter-ethnic enmity rather than offering a framework in which fear and distrust could be overcome. This negative political atmosphere was generated by the conflicting political rhetoric of such politicians as Haris Silajdžić and Milorad Dodik, but police reform provided the context in which these kinds of hostile views were stirred up. By refusing to waver from the ambitious conditions set by the European Commission in November 2004, the two political camps came into direct confrontation and this led to a radicalized political climate. Given that the three principles stretched beyond any nominal idea of what could be seen as EU standards, it was difficult for the international community to recapture the initiative and transform the principles into a technical issue, without having recourse to political arguments.

The initiative to reactivate the Bonn Powers in October 2007 seems in this context to have been ultimate proof of the inability of the High Representative accurately to assess the authority vested in this office and read the political situation in BiH correctly. The OHR’s Decision triggered one of the gravest political crises in BiH in the post-war era, in which the power of the High Representative was challenged by the local political elite. In order to resolve the crisis, the international community abandoned the conditionality in police reform. After having negotiated police reform requirements for more than three years, BiH would sign the Stabilization and Association Agreement without addressing the concerns that had been expressed in the Feasibility Study. In substance, the final agreement did not include any reference to the three principles except for a transitional paragraph stating that these were to be implemented after constitutional reform. In other words, police reform was concluded partly in order to solve a crisis created by the international community itself and painful disputes on the make-up of the country were deferred to future talks on constitutional reform.
Part IV. The Impact of the Police Reform Negotiations

“Cavić made the RS respectable, but he had the disadvantage of coming from the SDS, the party of genocide. Dodik arrives on the scene as somebody that opposed the war, or at least sat it out without getting his hands dirty. And he received a democratic mandate with which he can challenge the international community, which no one had the nerve to do before.” (Interview with OHR Official - 05.04.2008)

An OHR official argues that the moral background of the new RS Prime Minister enabled him to challenge the international community.

“…it is true that in the eyes of the people, not only within the SDS, Mr Čavić was too cooperative with the international community. And I think he used up his trust within his party and his capacity as a politician in this environment. This is a country that is made up of three constituent peoples and two entities. If the people would claim that you are not working in the interest of your people then you will be out of the game.” (Interview with Nebojša Radmanović - 26.08.2008)

The Serb member of the BiH Presidency, Nebojša Radmanović, explains why Dragan Čavić lost popularity in the Serb constituency

“I cannot impose anything on the Serb people if they do not want it. And 95% of them, I do not know because I do not have any results, but I believe at least the majority of them, want the RS. Thus for me the abolition of the RS is not possible. Not until they themselves estimate that the RS is a burden then we can solve it…” (Interview with Damir Hadžić - 20.08.2008)

SDP representative Damir Hadžić argues that seeking the abolition of the RS is not politically feasible.
9. The Political Impact of the Police Reform Negotiations

The formal aims of police reform, in the perspective of the international community, were to trim the BiH police forces so that they would become more efficient and better able to fight serious crime and meet the requirements of EU integration. The intention of the police reform was also to reintegrate the country and encourage a process of reconciliation. The rationale of the reform was in this sense defined by the position of the international community; it needed to create a sustainable state structure that would make it possible to phase out the international engagement. However, looking at the political impact of the protracted negotiating process, police reform seems to have produced quite the opposite result. By pushing an overambitious set of conditions, requiring a reorganisation of the essential structure of power and modifying access to the instruments of violence, the international community not only undermined the EU impetus and the general justification of police reform, it changed the logic of politics in BiH.

In the course of 2005, the political climate in BiH clearly turned negative and antagonistic. At the same time, in line with the strategy of the international community, the High Representative sought to promote those politicians who were judged to be sufficiently powerful and cooperative to bring about a deal on police reform and on other contentious issues. However, associated with unpopular reforms and a negotiating process that was bound to fail, these politicians were denounced as traitors by their own parties and constituency.

In this sense the approach of the international community would exhaust the willing reformists and instead boost politicians at the more antagonistic and radical end of the political spectrum. Moreover, the confrontational political climate would call forth a hostile and uncooperative approach within the Bosniak political camp and encourage fear-driven political campaigns, securitizing the identity of the communities. This chapter will analyse the impact of the police reform negotiations on political discourse, by looking at the dynamics of the activities of the international community and the domestic political elite. It will be divided in two sections, discussing the first and second phase of the negotiations separately.
9.1 Discouraging cooperation and promoting obstruction

It is beyond doubt that the engagement of the international community had a remarkable effect on the political dynamic in BiH. With the introduction of the so-called Bonn Powers, the High Representative was able to determine the direction of political development by removing obstructing politicians, imposing laws and introducing major reforms in BiH, such as the reform of the security sector.\(^{452}\) However, given that the main political reforms were motivated by the process of Euro-Atlantic integration (EU and PfP/NATO), in which BiH was required to enact legislation by itself, from 2005 onward use of the Bonn Powers became less frequent. Most impositions were henceforth related to specific ICTY issues.\(^{453}\) The principal instrument of power was not the executive force vested in the High Representative, but the ability of the international community to determine the conditionality of the EU integration process. After 2003 and following the publication of the Feasibility Study almost all major reforms were adopted as a result of the efforts of the domestic political elite to meet EU requirements and to bring the country closer to the EU.\(^{454}\)

Nevertheless the EU factor was not the only motor that was driving reform. In the first two years of police reform, the Bonn Powers would still provide the High Representative with a nimbus of force, and on the one hand the fear of sanctions would indeed prompt politicians to act while on the other it would restrain certain individuals from obstructing the reform process. The process was, then, driven forward, at least in the early phase of the police reform talks, by a combination of the Bonn Powers “stick” and the EU “carrot”.

The tactic of the High Representative was to promote the EU integration process and at the same time threaten and reprimand politicians who demonstrated that they were not interested in delivering results that were consistent with this process. Judging from the accounts of interviewees, the OHR had concluded that the key governing parties, the SDS, HDZ and SDA, had assumed control of the public authorities and institutionalised their power in the administrative structures. A small number of individuals within the governing parties could thereby use their positions of power in order to maintain economic influence and profit from various public revenues. Consequently, if the international community was to introduce change they

\(^{452}\) Paddy Ashdown issued 307 Decisions in his first three years (2002-2004) and his predecessors issued 323 from 1997 to 2002. OHR Decision (www.ohr.int/decisions)
\(^{453}\) Ibid. Of 91 Decisions in 2005, 28 concerned appointments of international judges and prosecutors and 30 concerned the lifting of previous bans and removals, as a result of an internal review of previous OHR Decisions.
\(^{454}\) The only major exception in 2005 was the imposition of the Mostar city statute.
needed to target the principal politicians in power. However, even though the OHR believed that the governing political elite were “corrupt and nationalistic”, as stated by the Head of the Rule of Law Department, Bill Potter, they also knew that they could “…generally use our leverage to convince them to enact the desired legislation.” By threatening individual politicians with removal, blocking bank accounts and imposing travel bans on the governing parties, the OHR believed that the party leaders would learn that it was in their own interest to adopt difficult reforms.

In effect while the EU factor encouraged the electorate to demand that the governing parties deliver reform, the international community directed sanctions at the political elite. In the long run this strategy would, as explained by Paddy Ashdown, undermine the capacity of the nationalist politicians to “…continue to enjoy the profits of the severely corrupt political structures.” Moreover, the High Representative would strike at the hard-line segments within particularly the SDS and the HDZ, in order to create space for moderate forces within these parties to step forward. The measures and removals imposed prior to the Decision establishing the Police Reform Commission were an illuminating example of this strategy. By an OHR Decision of 30 June 2004, the party leader, Dragan Kalinić, under whom the RS was refusing to collaborate adequately with the ICTY, was removed, and together with him altogether 59 SDS and RS public officials. The intention of this measure was, as argued by one senior OHR official, to encourage and empower more pragmatic politicians, and particularly the RS President, Dragan Ćavić, who would become the leader of the SDS and the key politician in the RS.

“We thought about the tactics of this. There were people who were clearly committed to obstructing what we were trying to do all the way down the line. And some of them were removed. Dragan Kalinić was maybe the most obvious example of those people who were never going to be brought on board. He would just give enough to keep his own job and nothing more, all the way down the line. And then there were people who we thought, in the SDS, understood that there was no long-term viability inside the RS and that actually the interest of the RS was best served by getting into the EU where the importance of nationhood would be diminished anyway. We basically made a calculated gamble that Ćavić understood that and he would work towards assisting BiH in the accession to the EU. That was our basic gamble.”

At the end of November 2004 the ICTY Prosecutor Carla Del Ponte gave an address to the United Nations Security Council in which she criticized the authorities of Republika Srpska for not having arrested a single fugitive. The

456 Interview with Paddy Ashdown - 25.06.2008.
457 OHR, List of Removed and Conditionally Removed Officials by the High Representative.
458 Interview with OHR Official - 23.06.2008.
poor record of collaboration with the ICTY not only raised questions about the willingness of the political establishment, but also confirmed that there were, as she said in her address to the Security Council “…fundamental weaknesses built into the law enforcement and security structures… particularly in Republika Srpska.” As a reaction to the negative conclusion of the Prosecutor, the international community issued on 18 December another package of punitive measures that would prompt the entity to improve collaboration. Nine Serb officials who were allegedly obstructing collaboration with The Hague were removed by the OHR, while all SDS and PDP officials were barred from entering the US. Although the Decisions were motivated by the fact that the RS authorities had not sufficiently cooperated with the ICTY, these measures, issued two days after the final session of the Police Reform Commission, would primarily be seen as punishment for the refusal of the RS representative to accommodate an agreement in the Commission. As a result of these measures, RS Prime Minister Mikerević, a member of the PDP, withdrew from the government, leading to its breakdown.

“I understood, especially after the Decisions of the OHR and the US embassy on 16 December 2004, when they banned us from entering the US, that this was a sufficient sign that I had nothing more to ask for as a Prime Minister, and that this was a result of our attempt to defend the institutions of the RS and our unwillingness to accept initiatives to centralise the institutions in BiH… Especially knowing that we had had correct collaboration with the OHR for a long time. We had transferred the competences of certain institutions to the level of the state… and after that they threatened to put me on the list of supporters of Karadžić network and to sign up to something that I would never accept, something I would not sign even under the threat of murder. Therefore I resigned, on 17 December, believing that what we are doing does not have any value… This was so humiliating… Now these sanctions were lifted some two months ago. The only reason was that I refused to accept police reform that did not serve any other purpose than hidden political aims.”

The strategy of the international community did however have a direct political effect and after the removal of Kalinić, RS President Čavić became

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460 The OHR also ordered the RS General Auditor to conduct audits of a number of public enterprises in the RS, and the US Embassy blocked all SDS bank accounts located in the US.

461 In the following days all the other PDP members of the state government would likewise submit letters of resignation, yet none of them would actually resign, but would remain in office until the 2006 election. Diktat without precedent, Glas Srpski, 16.12.2004 Dragan Mikerević filed resignation, Nezavisne Novine, 18.12.2004.

the prime political force in the RS. One of his first measures was to change the status of relations with the ICTY, and the RS would, as will be discussed later, significantly improve its collaboration with the international community on the war-crimes issue. However, as a result of these measures, the collaborative political forces were also exposed to domestic criticism and attacked by their own parties. This would in particular be the case when it came to the negotiations on police and defence reform.

Although Čavić represented a party that was traditionally strongly nationalistic and disinclined to cooperate with the international community, he played a significant role in the police reform negotiations. Čavić tried to seek a compromise solution and in May and October he delivered speeches in the RSNA during the debate on defence and police reform, defending the EU integration process and the proposal negotiated by the international community. However, despite this, RS politicians and the international community were never able to find a common language on police reform.

Following the Vlašić negotiations Čavić showed obvious signs of desperation in his appeals to his party to take a more conciliatory line. In May 2005, a few days after the failed talks in Vlašić, he warned the electorate at a press conference in Banja Luka that they were now faced with a choice either to accept police reform under the three EU principles or reject the principles and make the entity the sole reason for BiH’s failure to join the EU. The attempt to soften the position of the Serbs was, however, bluntly rejected by members of Čavić’s SDS. Several SDS districts rebelled against the party leader’s policy of compromise and against the Vlašić agreement, prompting the Main Board of the party to adopt a conclusion stating that police reform could only be implemented within the framework of the RS and that it was unacceptable for the police to cross the inter-entity boundary. As a result Čavić offered his resignation to the party, but the Main Board refused to accept it.

According to Čavić, the situation had become unbearable by the autumn of 2005, when the Serbs were pressured to accept an agreement on both defence and police reform. Defence reform enjoyed greater acceptance among RS politicians than police reform, since it would severally diminish the Bosniak component of the army, although to the electorate it appeared that the Serbs were losing a symbol of national pride by adopting the conclusions of the Defence Reform Commission.

“They had no understanding of how difficult it was to persuade the RS National Assembly to adopt defence reform, and now they expected us to continue to adopt another radical reform. The political receptiveness was

464 OHR Media summary 18.05.2005.
465 Vlašić agreement on police reform in BiH rejected, Nezavisne Novine, Čavić holds no control over SDS, Nezavisne Novine 18.05.2005.
stretched to the limit… The government was included very late in the process. Not until the summer of 2005. However, I had great difficulty in persuading the Prime Minister, Bukeljović, to accept the reform. Basically, I ended up in a situation where I had both the parliament and the government against me…There was little understanding within the party. They attacked me, which really hurt, for being a proxy of the international community and at the same time all the sanctions against the party which were simply impossible to live through…”

Several nationalist non-governmental organisations, such as the RS Camp Inmates and War Veterans associations and the umbrella organisation “SPONA” campaigned aggressively against police reform as required by the European Commission. In the days after Vlašić several thousand radical demonstrators gathered in the main Krajina Square in Banja Luka to express support for maintaining the entity police force. Although the High Representative had tried to convince the public that the existence of the RS was not at stake, in the public debate the reform was indeed described as a matter of the survival of the entity. This notion was also substantiated by Serb politicians themselves. In an interview for a Belgrade-based newspaper, the RS President claimed that a political crisis was inevitable regardless of the outcome of the police reform process, saying that “…the government would either have to face the reprimands of the international community or the sanction of the public.” Using a dramatic turn of phrase, he said that he had been thinking about resigning because he did not want to be “the executioner of the RS”.

In the course of 2005 Čavić’s popularity plunged, bringing him into even greater difficulties. One opinion poll, conducted in August 2005, revealed that the SDS had lost more than 25% of its support in comparison to the previous elections; the party now enjoyed the support of only about 10% of those polled. At the time when Čavić signed the October agreement, it was quite obvious that his political capital was spent. The opposition leader, Milorad Dodik, benefited from the situation and his popularity steadily rose

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466 Interview with Dragan Čavić - 25.08.2008.
467 Do not betray hope of people, Glas Srpske, 18.05.2005. Nationalist organisations in the RS formed an umbrella association called SPONA, Sprski Pokret Narodnih Asocijacija – “The Serb Movement of National Associations”, which was made up of the RS War Veterans (Boračka organizacija RS), the RS Camp Inmates (Savez logoraša RS), the Associations of RS Refugees (Savez izbjeglica RS), the society of RS pensioners (Udruženje pensionera RS), the society of families of perished soldiers and civilians, (Udruženje porodica poginulih boraca i civila RS) and the RS student unions (Studentska unija RS).
468 More than 20,000 citizens threaten politicians, Dnevni List.
469 “Chaos will break out in the RS. Many people will be forced off the political scene and the survival of the government is in question. The situation is dramatic and it could lead to a great explosion. I am prepared to do anything, but I will not be the executioner of the RS.” Čavić in Večernje Novosti 16.5.2005.
470 SNSD is convincingly the strongest political party in BiH, Dodik is the most popular politician, Nezavisne Novine, 13.09.2005.
in opinion polls, as he began to be seen as a more viable option, being in a better position to defend the RS.\textsuperscript{471}

The radicalisation of the political atmosphere would also egg on the traditionally moderate opposition to attack cooperative politicians using nationalist arguments. Since the police reform negotiations were being described as a matter of the survival of the RS, opposition leaders, particularly Dodik, understood that if they presented themselves as better protectors of the entity than the government, rather than collaborating with the international community, their political capital would increase. President Čavić, on the other hand, calculated that in the prevailing climate he would be better off conceding power to the opposition, hoping that they would suffer when dealing with police reform. Since the October agreement on police reform implied that the negotiations would be postponed and that the final decision would be adopted in 2006, he thought that by allowing the opposition to take the helm when difficult and unpopular reforms were to be implemented, support for the government would eventually evaporate, enabling the SDS to return to power in the 2006 elections. When the SDS government was challenged in the RSNA at the end of 2005, Čavić invited Dodik to take power, doing virtually nothing to prevent the fall of his own government.

