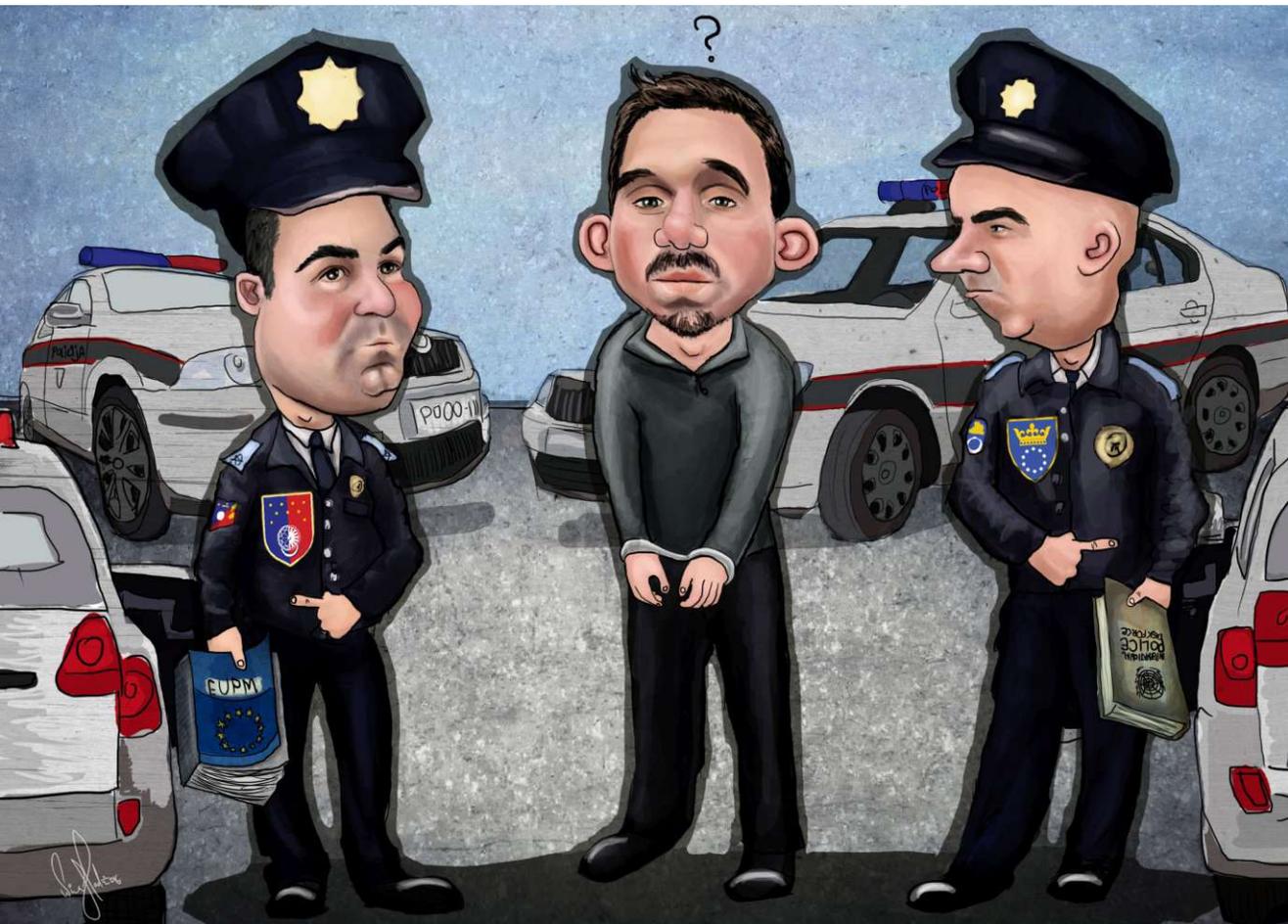


To Serve and Protect: A story about security sector in B&H



This project has been supported by the Balkan Trust for Democracy, the German Marshall Fund of the United States. Opinions expressed in this publication do not necessarily represent those of the Balkan Trust for Democracy, the German Marshall Fund of the United States, or its partners.

www.populari.org



populari
www.populari.org

B | T | D The Balkan Trust
for Democracy
A PROJECT OF THE GERMAN MARSHALL FUND

To Serve and Protect: A story about security sector in B&H

Content

17 years after	3
United States Embassy shooting in 2011	4
7 February 2014 protests	9
A reform that started twenty years ago...	13
...and still far from complete	16
Since the 2008 police laws: coordination through local-level regulations	18
Citizens and their police	18
The missing link: the role of the judiciary	21
Policing in other European countries: the case of Belgium	22
Conclusion	24
List of Agencies	25

17 years after

Following the multiple deadly attacks on 13 November 2015, France was placed under an exceptional state of security alert for the second time in the year. This time the government declared the “state of emergency” which grants extended powers to the authorities and to police forces. The Parliament prolonged it for three months. One week after the attacks it was Belgium which, in turn, adopted exceptional security measures. The region of Brussels was placed under its highest possible terrorist alert level, foreseen in case of “serious and imminent threats” while Prime Minister Charles Michel warned of a threat of attack “similar to Paris.”¹ As a consequence and during four consecutive days, the entire city was in lockdown. Schools, universities, crèches, museums, shopping centers, the metro, all were closed. Public events like football matches were called off and the population was asked to avoid any crowded zone like commercial zones, public transport and concert venues. Besides protecting the population, these closures and cancellations were also meant to avoid overstressing the security forces.² The capacities and presence of the police and the army were reinforced, including by placing armored vehicles in key areas of the city. Inhabitants said they felt “under siege”³ while images of military vehicles in downtown Brussels illustrated these measures.



*Picture 1: Belgian soldiers patrol in central Brussels following the recent deadly Paris attacks
Source: NBC News; Photo by YVES HERMAN / Reuters*

¹ The Guardian, “Brussels in lockdown after terror threat level is raised to maximum”, 21 November 2015.

² The Guardian, “Brussels in lockdown after terror threat level is raised to maximum”, 21 November 2015.

³ Le Figaro, “Vivre à Bruxelles sous l’état de siege”, 25 November 2015.

The intensity of such measures reflects the high strain under which are both the population and security forces in France and Belgium, two countries which are particularly affected by terrorist threats. Despite harsh security measures, political leaders had to remain humble as to the protection they could guarantee to citizens: two days before the November 13th attacks, in what now looks like a premonition, French Prime Minister Manuel Valls stated that there was no such thing as a “zero risk” security.⁴ After the attacks, he repeated:

“I reiterate my trust in the security services. [...] There are no such things as sealed borders nor zero risk security.”⁵

In fact, in a context where public budgets are under strain and where international cooperation is imperfect, security services are able to prevent many but not all security breaches. This shows it is impossible to dismiss all possible risks even for the rather well-functioning security and intelligence systems that exist in Western Europe.

Five days after the Paris attacks, Bosnia and Herzegovina (BiH) also suffered a gunshot attack, where a man killed two soldiers of the Army of BiH. Terrorism, clearly has no borders but if providing security proves to be such a difficult task for European Union (EU) states like France and Belgium, then how and to what extent is a small state like BiH, in a post-war situation and still in the process of state-building, capable of safeguarding national security, let alone protecting and serving its citizens? The shooting of the United States (US) Embassy in Sarajevo in 2011 and the riots of February 2014 are the ones that triggered the most public debate. Looking back at both events will allow us to examine some of the prevailing concerns of the BiH security system.

United States Embassy shooting in 2011

October 28, 2011 will be remembered in BiH for the terrorist act committed by Mevlid Jašarević, then 23-year old member of the Wahhabi community⁶ in BiH. That

⁴ L'Express, “Terrorisme : il n’y a pas de risque zéro, rappelle Manuel Valls”, 11 November 2015.

⁵ Le Point, “Il n’y a pas de risque zéro, reconnaît Manuel Valls”, 20 November 2015.

⁶ The Bosnian Wahhabi community is estimated to include some 3,000 members coming from Bosnia, Macedonia, Montenegro and Serbia. According to media reports, they are settled in 17 municipalities across BiH, but mainly stay in isolated villages where they practice Salafism (or Wahhabism) i.e. a puritanical branch of Sunni Islam doctrine. The community is accused of promoting radical Islamist ideas and of being connected with terrorist acts in BiH. Several members of the community are serving prison sentences for terrorism, the promotion of terrorism and facilitating BiH citizens’ departure to foreign war zones.

Friday, Jašarević came from Gornja Maoča⁷ to Sarajevo with the intention to shoot at the US Embassy. He later declared that he wanted to express his dissatisfaction at American and German policies in Afghanistan.⁸ Dropped off by a car in the suburb of Sarajevo earlier that day, he boarded the public transport – tramway no. 3 and drove 13 stations armed with two automatic rifles, five hand grenades and a hunting knife.⁹ Jašarević got off the tram in front of the National Museum of BiH and headed towards the US Embassy located only 150 m away, ready to commit a crime and prepared to die.

The first rifle shots were heard at 3.30 pm. Five minutes later, at 3.35 pm, a phone call alerted the Operation and Communication Center of the Sarajevo Canton Ministry of Internal Affairs (MUP KS) that a shooting was taking place near the US Embassy. One of the policemen from the nearby cantonal police station Novo Sarajevo told the media:

"We were at the police station and heard the shooting. [...] We came among the first. [...] We could have 'whacked' him immediately, because we were just behind him, but orders came to wait for Special Forces as this was terrorism."¹⁰

Within 50 minutes, while cantonal police officers at the spot were waiting for the Special Forces to be mobilized, Jašarević fired 105 bullets and caused over 100,000 US dollars of property damage. One police officer from the BiH Directorate for Coordination of Police Bodies, who is in charge for the protection of the building, was injured.¹¹ During most of that time, all police agencies – Sarajevo Canton MUP, Federal Police Administration (FUP) and State Investigation and Protection Agency (SIPA) – and their Special Units were at the crime scene.

⁷ Gornja Maoča (previously known as Karavlas) is a remote village in northeastern Bosnia, 30 km far from the Croatian border. Before the war, the village was populated by Serbs who were then expelled from the area. After the war the village became home to some 100 practitioners of Salafism (or Wahhabism). The village is known as a transit for those traveling to conflict zones in the Middle East. Over the last decade, this village was frequently under the spotlight for suspicion of terrorist activities by its inhabitants and links to terrorist attacks in Bosnia.

⁸ Appeal Judgement: Mevlid Jašarević, Munib Ahmetšpahić and Emrah Fojnica. The Court of Bosnia and Herzegovina, Sarajevo, 21 May 2013.

⁹ Ibid.

¹⁰ Davud Muminović, Mirsada Lingo: "Sarajevska policija: Mogli smo ga odmah ubiti," Nezavisne novine, 28 October 2011.

¹¹ Appeal Judgement: Mevlid Jašarević, Munib Ahmetšpahić and Emrah Fojnica. The Court of Bosnia and Herzegovina, Sarajevo, 21 May 2013.



Picture 2: Mevlid Jašarević

Source: TV1

Around 4.20 pm, 50 minutes after the shooting started, the Special Unit of Sarajevo Canton Ministry of Internal Affairs shot Jašarević in the leg and he was finally apprehended.¹² In the following 40 minutes, Jašarević was subjected to rigorous ray screening to make sure he did not carry explosives. At 5.00 pm the police finally took him away to the hospital.

But the question is if this could have been prevented in the first place? Mevlid Jašarević was previously known to the Intelligence and Security Agency (OSA) as a person of potential threat to the security of BiH.¹³ It was also known he had been crossing the Bosnian border 12 times within 14 months prior to committing this terrorist act in Sarajevo.¹⁴ OSA Director Almir Džuvo claimed that on that same Friday morning he had also crossed the BiH border¹⁵ but the Border Police director dismissed such claims:

“The Border Police has information that Jašarević entered BiH in August”¹⁶

Jašarević's shooting spree in the center of Sarajevo caused shock and disbelief among

¹² Appeal Judgment: Mevlid Jašarević, Munib Ahmetšpahić and Emrah Fojnica. The Court of Bosnia and Herzegovina, Sarajevo, 21 May 2013.

¹³ “Mevlid Jašarević u prsluku imao još dvije ručne bombe!,” *Nezavisne novine*, 28 October 2011.

¹⁴ “Uskoro optužnica protiv Jašarevića,” *b92.net*, 7 March 2012.

¹⁵ “Mevlid Jašarević, razbojnik, terorist i vehabija,” *Deutsche Welle*, 29 October 2011.

¹⁶ Mirsada Lingo, “Napad na Ambasadu SAD teroristički čin: Agenti FBI dolaze u Sarajevo,” *Nezavisne novine*, 29 October 2011.

the citizens and police officers who witnessed this extremely unusual scene. However, what happened behind the scene among different police agencies remains unclear. Why did it take so long for police forces to disable Jašarević? Which police agency was responsible for it? Who was supposed to call whom?

Throughout the research that Populari conducted, it has been clear that there was no consensus on these issues among the police agencies of BiH. Out of 6 high-level security officials interviewed during the research from different agencies...