“They did not believe that I would take the risk to allow them to form a government. Then after that they would need to solve the issue of police reform and constitutional reform and I gave the mandate to Dodik, which was shocking for many. I did not need to do that, the elections were only eight months away… Sure it was a tactical decision, ahead of him (Dodik) there were a lot of difficult issues waiting… constitutional reform, the implementation of defence reform and not to mention the commission on Srebrenica. All these issues were very difficult. One of them had to fall, it was impossible to build an illusion that all these things would pass…”\textsuperscript{472}

Stanislav Čado, who would replace Darko Matijašević as the Minister of Interior in Dodik’s government, confirmed that Čavić had handed power to the opposition in order to avoid having to take responsibility for the reform process. Although it was not the only reason for the change of power, Čado argued that the President had envisaged that the new government would have to face the pressure of the international community and the dissatisfaction of the RS constituency.

“I think Čavić at the time acted tactically. He understood that if he stayed on as leader of the RS, he would simply lose his political position. So he figured that it would be better to move away from politics for a while and leave

\textsuperscript{471} In an opinion poll conducted in October 2005, 54% of Serbs respondents had a positive opinion of Dodik, while only 22% viewed Čavić positively. \textit{Public Opinion Poll in BiH}, Prism Research, October 2005.

\textsuperscript{472} Interview with Dragan Čavić - 25.08.2008.
Dodik to take care of the reform. He thought that police reform would surely go through during the spring and by that time Dodik would be destroyed as a politician and he would be able to make a comeback.”

The international community did not, however, view the change of power through this perspective and several OHR officials were pleasantly surprised by the new government, believing that Dodik would be more cooperative and supportive of the initiatives of the international community, since the SNSD had criticised the nationalistic SDS government for years. One OHR official noted that in this period they viewed the SDS as part of the institutional problem in BiH, stating that; “We did not understand it at the time... My gut reaction was that anything that screws the SDS is good.”

With hindsight some OHR officials would, however, confess that that pressure applied by the international community had actually turned out to be counterproductive, undermining the popularity of collaborating Serb politicians.

“Now you know there are two sorts of end notes to that story. First Dragan Ćavić is gone... and the second one is that Dodik who of course spent most of the 1990s pretending that he was a friend of the international community and a supporter of the reform process, becoming the most powerful politician in Bosnia and in the RS on a nationalist platform. He started to attack Ćavić from the other side, from the right... So when you look back on it now, yes it is possible to identify people in the RS, even former hard-liners from the SDS, with whom we could work, people who can deliver on the sort of international community political agenda, whether those people can survive long term if they do that, that I do not know. That can of course pose problems, if you were a young ambitious politician in Banja Luka and you watch what happened to Dragan Ćavić, would you decide it was in your interest to be confrontational or cooperative with the international community? I do not know what works? Dragan Kalinić was removed, but he has probably a lot of informal power in Banja Luka. Dragan Ćavić cooperated and then he was removed by his own people.”

Ćavić would also feel that the international community had used him, arguing that they had intentionally tried to undermine the power of the government in order to help what they regarded as a more liberal and cooperative opposition take over. They had not understood that the opposition had not risen to power because of public dissatisfaction with the slow pace of EU integration, but because the RS government was seen as weak and unable to defend the position of the entity adequately.

473 Interview with Stanislav Čado - 12.05.2008.
474 Interview with OHR Official - 14.06.2008.
475 Interview with OHR Official - 23.06.2008.
“I cannot prove it, but I am convinced that the aim of the international community was to destroy the government of the RS. They believed it would be easier with Dodik and they supported him for a while, but the situation just led to a destabilisation.”

In this context it seems that Čavić simply lost the support of the people because he was considered to be too cooperative with the international community. In the course of 2005 political discourse changed in such a manner that the opposition party would be able to oust the government on a nationalist agenda. The international community had in this sense prepared the ground for the new government and unwittingly the pressure against the RS government had opened up the possibility for Dodik to become the main political force in the RS. When asked whether he was grateful to the international community for having contributed to his rise to power by undermining the SDS governing party, Dodik replied in the affirmative.

“…yes I have to agree with you… A Serb politician accepting those conditions would not be concerned about surviving the elections, but to keep his life, literally …Yes of course, Ashdown destroyed him. But not only Čavić, but several other politicians. However, I think Čavić is one of the most visible examples of a politician destroyed by the international community. Unfortunately, how much a politician is trying to fulfil some standards and conditions it will never be enough.”

The RS Prime Minister describes in the quote above a territorial struggle in which he acts as the defender of the Serb community. In the context of the confrontational rhetoric that arose in the negotiations, the identity communities were seen as referential objects of security. The negotiations thus had an impact on discursive formation, making it politically more profitable for the opposition in the RS to use nationalist rhetoric, defending the power of the RS rather than promoting EU integration. The protracted talks and the unremitting pressure of the international community had generated a political discourse in which a radical and non-collaborative political approach would come to the fore, and in the year to come the political logic was patterned by the aspiration to defend the identity community rather than to accomplish any common political projects.

476 Ibid.
477 Interview with Milorad Dodik - 26.08.2008. (My question was: So, looking back on the process, should you not be thankful for the pressure of Ashdown. He made it easier for you to assume power, did he not? Answer: (laughter…ha ha) Well if you reason like that, yes I have to agree with you…
9.2 Fomenting confrontational rhetoric and fear-driven politics

At the beginning of the police reform talks in 2004, many in BiH argued that the endorsement of a Stabilisation and Association Agreement with the EU was within reach. Although several issues still had to be ironed out, introducing EU standards in various areas, the Head of the Delegation of the European Commission, Michael Humphreys, speaking on a hopeful note in the spring of 2004, said that “…negotiations on the beginning of the Stabilization and Association Agreement could start next year.”\(^{478}\) Despite the fact that the Police Reform Commission had failed to reach a common agreement, the international community appeared to be close to facilitating an agreement at the intensive talks in Vlašiće. The governing politicians in the RS had also demonstrated a willingness to accept significant elements of the police reform requirements while the opposition leader, Milorad Dodik, had even said that he would be ready to accept the establishment of inter-entity policing.

However, the interest in compromise gradually diminished, and in 2006 the RS government rejected any proposals that brought the existence of the entity police forces into question. Dodik’s government had partly come to power by committing to the interests of the RS, and the uncompromising attitude of the RS government in 2006 should not have surprised anybody who had been watching political developments in Banja Luka in the previous year. Nevertheless, some OHR officials were taken aback by the new approach, since they had believed that Dodik would not put his rhetorical statements on police reform into action.

“I think even the people who were sceptical about Dodik were surprised how obstructive he was right out of the box. It really kicked into a higher gear right after the constitutional reform, but it did not start there, it started right after he took office. I remember I had this discussion with a colleague who was saying that, yes he is changing everybody in the administration, but the guys that he is kicking out are assholes, but still you do not change everybody in office as soon as you get into power.”\(^{479}\)

The relationship between the international community and the new RS government immediately became strained over the dispute regarding the rules of procedure in the Police Reform Directorate. It is beyond doubt that Dodik was eager to demonstrate that he was not going to take a weaker position than the previous government. However, it remains questionable whether the conflict on the set-up of the Directorate could be classified as a matter of obstruction, since the vagueness of the October agreement on


\(^{479}\) Interview with OHR Official - 14.06.2008.
police reform made it impossible to reach a unanimous interpretation. The representatives of the OHR, who clearly had a different interpretation of the October agreement from the Serb politicians, nevertheless argued that the RS government was intentionally trying to undermine the reform talks. Following the request of the new RS government to change the voting procedures in the Directorate, High Representative Christian Schwartz-Schilling warned Dodik that he “…could be blamed for the failure of police reform.”480 Several observers warned that public admonitions from the key international principals would not deter Dodik, since he had understood that his government would gain popularity by challenging the international community. Some Bosniaks however accused the international community of being submissive and of not disciplining the RS government.

“Dodik completely built his power on this kind of obstruction... He came to power in December 2005 and the (US) State Department was happy about it, because he has been their favourite boy since 1998, and now they do not know what to with the problem child, but he came back to power in 2006 because of police reform.”481

A more significant change in the political approach of the RS government occurred, however, after the failure of constitutional reform in spring 2006. This initiative had been launched at the time of the tenth anniversary of the Dayton Peace Agreement in November 2005, when BiH political leaders had, at the prompting of the US authorities, signed a letter of commitment to undertake constitutional reform.482 The constitutional amendments, which came to be referred to as the April Package, did, however, not result in any substantial reform of the structure of the state, except for certain changes in the structure and voting procedures of the BiH parliament and government, which would indeed have strengthened the power of the state legislature. The Serbs had opposed several of the more progressive proposals, yet would reluctantly support the final proposal. The Bosniaks, who had hoped that the reform would lead to more substantial changes, were disappointed, believing that by voting for the amendments they would legitimise, as Haris Silajđić put it, a “definitive division of BiH”.483 The amendments would therefore fail to receive the necessary majority, being rejected by SBiH deputies and some Croat and independent deputies.484

480 I warned Dodik that he could be blamed for the failure of police reform, Dnevni Avaz, 27.03.2006.
481 Interview with Political Advisor to Haris Silajđić - 19.08.2008.
482 US State Department, Washington Agreement - Commitment to Pursue a Constitutional Reform.
483 This is definitive division of BiH, Dnevni Avaz, 23.04.2006.
484 The proposal was turned down by 16 MPs on 26 April 2006, including SBiH, HDZ, one BOSS, SRS, the Republicans, one independent and one member of SDA.
The failure of constitutional reform had a conspicuously negative impact on political debate, polarising the views of Bosniaks and Serbs. One SDA parliamentarian, Mehmed Zilić, who had voted against the reform together with the SBiH caucus, confessed that he had rejected the proposal because he thought they “…should not go for constitutional changes, but for abolition of the RS insignia… and to wait for the outcome of the lawsuit against Serbia.” This kind of reasoning opened the way for provocative statements on both sides. In May, just a few days after the referendum on independence in Montenegro, RS Prime Minister Dodik made a statement saying that he believed the RS should be allowed to call a referendum on independence if the Serb entity was threatened. Dodik’s statement, made in connection with the independence of Montenegro, sharply provoked Bosniaks and Croats. In the same month, Haris Silajdžić was re-elected as the President of the SBiH and announced that he would run for the BiH Presidency, promoting a programme aimed at reintegrating BiH.

Obviously, both Silajdžić and Dodik understood that statements referring to the possible independence of the RS and the abolition of the entities were unrealistic, and at the same time that they were provocative and dangerous. Nevertheless they would clearly profit from this kind of zero-sum game in the elections, which were to be held in October 2006. Regardless of the danger, the leaders nourished this kind of thinking, paying little regard to the impact that such illusory projects would have on other groups. It may be argued that calls for a referendum on independence cannot be equated with calls for the abolition of the entities, since the call for a referendum “…would be to question the territorial integrity of BiH and the territorial integrity of BiH is unquestionable”, as argued by SDA Deputy-President Šefik Džaferović. However, he also acknowledged that “…these statements create this kind of conflict and a bad atmosphere and in a bad atmosphere you cannot make any changes or do any good things.”

Following the elections in 2006, the political climate grew increasingly tense and ordinary politics were overshadowed by the inter-entity debate over the structure of the country. During the autumn the rhetoric swirling around police reform became explicitly uncompromising. At a meeting with

486 “I think it is good that everything went the way it did in Montenegro. I also think if some have the right to a referendum, why others would not (...) the referendum showed the way to promote the policy of long-term democratic process of separation, which could be a lesson for BiH. I once again repeat that any people in BiH have the right to democratically decide about its destiny. The thing that Europe does not allow it (referendum) now, it does not mean it will not allow it in the future (...).” (The statement was made after the independence of Montenegro, in Oslobodjenje) We will ask for referendum on separation Oslobodjenje, 29.05.2006.
487 Haris Silajdžić again elected president, Nezavisne Novine, 21.05.2008.
488 Haris Silajdžić became the Bosniak Member of the BiH Presidency in the elections in 2006, while the SNSD became the largest party in BiH, winning more then 50% of all Serbs votes.
489 Interview with Šefik Džaferović - 04.09.2008.
the SNSD Main Board in Bijeljina in November, Dodik stated that if it came to a choice “…between European integration and the RS Ministry of Interior… we choose the RS Ministry of Interior.” Dodik claimed that any proposal to abolish the RS Police would require a referendum, stating that “…somebody had decided that we should give up the police and we say - this cannot happen - and suddenly accusations are targeted at me being the one who blocks everything.”

The confrontational rhetoric was also fuelled by the verdict of the International Court of Justice in February 2007. Several Bosniak politicians had publicly invested a great deal of hope in the verdict, believing that it would confirm that the RS was a product of aggression and that this would make the case for constitutional change unanswerable. In an interview several days after the ICJ verdict, Haris Silajdžić said his main goal was to “abolish the RS entity”, saying that “…the division of BiH in two entities is a result of genocide, war crimes and crimes against humanity in BiH.” In this climate it became difficult to treat issues such as police reform in a pragmatic manner.

In the course of 2006 the police reform negotiations thus came to resemble a debate about the continuation of the inter-entity division of BiH, and the conflicting rhetoric fed into the intransigent postures of the two key political leaders, Milorad Dodik and Haris Silajdžić. Some politicians expressed evident frustration about the direction of politics in 2006, principally blaming Dodik and Silajdžić for profiting from nationalist sentiment. According to the SDP representative, Damir Hadžić, Dodik and Silajdžić had a mutual interest in attacking each other, since in this way they would strengthen their influence, without any reference to achieving positive change for ordinary people. While Silajdžić could appear as a courageous politician by speaking out on the crimes committed by the Serbs, Dodik would boost his popularity by rebuffing the assaults against the entity.

“Everything in this country must be pursued step by step... He (Silajdžić) told the people that we will get 100% state and that we should abolish the entities and therefore we came to the position where we are now. We were talking rationally and normally that we needed to conduct things step to step, which was sometimes also said by the president of the SDA, Mr Tihić. Others were saying sensational things and they could thereby win the elections... we do not want to see that the RS entity is an organisational unit for the police, but if it would imply that we would have warlike rhetoric in this country, if this country is to be polarised between the group who is for Dodik and who is against, and if he will ask for a referendum on secession because Sarajevo - or Teheran, as he calls it - does not recognise the RS, then I would not call

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490 News Article, Dnezni Avaz, 05.11.2006.
491 We are not giving up our police!, Glas Srpske, 14.11.2006.
492 Interview with Haris Silajdžić on BHTV, 15.03.2007.
for the abolition of the RS. That would imply that one people is not asked. This country is actually made up of three constituent people.”

It is of course not the case that this confrontational approach was solely generated by the failure of the police reform negotiations. However, these talks did create some of the underlying preconditions for the political discourse that developed in 2006. By dint of the uncompromising approach of the international community in the police reform talks in 2005, the political elite had been entrenched behind antagonistic views, making them more inclined to indulge in a battle of incompatible ideas than in pragmatic talks about actual political problems that needed to be solved. This political climate undermined the EU impetus and because of this it became difficult to align the political agendas of the various parties by referring to EU integration. Many politicians who had been involved in the talks, including RS Minister of Interior Stanislav Čađo, argued that the negotiations had undermined trust among the groups and radicalised the political atmosphere, making it more difficult to find compromises on any political issue.

“If you try to push for something that one side refuses to accept, then you boost the objection of that side and you will eventually build up resistance and the other side will start to push on something else… This reform would undermine tolerance and trust within the country. In the beginning of this reform process, we could speak normally with each other. Now the language of the politicians has been severely radicalised. We have lost trust in each other during this reform. Maybe it has not been destroyed, but it has severely deteriorated.”

Once the discourse of confrontational politics had been established it would be impossible for any politician to break the context and reach out to adversaries. The deputy President of the SBiH, Beriz Belkić, argued that the aggressive political rhetoric was in this sense problematic, claiming that it was very difficult to depart from the confrontational political approach, since any politician who chose to pursue reconciliatory politics would probably not receive any support in the elections, as the ethnic groups lacked fundamental trust in each other.

“I think that the question is trust. And the question is that we have a situation in which political rating is only to be gained by confrontational rhetoric. A person that would depart from this story and say, ‘yes we understand each other, lets not centralise BiH, we will have two entities’ – that person will not get more than one percent of the votes… We can only go step by step and hope that we can build up mutual trust. We must pay heed to the fact that people want peace, that they want stability, security and education and we need to find a system of values, in which people want to live. However, we

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493 Interview with Damir Hadžić - 20.08.2008.
494 Interview with Stanislav Čađo - 12.05.2008.
must not forget that what happened in this country was something horrible. People are still suffering, many people died, many people are frustrated and some are still missing. The atmosphere is still solemn. We need time and we need a process in which we can reconcile.”

Although several other issues contributed to the creation of this political logic, the police reform negotiations were absolutely crucial in breaking down the inter-entity understanding that had been shaped by common interest in EU integration and which had prevailed at the beginning of the process. By connecting EU integration to an issue that was seen as a matter of reorganising the constitutional structure, the political parties were pitched against each other, while the arena of common interest, the EU integration process, was undermined. The problem when it came to the law enforcement agencies was that the police represented an institution that guaranteed security and represented, to a certain extent, the political autonomy of the entities and cantons. At the same time, however, the police were also viewed as repressive institutions that had perpetrated crimes during the war and in this sense the notion of preserving or abolishing the entity police forces was connected with socio-psychological emotions regarding security. When discussing police reform, almost all Bosniak politicians stated that they had moral difficulties in accepting any agreement in which the RS police would be recognized as a legitimate part of the BiH institutional framework. As one advisor to Haris Silajdžić put it, in the wake of the ICJ verdict accepting the institutions of the RS would be to “…basically accept genocide as a method of state-building.” Bosniaks believed that by recognising the RS police, they would indirectly legitimise the RS entity and thereby the war crimes committed in the course of its creation, as illustrated by the following statement by SDA politician Hašim Randić:

“If you say it is acceptable to commit genocide, what message are you sending to the world? You send some 10 people to court for these events, but you keep the situation created by the war, …will Europe say, if this happens again, well look, one nation has done it, so let the other ones do it also? I do not think that this is acceptable in a civilised world.”

When seeking the abolition of the entity police forces, the Bosniaks were obviously driven by emotional feelings of injustice that were often directly related to their actual experience of the war. The international community had not foreseen this emotional aspect in relation to perceptions about the police forces and this was one of the main reasons the parties had difficulties in reaching compromises. It is evident that the international community failed to keep the discussion of police reform on a technical level, and

495 Interview with Beriz Belkić - 27.08.2008.
496 Interview with Political Advisor to Haris Silajdžić - 05.09.2008.
497 Interview with Hašim Randić - 09.09.2008.
allowed the process to be captured by identity politics. When the international community introduced the possibility of abolishing the entity police forces, it was quite impossible for Bosniak politicians not to opt for this solution.

Despite the fact that many Bosniak politicians felt humiliated and angered by the division of the country, some nevertheless realised that seeking the abolition of the RS was not only unrealistic, but that in the political context of BiH it could have the counterproductive result of fomenting disputes between the groups. For this reason, some Bosniaks argued that calling for the abolition of the entities could in the long run jeopardize the stability of BiH rather than bringing its people together. This view was expressed by SDP representative Damir Hadžić:

“...I am aware that if we were to bring a unilateral decision on the abolition of the RS, then that could trigger a conflict... If that is the price that it will cost, then thank you very much, and please Mr. Silajdžić go to Turkey and provide for a better future for your children while Mr. Dodik can go to Greece or Serbia. There you can do whatever you want, but not here...”

Former BiH Prime Minister Adnan Teržić even argued that the political approach of the Bosniaks was potentially dangerous, stating that if they wanted to solve the problems of BiH they could not count on the international community to assist them, but would need to seek a common language with the Serbs and theCroats.

“But I can tell you, Dodik is not the main problem in BiH. He knows his limits and I do not think he will harm BiH. The most stupidity in BiH will be done by the Bosniaks, working against each other and requesting that the international community does their work for them. This kind of thinking might lead to a new conflict. It is only when we Bosniaks can find a common language with the Serbs and the Croats that we will be able to take BiH forward.”

Judging from these statements, it seems quite obvious that the international community did not understand the logic of politics in BiH society when they launched police reform. By insisting on a conditionality that touched upon elements of the security and identity of the two largest ethnic groups, they would call forth fear-driven rhetoric, creating a political logic within which it would be almost impossible to facilitate compromise. The negotiating process was thereby redirected from finding common solutions to some of the imperative political issues in BiH, to become a matter of defending the identity of the ethnic group.

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498 Interview with Damir Hadžić - 20.08.2008.
499 Interview with Adnan Teržić - 01.09.2008.
9.3 Concluding summary

Looking at political developments in 2005, it is beyond doubt that the influence of moderate and cooperative political forces diminished as the political atmosphere turned increasingly tense. This trend can be viewed from two perspectives. On the one hand, conflicts were generated by the defensive approach of the Serb political elite, who were obviously not interested in complying with the conditionality attached to police reform. The fact is that key RS politicians made rhetorical statements that discouraged the public from supporting police reform, portraying it as a threat to the existence of the entity. However, from the perspective of the political elite, it may have been the case that they were more interested in finding a solution than lower levels of the political establishment. Although the leading Serb politicians refused to accept the abolition of the RS police force, at the beginning of the negotiation process, it was the leader of the governing party, Dragan Čavić, and the leaders of the opposition parties; Milorad Dodik and Mladen Ivanić, who sought a compromise solution, while nationalist non-governmental organisations and the lower ranks of the SDS took a more uncompromising and radical attitude towards police reform.

During 2005, cooperative political elements, particularly SDS leader Dragan Čavić, came under increasing pressure from the wider political establishment, while the opposition opportunistically embraced popular sentiment to “defend” the RS. At a certain point during the negotiations, the perception of police reform in the RS seems to have been transformed from an exercise connected to the EU integration process, to a contest of wills, in which the international community and Federation politicians, who were promoting the re-integration of BiH, were pitted against the Serbs, who were not interested in further consolidation of BiH. In a situation resembling a political siege, the RS political establishment closed ranks and bowed to political opinion in the entity. This development was further boosted by the notion that the RS itself was under threat. When politics became a matter of defending the position of the identity community, it became extremely difficult for any politician to take a more moderate stance than the defensiveness that had by then become an integral part of mainstream political opinion. The prevailing political view was therefore detrimental to any RS politician who was seen to be too cooperative with the international community, as was the case with Dragan Čavić, whose political support evaporated in 2005.

It seems that this radicalisation was not primarily a response to public opinion, but rather a matter of a transformation in political logic. However, the political atmosphere created by police reform seems to have made the
The electorate more inclined to support the defensive stance of the opposition than the cooperative approach of the leader of the governing party. When the SDS-led government collapsed at the beginning of 2006, the new RS government did not take office claiming to be better equipped to bring BiH closer to the EU; instead it represented itself as being better able to stand up to the international community.

The confrontational aspect of the talks would undermine any reconciliatory initiatives and foment bellicose rhetoric on both sides. In 2006 key Bosniak politicians, particularly Haris Silajdžić, began to use more strident political rhetoric, calling for the abolition of the entities and the establishment of a unitary state. Other political issues influenced political developments in these years, particularly constitutional reform and later the verdict of the International Court of Justice, but since police reform was the remaining requirement to be fulfilled before BiH became eligible to sign the SAA the talks overshadowed all other political issues. Moreover, police reform touched on a socio-psychological aspect of security that accentuated sentiments of fear, particularly among Bosniaks but also among Serbs. Bosniaks associated the RS police force with injustices committed during the war, and because of this the conditionality triggered a political approach based on emotion, making it difficult for Bosniaks to backtrack from the initial requirements. The Serbs associated the police forces with wartime experiences to a lesser degree, but the notion of creating a common policing structure, within which they believed the Bosniaks would dominate, did indeed have an intimidating effect on Serbs.

Police reform was therefore captured by an emotionally driven agenda that encouraged the politics of fear and turned the focus away from the EU factor and the technical aspects of the reform. In this atmosphere it was extremely difficult for any political representative to take a pragmatic stance and reach out to the other side and discuss compromises that would be acceptable to all parties – and that would also lead to concrete improvements in the security architecture. This matrix of fear and conflicting interest had to a certain degree been present ever since the end of the conflict, but it had been thought that the common vision of EU membership would offer a framework within which disputes could be settled to mutual advantage. This prospect, unfortunately, withered in the face of politicians’ disinclination to make the painful compromises that were demanded by the international community.
10. Public Attitudes to Police Reform

A recurring question in relation to the societies of former Yugoslavia concerns the issue of whether the nationalism and ethnic divergences that characterized the disintegration process were primarily a product of political orchestration or whether they also emerged from popular sentiment. As discussed in previous chapters, this issue is complex, since political campaigns and attitudes stemming from distrust and fear may nourish each other. This complexity was evident during the police reform negotiations. The political discussion rarely referred to the substance of law enforcement, but would gradually focus on issues such as the right to self-determination and the constitutional structure of the country, and this reform would therefore start to reflect the wider identity conflict in the country. It is of course difficult to judge whether attitudes towards police reform were generated by the rhetoric and campaigning of the political elite, since it is impossible to isolate these two variables. In addition, public opinion was affected by the activities of the international community. The OHR, for example, conducted an intensive public advocacy campaign prior to the negotiations on Vlašić. The Office of the High Representative was also very careful in monitoring public opinion and commissioned a regular series of opinion polls.500

This chapter will assess the impact of the police reform negotiations on public opinion by analysing opinion polls conducted in relation to the negotiations. Most of the surveys presented here were commissioned by the OHR and the Delegation of the European Commission and were conducted between January and December 2005, and January and November 2007. Since Bosniaks and Croats expressed profound support for all aspects of police reform, the analysis will primarily focus on the attitudes of Serbs.

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500 During the mandate of Paddy Ashdown, the OHR regularly conducted opinion polls. These activities were unfortunately discontinued under his successor, Christian Schwartz-Schilling. Further information on the public surveys, sample size and distribution between the entities, are given in the references.
10.1 The impact of the negotiating process on public opinion

At the outset of the negotiating process, an overwhelming majority of BiH citizens, regardless of ethnicity, shared a common attitude when it came to one essential aspect in the reform process. They all wanted to join the European Union. In March 2005, when the police reform negotiations were just about to begin in earnest, more than 80% of respondents in one countrywide survey expressed support for the EU integration process. This positive attitude was echoed in all surveys conducted during the negotiations and support for EU integration does not seem to have declined as a result of the pressure applied by the international community or the failure of the political elite to meet the EU conditionality. Support for EU integration evidently made it difficult for any politician to oppose the integration process and in this respect all the key parties, including the traditionally nationalist parties, would proclaim themselves to be pro-European, even if only out of an instinct for self-preservation.

<table>
<thead>
<tr>
<th>How would you vote if there were to be a referendum tomorrow on the question of BiH membership in the EU?</th>
<th>Croat</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>79.1%</td>
<td>91.9%</td>
<td>79.9%</td>
</tr>
<tr>
<td>No</td>
<td>12.1%</td>
<td>3.3%</td>
<td>14%</td>
</tr>
<tr>
<td>N/A*</td>
<td>8.9%</td>
<td>4.9%</td>
<td>6.1%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

The desire for EU membership appeared in this sense to be a factor influencing the turnout in elections. When asked if they would vote for politicians who would delay the EU integration process, a majority of respondents, regardless of ethnicity, claimed that when casting their ballot in the elections they paid attention to the interest and ability of politicians to deliver reforms that would speed up entry into the European Union. Although Serbs did consider EU integration as an important issue, they would, in comparison to Croats and Bosniaks, be more tolerant of politicians who prioritised other issues.

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*N: No answer or I do not know.
In addition to pro-European views, the public seems to have shared the assessment made by the international community regarding political influence in the police forces. A significant number of citizens, regardless of ethnicity, argued that the police were profoundly influenced by politics. From this, it may be concluded that police reform did enjoy popular support, since citizens supported the EU integration process and also believed that the policing system needed to be reformed. Although the level of public dissatisfaction with the quality of policing was not overwhelming, they did believe that existing police structures were not efficient enough in fighting crime. This view was shared by all ethnicities, although Serbs were less critical of the existing structure than the other two groups.

Despite the fact that all people in BiH shared a common dissatisfaction with the functioning of the police, they were not convinced that creating a unified structure was a preferable solution to perceived policing problems. In the

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503 Ibid.
* No answer or I do not know.
summer of 2005, after the intensive negotiations in Vlašić, it was quite clear that the views of those polled were split between the overwhelmingly supportive Bosniaks and Croats and the rather sceptical Serbs. When asked whether it was necessary to reform the police in order to join the EU, more than half of the Serb respondents said that they did not consider that it was necessary, while a similar number of Serbs believed that establishing a unified structure would not lead to a better and more effective police force. People living in the Federation disapproved of the idea of dividing the policing system along the lines of the entities while the Serbs were less convinced about whether there was a need to change the system, although Serbs expressed ambiguous views on this issue, being essentially divided into a segment believing that the single police force would be more efficient in fighting crime and one holding the opposite view.

<table>
<thead>
<tr>
<th>In your opinion, do we need to reform our police if we are to join the EU?(^\text{506})</th>
<th>Croat</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>89.4%</td>
<td>92.6%</td>
<td>48.5%</td>
</tr>
<tr>
<td>No</td>
<td>10.6%</td>
<td>7.4%</td>
<td>51.5%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>In your opinion would a single police structure be more effective in fighting crime?(^\text{506})</th>
<th>Croat</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>91.4%</td>
<td>96.5%</td>
<td>48.8%</td>
</tr>
<tr>
<td>No</td>
<td>8.6%</td>
<td>3.5%</td>
<td>51.2%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

It is, however, difficult to assess whether Serbs who believed that a single system could be more efficient in fighting crime would actually support the creation of a single system in accordance with the model proposed by the international community. Attitudes expressed may not necessarily be taken at face value, since citizens seem to have had limited knowledge of the actual implications of the reform.\(^\text{507}\) Still, Serbs were generally reluctant to accept a reform in line with the EU conditionality and when asked whether they would accept the setting up of separate regions overseen by the state, more than 50% of Serbs polled said they were not willing to accept such a proposal.

\(^{505}\) Omnibus Survey in BiH, Mareco Index Bosnia, July 2005.  
\(^{506}\) Ibid,  
\(^{507}\) a.a. (the survey on the interpretation of the October agreement shows that about 40% did not have any clear understanding of the agreement)
Would you support the establishment of regions with their own police forces that are overseen by a state structure?\textsuperscript{508}

<table>
<thead>
<tr>
<th></th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>22.2%</td>
</tr>
<tr>
<td>No</td>
<td>55.3%</td>
</tr>
<tr>
<td>Don't know/Refusal</td>
<td>22.4%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
</tr>
</tbody>
</table>

April 2005. Residents in RS:

Nevertheless, a substantial number of Serbs were ready to make certain compromises in order to reach an agreement on police reform. When asked direct questions in relation to police reform, almost half of Serb respondents actually expressed a willingness to allow the police forces to operate across the entity boundary line. In July 2005 almost 30% of Serbs said that they would accept policing areas crossing the inter-entity boundary line and another 18% could accept policing districts overlapping the boundary line in a few places, which was an idea that was promoted as a compromise solution.

In essence, the Serb population was divided into two segments, representing willing and unwilling reformists. When responding to questions on issues referring to the autonomy of the entity, at least 40-50% were not ready to make any compromise on issues that they believed challenged vital national interests, while 30-40% of respondents were willing to make concessions. This division is reflected in all the surveys below, however the political establishment noticeably sided with that part of the population that expressed more radical views. Very few politicians, if any, had the courage to represent the moderate segment of the population.

<table>
<thead>
<tr>
<th>In your opinion, for an effective fight against criminals, police areas should ...\textsuperscript{509}</th>
<th>Croat</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cross inter-entity boundary line</td>
<td>67.6%</td>
<td>72.8%</td>
<td>28.5%</td>
</tr>
<tr>
<td>Cross inter-entity boundary line at 2-3 places defined by policemen</td>
<td>17.8%</td>
<td>17.4%</td>
<td>18.1%</td>
</tr>
<tr>
<td>Not cross inter-entity boundary line</td>
<td>8.6%</td>
<td>3.9%</td>
<td>38.2%</td>
</tr>
<tr>
<td>Do not know</td>
<td>5.2%</td>
<td>5.3%</td>
<td>13.2%</td>
</tr>
<tr>
<td>Refused</td>
<td>.8%</td>
<td>.5%</td>
<td>2.1%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>


\textsuperscript{509} Omnibus Survey in BiH, Mareco Index Bosnia, July 2005.
It is of course possible that the segment of the Serb population that was ready to accept compromise proposals was less vocal and had no interest or no capacity to set any moderate political movement in motion. In addition the Serb political establishment seems to have believed that the public was strongly against police reform, considering it to be a question of the survival of the entity as such. Not a single politician would therefore be able to sign up to a reform in line with the EU conditionality, since he or she would have been denounced as traitors by opponents and punished at the ballot box. Although the Serb opposition leader at the time, Milorad Dodik, demonstrated a certain readiness to accept a compromise in the Vlašić negotiations, his views three years later had evidently changed.