***5** agreed it was an act of terrorism, **1** considered it was not, despite the 2013 final court decision, which says so, and refused to further comment on the case.*

***3** agreed that the Jašarević operation was successfully completed given that there were no human casualties except one police officer, **2** believed police agencies failed.*

***5** considered the coordination and communication among police agencies was nevertheless a major problem.*

***3** considered that any police officer could have shot Mevlid Jašarević without an order and that no delay was necessary, **1** believed this was not possible, and **1** did not have an opinion.*

Despite these divergences, interviews allowed shedding light on several factors that explain the slow reaction of police forces. In this case, any police officer who witnessed the scene in front of the US Embassy could have disabled him *immediately*, without any consultations with his/her supervisor and in line with the Law on Police Officials of BiH. In reality, this rarely happens in BiH. One senior international official explains:

“Of course, this is so in Germany, or the US, where there is sufficient legal protection for police officers. That’s why we have police. That’s the whole point. That they are authorized to prevent cases like these. Of course, in BiH the police officer will never do that. Because he has to call his boss.”¹⁷

But calling one’s boss and achieving agreement on who is responsible to act, takes time, particularly in BiH. Communication and exchange of information is still conducted *“by courier service.”*¹⁸ In practice, this means that it is conducted by phone and other traditional means of communication:

“[Data exchange] exists in the way that data are provided by phone, sometimes thanks to personal friendships and collegiality. In an emergency it can be a huge problem.”¹⁹

As part of the EU visa liberalization process, BiH adopted a single electronic data exchange system and the *“currently best-equipped and most functional [Situation] Center in Europe,”*²⁰ worth around **35,000 Euro**. This was meant to avoid communication problems in emergency situations. Although both mechanisms are in place, hosted by the Directorate for Coordination of Police Bodies, none is fully functional to this date:

“So basically, on paper, there is a police data exchange system that doesn’t function because the individual police agency has to voluntarily agree to provide information coming from their place. [...] But, in my opinion, the compliance level of the individual police agency is very low. I understand that Republika Srpska (RS) picks and chooses the information they share. Sometimes they don’t update their information for too long. Some cantons refuse to accept the fact that the Federal Ministry of Internal Affairs (MUP FBiH) handles this centralized server [...]. So, on paper it’s there, but in terms of a functioning system that produces sophisticated policing responses, I don’t think so, not yet.”²¹

In fact, regardless of the technical and legislative mechanisms already in place, the communication and exchange of information still depend on individuals sitting in police agencies, on their personal relationships and willingness to cooperate.

¹⁷ Populari interview with Senior International Officer, Sarajevo, 14 October 2015.

¹⁸ Populari interview with Anđelko Hrgić, Assistant Director for Criminal Investigation Department, SIPA, Istočno Sarajevo, 7 October 2015.

¹⁹ Ibid.

²⁰ Newsletter: EU Twinning Project -- Support to the Directorate for Police Coordination of BiH, January 2014.

²¹ Populari interview with Senior International Officer, Sarajevo, 14 October 2015.

The debate on the efficiency of BiH's police forces and lack of cooperation and communication has not been solely limited to cases of terrorist attacks that are largely unpredictable. The same issue has been heavily discussed in relation to the social unrest and riots taking place in February 2014 across BiH.

7 February 2014 protests

Early February 2014 was marked by significant social unrest in Tuzla over the privatization and subsequent closure of several state firms. Protests spread quickly throughout the country and what started as a peaceful gathering of citizens soon turned into violence. On February 7, protesters in Sarajevo clashed with the police and started demolishing government buildings. The stones were replaced by Molotov cocktails and the Sarajevo Canton government building, Center Municipality building and five police cars were set on fire. Approximately 600 cantonal police officers were present²² but unable to protect buildings which were attacked almost all at the same time. Without protective equipment and not allowed to use force, the police officers were completely powerless to confront the organized group of rioters. At 4.00 pm, the presidential building was also set on fire.²³

The response could not have come timely as the problem was the overlapping of competences. During these events, three administrative institutions and three agencies could be viewed as competent to react. The Directorate for Coordination of Police Bodies at the state level was responsible for protecting the building as it is their general duty to protect facilities of state institutions. So was the Federal Police Administration (FUP), because three federal institutions are located in the building as well. In addition, Sarajevo Canton's Ministry of Internal Affairs (MUP KS) also had a territorial responsibility as they are in charge for public peace and order in the streets of Sarajevo, around the building.

²² Suzana Mijatović, "Raspad sigurnosnog sistema: Što gore, to bolje," Slobodna Bosna, 13 February 2014.

²³ "Demonstranti se razišli, uspostavljen saobraćaj," Al Jazeera, 9 February 2014.



Picture 3: BiH Presidency building hosts eight institutions; five state institutions – BiH Presidency, BiH Archive, BiH Constitutional Court, BiH Ministry of Foreign Trade and Economic Relations, BiH Human Rights Chamber; and three federal institutions – FBiH Presidency, FBiH Archive, and Federal Commission for Missing Persons. Source: Photo: Patria - nap.ba

In fact there was a total mess on the ground. In the words of now former Director of the Directorate for Coordination of Police Bodies, Himzo Selimović, his police officers were “overpowered by the crowd”.²⁴ Canton Sarajevo Police was there but unable to do much and federal police was not even present. Soon Selimović called SIPA for help.²⁵ Nevertheless, SIPA’s director deemed their involvement excessive: according to the Law on SIPA it does not have competence for public peace and order, nor for the protection of buildings or individuals, and they did not intervene. Around 5.20 pm the Federal Special Anti-Terrorist Unit joined the Cantonal police and the Directorate to help them “defend” the Presidency building.²⁶ At 5.50 pm they started pushing back rioters and clearing out the streets around the BiH Presidency and cantonal government building.²⁷ An international official commented on this chaotic situation:

“It was a mess [...] The Directorate [for Coordination of Police Bodies] said SIPA should help, SIPA said “we don’t do that”, and Canton Sarajevo got completely outclassed [...] And why did it take FUP Director three hours to push his guys. [...] When everybody is in charge and no one’s in charge, that’s

²⁴ Suzana Mijatović, “Raspad sigurnosnog sistema: Što gore, to bolje,” Slobodna Bosna, 13 February 2014.

²⁵ “Direktor Direkcije za koordinaciju policije u BiH podnio ostavku,” Al Jazeera, 9 February 2014.

²⁶ “Demonstranti se razišli, uspostavljen saobraćaj,” Al Jazeera, 9 February 2014.

²⁷ Ibid.

*what you get.*²⁸

Besides the confusion as to who was competent to react, difficulties stemmed from the lack of capacities to respond adequately, both in terms of manpower and equipment:

*“The police could not respond due to poor communication, but also the lack of manpower. 100 people cannot stop 5,000 people.”*²⁹

At the time the Special Unit of the Sarajevo Canton MUP had protective equipment which had long expired.³⁰ Helmets with face visor, protective vests, body armor, chemical pistols and rifles, gas masks were bought when the Cantonal MUP was formed more than two decades ago.³¹ They did not however have even one water cannon, armored vehicle or transporter, nor adequate means of communication to respond to a crisis situation.³² All of this proved crucial on this day and the consequences were outstanding. Three institutional buildings were set on fire, 80 persons were injured out of which 60 policemen,³³ and the property damage amounted to 200,000 Euro.³⁴

Once again, the officials from different policing agencies demonstrated different understandings of the events and different explanations for the failure of the police forces to respond effectively. The lack of consensus – among police officials themselves – on who was responsible to deal with these security threats and in what manner illustrates the general opacity characterizing the security sector in BiH today. Nevertheless, the various interpretations expose the flaws of the security system to three major problems: (1) the lack of coordination and communication between agencies; (2) the absence of a clear understanding of the distribution of competences among policing agencies; and (3) the lack of human and technical capacities. These problems are certainly not specific to BiH and they are frequently observed elsewhere, but they appear particularly acute. To understand the causes of such problems, it is necessary to analyze the institutional environment in which police agencies operate.

²⁸ Populari interview with the Senior International Official, Sarajevo, 14 October 2015.

²⁹ Populari interview with Ensad Korman, Deputy Director of the Federal Police Administration, Sarajevo, 14 October 2015.

³⁰ Populari interview with the Senior International Official, Sarajevo, 14 October 2015.

³¹ Suzana Mijatović, “Raspad sigurnosnog sistema: Što gore, to bolje,” Slobodna Bosna, 13 February 2014.

³² Ibid.

³³ Vladimir Bobetić, “Protesti u BiH: Deseci povrijeđenih u Sarajevu,” Al Jazeera, 7 February 2014.

³⁴ “Počelo suđenje Salemu Hatiboviću i Nihadu Trnki: 35 svjedoka o paljenju Predsjedništva BiH,” Oslobođenje, 20 October 2015.

In BiH, as provided by the Dayton Agreement, the main responsibility for the security of citizens rests on the entity level.³⁵ In RS, this results in a centralized system with one institution in charge, the Ministry of Internal Affairs (MUP RS). The constitution of the Federation of BiH (FBiH) foresees one federal institution – the Federal Ministry of Internal Affairs (MUP FBiH) – but grants the main bulk of competencies to the ten cantons that constitute it, with each canton having its own independent Ministry of Internal Affairs (MUP). The Police of Brčko District is in charge for the policing on the territory of the District.

At the state level, three state police agencies complete the picture: SIPA, the Directorate for Coordination of Police Bodies, and the State Border Police. All three institutions act independently but are hosted by the Ministry of Security of BiH – a body not vested with any direct policing competence. The security sector therefore counts 16 police agencies.

As a result of this configuration the concept of “national security” as such is vague. First, because while there exists some state-wide agencies, they do not possess competences but only a few key responsibilities, such as the fight against terrorism or inter-entity criminality. Second, these state agencies have no authority over lower institutional levels, which is also a cause for lack of coordination. This does not mean, however, that only a centralized police system can allow the police to be functional. Other countries with a much decentralized system have satisfactory policing results. Germany’s 16 state police agencies provide the backbone of the policing system. The security of citizens is ensured through effective coordination of agencies.

The reason for this lack of coordination in BiH is also the lack of agency or institution specifically responsible for it – or rather the fact that the agency which was created for it does not have the legal means to do it. Until recently, there was also no appropriate protocol of coordination between agencies, as demonstrated by the two cases of public security breaches examined in the previous chapters.

Indeed, the security sector has been shaped by a continuous reform starting right after the war in 1995 and conducted under the mentorship of two international missions – the UN’s International Police Task Force (IPTF) and Europe Union Police Mission (EUPM). These endeavors have ambitioned to build a modern and effective security system. Despite several successive approaches, this process still appears today as incomplete.

³⁵ BiH Constitution (Annex 4 of the Dayton Peace Agreement), Article 3 (c): “The Entities shall provide a safe and secure environment for all persons in their respective jurisdictions, by maintaining civilian law enforcement agencies operating in accordance with internationally recognized standards and with respect for the internationally recognized human rights and fundamental freedoms referred to in Article II above, and by taking such other measures as appropriate.”

A reform that started twenty years ago...

As the police forces had been deeply implicated in exactions against civilians during the war, Annex 11 of the Dayton Agreement prescribed that the IPTF would be established with the mandate *“to help and encourage BiH’s three nationally constituted and effectively paramilitary police forces to adopt modern, professional, non-political, and ethnically neutral standards of policing consonant with the highest international standards.”*³⁶ This ambitious mandate was implemented through several core programmes: certification of the police personnel, raising professional skills of the police forces through trainings, minimizing political interference in police work – through establishing independent police commissioners in all ten Cantonal MUPs and directors of police in entity MUPs – and institution-building at the state-level, resulting in the establishment of the State Border Police, the Service for Foreigners Affairs and the State Agency for Information and Protection.

However, despite almost seven years of reforms in the security sector the work of the IPTF did not produce the expected results. In a report published in 2002, the International Crisis Group (ICG) explained:

*“Despite more than six years of increasingly intrusive reforms carried out at the behest of the United Nations Mission in BH (UNMIBH), the local police cannot yet be counted upon to enforce the law. Too often – like their opposite numbers in the judiciary – nationally partial, under-qualified, underpaid, and sometimes corrupt police officers uphold the rule of law selectively, within a dysfunctional system still controlled by politicized and nationalized interior ministries”*³⁷

In 2002, the EUPM replaced the IPTF in monitoring and advising the police following the commitment of BiH to join the EU. Instructed by the Council of the EU to *“establish sustainable policing arrangements under BiH ownership in accordance with best European and international practice, and thereby raising current BiH police standards”*³⁸, it should have achieved its goals by the end of 2005. Eventually, the EUPM was granted another four mandates which lasted until 2012.³⁹ In parallel, the

³⁶ “Policing The Police In Bosnia: A Further Reform Agenda,” International Crisis Group, Balkans Report, N° 130, 10 May 2002.

³⁷ Ibid.

³⁸ General Affairs Council Conclusions of 19 February 2002, available on the website of the Office of the High Representative (OHR).