“...A Serb politician accepting those conditions would not be concerned about surviving the elections, but to keep his life, literally. I would personally be tortured by shame and mental pain. I would never have been able to accept those reforms…”

The problem was, according to several Serb politicians, that the reform appeared in the eyes of the people to be a choice between the entity and the EU. The international community would thus put the willingness of the people to the test. If they wanted to enter the EU, they had to give up the autonomy of the entity. Faced with this kind of choice, people would lose interest in EU integration, according to Prime Minister Mikerović, since they were not ready to trade the autonomy of the entity for potential EU membership and “…if people were to choose between the EU and the RS, they would always choose the RS.” It was therefore reasonable to expect that politicians would try to defend the self-determination of the entity, even if that implied delaying progress towards the EU. Former Foreign Minister Mladen Ivanić made this argument.

“People were brought into a very negative situation. They were faced with the choice: either the EU or the RS. And people always chose the RS. Moreover, people don’t really believe that they will accept us. They believe that Europe would not accept us, so why should we do anything for them.”

The surveys seem to confirm that most Serbs did perceive the EU integration process as an exercise in undermining the position of the entities. More than half of the Serbs took this view. However, looking at the survey results below, it becomes evident that many Serbs did not accept the idea that EU entry would necessitate constitutional changes. Three surveys conducted in March and July 2005 indicate that more than a third of Serbs supported

510 Interview with Milorad Dodik - 25.08.2008.
511 Interview with Dragan Mikerević - 16.04.2008.
512 Interview with Mladen Ivanić - 31.03.2008.
constitutional change in order to enter the European Union, but most Serbs were clearly not willing to accept any constitutional change at all or expressed reservations, saying that constitutional change was “somewhat” acceptable, indicating that there were limitations to the kinds of change that were acceptable. The question below does not specify what kind of constitutional change would be acceptable. However, in the BiH context, constitutional change is generally assumed to be a matter of strengthening the state.

<table>
<thead>
<tr>
<th>Some people claim BiH integration in the EU is actually a way to change its current institutional system in the direction of decreasing the role of the entities, but strengthening the role of the state of BiH?</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>I agree</td>
<td>50.2%</td>
</tr>
<tr>
<td>I disagree</td>
<td>28.6%</td>
</tr>
<tr>
<td>Neither agree of disagree</td>
<td>16.3%</td>
</tr>
<tr>
<td>Don’t know/no answer</td>
<td>4.9%</td>
</tr>
<tr>
<td>Total</td>
<td>100,0%</td>
</tr>
</tbody>
</table>

July 2005. Residents in RS:

<table>
<thead>
<tr>
<th>I would accept constitutional change to get into Europe sooner.</th>
<th>Croat</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>48.8%</td>
<td>72.2%</td>
<td>15.6%</td>
</tr>
<tr>
<td>Somewhat agree</td>
<td>31.4%</td>
<td>20.6%</td>
<td>22.1%</td>
</tr>
<tr>
<td>Somewhat disagree</td>
<td>9.8%</td>
<td>2.3%</td>
<td>17.8%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>4.8%</td>
<td>9%</td>
<td>28.9%</td>
</tr>
<tr>
<td>Don’t know/no answer</td>
<td>5.2%</td>
<td>4%</td>
<td>15.5%</td>
</tr>
<tr>
<td>Total</td>
<td>100,0%</td>
<td>100,0%</td>
<td>100,0%</td>
</tr>
</tbody>
</table>

July 2005.

Even though the polling results above indicate that Serbs were predominately negative about activities aimed at strengthening the state, resistance to consolidation of the state does not seem to have been as solid as politicians made out. There was indeed a segment of the population who supported EU integration and who considered that a unified policing structure would be better in fighting crime. This factor of change, vested in moderate segments of the Serb population, was, however, never exploited by a political party.

Then again, it is possible that the requirements in police reform went beyond the scope of concessions that liberal-minded Serbs were willing to

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513 In two additional surveys conducted in March and July, general support and opposition in the RS to the idea of changing the constitution in order to enter the EU was; March: (Yes 34.3%, No 42.6%, D/N 23.1%) July: (Yes 36.8%, No 47.5%, D/N 15.7%) Public Opinion Poll in BiH, Partner Marketing Consulting Agency, March 2005, July 2005.


515 Omnibus Survey in BiH, Mareco Index Bosnia, July 2005.
accept. By pushing conditions that stretched far beyond the scope of acceptance, the international community may have undermined the reformist segment of the Serb population and may even have turned these groups against the reform process. Some OHR officials, on the other hand, argued that the negative mindset of the population was primarily a product of political rhetoric, since Serbs continuously reverted to the idea that the reform would lead to the abolition of the entity. The tendency of Serbs to defend the entity police structure was accordingly bolstered by the campaigns of the political establishment. In the political debate police reform was described as a threat to the political autonomy of the RS, and it is likely that attitudes of ordinary people were affected by this view.

“Every single reform looks like the international community together with the Bosniaks are trying to take something away from the RS. And that is why they run around and say 55 competences have been taken away and given to the state and that is the way they view every single issue, because they view themselves as a state within the state. And as long as you go on approaching politics in that way, every reform is a defeat. Because you are giving something up. Why do you never say, you are not giving something up, but you are actually getting something. And no wonder you have this psychology created that after 12 years you go on telling people that we have been beaten black and blue. ‘BiH is not ours, we don’t want BiH, BiH won’t exist, BiH does not want us.’ Now you can argue that it is a miracle that when you do the polling there are many people in the RS that say that they accept BiH, when you think about the degree that they have been bombarded by their politicians over the years, basically telling them that BiH does not like them…”

The High Representative, Paddy Ashdown, would likewise argue that the political elite had intentionally presented police reform as an issue of constitutional reform detrimental to the interest of the Serbs, thereby turning the population against the reform.

“…yes of course they played on this, yes this was probably something that the enemies of police reform would have played on, and again that is political campaigning. I mean I disliked it, but it is not illegitimate. But the reality of it was that the power structure that preserved the RS was not a police power structure, but a democratic power structure. They were the power structures that people voted for and no steps could be taken without the agreement of the RS assembly, the RSNA. So I am sure this was used again for campaigning purposes.”

Serb politicians obviously rejected this argument, claiming that the international community had failed to understand the mindset of the people

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516 Interview with OHR Official - 23.05.2008.
517 Interview with Paddy Ashdown - 25.06.2008.
and that politicians in BiH, as stated by Mladen Ivanić, were often just responding to popular sentiment.

“I think OHR underestimated the view of the people. When you would tell someone in the international community that the people were not ready, then they would believe that you were inventing what the people really think. When you say that the people are doubtful, then they would say that you are radical. However, I know that the people think that these issues are important.”

RS politicians would also argue that the Serbs defended the entity police force out of fear and lack of trust in an integrated police reform, stating that it was important for the people to keep the law enforcement agencies at the level of the entity since this was connected to security and to a sense of identity, illustrated by the RS Minister of Interior Stanislav Čado.

“The people in the RS have felt that they are constantly losing the competences of the entity, and they were becoming hyper sensitive and naturally they would connect the changes in the RS police with their own identity ...After the past war, people are specifically concerned about their security, and they would especially recognize the keeper of the security in the army and the police. So when they lost the army, they started to view the police as the main institution of security. In these years it would often happen that citizens came up to me, people that I had never seen before, I remember once an old lady, who would pull my arm, and tell me, ‘please, minister, don’t let them take our police.’”

It is of course difficult to determine whether the resistance to police reform was created by political manipulation or whether the public was actually unwilling to make such concessions. The mindset of the people was evidently affected by the dynamics of post-war politics and the rule of nationalist parties and it is therefore likely that they would not, prima facie, accept the proposal to create a unified policing system, but it is difficult to establish whether these attitudes were a result of specific campaigning by local politicians. It is notable that RS citizens became more sceptical about police reform towards the end of the first phase of the negotiations, but it is difficult to give a proper explanation for this change of view. Some politicians suggested that the pressure of the international community had generated a more radical political atmosphere in BiH. RS President Čavić argued that police reform had unwittingly made people believe that the entity was under threat, making them more rigid in their position and less willing to compromise.

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518 Interview with Mladen Ivanić - 31.03.2008.
519 Interview with Stanislav Čado - 12.05.2008.
“Police reform clearly affected the views of the people. They evidently interpreted the reform as a ‘to be or not to be’ for Republika Srpska. You cannot expect that they would understand every detail of the reform. However, the approach of the international community clearly radicalized the political ambience in the RS.”

Looking at the surveys conducted at the end of the negotiating process in 2005 it is apparent that willingness to accept a compromise on territorial distribution steadily diminished in the autumn, although changes in attitude were not momentous. In a survey conducted in October 2005, the month the police reform agreement was concluded, the number of RS citizens who believed that the police would be more efficient if they were allowed to cross the inter-entity boundary line had decreased from 47% to 42%, while those who argued that the police should not cross the inter-entity boundary line had increased from 38% to 48%. RS citizens had also become more sceptical about the merits of a common policing structure. In a survey conducted in July 2005, some 48% agreed with the proposition that a single policing structure would be more efficient, but in September only about 37% supported this statement.

It is thus fair to conclude that most Serbs became more negative about a compromise solution on police reform in the course of the negotiating process, and the window of opportunity had clearly diminished by the end of the talks. It is likely that the change in attitudes was a response to the political atmosphere engendered by the tense political negotiations. Although some Serbs claimed that they were indeed ready to accept a compromise solution, a majority supported the approach taken by their political representatives. More than 50% of Serb respondents in a survey conducted in May 2005 did not hold the politicians responsible for blocking

<table>
<thead>
<tr>
<th>In your opinion, for an effective campaign against criminals, police areas should ...</th>
<th>Croat</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cross inter-entity boundary line</td>
<td>51,5%</td>
<td>55,4%</td>
<td>21,0%</td>
</tr>
<tr>
<td>Cross inter-entity boundary line at 2-3 places defined by policemen</td>
<td>22,4%</td>
<td>30%</td>
<td>21,0%</td>
</tr>
<tr>
<td>Not cross inter-entity boundary line</td>
<td>13,4%</td>
<td>6,6%</td>
<td>48,2%</td>
</tr>
<tr>
<td>Do not know/No answer/Refused</td>
<td>12,2%</td>
<td>7,1%</td>
<td>9,8%</td>
</tr>
<tr>
<td>Total</td>
<td>100,0%</td>
<td>100,0%</td>
<td>100,0%</td>
</tr>
</tbody>
</table>

520 Interview with Dragan Čavić - 26.03.2008.
progress towards Europe, following the rejection of the Vlašić agreement by the RS National Assembly. In a survey conducted after the vote in the RS National Assembly in September, when the second compromise agreement on police reform had been rejected, the stance taken by Serb politicians received similar support, as shown in the table below.

Given that citizens generally expressed mistrust towards politicians, this expression of support for the stance taken by Serb parliamentarians is noteworthy. It seems likely that public opinion was very much affected by the political debate at the time. In a situation where it appeared that the international community had tried to coerce Serb politicians, citizens gave these politicians their passive support. This support may not have been connected to the specifics of police reform, but to the fact that politics was seen as a dispute between ethnic communities rather than between political options. Believing that their political representatives were defending the entity, citizens rallied to the politicians and became increasingly negative about police reform.

<table>
<thead>
<tr>
<th>Do you agree with the opinion that by voting against the restructuring of the police, the RSNA blocked the progress of BiH towards the EU, which is the reason BiH is currently behind Serbia and Montenegro?</th>
<th>Croatian</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Totally agree</td>
<td>35.7%</td>
<td>51.2%</td>
<td>8.4%</td>
</tr>
<tr>
<td>Mostly agree</td>
<td>30.1%</td>
<td>25.2%</td>
<td>27.5%</td>
</tr>
<tr>
<td>Mostly disagree</td>
<td>13.7%</td>
<td>8.7%</td>
<td>16.5%</td>
</tr>
<tr>
<td>Totally disagree</td>
<td>4.9%</td>
<td>1.2%</td>
<td>37.5%</td>
</tr>
<tr>
<td>Do not know</td>
<td>15.8%</td>
<td>13.4%</td>
<td>9.9%</td>
</tr>
<tr>
<td>Total</td>
<td>100.0%</td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

In any event, citizens in general seem to have had very little understanding of the substance of the reform, as illustrated clearly by one final survey, conducted after the October agreement. Most respondents said that they actually did not know much about the deal, while very few Serbs expressed positive views about the agreement, claiming that it was acceptable only because it would bring the country towards the EU. The intensive negotiating process seems to have solidified the views of the Serbs, diminishing the political space for manoeuvre and making Serbs less willing to accept a compromise.

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The limits of the European Vision in Bosnia and Herzegovina

<table>
<thead>
<tr>
<th>Which of the following statements most closely reflects your opinion on the recent agreement on police restructuring</th>
<th>Croat</th>
<th>Bosniak</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>I don't really know much about it</td>
<td>43,8%</td>
<td>38,1%</td>
<td>44,8%</td>
</tr>
<tr>
<td>I think it's a good basis on which to move forward</td>
<td>19,3%</td>
<td>37,5%</td>
<td>7,1%</td>
</tr>
<tr>
<td>It's ok, no decision will be made for 5 years</td>
<td>13,1%</td>
<td>5,9%</td>
<td>11,9%</td>
</tr>
<tr>
<td>I don't like it, but it's necessary to join the EU</td>
<td>9,4%</td>
<td>4,9%</td>
<td>23,5%</td>
</tr>
<tr>
<td>I feel well informed about it</td>
<td>3,8%</td>
<td>3,3%</td>
<td>5,8%</td>
</tr>
<tr>
<td>Don't know/Refusal</td>
<td>10,6%</td>
<td>10,3%</td>
<td>6,9%</td>
</tr>
<tr>
<td>Total</td>
<td>100,0%</td>
<td>100,0%</td>
<td>100,0%</td>
</tr>
</tbody>
</table>

The strategy of the international community was in this sense harmful to its own cause. The Serb constituency would not punish the politicians for obstructing police reform and delaying EU integration, which the international community had hoped. They would instead support the obstruction, and they perceived the pressure that was applied to the political leadership as an assault on the entity as a whole. This obstructive attitude may not have been particularly related to the police reform requirements as such, but may rather have been a collective feeling of being targeted by an external threat. In other words, the identity of the community became in the process of the talks securitized and the Serbs therefore assumed a defensive attitude and turned increasingly negative in the second phase of the negotiations.

In surveys conducted in the summer of 2007, the Serbs not only expressed negative attitudes towards the idea of creating a unified policing structure, but many even claimed that the reform of the police was not necessary at all in order to join the EU. In a survey conducted in July 2005, 44% of Serbs said that reform of the police was necessary if they were to join the EU, while only 35% believed that the current policing structures were more efficient in fighting crime. Two years later only about 30% believed that police reform was needed in order to enter the EU while almost half of the Serb respondents believed the entity structures to be efficient in fighting crime.

Croats and Bosniaks had also become less convinced that police reform was necessary in order to join the EU, yet most of them still believed that a unified police structure would be more efficient in fighting crime. This may have been a result of the rhetoric used by key politicians. While politicians from the Federation repeatedly claimed that reform of the police was an EU requirement, Serb politicians obviously did not insist on the necessity of

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reforming the police. This view may also have been a result of the development of the police reform negotiations in 2006 and 2007, which now appeared to focus more on the constitutional status of BiH than on EU integration.

Serbs had obviously become more positive about the functioning of the RS police force, and most Serbs believed the existing structures were efficient in fighting crime. The satisfaction level among Serbs had increased significantly since 2005, when only about one-third of Serb respondents expressed satisfaction with the existing structure. Interestingly, Croats and Bosniaks were less satisfied with the police forces.

After the failure to reach a compromise agreement in March 2007 and the crisis in the following autumn, the political atmosphere became increasingly tense and the readiness of the Serbs to accept a systematic police reform was further undermined. Unsurprisingly, the Bosniaks and Serbs blamed each other for the failure of police reform. When asked who was to blame, more than 60% of Bosniaks accused Milorad Dodik, while Serbs held Haris Silajdžić responsible, as he had rejected the compromise proposal in March.

However, regardless of who was to blame, the prospect of successful police reform following the talks in March 2007 was by all accounts zero, and support for reform among liberal-minded Serbs had all but disappeared. In the autumn, Serbs became downright negative about the reform and in a

| Do you think that the current structures are effective in fighting crime? |
|-----------------|--------|--------|
|                  | Croat  | Bosniak| Serb  |
| Yes              | 16.6%  | 24.4%  | 47.1% |
| No               | 69.5%  | 70.6%  | 46.0% |
| N/A              | 13.9%  | 5.0%   | 6.8%  |
| Total            | 100.0% | 100.0% | 100.0%|

| In your opinion, do we need to reform our police if we are to join the EU? |
|-----------------|--------|--------|
|                  | Croat  | Bosniak| Serb  |
| Yes              | 73.1%  | 84.7%  | 30.7% |
| No               | 8.5%   | 6.5%   | 56.6% |
| N/A              | 12.7%  | 8.7%   | 12.7% |
| Total            | 100.0% | 100.0% | 100.0%|

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525 Ibid,
527 Respondents declaring that the existing structure is inefficient do not necessarily support a single structure. In the survey conducted in April 2005 only 25% of Serbs said that the "existing structure was effective", yet 56% did not believe that a common structure would be more efficient. Public Opinion Poll in Republika Srpska. Partner Marketing Consulting Agency, April 2005.
final survey, conducted in November 2007, Serb respondents were clearly against the idea of creating a unified policing structure. While three-quarters of Serb respondents still supported EU integration, more than 70% stated that they did not believe that a unified police structure would work better than the existing entity structure.