³⁹ EUPM I (2003–2005), EUPM II (2006–2007), EUPM III (2008–2009), EUPM IV (2010–2011) and EUPM V (2012 – 30 June 2012). The EUPM’s second mandate placed additional emphasis on establishing a ‘professional and multi-ethnic’ police service and on the fight against organized crime and corruption. The third EUPM mandate extended the mission’s responsibilities to ‘contributing to an improved functioning of the whole criminal justice system in general and enhancing police-prosecutor relations in particular’. The fourth EUPM mandate reinforced the focus on organized crime and corruption, in

European Commission set the structural reform of the police – with specific criteria to respect⁴⁰ – as one of the main conditions to fulfill prior to the signing of the Stabilization and Association Agreement (SAA), a primary step towards EU membership.⁴¹ This incentive turned out to be much less efficient than foreseen.

Officially started in 2004 and to be completed by February 2005, the reform turned out to be a tedious process heavily burdened by disagreements between the entities. The reason was obvious: since competences in terms of law enforcement are defined by the Constitution of BiH, a constitutional reform was required. In particular, this meant centralizing police competences by shifting them from the entity to the state level. There was absolutely no interest in RS to accomplish such a reform.

Following almost four years of political disagreements between local political elites and three unsuccessful reform proposals – the international community eventually withdrew from the process - political parties came to a vague and incomplete agreement known as the Mostar Declaration. Signed on 28 October 2007, it foresaw the implementation of the police reform in two phases. The first phase focused essentially on establishing seven new institutions at the state level, without disturbing the existing police structure and institutional competences⁴². The second phase was to be implemented after a constitutional reform. Among other things, this second phase should have regulated relations between the state-level agencies and those at other levels.⁴³

The graph below shows the timeline of the establishment of police agencies in BiH over the 17-year long reform driven by the two international missions:

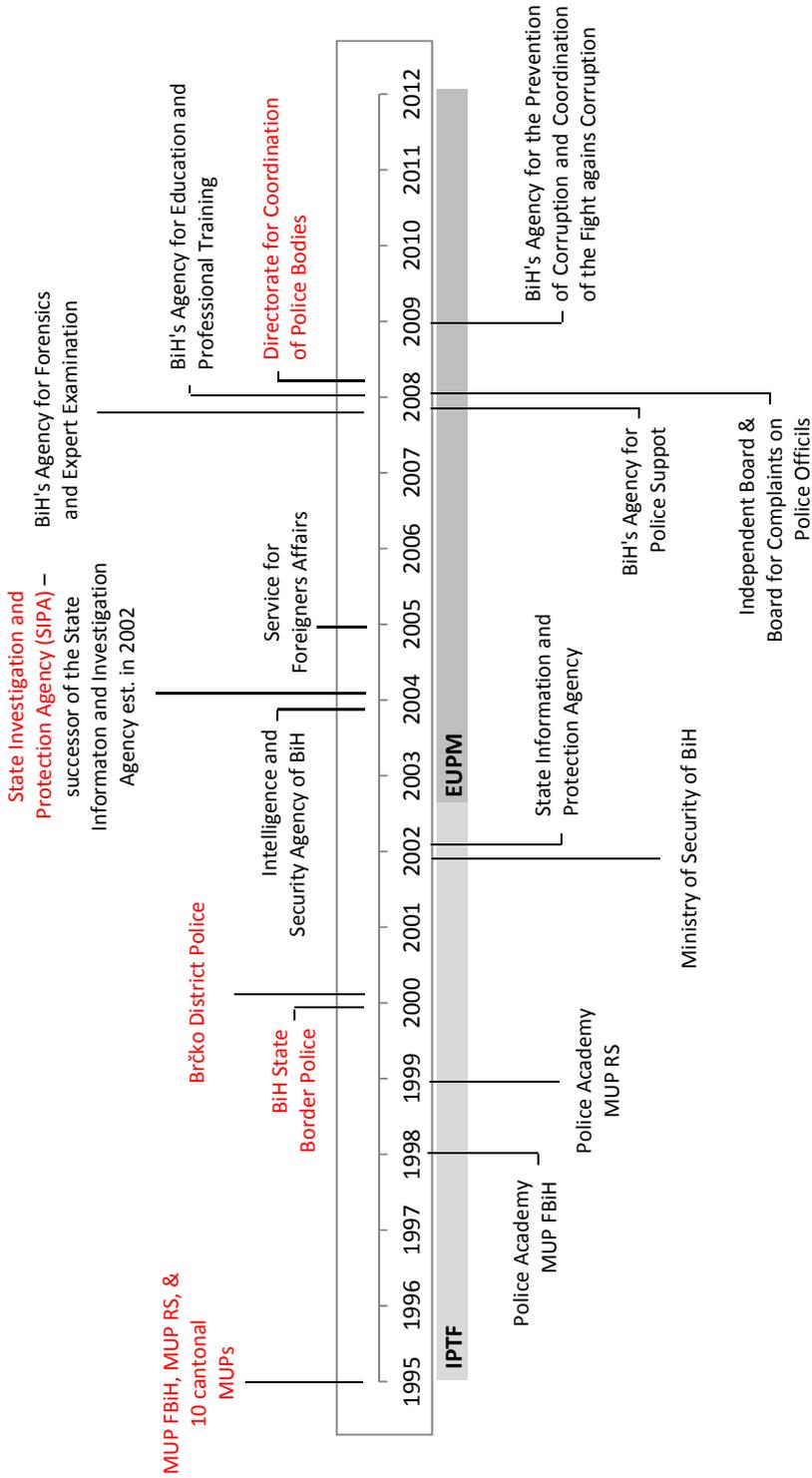
particular towards strengthening the operational capacities of the state police agencies but also towards developing criminal investigative capacities in Bosnia. It also provided for the ‘enhancement of the interaction between police and prosecutor and on regional and international cooperation’. The fifth and the last foreseen EUPM mandate, which ran until 30 June 2012, built on the general aims of the previous mandate.

⁴⁰ The European Commission demanded that the reform be implemented following three main conditions (which were initially set by the OHR and subsequently adopted by the EU): all legislative and budgetary competencies for all police matters must be vested at the State level; there must be no political interference with operational policing; and the functional local police areas must be determined by technical policing criteria, where operational command is exercised at the local level. Eventually, the partial reform achieved in 2008 did not meet these criteria.

⁴¹ European Commission, Report on the preparedness of BiH to negotiate the SAA with the EU, November 2003.

⁴² These institutions were established by the Law on the Directorate of the Police Bodies and on Agencies for Support to the Police Structure of BiH and the Law on Independent and Supervisory Bodies of Police Structure of BiH, both adopted in April 2008.

⁴³ Both of the above-mentioned laws stipulate the following: “The local level, as part of the new, single police structure of BiH; then relevant matters of relationship between bodies established by the present Law and local police bodies; as well as other details of the police structure shall be regulated after the reform of the Constitution of Bosnia and Herzegovina” (art. 34 of the Law on Directorate and art. 21 of the Law on independent and Supervisory Bodies). It also specifies that this legislation should be adopted within one year after the reform of the Constitution.



The current structure thus consists of a number of security agencies, of which 16 are police agencies employing police personnel, who according to the Law on Police Officers of BiH have police powers (in red on the timeline above). The rest are organizations supporting the work of the police authorities. These organizations do not employ police officers, but civil servants.

To achieve this, the international community invested significant resources in BiH's security sector. These are listed in the table below:

Actors	Period	Personnel Strength		Investments
		Initial	Final	
IPTF	1995– 2002	1,721 internationals ⁴⁴	1,798 internationals ⁴⁵	~ \$ 960 million ⁴⁶
EUPM	2002– 2012	478 internationals (+296 national staff) ⁴⁷	34 internationals (+47 national staff) ⁴⁸	~ € 110 million ⁴⁹

...and still far from complete

The Constitutional reform which was foreseen to allow a transfer of competences, as well as the legislation to regulate the local level and inter-agency relationships have not been adopted to this date. Furthermore, some points which were seemingly agreed upon during this 2004-2008 police reform are still contentious. In particular, the role of the Directorate for Coordination of Police Bodies – charged to coordinate and facilitate cooperation and communication across police agencies in the country – is widely disputed. As Ms. Gluhović, Advisor at the Rule of Law Section in EUD/EUSR points out:

“It made sense that the Police Coordination Directorate exists but the reform should have been taken to other administrative parts – to entities and cantonal level as well to give the Directorate this coordination role, but at the end it was not completed and the Directorate was left alone to float at the state level [...] What was meant to be a coordinating body of all police

⁴⁴ Policing the Police: A Further Reform Agenda, International Crisis Group, 10 May 2002.

⁴⁵ Report of the Secretary-General on the UN Mission in Bosnia and Herzegovina, UN Security Council, 8 June 2001.

⁴⁶ During its mandate IPTF had more than 1,600 international staff spending over US\$120 million per year, not counting salaries of the staff seconded by other countries. Source: “Ten years after: Lessons from the EUPM in BiH 2002-2012,” Joint Report, EU Institute for Security Studies, January 2013.

⁴⁷ “Ten years after: Lessons from the EUPM in BiH 2002-2012,” Joint Report, EU Institute for Security Studies, January 2013.

⁴⁸ Ibid.

⁴⁹ Ibid.

agencies at the end turned into an empty shell. Now even those competences that they have, like international cooperation, are sometimes disputed.”⁵⁰

The merit of the implemented reform itself has been largely questioned. In some instances, institutions were duplicated and the reform caused even more confusion than before as regards responsibilities. As a senior international official explains:

“My point is very basic; since 1996 to now it’s exactly the same if not more complicated. Right now, you have 16 police agencies in BiH. Three at the state level -- Directorate, SIPA and Border Police, one in Brčko, two in entities and ten in cantons. So it’s the same, nothing’s really changed structurally, because the police reform didn’t really succeed to reform the structure of police.”⁵¹

Following the shooting of the US embassy in 2011 and the February 2014 riots, among others, it became obvious that in spite of the time and resources put into it, this process had not achieved the original objective of the international community: establishing sustainable policing arrangements, raising police standards, establishing a professional and multi-ethnic police service, and strengthening the operational capacities of the state police agencies as well as developing criminal investigative capacities. Despite the number of new police agencies, their capacities in terms of manpower have become lower than their needs. In 1995, immediately after the war, the number of police personnel in both entities was close to 44,000.⁵² Until 2002, almost 60% was demobilized and since then the number of police personnel remained more or less the same.⁵³ In 2013, the total number of police personnel in BiH was 22,738.⁵⁴

The main gap highlighted by the mentioned events remained nevertheless the lack of coordination among agencies. This is why the strategy of the international community gradually shifted after 2008. Taking note of the impossibility of having a structural reform pending the amendment of the Constitution, efforts have been focused at the lower levels of government. In particular, they have endeavored to harmonize legislation in FBiH and enhance inter-agency coordination.

⁵⁰ Populari interview with Dragana Gluhović, Advisor at the Rule of Law Section in EUD/EUSR, Sarajevo, 12 October 2015.

⁵¹ Populari interview with the Senior International Official, Sarajevo, 14 October 2015.

⁵² Denis Hadžović, Armin Kržalić i Alma Kovačević, “Pregled stanja u oblasti policije u BiH,” Center for Security Studies, Sarajevo, 2013.

⁵³ Ibid.

⁵⁴ Ibid.

Since the 2008 police laws: coordination through local-level regulations

Despite the failure to reform the institutional structure itself, the legislation regulating law enforcement activities in BiH is generally in place.⁵⁵ This legislation is classically provided by a set of two laws: a Law on police officials and a Law on internal affairs.⁵⁶ These laws on internal affairs also regulate the relations of the ministry and police administration with other institutions having competence in internal affairs, including on the transfer of information. For this reason it is very important, for coordination purposes, that the legislation concerning different agencies is harmonized. This process encouraged by the EUD/ EUSR is still ongoing.

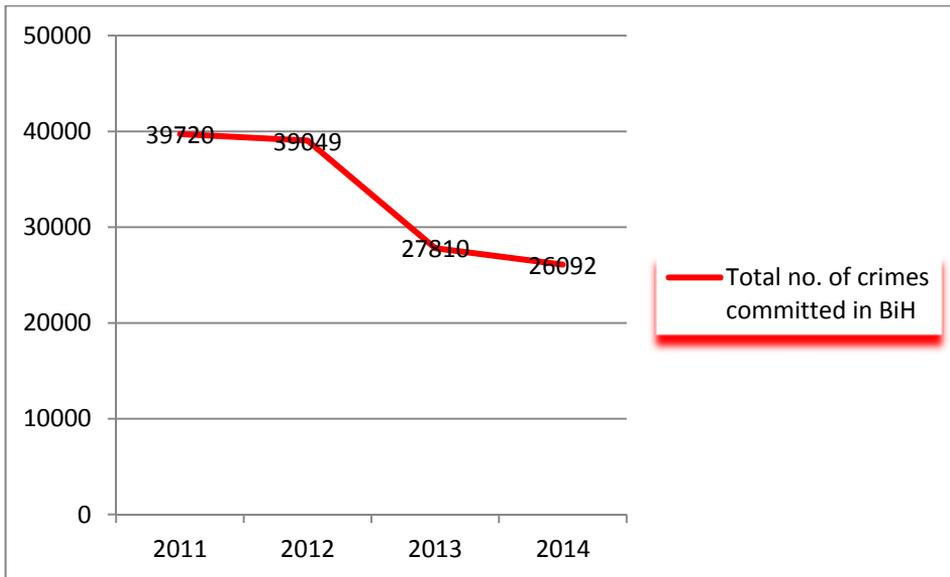
Citizens and their police

The limits of the policing system also raises important questions as to the security of citizens in BiH on a daily basis, and the capacity of the police to serve and protect them from crime. Can BiH's police system respond effectively to crime threats on a daily basis? How do citizens trust police?