<table>
<thead>
<tr>
<th>Do you think that a unified police would work better than the current entity structure?</th>
<th>Serb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, totally</td>
<td>6%</td>
</tr>
<tr>
<td>In general yes</td>
<td>8%</td>
</tr>
<tr>
<td>In general no</td>
<td>16%</td>
</tr>
<tr>
<td>Absolutely not</td>
<td>55%</td>
</tr>
<tr>
<td>Don’t know/Refusal</td>
<td>15%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
</tr>
</tbody>
</table>

November 2007. Residents in RS:

It is possible that the views of Serbs were affected by the political crisis, in which the perception of mutual cooperation among the ethnic groups seemed dim. These final survey results, in which only 14% of RS residents expressed support for a common policing system, were a final reflection of the deteriorated atmosphere, in which Serbs had entirely lost interest in police reform.

10.2 Concluding summary

Assessing the surveys conducted at the beginning of the police reform process, one can conclude that the views of the people of BiH were indeed split into two rather dissimilar clusters. Croats and Bosniaks believed that a unified police structure would be better able to fight crime and they supported any measure that would result in the integration of the state structure, while Serbs were generally sceptical about strengthening the common state. The readiness of the Serb public to accept significant changes in the structure of law enforcement was marginal and in this sense the requirements determined in the framework of police reform were indeed ambitious.

The space for political manoeuvre among Serb politicians was limited, but at the start of the process, the views of Serbs were not unilaterally negative. A majority of Serbs did support the EU integration process and a great number did not believe that the existing structure of policing was

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efficient in fighting crime. As a matter of fact, Serb respondents were divided between a liberal-minded group of about 30%, willing to accept compromise in order to reach the EU, and a radical segment of about 40%, who were categorically against any kind of reform that would undermine the position of the entity. Unfortunately, the group of liberal-minded people who were disposed towards reform did not have a major impact on political developments. First of all, the political establishment did not reach out to this group, but seems rather to have sided with the more radically inclined segment of the electorate. Moreover, when the Vlašić negotiations failed and the international community began to exhort the Serbs to accept the proposed agreement, the people seem to have rallied behind their politicians. In this sense, the international community was wrong in believing that the electorate would punish politicians who were responsible for delaying the integration process. When the Serb entity was perceived to have come under pressure, people did not blame obstructing politicians for blocking the EU integration process.

This development of public attitude can be described as a defensive mechanism triggered by a societal perception of threat, emerging from the police reform process. When police reform turned into a political contest, in which the RS appeared to be under pressure, the RS public reverted to a nationalist view, defending the entity and becoming less interested in the EU integration process. Large segments of the Serb electorate were initially positive about the reform, but people were affected by the political debate in general and would turn more negative when the dispute between the Serb political establishment and the international community and Federation politicians intensified. In the second round of police reform, this tendency became even more evident and in 2007 Serbs turned blatantly negative about the idea of creating a unified police structure.

Although the survey results do not elucidate the reasons why a great segment of the Serb population wished to keep the entity-level police forces and why the Croats and Bosniaks preferred to create a unified structure, it is evident that in the context of the police reform negotiations, the police not only represented an institution that provided security, but were a symbol of political autonomy, which the Serbs were reluctant to give up. Faced with an insistence on proposed reforms that challenged this view, Serbs became more radical and more negative about the EU integration process.

Comparing Bosniaks, Croats and Serbs, the views of the three groups gradually moved apart. Moderate Serbs became more radical, while Bosniaks and Croats expressed unremitting support for the reform and for the attempt to reintegrate the policing structure. Although none of the data presented addresses the issue of societal insecurity, it is reasonable to believe that the level of trust among the groups was undermined as a result of the infected political debate. Serbs and Bosniaks pooled after the negotiations in March 2007 would symptomatically blame each other for the failure, while
Serb support for police reform collapsed completely after the final negotiation in the autumn of 2007.

Police reform seems to have generated a political discourse in which two political sides in BiH were pitched against each other, and attitudes of citizens simply aligned according to this division. When the political debate began to resemble inter-ethnic rivalry, views based on ethnic identity came to the fore, limiting the scope for neutral civic solutions. It was obviously difficult for citizens to turn against their politicians in a situation where the political camps of the two entities came into clear confrontation. In effect, the dwindling interest in supporting police reform may have been the result of a political environment created by the negotiation process, in which the views of citizens came to be clearly consolidated in two incompatible positions.
11. Impact of the Police Reform Negotiations on the International Community

As discussed in the previous chapters, the process of negotiation had a visible impact on the political and the social discourse in Bosnia and Herzegovina, but the negotiations also affected the means of influence of the international community. By insisting on a set of requirements that did not carry sufficient legitimacy and by refusing to adjust the proposed model of reform to the political context, the international community unwittingly undermined the leverage that existed in the EU factor. Nevertheless, as will be discussed below, by using the police reform process to focus attention on issues such as high-level corruption and the failure to cooperate with the ICTY, the international community did coax the domestic political elite to take action to arrest suspected war criminals. Paradoxically, this positive development undermined the initial justification for police reform and made it very difficult for the High Representative and the principal representatives of the European Union to persuade the domestic political elite of the necessity of reforming the police forces in accordance with the proposed model. The leverage of the international community gradually evaporated during the police reform negotiations, rendering it impossible for the High Representative to facilitate any compromise on the reform at the end of the negotiating process. This chapter is divided in two sections, discussing the challenged rationale behind police reform and the limitations of the EU impetus.
11.1 The challenged rationale of police reform

The reform of the police was a complex project initiated by the Office of the High Representative in order to attain several distinct objectives within the wider exercise of peace-building. As has been seen in the discussion of the intentions of the international community, the reform was based on two general sets of justifying arguments. Police reform was first of all a general EU membership requirement and in this connection BiH politicians had to readjust the system of policing in order to become eligible for further membership negotiation. However, police reform was also a project initiated within the so-called Rule of Law agenda and the aim of the reform was, pursuant to the objectives of this program, to tackle the problems of political influence, corruption and organized crime. Most importantly, by reforming the policing system, it was argued, the political influence impeding ICTY collaboration would be removed. These factors were the cornerstone of the rhetoric of the principal international representatives as they strove to persuade domestic politicians to agree to the proposed reform. Nevertheless, by defining the conditionality on the basis of specific problems within BiH society and not on the basis of formal EU standards, the international community would encounter several problems in the negotiating process.

Certainly, the dysfunctionality of the BiH policing system provided a general justification for police reform, but it was open to question whether the reform model proposed by the European Union would create a system that would be more efficient in fighting crime than the existing policing structure. The arguments for creating a common system within which operations could be coordinated did indeed carry certain weight, but political corruption and organised crime were prevalent in all institutional segments of BiH, not just at the lower levels of authority. In effect, the conditionality would only carry legitimacy as long as the international community could persuasively argue that these problems were specifically related to the cantons or the entities.

This case was easier to make when it came to ICTY collaboration, since the missing link could be traced directly to the RS entity. The unwillingness of the Serbs to collaborate was therefore the strongest argument for abolishing the entity structures. The representatives of the international community and the Serb political establishment both realised this at the start of the process. At this stage the RS had still not arrested a single indicted war criminal and it seemed, as discussed earlier, unrealistic to believe that the RS police would ever be able or willing to change their approach. The existing system was, as stated by several OHR officials, endemically incapable of dissociating itself from its wartime legacy. Since key founders of Republika Srpska were indicted for war crimes, it was reasonable to
believe that the institutional structure created in the course of the war would not be able fulfil the ICTY’s requirements. Thus the failure or unwillingness of the RS police to arrest war criminals would provide the same kind of motivation for police reform as the scandals that had justified the reform and unification of the defence structure. The initial rationale of police reform was in this sense, according to Raffi Gregorian, “…to place them (the police forces) under some kind of control of the state so that the police would not do things which are contrary to the state, as the army has done.”

Although the inability and unwillingness to catch war criminals was less conspicuously illustrated than the case of selling weapons to Iraq, one could argue that the institutional incapacity of the police and the failure to collaborate with the ICTY provided a “hook”, as stated by some OHR officials, on which police reform could be pegged.

“Paddy wanted to have a hook on which he could hang it and he seized it; the aura of the wartime past. He was trying to find something similar as he had found with the defence reform. To some extent he had the Srebenica Commission. I certainly thought that the RS would never come out and accept the guilt of the war.”

However, the ICTY issue did not carry as much weight as the scandals that had triggered defence reform. When it came, for instance, to the Orao scandal, the RS authorities had been caught red handed violating international conventions, which was not really the case when it came to the ICTY issue. The RS had obviously a shameful record on arresting indicted war criminals, which made it reasonable to believe that the obstruction was systematic, but the obstruction was not tangible and there had been no incidents or affairs that could provide material for media campaigns preparing the ground for the reform. Moreover, Serbs distrusted these claims of the international community, complaining that they had been unjustly denounced as the prime culprit, and that crimes committed by the other two groups had been disregarded. They would therefore argue that the international community had used the ICTY issue in order to motivate the reform, rather than being actually interested in arresting war criminals.

“Ashdown was simply searching for a reason to initiate this reform process, even if we had known that these war criminals were in the RS, they would have been arrested. I was aware that my police was ready to do that job…. So they used only the arguments which they liked.”

530 In 2002 US intelligence detected that the RS-controlled company “Orao” was violating the UN enacted arms embargo on Iraq (See Chapter Five). Interview with Raffi Gregorian - 02.09.2008.
531 Interview with OHR Official - 05.04.2008.
Nevertheless several principal RS politicians accepted the fact that Serbs had committed war crimes and they understood that the ICTY issue had become a political problem, which had to be addressed if the entity was to survive. RS President Čavić had realised that if the entity was not to succumb to the pressure of the international community, it had to begin to produce results on the war-crimes issue and separate itself from the crimes it had committed in the process of its own establishment. As a result, in the summer of 2004 Čavić became the first high-level RS official to acknowledge the genocide committed in Srebrenica and to make a formal apology in the name of Serbs. The President argued that if the RS authorities “…could prove that we efficiently could deliver war criminals, OHR would not have any arguments to hold against us.” The RS government therefore intentionally pursued a strategy under which it sought to depoliticize the police force and arrest as many war criminals as possible in a short period of time. These activities were initiated in order to undermine the declared rationale behind police reform. It is doubtful whether the Serb authorities managed to depoliticize the police forces, but they did try to impress the international community with their willingness to apprehend PIFWICS.

To implement this strategy, they needed someone who had information on the whereabouts of indictees. They believed that they had found that person in the Head of the East Sarajevo Security Centre, Dragomir Andan, whose wartime record had provided him with connections with shadowy structures. At the end of 2004 Andan received a phone call from the RS President, who offered him the position of Director of Police. According to Andan, the RS President told him that his number-one priority would be to improve the ICTY record, stating that if the RS “…would not quickly start to apprehend PIFWICS, the RS police would very soon be abolished.”

Andan took on the challenge of delivering as many war criminals as possible ahead of the police reform negotiations. On his initiative the RS Ministry of Interior established a team dedicated to the issue of war criminals. In January the RS police apprehended an ICTY indictee for the first time ever, Savo Todorović, who had managed a concentration camp in the vicinity of Foča during the war. In the first months of 2005 the RS authorities managed to track down and arrest seven war-crimes indictees.
The Serbs clearly flaunted these results, hoping that the international community would change its perception of the RS and thereby its approach to police reform. Accordingly, the RS President lobbied for the Communiqué of the Peace Implementation Council in April 2005 to include language stating that the RS had established full collaboration with the ICTY.

The representatives of the international community were visibly surprised by the sudden interest of the RS authorities in cooperating with The Hague. Reactions from both the ICTY and the OHR were positive, but it was not clear whether this development would affect the conditionality set for defence and police reform. The reluctance of the international community to change its approach upset Ćavić, who argued that this was proof that the international community had not been honest in their request. He complained that “…it did not appeal to anybody that we took those positive steps because then they would lose their motivation.”

The progress of the RS was possibly too sudden to be taken seriously and international representatives seem not to have found the new approach sufficiently credible. In any event, the two chief architects of ethnic cleansing and the Srebrenica Massacre, Radovan Karadžić and Ratko Mladić, had still not been arrested and regardless of whether these two were in BiH or not, a final assessment would ultimately rest on the interest of the Serb authorities in arresting either of them. One senior OHR official commented in this way on the discussion within the international community at the time:

“…it is true to say that a number of ICTY indictees suddenly and miraculously a decade later were walking into police stations in the RS in the space of just a few weeks and months. Up to the one of Karadžić and Mladić who were just too powerful… Now whether or not for them to deem to be cooperating they could hand in all these lower lying pieces of fruit and ignore Karadžić and Mladić was a question for the ICTY and also of course the national governments. Because NATO and EU conditionality was also linked into the ICTY conditionality. So there was a discussion going on between member states when was ‘no cooperation’ suddenly cooperation.”

The demand for Mladić and Karadžić to be arrested put the Bosnian Serbs in an awkward position, given that the two fugitives were believed to be in Serbia or Montenegro. Serbia was governed by Vojislav Kostunica, who

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537 Interview with Dragan Ćavić - 26.03.2008.

538 Ashdown; “…these steps represent the start of a process. The IC will now be watching closely to see that this process on which the RS authorities have embarked continues and picks up pace. That means that the remaining indictees - including Radovan Karadžić and Ratko Mladić – must be transferred to The Hague without delay.” *Both Karadžić and Mladić must go to The Hague*, Dnevni Avaz, 15.03.2005.

539 Interview with OHR Official - 23.06.2008.
showed no interest at all in arresting war criminals or addressing war crimes perpetrated by Serbia. The RS authorities allegedly made certain attempts to persuade Belgrade to change its mind, but when Čavić met Kostunica, the Serbian authorities bluntly expressed their unwillingness to cooperate and arrest any war-crimes indictees.

“In June 2005 we went to Serbia to meet with Prime Minister Kostunica and the Minister of Interior, Dragan Jokić. At the meeting the head of the BIA was present. We gave them all the information and asked them to arrest those indictees we knew about. Kostunica refused. I told him that it was easy for him not to act since he did not have to face a High Representative.”

In order to circumvent the problem, the RS authorities, according to the President and the Director of Police, began apprehending a small number of war-crimes indictees in Serbia in clandestine operations and bringing them to BiH to make the formal arrest on the other side of the border. These exceptional measures were a sign of how desperately the RS authorities wanted to demonstrate that they deserved to keep their own police force. According to both the Director of Police and the President, they even made attempts to arrest both Karadžić and Mladić in Serbia and Montenegro, obviously without success. In the summer of 2005 the RS police, according to Andan, received information about the whereabouts of Mladić, who was at the time hiding in Belgrade, but they were never able to act on this. When the RS police handed over the information to the Serbian police, the operation was immediately obstructed.

“Within one year we had eleven people sent to The Hague. And thereafter we would actually be able to establish information on some of the protective networks. This was done through the intelligence that we found. Referring to the information we had on the network of General Mladić, we went to Belgrade and there I met a person who was involved in the network. We sat in a car and he drove around Belgrade and showed me all the flats where he was hiding and told me about other individuals involved. There were at least 11 to 12 apartments involved. This was at the beginning of 2005…. We had cooperation with the Serbian police. I delivered all this information to the Serbian police and my source was set in contact with the Serbian police. We were in those days in a beginning phase to arrest Mladić, however I was not responsible for the Serbian police.”

By using the ICTY argument in connection with police reform, the international community evidently managed to bring about concrete results, encouraging the Serbs to face the issue of war crimes. It is certainly in question whether the Serbs would ever have started arresting individuals who were responsible for ethnic cleaning, for expelling thousands of non-

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540 Interview with Dragan Čavić - 26.03.2008.
Serbs from the territory of the RS, if it had not been for the activities of the High Representative and the pressure applied in the context of police reform. Although the international community had for many years appealed to the RS authorities to cooperate, they did not start to arrest war-crimes indictees before this demand was put forward in relation to an actual threat of the potential losses of political influence.

“We said to them, look if you do not reform the police, defence and intelligence, sorry if you do not comply with your legal obligation on the ICTY we will hollow out your institutions. And then they started to cooperate. But I do not feel that we lost all that leverage, but I do think that the part of our attack against their institutions, if you would like to put it in those terms, it definitely determined their sudden interest in cooperation”.  

Although Serb politicians had claimed that they were ready to cooperate, few seemed capable or interested in encouraging their own police authorities proactively to pursue this task. Mladen Ivanić, for instance, argued that his party was ready to arrest and surrender war criminals, but not a single arrest was made between 2000 and 2004 when he and his party colleague Dragan Mikerović were heading the RS government. Interestingly, Ivanić confessed that if it had not been for the pressure of the international community the RS authorities would probably not have begun to cooperate.

“True, some people would say that the pressure on the RS has had positive effects, if there would not have been pressure on the RS we would not have been ready to do all these things. That is partly true. I was ready to send war criminals to The Hague, but the SDS was not. This would be something I will write in my memoirs. I was always saying that it would be much better if we could clear off this problem as soon as possible…”

The problem in this regard was that once the RS authorities began to cooperate, the international community would also lose one of the main arguments for police reform. According to the OHR Head of the Rule of Law Department, Bill Potter, some representatives of the international community were sorry to see that the RS police were carrying out successful policing operations, being “…more eager to see the RS fail in these efforts so that they can use these failures to justify the imposition of more harsh sanctions on the RS.” Other OHR officials argued that they had made a mistake when they linked the requirement for systematic police reform to the issue of ICTY cooperation, since this gave the Serbs an opportunity to disregard the conditionality in police reform once they had improved their cooperation with The Hague.

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542 Interview with OHR Official - 23.06.2008.
543 Interview with Mladen Ivanic - 31.03.2008.
“So they traded cooperation with the ICTY for police reform. We wanted both. We were trying to say to Paddy that you cannot separate these issues, but Paddy was claiming that they were separate. We said you cannot have both.”545

In this connection, the improved ICTY collaboration clearly undermined some of the leverage used by the international community and once “Matijašević was starting to arrest people”, the High Representative, as stated by one OHR official, “stopped using that argument and would no longer discuss police reform in the context of war crimes.”546 However, the conditionality of police reform was not changed as a result of the improved ICTY cooperation. Instead, the international community placed more emphasis on other issues, such as political influence in the police forces and the prevalence of organized crime and corruption. These arguments could however not be used effectively to counter the unwillingness of the Serb political establishment to accept police reform, since the problems of political influence, corruption and organized crime could not be linked exclusively to the RS. These problems were equally prevalent in all parts of the country. In addition, during the process of negotiation, the capacity of the police forces would develop and their efficiency would increase, even though they remained uncoordinated and fragmented. Political corruption and influence in policing remained a grave problem, but the police forces were operating much better in 2007 than they had been in 2004. Despite this, the international community refused to reconsider the conditionality.547 This inflexibility on the part of the international community when it came to the conditionality was problematic and the Head of the EUPM, Vincenzo Coppala, argued in this connection that “…the need for police reform in 2004 is not the same as the need in 2008 and certainly it will be something different in 2010.”548

The change of approach by the RS government in relation to the ICTY not only undermined the rationale for police reform as such, it reduced the overall leverage of the international community. As long as the Serbs had refused to dissociate themselves from the legacy of war crimes, pressure and sanctions from the international community carried an air of legitimacy and would therefore be effective. However, once the RS had begun to cooperate with the ICTY and reform internal administrative structures, the RS was no longer in a conspicuously inferior moral position. The political weight carried in the rhetoric of the international community evaporated towards the

546 Interview with OHR Official - 06.04.2008.
547 European Commission, Bosnia and Herzegovina - Progress Report 2007. (As an example of political influence, RS President Milan Jelić ordered in summer of 2007 the dismissal of the Chief of Police in Doboj PSC because he was annoyed by an investigation into oil smuggling.)
end of 2005, as described by several OHR officials, by which time the RS police had actually delivered most of the indicted war criminals. Moreover when the SDS party lost power at the beginning of 2006, the dynamics of politics changed, since the SNSD did not carry the same aura of association with war crimes. The government that took over in 2006 was therefore able to counter the arguments of the international community.

“Dodik refused to be restrained from making the accusation of being a war criminal. He stood up in 2004 and said ‘you guys are going to be convicted for war crimes, I am not’. Dodik had clean baggage. There was this psychological edge that you can deem on the SDS. Some human mechanism that was working. The old guys, the SDA, SDS and HDZ could sit down and make deals with each other. They hated each other, but they would make deals between each other. Now we can just dream about those days.”

With the change of the approach of the RS government, it became more difficult for the international community to justify activities that were designed to reintegrate the RS in common state structures by referring to misdeeds of the past, and this had been particularly the case in regard to police reform. In effect the strategy used by the international community, according to some OHR officials, turned out to be counterproductive.

“We foreigners had this idea that our task here in BiH was to destroy the RS. This is the ironic effect of the reforms that Paddy managed to get through, they had the opposite effect. It ended up in legitimising the RS and now every PIC communiqué that comes along talks about the inviolability of the entities. Nobody in their wildest imagination could talk like that back in 2003... I think we thought and hoped that the RS would eventually just fade away. It would have to remain symbolically there as a sign of what the Serbs had accomplished during their horrible war... So the RS, far from fading away, has advanced by leaps and bounds, it has greater constitutional legitimacy, economic legitimacy and social legitimacy then what the Federation ever had.”

Believing that police reform had been initiated as an attempt to abolish the RS, Serb politicians had acted in self-defence to reform their structures of authority, enhancing the power of the entities and making the RS more respectable and efficient. Paradoxically, the pressure of the international community and threats to abolish the entities encouraged change and, in the eyes of the international community, turned Republika Srpska from being a product of war to being a legitimate administrative unit of BiH. The initial arguments of the international community thus lost relevance and without actually reforming the police, the negotiations transformed the balance of

power within BiH, in contradiction to the initial intention of the international community.

11.2 The limits of the EU incentive

Following the Serb change of approach towards the ICTY, it became difficult, as argued above, for the international community to justify the abolition of the entity police forces. However, the main piece of leverage in police reform was the EU, and this remained influential among Serb politicians and the Serb constituency, motivating them to seek an agreement on police reform. When the OHR Decision establishing the Police Reform Commission was issued in the summer of 2004, the Serbs had voiced opposition to the initiative, but they eventually agreed to participate. It seems likely that Serb politicians were indeed interested in bringing BiH towards the EU, although this interest would not prevail over the desire to maintain control over the entity police force. Because of this, Serb politicians were from the very outset of the negotiations unwilling to accept any proposal that would lead to a transfer of competences. Nevertheless, the principals of the international community seemed to have resolutely believed that the interest in joining the EU would in the long run be greater than the short-sighted nationalistic interests propagated by the political elite. At the end of the day the main desire of ordinary people was economic prosperity, and this was something that could presumably be attained by joining the EU. Politicians who delayed this process would thus have to face the frustration of voters. Consequently, if the international community stood firm on the conditionality, Paddy Ashdown argued, the domestic politicians would eventually return to the negotiating table and make concessions.

“I think that it was about this, that everybody in Europe realised that there was only one place you could go and that place was Europe. I was able to do things, not because of the powers of the High Representatives, but because Europe said clearly that if you do not do it, you won’t get to Europe.”

The police reform negotiations clearly brought the domestic politicians into a situation where they had to choose between EU integration and reforms that were unpopular in their own constituency. This kind of situation may not have been unique to the BiH case. Politicians in other transition countries had regularly been forced to make difficult and unpopular choices in the process of economic and political reform, often alienating constituents.

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551 Interview with Paddy Ashdown - 25.06.2008.
against those in power when the reforms were adopted. However, given that police reform came to be seen as a matter of defining the institutional power structure of the country, the BiH situation was not entirely comparable with other transition countries. For Serbs, EU accession had become a question of whether the Euro-Atlantic structure could compensate for lost autonomy provided by Dayton constitutional competences. Although EU membership was supported by Serbs, many of them did not believe, according to RS Prime Minister Dodik, that the EU institutions would be able to provide sufficient guarantees of security and prosperity for the less numerous groups, i.e. the Serbs, in a unitary BiH state. Dodik claimed accordingly that Serbs could accept entry into Europe, but only with preserved entity control over the police and the judiciary.

“The Serbs here have a perception that they can be in BiH, but with the RS and that is not disputable. The basic elements of this unit must be the police and the judiciary and these are the competences we were given in the DPA and we do not want to lose these competences. And these are entitlements which you cannot compensate with a concept of a virtual common BiH which might appear in the future.”

The problem, however, was not simply that Serb politicians believed that the abolition of the entity police forces was too high a price to pay for entry to the EU, but that they did not seem to be convinced of the genuineness of the conditionality. They did not believe “…that a centralised police is more efficient and we knew from the beginning that this had nothing to do with European standards…” said former RS Prime Ministers Dragan Mikerević. They were therefore less inclined to accept the reform. Moreover, some Serb politicians believed the European Union would be flexible. For instance, Foreign Minister Mladen Ivanić argued that it was reasonable to believe that Brussels would not be able to defend the principles over the long run. Serb politicians accordingly acted on the assumption that the EU would eventually change its approach to BiH and lower the requirements.

“You know when it comes to the EU, it is a matter of fashion. One moment they say you have to do a reform of the police, the next moment they say something else. This is my experience, the EU is a strange phenomenon. Their policy follows what’s in fashion and it may change from day to day.”

Several OHR officials involved in the process argued likewise that the Serbs had made a strategic assessment, believing that the EU would eventually change the conditionality. The RS government had accordingly instructed Interior Minster Darko Matijašević to obstruct the negotiations and resist

552 Interview with Milorad Dodik - 26.08.2008.
553 Interview with Dragan Mikerević - 16.04.2008.
554 Interview with Mladen Ivanić - 31.03.2008.
pressure from the international community. Matijašević was sufficiently stubborn not to give in and he had past experience working in Brussels as a BiH representative in the NATO office. One senior OHR official, who was negotiating with Matijašević, claimed that the minister had repeatedly stated that “…he knew that it was just a matter of time before the international community would lower the conditions.”

This approach clearly frustrated the OHR and added to the tension between the international community and domestic politicians. Once the Serb political elite had decided that it was likely that the EU would not stand firm on the principles over the long run and that they would not be guaranteed eventual entry into Europe if they adopted the required reforms, they were reluctant to take decisions that might upset voters. Several OHR officials consequently took the view that the EU incentive had been shown to have limits.

“…a lot comes down to the European question I think. We only really had one big piece of leverage here and that was EU accession. We figured you either keep your police forces as they are now and don’t join Europe or you reform the police according to these basic principles which we drew up and you do enter Europe and we felt that they would have no option at one stage in the future but to say, ‘ok we will reform’. But of course that calculation sort of requires the European accession process to be alive and within real prospect. These guys were looking at what was happening in the wider politics of the European Union thinking that we are not getting in any time soon anyway.”

Paddy Ashdown, the High Representative, does not, however, appear to have had any doubts about the power of the EU factor. He seems to have believed that the strength in the conditionality was a matter of determination. If the international community just stood firm by the principles, the Serbs would eventually cave in. After the second rejection by the RS parliament in September 2005, it seemed obvious that the EU factor was not appealing enough for Serbs to accept the police reform proposal, but the High Representative kept on pushing, idealistically stating in a press conference that he was convinced that the Serbs had little choice in the matter. “The question is not whether police restructuring will happen, but when. The longer it takes for the RS Government to reach agreement, the more damage it will inflict on the RS, and the people of this country as a whole,” he said.

The vision of EU membership was not presented only in positive terms. The flipside, of not supporting the integration process, was shown to carry with it the risk of international isolation. To this end the High Representative

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556 Interview with OHR Official - 23.06.2008.
condemned those politicians who were depicted as standing in the way of the Europeanization process. After the failure to reach an agreement in Vlašić, the High Representative warned Serb politicians that BiH was heading towards a Cyprus-type situation, in which half the country would face isolation. When asked in an interview whether it was true that a “Cyprus solution” could be applied to the RS, Ashdown said “…if the authorities in the RS put themselves in a position that they are the only obstacle to progress in the whole region, it will be a dangerous situation. One can say it is a road that leads towards isolation.”

This kind of threat seems to have had a certain effect on the willingness of politicians to reach compromises. Ahead of the vote in the RS National Assembly on the compromise solution proposed in Vlašić in May 2005, the Serb opposition leader, Milorad Dodik, suddenly made an overture to a compromise, saying that police reform could be accepted if a larger number of police centres were located in the RS, proposing that the centre of Tuzla police region could be based in Bijeljina or Zvornik. In one interview Dodik said: “Those persisting in adhering to the concept proposed by Darko Matijašević risk seeing sanctions imposed against the RS. I think we do not need another period of exhaustion, since the EU would not give up on its principles…” However, in the RSNA vote, Dodik and his party voted against the reform.

In September, after the second rejection by the RS National Assembly, several politicians and the media even began to speculate about whether the High Representative would remove both Dragan Čavić and Pero Bukeljović for having obstructed police reform. In any event, Paddy Ashdown did not sanction the politicians but warned them that the RS would face isolation, which “…will result in fewer jobs, more poverty and the same unfavourable visa-regime and losing the chance to join the rest of the region in joining the EU.” In an interview in September 2005, RS President Čavić said he was anxious that the High Representative would punish the RS, but he said he intended to fight back. When Čavić took the initiative to present the October agreement, he claimed that he had done so out of fear of being left behind the other countries in the region, stating that it would have been “…dangerous if Srpska was an obstacle on that (European) path.” This fear together with the pressure of the EU was, according to Čavić, the main reason that the Serbs proposed and accepted the October agreement.

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558 RS is going the road that leads towards isolation, Večernji List, 19.05.2005.
559 A larger number of police centers needs to be located in RS, Nezavisne Novine, 23.05.2005.
560 RS Assembly for isolation, Nezavisne Novine, 30.05.2005.
563 “If SDS-led Government of RS continues this way, they will face strict sanctions…” Čavić: we are preparing a reply to punishments, Nezavisne Novine, 23.09.2005.
564 No need to be afraid, Glas Srpske, 10.10.2005.
“A few days earlier, the EU had a meeting in Luxembourg where it gave the green light to Croatia and gave Turkey the status of a candidate country and even Macedonia. At that time it seemed that only BiH would remain without any arrangement with the EU. We simply had to find a way out, a way out for everybody. After that the Presidency of the EU had a meeting at which they had a concluding talk about the recommendations from Luxembourg, so at this point all these countries had a defined status except for BiH. At that point I had a conversation with the Commission and Ambassador Michael Humphreys. It was clear that we all really wanted a way out.\textsuperscript{565}

It is therefore reasonable to believe that the key Serb politicians were interested in joining the EU, and the conditionality therefore had an effect on their willingness and ability to take difficult decisions. The aspiration to enter the EU seems also to have had an effect on the thinking of Dodik’s government and was a crucial factor in encouraging attempts to reach a compromise in the final negotiations in March 2007. Even though the RS government was accused of obstructing the reform process, Dodik seems to have believed that it was important to bring the reform to a close in order to ensure the success of the SAA negotiations and he repeatedly stated that he was “committed to reform the police in line with European principles…”, though he refused to discuss the idea of abolishing the entity police.\textsuperscript{566} In a meeting prior to the final negotiations in March 2007, Dodik told one OHR official that the concept of reform proposed by Ashdown was electorally a non-starter in the RS. At the same time, he said it would be possible to pass a reform that would integrate the RS police in the BiH structure, but only if it could be done in correlation with the initiation of the SAA negotiations.

“I met Dodik and we covered a lot of other issues, but on police reform he said to me that it does not matter what the reforms were, but all reforms require the Serbs to give away a lot of ground because it is a matter of changing the settlement that already exists. And he said he is unable electorally to give up so much ground, it is simply not possible to do it. The only way to do it was within the context of the immediate initiating of the Stabilisation and Association Agreement and that he was happy to go forward on that basis. Although this was not the maximum package of Silajdžić and not what Ashdown had proposed, he was prepared to compromise along these lines.”\textsuperscript{567}

In this sense it does appear as if the EU factor was truly an instrument of change, softening the positions of the nationalist parties. However, it is obvious that the leverage vested in the EU factor was not unlimited. The prospect of EU integration would indeed motivate politicians to support unpopular reform, but it could not be used to challenge the fundamental

\textsuperscript{565} Interview with Dragan Čavić - 25.08.2008.
\textsuperscript{566} McElhaney and Humphreys warned Dodik, Dnevni Avaz 22.04.2006.
\textsuperscript{567} Interview with OHR Official - 19.08.2008.
structures of power. RS President Čavić, for instance, said he regretted that the international community had prevented BiH from moving towards the European Union by defining unachievable principles, stating that “...practically we had an opportunity in 2005 to sign the SAA and we could have entered into these talks if it had not been for police reform. The reform was simply not feasible.”

BiH Prime Minister Adnan Terzić even claimed that the international community had intentionally defined principles that the country would not be able to meet in order to prevent BiH from joining the EU before Serbia.