One useful indicator to assess the level of security is the number of crimes committed. Judging by an annual publication by the Ministry of Security of BiH, the total number of crimes committed in BiH in the period 2011-2014 has significantly decreased, as portrayed in the following graph:

⁵⁵ BiH has laws on police officials at the state level, two at the entity level and one for each of the cantons. It also has also laws on internal affairs at the canton and entity level, while at the state level this legislation is constituted by the Law on SIPA, the Law on Border Police and the Law on the Directorate for Police Coordination.

⁵⁶ The law on police officials regulates police powers and the working legal status, including obligations and rights, recruitment, promotion, etc. The law on internal affairs defines the competence, organization and management of the interior ministry and the related police administration in dealing with police activities.



Source: *Information on Security Situation in BiH, 2011-2014, Ministry of Security of BiH*

Indeed, compared with 2011, the number of crimes committed in 2014 has decreased by 34%. In every area of individual criminality, the number fluctuated until 2013 and then went down, at the exception of drug abuse. The evolution of other types of crimes, such as crimes against property and violations of public order is also consistent with this trend, it has decreased since 2011. The work of police forces has therefore recorded positive results. In its conclusion, the same document indicates that the overall security in BiH in 2014 is at a similar level with other post-conflict societies and other countries in the region.

Furthermore, it should be noted that this good performance by the police is achieved not only in a complicated institutional environment but also with very limited staff capacity. The lack of manpower in police agencies, at all administrative levels, is a chronic problem affecting the operations of police agencies. The table below is an estimation of the staff capacity at the state level in 2013 and 2015. We compared these figures with the number of staff the agencies say they need to fulfill adequately the duties they were assigned. In the best case, agencies claim to dispose of about 80% of the staff they would need:

Institution	capacities	2015 capacities	Total capacities required (in 2015)	Proportion of the required capacity at disposal (in 2015)
State Agency for Investigation & Protection	711	723	955	76%
Directorate for Coordination of Police Bodies	825		1,268	68%
BiH Border Police	2,202	2,178	2,646	82%
Agency for Police Support	39		49	77%
Agency for Education and Professional Training	45	42	65	65%
Agency for Forensic and Expert Examinations	23		52	50%

Source: Populari's own elaboration based on information provided by Agencies

The positive trend as portrayed by statistics is certainly praiseworthy, in particular in the face of all the difficulties experienced by the security sector. However, while the figures may be in decline, general perception of the police forces and the image of security in BiH is getting worse.

In 2013, the rate of confidence in police was already poor, when a survey⁵⁷ conducted by Sarajevo-based think tank Analitika reported that 30,6% of respondents did not have "a lot of confidence" in police forces while 12,1% did not have "any confidence" in the police. Since 2013, it seems the confidence in police further decreased. The Center for Security Study conducted a research in 2015⁵⁸ which reported that 20% of respondent do not have "any confidence" in the police while 26% "generally do not trust police forces". Furthermore, 30% believe that police forces protect the interests of the government and 33% believe they protect

⁵⁷ The survey was conducted on a representative sample of 1,000 respondents from BiH within the project "Advocacy for Open Government: The right to know in South East Europe," conducted by the Center for Social Research "Analitika," Sarajevo, May 2013.

⁵⁸ The survey was conducted on a representative sample of 1,242 respondents from BiH within the project "The Views of Citizens on Police Accountability" conducted by the Center for Security Studies, Sarajevo, June and July 2015.

the interests of political parties rather than of citizens. This research also indicates that the vast majority, 91% of respondents, believes that politics has an impact on police activities. Moreover, new research carried out by POINTPULSE suggests that in BiH, people don't seem to know who should be fighting corruption. Around 50% of people in BiH either don't know who is fighting corruption, or think that nobody is working on the problem.⁵⁹

The low confidence in the police clearly contradicts the positive results of the police work indicated by statistics. Does this mean these statistics cannot be trusted? Or are there other reasons to explain it?

The missing link: the role of the judiciary

This discrepancy between statistics and perception may be partly explained by the difference between the overall crime rate and the rate of prosecution of criminal offenses, as well as the inadequate sentencing policy.

In 2014, the crime clearance (or detection) rate was at 69.8% in RS and at 59.6% in the FBiH.⁶⁰ This is fairly good in comparison to the average of EU countries. However, these rates should be viewed in the greater context of the judiciary, says Darko Datzer, associate at the Center for Criminal Policy Research of Sarajevo:

*"The EU average, I'm not sure, ranges between 50% and 52% of cases cleared. But that percentage does not matter when we do not respond with adequate sentencing policy. Our courts have one goal: to finish the job as soon as possible, as quickly as possible, and then they go with so-called consensual culpability, where the accused pleads guilty and gets lesser sanction. [...] We simply do not have sentencing policy."*⁶¹

In addition, sentencing policy is mild, argues Datzer, and sanctions are generally closer to the minimum rather than to the maximum penalty. Other security experts agree:

*"If you have crimes where the penalty ranges from minimum of one to maximum of ten years and the sanctions on average are constantly two and a half to three years in prison, then some questions should be raised."*⁶²

⁵⁹ Avramović, Filip, "Balkan Countries See Police as Corrupt, Report Says," Balkan Insight, 23 July 2015

⁶⁰ Information on Security Situation in BiH 2014, Ministry of Security of BiH

⁶¹ Populari interview with Darko Datzer, Associate at the Center for Criminal Policy Research, Sarajevo, 9 October 2015.

⁶² "Large Number of Returnees in Crime," Al Jazeera, 16 January 2014.

Getting an inadequate punishment and early release from prison attests to the fact that crime actually pays off in BiH and can clearly be related to the fact that according to police statistics almost 45% of crimes are committed by recidivists.⁶³ Vjekoslav Vuković from the Ministry of Security of BiH explains this problem:

“The problem in practice, and you constantly hear about this, is that the work in field is done properly, and then the prosecution should finish it, but they do not finish the job.”⁶⁴

Therefore, even though the police work i.e. detection of crimes, may be at the satisfactory level without effective prosecution and sentencing, a satisfactory feeling of security among citizens and positive perception of police can hardly be achieved. This fact advocates for adequate reforms in the judiciary in parallel to the police sector.

Policing in other European countries: the case of Belgium

Although the different models can vary a lot from a country to another, the structure of the policing system is often complex and needs to strike a balance between many factors including efficiency, accountability and public legitimacy. Institutional structures change as security challenges evolve and so do the demands from the public and political leadership.

The Belgian police system was reformed following several scandals and unresolved murder cases in the 1980s and 1990s. What really triggered the reform process was the case of Marc Dutroux, a serial killer and child molester arrested in 1998, who benefitted from the poor cooperation of police services. At the time, Belgium had a system with three main police components: the gendarmerie, responsible to the Interior Affairs Ministry, a local police and a national judicial police. The system was judged inefficient and undermined by harmful competition between agencies. The main reform, enacted in 2001, reshuffled the police structure by suppressing one level and implemented an “integrated” dual police.

The system now consists of one local police distributed in 196 policing areas – which can be a large municipality or several small ones – and one federal police. The local police carry out most of the police duties while the federal police are mainly in charge of supra-local crime or provide support to the local police, acting in respect of the subsidiary principle (i.e. only if its action has an added value to that of the local

⁶³ Ibid.

⁶⁴ Populari interview with Vjekoslav Vuković, Assistant Minister, Head of the Sector for fight against terrorism, organized crime, corruption, war crimes and narcotics abuse, Sarajevo, 6 November 2015.

police). The federal police are financed by the national budget whereas the local police are financed mainly by local budgets, with a complement from the federal budget. These two police forces are independent from each other but are jointly responsible for ensuring integrated policing activities. Their cooperation is said to rely more on culture than on regulations and institutional structure.⁶⁵ Nevertheless, there exist instances of coordination – “security councils” – at all levels whether national, regional and local.

The effects of the reform have been widely praised. In an evaluation performed ten years after the reform, the Police Federal Council notes that: the police sees itself and is perceived by the public as a unified service; coordination between services has improved, in particular concerning the exchange of information; their capacity is deemed satisfactory; and the confidence of the public in police forces has increased.⁶⁶

Nevertheless, this does not mean the Belgian system is now free of all problems. Following the November 13th attacks in Paris, a municipality of Brussels – Molenbeek-Saint-Jean – has been identified as a major hideout for Islamist terrorists. Since it was known that perpetrators of the attacks lived there, many media pointed to the defects of law enforcement in this commune and to the lack of cooperation between the Belgian police and intelligence service. The mayor of Molenbeek deplored the shortage of police staff. Some politicians also raised the issue of the dispersion of police competences in the area of Brussels: it is divided into 19 municipalities and 6 policing areas for 160 km². Finally, the cooperation between police services in the capital city and in the surrounding Flemish region was also questioned.

Political science professor Dave Sinardet, from Vrije Univerziteit Brussel, commented:

“Of course, we can try and make sure that all this system functions in spite of everything, thanks to cooperation agreements. Just like we can try and make work a system with six policing areas in a capital city. But such a division carries for the least the germs of future problems, including as regards information sharing and transfer, which is precisely one of the main concerns identified by this debate on security we have been having during the last few days. Another one of these concerns was the lack of clear and defined political responsibilities.”⁶⁷

While we can see these issues and debates are far from being the exclusivity of BiH, the case of Belgium also shows there are no easy solutions to these problems.

⁶⁵ Police Federal Council report, Belgium, 29 May 2009.

⁶⁶ Ibid.

⁶⁷ Dave Sinardet, “La Belgique tend le bâton pour se faire battre”, La Libre Belgique, 27 November 2015.

Institutional structures, although they should be shaped to serve relevant public policies, are inevitably the result of a political equilibrium. A culture of cooperation and the signing of agreements, on the other side, can provide a fragile compensation to the weaknesses of the system.

Conclusion

The police system in Bosnia and Herzegovina (BiH) contains many flaws. Policing agencies are scattered, their responsibilities overlap, and cooperation among them is faulty, despite agreements to mend the gaps.⁶⁸ Capacities are also limited. Since the war, many improvements have taken place. A wide-ranging institutional system has been set up and the legislation regulating internal affairs and police activities is broadly in place and meets high standards, yet, the security system in BiH has not reached its full functionality. The limits of the system appear highly visible at every major breach of the public order. However, the causes for this should be sought in the failures of politicians rather than in the operations of police agencies. What hinders the performance of the system today clearly stands on the political level. The high level negotiations that aimed at reshaping the sector until 2008 have failed mainly because the **political agendas** of each stakeholder, whether national or international, diverged. Public statements by officials have been more often than not detrimental to the security system of the country, by **reinforcing the image of a divided country** without the capacity to control threats of radicalization, terrorism and organized crime. **Cooperation among agencies is inconsistent because it is left to depend on personal interactions** and not on binding rules. Police officers **cannot intervene immediately because they cannot take decisions based simply on the law**, but need to make sure they also fit within the ad hoc arrangement between agencies. Similarly, **the nomination and sacking of heads of agencies depend more on political decisions** than on the strict interpretation of the law. The **penal policy and flaws of the judiciary** also stand in the way of an improved security system.

⁶⁸ Following the February 2014 riots, five agencies signed a Memorandum of Understanding on Mutual Assistance and Cooperation in June 2014. These five agencies were SIPA, DPC, the State Border Police, the Federal Police Administration (FUP) and MUP of Sarajevo Canton. The agreement was initiated by the US Embassy's ICITAP programme led by the US Justice Ministry. There is no operational plan attached to it however, due to the fact that none of these agencies can have authority over the others. Following the agreement on this Memorandum, the Director of FUP initiated three more agreements between institutions at different administrative levels. One agreement between FBiH and RS police agencies and one between Federation MUP and Brčko Police were signed in July and September 2015 respectively. However, the third agreement between all ten cantons and the Federation police agency has still not been signed mainly due to opposition from the Croat-majority cantons. Their opposition is based on some provisions which they say may lead to centralization of police in the FBiH and is contrary to the constitutional-legal order of FBiH.

List of Agencies

Ministry of Security of BiH

- BiH State Border Police

- State Investigation and Protection Agency (SIPA)

- Service for Foreigners Affairs

- Directorate for Coordination of Police Bodies

- Agency for Police Support

- Agency for Forensic and Expert Examinations

- Agency for Education and Professional Training

BiH Intelligence and Security Agency (OSA)

Federal Ministry of Internal Affairs (MUP FBiH)

- Federal Police Administration (FUP)

Republika Srpska Ministry of Internal Affairs (MUP RS)

- RS Police Administration

Brčko District Police

Sarajevo Canton Ministry of Internal Affairs (MUP KS)



B | T | D The Balkan Trust
for Democracy
A PROJECT OF THE GERMAN MARSHALL FUND