“You can question whether the EU really wanted us. Maybe they gave us these impossible conditions just in order to see to it that Serbia would be able to catch up with us. We passed 43 laws and maybe the police was the most important thing, but maybe it was not. If you look at what has been required of other accession countries, they have not been forced to reform the police.”

It is, however, unlikely that the European Commission had intentionally defined a set of conditions, which the domestic political establishment would be unable to fulfil, since EU integration was a crucial element in the international community’s overall strategy for Bosnia and Herzegovina. As a matter of fact, the inability to understand the limits of the EU impetus would eventually threaten the entire policy of the international community. As a result of overambitious conditionality, the process of EU integration was brought to a stalemate, and since it had no alternative strategy but to support the EU integration process, the international community would experience a policy crisis in the autumn of 2005.

Some OHR officials gave a hint of the frustration and unhappiness of senior representatives of the international community, claiming that the October agreement was simply accepted as a way out of the impasse. The mandate of the High Representative would elapse at the end of the year and the OHR was therefore desperate for a breakthrough. There was a real possibility that Paddy Ashdown would have to leave the country before an agreement had been concluded. One OHR official pointed out that “…they needed to pocket something and the calendar was coming up, they wanted to do it before the PIC and this was Paddy’s last PIC.”

The Serbs understood in the autumn of 2005 that the international community needed a solution to police reform more desperately than the domestic politicians, and this allowed the Serbs to dictate the language of the agreement. Although key Serb politicians acknowledged that the EU factor had indeed encouraged them to take a pragmatic stance, both Čavić and Dodik claimed that they had realised that the international representatives

568 Interview with Dragan Čavić - 25.08.2008.
569 Interview with Adnan Terzić - 01-09.2008.
570 Interview with OHR Official - 14.06.2008.
were eager to find a solution. Describing the meeting at which the October compromise on police reform was accepted, Ćavić recalled speaking to Ashdown who, according to him, was “…very tired and seemed desperate to find a solution.”

Dodik argued that the agreement was “…a way out, especially for Ashdown, for him there was no other way out.”

Although the failure to reach an agreement in 2005 would appear to demonstrate in a very emphatic way that the conditionality and the methods of negotiation were ill-conceived, bringing the talks into deadlock, several international observers argued that the main reason police reform failed was the disengagement of the international community. After entering into the SAA negotiation, the international community became less proactive in pushing the politicians to comply with the conditionality. Many international observers, Ashdown among them, were convinced that the inability of the international community to maintain a firm position in the negotiating process led to the failure of police reform. With hindsight Ashdown would state that; “People released the pressure that would have delivered it. The leverage that would have delivered it.”

It is true that the international community disengaged from the police reform talks after the start of SAA negotiations in 2005, but it does not seem very likely that this affected the chances of reaching agreement. Christian Schwartz-Schilling, who replaced Paddy Ashdown in 2006, announced in one of his first interviews that the OHR was to be closed down within a year and would apply a new policy, no longer enacting laws. This alarmed some international and domestic observers, and they also criticised Schwartz-Schilling because he appeared less familiar than his predecessor with the dynamics of international policy and because he seemed to bring considerably less energy to the job than Ashdown had. However, as one of Schwartz-Schilling’s closest advisors pointed out, the problem was not so much the personal attitude of the new High Representative but rather the instructions he had received from Brussels. Schwartz-Schilling was not appointed in order to determine the direction of BiH politics, but to “…close down the Office of the High Representative by the end of the year, making him reluctant to take a proactive approach and use the Bonn Powers against obstructing politicians.”

It remains highly debatable whether a more proactive approach by the international community would have persuaded the Serbs to capitulate and accept the EU conditionality on police reform. The Serbs refused to accept the requirements proposed by Ashdown in 2004 and they never changed their approach on this issue. The original concept of the reform had been

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571 Interview with Dragan Ćavić - 26.03.2008.
572 Interview with Milorad Dodik - 26.08.2008.
573 Interview with Paddy Ashdown - 25.06.2008.
574 I won’t impose Laws, Interview with Christian Schwartz-Schilling, the High Representative for BiH, Nezavisne Novine, 06.02.2006.
rejected by the RS National Assembly on three occasions in 2005 and 2006. After the Vlašić negotiations, the Serbs never came close to signing an agreement in line with the initial interpretation of the three principles. During Ashdown’s mandate the international community had only managed to cajole the political elite into signing the ambiguous and vague October agreement, and it must be doubted whether a bolder and more robust international representative would have made them more enthusiastic in 2006. Even the architect of police reform, Paddy Ashdown, according to one senior OHR official, realised that they had “…exaggerated the miraculous power of the Brussels carrot in comparison to the Bonn Power stick.” 576

Nevertheless, the international community continued to require police reform in accordance with the three principles, meaning that the RS police force had to be abolished.577 Not until the negotiations in March 2007, would the international community reconsider the conditionality, allowing a solution in which the RS police would remain as one unit in a common structure. At this stage police reform was obstructed by Haris Silajdžić and thereafter the key Bosniak and Serb politicians repeatedly criticised the position of the EU, having evidently lost respect for the role and power of EU institutions. Milorad Dodik would for instance express the view that “…I know who Solana is, but even mighty Europe has to understand our specificities”578, while Silajdžić proclaimed that by recognising the existence of the RS police, “… Europe asks for legalization of the structure that resulted from genocide.”579

In this context several politicians, among them PDP leader Mladen Ivanić, argued that the EU factor had lost its attraction, since ordinary people in the RS had “started to look at the EU as an element that was trying to change the set-up within the country,…. I am quite sure that people are not that interested in the EU anymore.”580 The RS Prime Minister also claimed that the Serbs had turned sceptical towards the EU because they understood that the conditionality aimed to change the constitutional order rather than the functioning of the police. Prime Minister Dodik argued that the EU could be a source of inspiration in the process of reform but that he would not allow the international community to change the internal structure of the country by using the EU factor.

“The EU is not a guarantee for a good internal organisation. The EU can be a good source of inspiration, and I would like it to be a precedent. But any attempt to frame the internal political situation in the country is unacceptable and that should not be a part of the EU policy and its standards. We have studied several EU documents until today and no one can dispute that we are...

577 EC is not giving up on three principles, Dnevni List. 13.05.2007.
578 If there is not going to be RS Police there will be no reform either Dnevni Avaz. 05.10.2007.
580 Interview with Mladen Ivanić - 31.03.2008.
ready to act in accordance with these. But internal relations are our own issue.”

Although Bosniaks were less negative in their assessment of the EU, they were also disappointed, claiming that its approach had been inconsistent. However, Bosniaks traditionally distrusted the European Union, recalling the failure of the European Community to defend Bosnia during the war. For this reason Bosniaks placed more trust in the US authorities than in the Europeans. An advisor to Haris Silajdžić stated that when it comes to trust in the EU, Bosniaks had “...never had it. They lost it in 1992.” The inability of the EU to stay firm on the conditionality in police reform may have brought back this negative association. The deputy President of the SDA, Šefik Džaferović would claim that in connection to the European Union they had “…lost our belief in some moral principles of the international community, because if they had any such principles, what happened in 1992 and 1995 would never have happened.”

Consequently, when the final talks on police reform began in the summer of 2007, it was quite evident that it was no longer possible to align the agendas of the main political forces and persuade them to accept a compromise by referring to the EU factor. In October 2007 EU Enlargement Commissioner Olli Rehn even stated that it was questionable whether BiH “...really wants to move on towards the EU.” Frustration seems to have built up within the OHR in relation to the failed reform process, which encouraged the High Representative to take the fatal decision to return to the “Dayton path” and to reactivate the Bonn Powers. In the conflict, between the international community and the Serb authorities, that followed the imposed Decision in October 2007, the High Representative ultimately had to concede, and for the first time since the introduction of the Bonn Powers, the OHR was forced to alter an originally imposed Decision. In this sense, as Paddy Ashdown put it, “the bluff of the international community” was called. One senior OHR official said the High Representative Lajčák had misinterpreted the political situation, thinking that “…he could ignore the fact that the power of the OHR had evaporated,” and “…that he could reel back the Ashdown era and use the Bonn Powers in an Ashdownian manner.”

In reality there were several factors that limited the ability of the international community to act. The crisis at the end of 2007 arose just as the situation in Kosovo was nearing its final resolution, and the international

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581 Interview with Milorad Dodik - 26.06.2008.
582 Interview with Political Advisor to Haris Silajdžić - 19.08.2008.
583 Interview with Šefik Džaferović - 04.09.2008.
585 Interview with Paddy Ashdown - 25.06.2008.
community had no interest in giving it a regional dimension. In addition, Russia came out against the High Representative’s Decision in the Peace Implementation Council, and this made it impossible for the international community to act more forcefully. Certainly, the interest of the international community had gradually moved from BiH to Kosovo and this restrained its power in BiH. However, fundamental disputes over police reform had already built up in the initial stage of negotiation so it is unlikely that a more forceful international community would have been able to change the situation.

The international community’s leverage when it came to police reform was vested in the EU factor and not in the Bonn Powers, and after three years of negotiations, it was quite clear that the domestic politicians were not interested in adopting the police reform concept put forward by the international community. The seeds of the conflict had been planted long before. When BiH initialled the Stabilisation and Association Agreement, several key politicians spoke out against the way the police reform talks had begun. Slavko Mitrović, the key advisor to the RS prime minister, blamed Ashdown, claiming that he did not believe that “…the EU would ever have asked for these issues if it had not been for Ashdown”. Mitrović accused the international community of having “…stolen three years from my country.”

The SDA representative in the police reform negotiations, Hašim Randić, likewise pointed the finger of blame at the international community for having set unattainable conditions.

“When I talk about the responsibility of the international community, I am aware that local politicians also carry a great part. I am a politician and maybe I am partly responsible. But the international community cannot say that these problems were just created by SBiH and SNSD. The OHR, EUPM and EU are also responsible, because they were defining the conditions.”

The disengagement of the international community and the unexpected re-activation of the Bonn Powers in the autumn of 2007 had a clear impact on the political atmosphere. However, the key element in the relationship between the international community and the BiH political elite was EU integration and by demonstrating an inability to suit the conditionality to the BiH context, the international community reduced domestic political interest in the integration process and thereby undermined the EU momentum. After the failure of police reform, the strategic vision of the European Union seemed to have disappeared from sight.

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587 Interview with Slavko Mitrović - 23.05.2008.
588 Interview with Hašim Randić - 08.09.2008.
11.3 Concluding summary

The core problem that became evident during the negotiating process was that the rationale for police reform did not convincingly reflect any general set of EU norms and therefore did not confer enough legitimacy to gain the support of all three ethnic groups. Serb politicians questioned the credibility of the reform requirements and seem to have guessed that the EU would eventually have to reconsider the conditionality. For these reasons the international community failed to persuade Serb politicians to make the necessary concessions. The key problem was that police reform was perceived, as discussed earlier, as a gambit in broader constitutional reform and in this context the conditionality threatened the status of the entities and the division of power among the ethnic groups. The Serbs moreover did not trust the EU to provide sufficient guarantees for the security and continuity of the ethnic communities in an integrated BiH. As the international community exerted pressure for the adoption of the reform, the Serbs turned increasingly negative towards the EU project as a whole, and the impetus of the EU factor was thereby undermined in the negotiating process.

Nevertheless, the conditionality did indeed carry moral weight in the sense that it was presented as a response to the failure of the RS authorities to cooperate with the ICTY. When the police reform process began, the Serbs had still not arrested one single indicted war criminal and in this context the poor record of cooperation offered an indisputable rationale for the reform. The Serbs understood that if they were to defend the RS police effectively, they had to change their attitude to the ICTY and consequently at the beginning of 2005 the RS authorities orchestrated a series of arrests. The RS authorities could arguably have done even more to address the past, but by handing over a number of indictees ahead of the negotiations, Serb politicians were able to withstand pressure from the international community, entering the negotiations claiming the high moral ground.

The requirements of the international community did bring about a change in the political attitude of the Serbs. If it had not been for the police reform requirements it is doubtful that they would have started to cooperate with The Hague, but by connecting the ICTY issue to police reform, the international community would also lose momentum when the RS began to cooperate. However, although the police forces in both entities developed and became more efficient during the period of the negotiations, the international community remained reluctant to reconsider the conditionality, and this diminished the impetus given by the EU factor. Certainly, the police forces in BiH were still infected by political corruption, but this was not a convincing argument for the transfer of the entity competence to the state because there was no indication that corruption at the state level would be less of a problem. Therefore, this argument could not be used by the
international community to break down the unwillingness of the Serbs to accept police reform. Paradoxically, rather than diminishing the role of the entities, the police reform negotiations prompted the RS authorities to reform and this helped to legitimise the existence of the entities and strengthen their separate powers.

The Bosniaks and Croats did not in the initial phase of the negotiations question the EU leverage, since their general political interest coincided with the EU requirements. However, it seems that the Bosniaks, in particular, perceived the EU integration process as an exercise that would normalise the structure of the country, re-establishing the pre-war BiH state and abolishing the institutional structure created during the war. When the EU began to lower the conditionality the Bosniaks became increasingly sceptical towards the international community, which they accused of betraying its initial commitment to BiH. In the eyes of Bosniaks, the European Union came to be seen as inconsistent and weak, and was identified with the apathetic and paralysed approach of the European Community during the war. The hopefulness that had been generated by the EU integration process at the outset was now transformed into distrust.

Several observers have argued that the disengagement of the international community encouraged domestic politicians to take on a more obstructive approach, undermining the EU integration process. The reason for the failure of police reform, according to this view, was to be found in the inability of the international community resolutely to defend the conditionality. The sleepy approach of Paddy Ashdown’s successor, Christian Schwartz-Schilling, undermined the legitimacy of the OHR as such, while the increased relevance of Kosovo turned the focus of the international community away from BiH. However, the disengagement of the international community was not the reason for the failure of police reform. It failed because of improper methods of negotiation and because of the ill-considered decision to lay out an overambitious set of conditions in the EU integration process, in particular the abolition of the entity police forces.

When the international community showed itself unable to reconsider the conditionality in police reform, the EU impetus was diminished and at the end of the negotiating process the soft power of the EU factor had evaporated. In order to secure progress on the overall integration process, the international community lowered the conditionality, thereby undermining the interest of Bosniaks in supporting the process. Eventually, the international community agreed to put off police reform, partly in order to solve the political crisis caused by the impulsive decision of the High Representative to re-activate the Bonn Powers. After more than three years of negotiation, the political elite in BiH had become profoundly polarised and in this context the decision to postpone the reform of the police would be seen as a success in itself.
12. General Conclusions

By analysing the police reform negotiations in Bosnia and Herzegovina, this thesis has sought to describe and explain the dynamics between the international community and the domestic political establishment and to show how political entrepreneurs acted in a post-war context under the influence of international intervention. First of all, this study has shown that the reform of the police, initiated by the High Representative in July 2004, was not primarily an exercise designed to improve the capacity of law enforcement in Bosnia and Herzegovina. Although police reform was presented as a response to the mounting spectre of high-level crime, the restructuring of law enforcement became principally a matter of state-building.

This study demonstrates, however, that political elites were willing to trade some of the more entrenched national interests and support the strengthening of the common state in order to make progress towards the EU. It is beyond doubt that the prospect of signing a Stabilization and Association Agreement with the European Union provided a unique impetus for change in post-war BiH. However, the requirements set by the EU for police reform interfered on the one hand with the balance of political authority, and on the other hand touched deeply on the public sense of societal security. The police reform negotiations therefore had an exceptional impact on the political and social discourse, contributing to a confrontational political environment and exacerbating ethnic polarisation.

The attempt to consolidate the instruments of violence without properly seeking the consent of the domestic politicians strengthened the defensive responses of the identity communities and thereby exacerbated the societal security dilemma.

As shown in this study, the international community failed to understand the limits of the leverage of the EU vision and because of this it inadvertently undermined the momentum that had emerged in the integration process. Representatives of the international community seem to have become trapped in ideological and normative perceptions, which made them unable to grasp the social and political complexity of the post-war society. As a result of the police reform negotiations, BiH has become much more divided and polarized. This study has arrived at three general conclusions regarding the impact of the negotiations on social and political discourse and the strategy of the international community.
(1) This study shows that ethnic polarization increased as a result of the police reform negotiations, while interest in fulfilling the EU membership requirements evaporated.

The analytical approach of this thesis has been based primarily on the model presented by the so-called Copenhagen School. I have argued that the model of the Copenhagen School is useful when it is complemented by sociopsychological theories dealing with the dynamics of inter-group interaction. Once a sense of togetherness is internalised, humans have a tendency to gravitate towards conformity with group norms. Individuals may accordingly act to sustain and emphasise the self-referential contexts that define identity and belonging to the group, if they are threatened. When the political framework of Yugoslavia disintegrated at the beginning of the 1990s, the balance of power among ethnic communities in BiH was challenged, making each ethnic group wary of the intentions of the others. A growing sense of mutual distrust and inter-group competition was also stimulated by the nationalist campaigns of the political elite, mobilising the identity of the ethnic groups. The experience of war eventually entrenched a feeling of distrust and fear in interethnic communication. Mutual tolerance was thus destroyed and the social boundaries of the identity communities were emphasised. Once the three ethnic groups had vocally expressed conflicting political ambitions, the identity communities were transformed, as expressed by Ole Weaver and Barry Buzan, from objects of security to become security actors and were captured in a societal security dilemma.

The mutual distrust that generated the societal security dilemma in BiH is clearly reflected in interviews with the principal BiH politicians. Several Bosniak politicians interviewed for this study expressed their fear of the potential long-term interest of the Serbs to secede and consequently promoted the creation of a unitary BiH state. Bosniak politicians also associated the RS police with the experience of the war, during which it was alleged to have perpetrated war crimes, and they used this as an argument for its abolition. Serb politicians, on the other hand, feared the increasing dominance of the Bosniak population and they were therefore reluctant to transfer power to the common state apparatus. Acting out of distrust of the others and in defence of their identity, the political actors securitized the identity communities and emphasised thereby the social boundaries between the ethnic groups.

Given the impact of the war experience, it is of course difficult to claim that interethnic distrust in BiH was further undermined by the international peace-building operation. Certainly, the integrative measures initiated by the international community, such as defence and police reform, might hypothetically have triggered defensive responses, generating social boundaries rather than eliminating them. However, the picture seems to be more complex and claiming that the international intervention in BiH
triggered, *per se*, defensive responses among the identity communities cannot be substantiated. As demonstrated in public surveys, the vast majority of the BiH population expressed support for the EU integration process. Considerable segments of the population were even inclined to accept concessions to some elementary issues of national interest and roughly half of the Serbs were at the outset of the negotiating process ready to accept the most sensitive issue of police reform, the overlapping of the districts. More than a third of Serb respondents in the public surveys conducted during the police reform process were willing to accept changes in the constitution in order to become eligible for EU accession. One can discuss the significance of this qualified willingness to make concessions on issues of national interest, but what these surveys certainly illustrate is that the EU integration process initially had a positive impact on interethnic dynamics. The interest of significant segments of the Serb population in reintegrating vital state competences and supporting the establishment of a common state in order to obtain EU membership is a sign of the degree to which antagonistic intergroup relations were diminished when the interaction was projected onto a common interest. Although the empirical data exploring this aspect is too limited to draw general conclusions, it seems that ethnic groups, when acting on a common interest, may reconcile confrontational aspects of their group identity.

Nevertheless, the public surveys also show that once the EU integration process became associated with the conflicts of interests among the three ethnic groups, the willingness to strike interethnic compromises vanished and the dissimilarities between the groups became accentuated. Regardless of whether people supported the EU or not, in a situation where interethnic political disputes arose, people tended to rally behind their political leadership, resulting in a general radicalization of political discourse.

This development demonstrates that inter-group relations were affected by the EU-integration process, and people, acted to defend their identity when it was perceived to be threatened. The reconciliatory attitudes shown at the start of the police reform process vanished gradually, indicating that the reform engendered a threat that emphasized defensive sentiment among the ethnic identity groups. The identity communities were thereby securitized, as described by Buzan and Weaver, expressing demands for protection, which thereby affected the political discourse.
The study demonstrates that while the EU-integration process provided momentum for political change, the police reform negotiations spurred on fear-driven politics and stimulated a confrontational political climate.

As seen in the process of the police reform negotiations, several politicians were aware of the precariousness of the societal context. They evidently exploited the opportunities provided by the specific environment, manipulating aspects of insecurity in order to stay in power. As argued by politicians interviewed for this study, when a political agent successfully emphasizes interethnic competition, the scope of politics will be limited. This makes it extremely difficult for any politician to engage in reconciliatory activities. This tendency could be observed in the second phase of the police reform negotiations, when some of the principal politicians in BiH, particularly Milorad Dodik and Haris Silajdžić, pursued political campaigns that would saliently raise fears and inter-ethnic tensions. When a potential societal security threat is underscored, the wider political discourse tends to be affected and political activities will adjust to the prevailing political logic. In this situation politicians were more concerned about defending national and societal positions and were not overwhelmingly interested in politics related to practical or technical issues.

Looking at police reform, it is evident that the international community did not take this societal complexity into consideration, although the impact of international intervention did not initially generate a tendency towards political conflict. Judging from the interviews with politicians who were in government at the time of the initiation of police reform, the pre-accession process towards the EU did provide a neutral arena. Here politicians found common interests, and constructive inter-party communication was fostered. Inspired by Euro-Atlantic integration, key politicians acted together in order to find solutions to several difficult political issues.

The most groundbreaking reform was the abolition of the entity defence structures, which significantly contributed to peace and stability in BiH. However, the integration process also facilitated the adoption of a number of other significant legal instruments contributing to the consolidation of the BiH state. In this sense it would not be correct to assert that the state-building process triggered defensive responses by itself and contributed to ethnic polarization. The problem with police reform was not that it aimed at consolidation of state power as such. Police reform failed because the conditionality did not pay heed to the limitations of the societal context and because the methods of negotiation were ill-judged, not balancing the interests of the involved parties. For this reason the political momentum of EU integration was gradually undermined in the process of the police reform negotiations.

In the view of the Serbs, Republika Srpska was a safeguard of their societal security within BiH and they believed that the entities would be at
stake if they were deprived of policing competence. Moreover, given that the conditionality, expressed in the three EU principles, more or less predetermined the outcome of the negotiating process, the bargaining space was limited, turning the process of negotiation into a clash between the positions of the Serb politicians on the one side and the international community and the Federation politicians on the other. Although several Serb politicians were ready to compromise at the start of the process, this willingness gradually disappeared. The rationale of politics in the RS then favoured an uncooperative political approach, which was detrimental to any RS politician that was perceived to be too cooperative with the international community. A clear example of this was RS President Dragan Čavić, who in the course of the negotiations lost his electoral support as a result of his attempt to seek compromises with the international community.

The defensive and uncompromising approach of the Serb politicians also triggered counter-reactions in the Federation. In 2006 Bosniak political rhetoric became increasingly aggressive, calling for the RS police and entity to be abolished. The negotiations therefore reproduced a confrontational political climate and emphasised the societal security dilemma in BiH. In this atmosphere it became more difficult to reach an agreement. This development was also affected by the constitutional debate in 2006 and the verdict of the International Court of Justice, but it was the police reform negotiations that laid the foundation for this political discourse.

Police reform referred to a societal aspect of security that accentuated sentiments of fear particularly among the Bosniaks, but also among the Serbs. To the Bosniaks, who had suffered most during the war, the RS police force carried a legacy of the war and they therefore had difficulty in negotiating issues within this infected politically territory. The Serbs anticipated on the other hand the political dominance of the Bosniaks and were therefore not interested in creating a common police force. These societal sentiments of fear clearly influenced the attitudes of the people and the behaviour of the political elite. Police reform was accordingly captured by an emotionally driven political discussion and under these circumstances it was extremely difficult for any politician to focus on the technical aspects of the reform or to take a pragmatic and reconciliatory approach.

In this respect it is worth highlighting the theories of Vanesa Pupavac, who argues that concrete war experience affects social norms and the conditions of politics. Regardless of whether a new generation of politicians emerges in BiH, the substance of politics will probably remain the same as long as the underlying societal security dilemma shaping the political discourse has not changed.
This study has analyzed the impact of the policy of the international community, but it has also sought to understand the rationale of the international machinery in BiH. As one of the most important initiatives, police reform illustrates some of the general traits of the strategy and guiding policy of the international community. When police reform was introduced on 2 July 2004, it was primarily seen as a response to the criticism expressed in the Feasibility Study, in which the European Commission required a structural reform of the law enforcement system. If BiH was to become eligible to launch a formal accession process, it had to develop a coherent police force, capable of efficiently catching high-level criminals and individuals indicted for war crimes. The existing police system was, according to the Feasibility Study, burdened by several problems linked to its professional capacity and organizational structure. Above all, in order to become fit for integration in European structures, the state had to demonstrate that it could speak with one voice and consequently BiH had to bring certain essential state functions, such as the fragmented and uncoordinated law enforcement agencies, into one system under the supervision of the state. In this sense the accession process possessed an underlying logic that stimulated the process of state consolidation.

However, the initiative to introduce a systematic reform of the police was not first of all a matter of EU integration, but part of the wider security sector reform and peace-building agenda. The key concerns in the process of peace implementation at the beginning of 2000 were no longer considered to be the possibility of a return to conflict but the prevalence of criminal networks, which were allegedly aspiring to capture the BiH state. In addressing this problem, the OHR launched the so-called Rule of Law agenda, focusing on the establishment of a security infrastructure that could tackle the issue of organised crime and corruption. The Rule of Law agenda was thus partly a matter of institution building, aimed at creating long-term stability in BiH. By re-establishing a competent state that could operate more efficiently and in a more law-abiding way than the ostensibly corrupt and ethnically biased institutions at the canton or entity level, the state-level institutions would acquire legitimacy and become accepted by the people. As a result, the centre of political gravity would shift to the state. Thereby the state would be strong enough to withstand the centrifugal forces generated by the potential secessionist aspirations of the Serbs and the Croats. Several representatives of the international community interviewed for this study claimed accordingly that the creation of a unified police structure at the level
of the state was both an exercise in adjusting to EU standards and a state-building project designed to create a new balance of power in favour of the state. Consequently, the EU accession process was in the reform of the police merged with the strategy of the Rule of Law agenda and gradually turned into a state-building exercise.

However, combining the EU accession process with the exercise of conflict management was problematic, partly because the strategy of conflict management was defined by the ideological objectives of the key policymakers within the international community in BiH and these objectives were not entirely in compliance with a general notion of EU praxis. When it came to police reform, it seems, a policy gap had appeared in the process of transforming the peace-building operation into EU integration, which allowed the reform requirement to be defined through an informal decision-making process. This was evident when the High Representative, Paddy Ashdown, used his informal contacts with the principals within the EU structure, particularly Chris Patten, to require the creation of a state-level police. This informal decision-making process was on the one hand an illustration of the position and power of the international community in BiH, and on the other hand a sign of the weak organisational structure of the EU. Since the formulated principles could not be defended by any notional EU standards, the conditionality was not regarded as legitimate and it was therefore very difficult to persuade the parties to accept the required concessions in the negotiating process. Looking at the model below, presented in Chapter Two, the negotiations failed to produce the four elements necessary for a successful negotiating process.

<table>
<thead>
<tr>
<th>Legitimacy of the common vision</th>
<th>Legitimacy of the process</th>
</tr>
</thead>
</table>
| The EU accession process did enjoy support among the political elite and citizens, yet its attraction would evaporate in the process of the talks. | The domestic stakeholders were not able to participate on an equal footing in the negotiating process and formulate a model of reform.

<table>
<thead>
<tr>
<th>Effect of the reform</th>
<th>Perception of the reform</th>
</tr>
</thead>
</table>
| The proposed police reform model would not result in any major positive changes in social, economic and security terms. | The proposed police reform model was not perceived as an appropriate response to the fundamental societal security concerns.

At the outset, the reform of the police seemed to have had prospects of success, since all three ethnic groups supported the EU integration process and the general ambitions of the reform as such. However, interest in pursuing the reform evaporated gradually in the course of the negotiating
process, although the support of the EU did not falter. Given that the Serb politicians believed that the conditionality was not based on any formal EU standards, the legitimacy of the process was seriously undermined. By drawing fictive maps of the policing districts and requiring the abolition of the entity police forces, the reform was not treated on its technical merits. Instead it was perceived as a hidden constitutional reform and triggered therefore a profound political battle. Knowing that the conditionality essentially predetermined the outcome of the talks at the very outset, the willingness of the negotiating parties to trade various interests and participate fully in a spirit of dialogue was limited. Moreover the potential outcome of the talks did not appear to be mutually beneficial, which was an essential criterion for success, as discussed in the core literature on negotiation. As a result of the negotiations the parties became entrenched in maximalist positions and as long as the international community insisted on the three principles, the conflicts between the negotiating parties were exacerbated. Although the parties finally accepted an agreement, the mutual distrust generated in the process made it unlikely that they would respect this agreement.

Viewing the motivating factors behind police reform, it is evident that the principal representatives of the international community considered that the lower levels of authority, the entity and cantons, had fundamental difficulties in dissociating themselves from the legacy of the war and that the organizational character of these structures made them prone to political corruption. This kind of distrust of the lower level of authority was motivated by frequent corruption scandals and the reluctance of the canton and entity-level authorities to face up to things that happened during the war. Moreover, the rhetoric of the greatest defenders of the cantons and entities reinforced this view, since it was often chauvinistic and incompatible with what might be considered as European values. As a result, the representatives of the international community believed that the state-level authority was less susceptible to the principal problems afflicting BiH, such as corruption and nationalist and secessionist politics. For these reasons, the international community demanded a reform that would completely do away with the cantonal and entity police forces. Regardless of whether this assessment of the political establishment was accurate, these negative and biased views made the international representatives blind to the more complex societal problems in BiH society.

However, the approach of the international community in the course of the police reform negotiations points to a wider problem related to international intervention. Being in charge of a political process that was sanctioned by the European Union, the principal international representatives failed to see the limits of the power vested in the EU factor and the complexity of the domestic environment. Representatives of the international community and domestic politicians therefore viewed the reality of BiH
through fundamentally dissimilar perspectives and the international community consequently had problems in facilitating sustainable solutions. The asymmetric positions of power seem to have generated a colonial syndrome, in which the international community was guided by ideological aspects of bringing BiH towards Europe and the moral implications of breaking down the structures created in the course of the war, rather than balancing the interests and concerns of the political elite and the people. Moreover, international representatives seem to have been driven by an interest in accomplishing symbolic victories in order to reconfirm the relevance of the strategy of the international community, rather than promoting an agreement that would actually have a practical impact on the ground. This was particularly evident when the international community endorsed the ambiguous police reform agreement in October 2005, which would be extremely harmful to the overall process of police reform. The same goes for the Mostar agreement, which opened the way for signing the Stabilisation and Association Agreement, but did not result in any restructuring of the police forces at all.

Final remarks

This study has shown that foreign intervention can indeed contribute to peace and stability, provided that the exercise of peace-building is supported by the society concerned. It is of course difficult to seek the consent of the population in a polarised society such as BiH, yet in this respect the Euro-Atlantic integration process generated a momentum that could have legitimised the wider reform process in BiH. The accession process inspired the integration of several significant state functions, primarily because the political elite and the electorate embraced the prospect of future EU and NATO membership. Upon this common interest, the parties were willing to build consensus, seek common solutions and accept several concessions to disputed issues. However, the negotiations were essentially influenced by the approach of the international community and by the merits of the conditionality – whether or not the reform requirements were seen as legitimate. When the High Representative required the RS to arrest indicted war criminals, this requirement carried a sense of justice and moral weight, motivating the public authorities to take action. In the same context, the integration of the defence forces possessed a rational strength, since in no other EU country was the state deprived of supervision over these structures. Hence the political establishment was encouraged to dismantle the armies that had fought each other during the war and to create a common defence force. However, in the police reform, the European Union was unfortunately unable to define a set of operational principles that were in line with the basic norms and praxis of the Union and the requirements were therefore not
seen as legitimate. Moreover, by not properly allowing the domestic stakeholders to balance their interests and find a common agreement in compliance with their security concerns, the talks were perceived as intimidating, rather than reconciliatory. The negotiations would therefore provoke the parties to take defensive stances and usher them into conflicting views. For these reasons the EU integration process affected the political interaction, generating a confrontational political discourse within which the social boundaries of the identity groups were emphasised. In police reform the international community lost an opportunity to bring about a more stable and integrated BiH.

This study has shown that the concept of societal security is indeed sociologically tenable. Social groups express the need to protect elements vital to the relevant identity once they are sufficiently internalised. In a post-war society within which inter-group communication is permeated by distrust and in which fear is still present as an omnipotent factor affecting interaction, social groups have a tendency to recreate social boundaries and thereby shape discourses that limit the prospects for social change. In this sense the identity community may be susceptible to politically motivated securitization but they may also ask the political actors to ensure the preservation of social contexts relevant to their identity. Security is accordingly part of a social relationship and cannot be re-established in an atmosphere of mutual distrust. The arrangement of security in post-war societies must therefore pay heed to the intricate needs of identity groups to preserve their self-continuity. Only by recognising the limitation of the societal context can the conditions for coexistence and social peace be created in a way that facilitates a process of reconciliation. As illustrated by this study, an intervening actor may reemphasise the perceived threat to the identity community when striving to do precisely the opposite, and thus fail to achieve peace and stability.
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